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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Case No. 13-20371

-vs-

DOREEN HENDRICKSON,

Detroit, Michigan

Defendant.

October 30, 2013

-----/

TRANSCRIPT OF TRIAL - VOLUME ONE
BEFORE THE HONORABLE VICTORIA A. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a Jury.

APPEARANCES:

For the Government:

Melissa Siskind, Esq.

Jeffrey McLellan, Esq.

For the Defendant:

Doreen Hendrickson, Pro Per

Standby Counsel:

Andrew Wise, Esq.

Proceedings taken by mechanical stenography, transcript
produced by computer-aided transcription

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1 Detroit, Michigan

2 Wednesday, October 30, 2013

3 (At about 9:12 a.m.)

4 - - -

5 (Call to Order of the Court)

6 THE CLERK OF THE COURT: The Court calls the case of United
7 States of America versus Doreen Hendrickson, case number 13-20371. Counsel,
8 please state your appearances for the record.

9 MS. SISKIND: Good morning, Your Honor. Melissa Siskind and Jeffrey
10 McLellan on behalf of the United States and we're joined at Counsel table by Special
11 Agent Lance Lockhart from the IRS.

12 THE COURT: Thank you very much. Good morning.

13 MS. HENDRICKSON: Doreen Hendrickson.

14 THE COURT: Good morning.

15 MR. WISE: And Andrew Wise as standby counsel.

16 THE COURT: Thank you. Good morning, ladies and gentlemen. How
17 are you? Probably not happy to be here. Ladies and gentlemen, my name is Victoria
18 Roberts and I am the Judge who will be presiding over this case if you are fortunate
19 enough to be selected as a juror. And we all thank you for being here, for responding
20 to the summonses because not everybody does and sometimes we have to kind of
21 resort to extraordinary means to get people to honor the summonses. And why do we
22 do that? We do that because in the United States we depend on this system of
23 justice, this jury system of justice. Our Constitution guarantees that if people are not
24 able to resolve their disputes and they are in litigation, that ultimately it may come to a
25 trial of -- and a trial in front of a jury of peers and that's who you are and these parties

1 have not been able to resolve their dispute and that's why they are here today.

2 This scene that is in this courtroom today is being played out in other
3 courtrooms right now in this building. It's being played out in thousands of courtrooms
4 across the country in both Federal and State courts, and if you didn't show up, if you
5 didn't honor the summonses and if everybody else in all those courtrooms across the
6 country didn't honor the summonses, the Judicial Branch of Government simply would
7 not be able to function. It is that simple, because we depend on you and you may
8 think that being here today is troublesome to you and you'd rather be doing something
9 else and that is a very natural thought, but as you keep in mind how important it is
10 sometimes to perform civic duties, please keep in mind that you are here today and
11 you are allowing the Judicial Branch of Government to go forward and to function as it
12 is supposed to, so we thank you very much for being here.

13 Ladies and gentlemen, there are remarkable things that happen during the
14 course of a trial. If you look around this room, you look at the people sitting next to
15 you and behind you, you probably never have seen them before and trials,
16 summonses bring together people from cross-sections of the Eastern District of
17 Michigan and put in seats next to you people that you have never seen before, have
18 never interacted with before and we, if you are selected, are going to ask you to sit
19 with these people for the next few days and then to deliberate with them and to give
20 them the benefit of your thinking about all of the evidence and we're going to ask you
21 to come to a unanimous decision. That is one of the remarkable things because we
22 put together 12 strangers and invariably those 12 strangers are able to reach a
23 unanimous decision despite your backgrounds, despite the fact that you come from
24 different places in life and different places now and so it is remarkable.

25 We don't have a flawless system of government in this country. You all are

1 aware of what goes on in other countries and the violence that people resort to
2 resolve their differences. We don't do that here for the most part. We have a system
3 of government that is civil and that depends on jurors to resolve disputes and so while
4 it isn't flawless, I do believe that it's the finest system of government in this country
5 and you are here today to help us run our government.

6 As part of the process, we engage in something called voir dire. Voir dire
7 literally means to speak the truth and so once you are called up into the box, we're
8 going to be asking you questions and those questions are designed to find out
9 whether you are qualified to serve as a juror, whether you have good common sense.
10 We really depend on that for our jurors to make decisions. That's what you depend
11 on in making some of the most important decisions in your life and this is one of the
12 most important decisions you will make for the parties here and we need you and we
13 need jurors who have good common sense.

14 We need to know that you can be fair. We need to know that you are
15 open-minded and that you will be able to listen to all of the evidence in the case
16 before you arrive at a decision. We need to ask you about any biases that you may
17 have and if you do have them, we all have them, whether they would effect your
18 ability to deliberate in this case and listen to the evidence, whether you would be able
19 to set them aside. We also are asking you questions and trying to figure out whether
20 you have the ability to work with other people and to respect the viewpoints of other
21 people, because that's what you are going to have to do when you deliberate.

22 So none of these questions -- all of these questions are designed to get at
23 those matters. None of the questions is designed to hurt you or to embarrass you and
24 if we ask you anything that you don't want to give the answer to in public, please let us
25 know that. We will take your answer privately, although it still will be made part of the

1 transcript. So I say that to say that you shouldn't let the personal nature of any
2 question that is asked of you prevent you from speaking the truth because that is what
3 voir dire is about. It's about speaking the truth and we're here to get the truth from
4 you and not to embarrass you.

5 Jury service is not going to make you wealthy. You got pittance checks or you
6 will get pittance checks and so you can only make sense of what you're doing here
7 today if you just appreciate the significance of the civic duty that you are performing
8 and appreciate that we all are very happy that you showed up.

9 So probably a lot of you have been thinking about answers you can give that
10 will get you out of jury service, right? Come on. So we don't want you to do that and
11 you can only get out of this service today if you have a truly extraordinary reason for
12 not being able to be here for this trial. It's only going to take a few days.

13 Children, elderly parents, jobs, those are all very important matters and things,
14 people. All of us have things, people like that going on in our lives and they are not
15 extraordinary for purposes of this jury trial. Those things, those people will not get
16 you out of jury service.

17 We do need to know if you have any kind of health challenge. We need to
18 know if you can't hear. We need to know if you can't sit for long periods of time,
19 although you are free to move around in the jury box if that helps you. I have back
20 issues. I move around all the time, you'll see that, and you're free to do that as well.

21 Right now before we get started with this voir dire, Mrs. Pinegar, Carol, you
22 met her already. She's my Case Manager. She's going to give you an oath that will
23 require you to speak the truth during the voir dire.

24 Also, Janice Coleman is our court reporter and Mrs. Coleman has to record
25 everything that is said here today, everything, and so before you speak please give us

1 your name so that the transcript will reflect who the speaker is.

2 So Carol, are you ready to give them the oath?

3 THE CLERK OF THE COURT: Yes. Would all the jurors please rise
4 and raise your right hand?

5 **PROSPECTIVE JURORS SWORN**

6 **(At about 9:22 a.m., prospective jury array sworn under oath by the Clerk
7 of the Court)**

8 THE COURT: I think what we should do is start filling the seats.

9 THE CLERK OF THE COURT: When I call your name, come forward
10 through the little swinging doors and you can come around this way. The first seat in
11 the back row, that's number one, so the first juror will sit there. Then they'll fill in
12 seven and seven more.

13 Juror number 240, Thomas Scallen. Juror number 253, Janet Keane. Number
14 259, Lorene Goff. Number 182, Warsha Kulkarni. Number 242, Catherine Amicucci.
15 Juror number 226, Carol Bagdady. Number 199, Tonya Perman. Number 244, Lisa
16 Leix. Number 184, Matthew Hladki. Number 268, Delonda Waller. Number 211,
17 Helen Hoppenworth. Number 283, Helen Hemelgarn. Number 252, Stanley
18 Szymanski. Number 219, Judith Buchowski.

19 THE COURT: Okay. Ladies and gentlemen who are in the back, we
20 need you to pay very close attention to everything that happens here. We need you
21 not to leave the courtroom unless the Court takes a break. The reason for that is that
22 during this voir dire process, some people may get excused and when they get
23 excused, the seat has to be filled by one of you here and so please pay very close
24 attention to all the questions that are asked and if there is something -- once you get
25 in the box, if there's something that was asked and that you think that you have an

1 answer that we should know about, you need to let us know that. So it's very
2 important even though you're not in this box that you pay very close attention at this
3 stage.

4 I would like the lawyers now just to reintroduce yourselves and to give us the
5 names of any witnesses that you have because I'd like to find out if the jurors are
6 familiar with you or witnesses.

7 MS. SISKIND: Ladies and gentlemen, my name is Melissa Siskind. I'm
8 a trial attorney with the Department of Justice Tax Division. This is my Co-counsel
9 Jeffrey McLellan and this is Special Agent Lance Lockhart from the Internal Revenue
10 Service.

11 We have three witnesses who we will be calling at trial; Roger Smith from the
12 IRS, Robert Metcalfe from the Department of Justice Tax Division and Daniel
13 Applegate from the Department of Justice Tax Division.

14 THE COURT: Thank you, Miss Siskind. Daniel Applegate you said?

15 MS. SISKIND: Yes, ma'am.

16 THE COURT: Ladies and gentlemen in the box, Miss Siskind, Mr.
17 McLellan, Mr. Lockhart or any of the witnesses that Miss Siskind has just announced
18 familiar to anybody? No? All right, thank you.

19 And at the Defense side of the table. Miss Hendrickson -- let me just explain
20 one thing. Miss Hendrickson has elected to represent herself. She has a right to do
21 that and she has elected that right. Mr. Wise is an attorney with the Federal
22 Defender's Office and the Court has appointed Mr. Wise as standby counsel and so
23 he will be providing her some assistance throughout the course of this trial, but for the
24 most part she has elected to represent herself. So good morning again, Miss
25 Hendrickson.

1 MS. HENDRICKSON: Good morning.

2 THE COURT: Do you have witnesses?

3 MS. HENDRICKSON: I do.

4 THE COURT: Can you give us their names please?

5 MS. HENDRICKSON: Deborah Blashfield, Jaelle Eby, J-a-e-l-l-e. Jon
6 Eby without an H, J-o-n. Me of course. Kathryn Hendrickson, K-a-t-h-r-y-n. Peter
7 Hendrickson, Reyn, that's R-e-y-n Hendrickson, T.J. Hendrickson, Harold O'Boyle,
8 Kate Pyle, Susan Smith, Sarah Waltner and D. Anthony Wright. I have possibly Kim
9 Leffler, but I don't know if she'll make it from Virginia or not.

10 THE COURT: And how do you spell Miss Leffler's last name?

11 MS. HENDRICKSON: L-e-f-f-l-e-r.

12 THE COURT: Thank you. So ladies and gentlemen, any of those
13 names sound familiar to you, or Miss Hendrickson or Mr. Wise? No? All right.

14 Counsel, can you give me and the jurors an estimate of how long you think this
15 is going to take, this trial so that we can plan?

16 MS. SISKIND: Your Honor, the Government would estimate that the trial
17 will take approximately three days.

18 THE COURT: Are you considering all of the witnesses or just your
19 witnesses?

20 MS. SISKIND: All of the witnesses, Your Honor.

21 THE COURT: All of the witnesses, all right. And Miss Hendrickson, Mr.
22 Wise, do you agree with that estimate of how long it's going to take?

23 MS. HENDRICKSON: I think perhaps three to four days.

24 THE COURT: Okay. Thank you. So, ladies and gentlemen, that is the
25 schedule tentatively for planning purposes. Don't hold us to it because trials

1 sometimes last a little longer than estimated, sometimes they last not as long as the
2 estimate, but that's the schedule you will need for planning purposes.

3 I said earlier, ladies and gentlemen, that you could get out of jury service only
4 for extraordinary reasons. Given this estimate of the amount of time that it would
5 take, is there anyone who believes -- who is in the box now believes that they would
6 not be able to serve as a juror in this trial for -- because of the schedule? Anyone in
7 the back row? No. In the front row I see three hands. Miss Leix, tell me about your
8 issue.

9 JUROR LEIX: I'm totally sick. I think I have a major sinus infection and
10 I need to find an M.D. This morning I woke up and I was just a mess. It's making me
11 exhausted and miserable.

12 THE COURT: All right, thank you. And Mr. Hladki, is that how you say
13 your name? What is your issue?

14 JUROR HLADKI: I'm scheduled to depart the country to San Paulo,
15 Brazil for a business trip on Sunday.

16 THE COURT: Who do you work for?

17 JUROR HLADKI: Stanley Black & Decker.

18 THE COURT: And your tickets are purchased and everything?

19 JUROR HLADKI: Correct.

20 THE COURT: Thank you. And did I see another hand in the front row?
21 Miss Buchowski? What is your issue?

22 JUROR BUCHOWSKI: I have severe colitis.

23 THE COURT: So you have to take many breaks?

24 JUROR BUCHOWSKI: Yeah.

25 THE COURT: Did you let our Jury Department know that beforehand?

1 You have a letter there with you or something?

2 JUROR BUCHOWSKI: My doctor faxed in a letter and mailed in a letter.

3 THE COURT: When did that happen?

4 JUROR BUCHOWSKI: Well, I don't quite remember. Maybe three, four
5 weeks ago, but I have talked with the court a few times on the issue and they said
6 they have reviewed it and because a bathroom is nearby that they dismissed it and
7 I'm to talk to you about it, but the fact of the matter is that there could be a bathroom
8 nearby, but I need the bathroom at the drop of a hat.

9 THE COURT: Do you work, Miss Buchowski.

10 JUROR BUCHOWSKI: Yes. I'm on FMLA at work.

11 THE COURT: Thank you. May I see Counsel and Miss Hendrickson at
12 side bar please over here?

13 **(Sidebar conference out of the hearing of the jury as follows)**

14 THE COURT: What do you think?

15 MS. SISKIND: We have no objection to her being excused.

16 THE COURT: To all three of them?

17 MS. SISKIND: Yes, Your Honor.

18 MS. HENDRICKSON: Yes.

19 THE COURT: All right. Major sinus infection I'm not buying, but --

20 MS. SISKIND: We have no objection to all three being excused.

21 THE COURT: So we will have another sinus infection, you know that,
22 don't you?

23 MS. HENDRICKSON: We won't. I don't think so.

24 THE COURT: Okay.

25 **(END OF SIDEBAR CONFERENCE)**

1 THE COURT: The Court will thank and excuse -- and the three of you
2 will have to go up to the jury room-- Miss Leix, Mr. Hladki and Miss Buchowski. Thank
3 you.

4 THE CLERK OF THE COURT: Juror number 285, Nicole Huby. You
5 take the first seat on the bottom. Number 224, Diane Yaeger in seat nine and juror
6 number 185, Kelly Rose -- I'm sorry.

7 THE COURT: No, not Kelly Rose.

8 THE CLERK OF THE COURT: No, sorry. Sit down Kelly. Number 275,
9 Lori Hammitte.

10 THE COURT: Good morning to the three of you. Given the schedule
11 and that you can only be excused for extraordinary reasons, is there any reason why
12 the three of you who just joined us would not be able to serve as a juror? You're
13 good? Miss Yaeger.

14 JUROR YAEGER: I have a question. I have urinary incontinence,
15 sometimes I go to the bathroom 45 minutes to an hour. Some days I can go two
16 hours, but I never know.

17 THE COURT: That could potentially be a problem. I mean we take
18 breaks, but probably not that frequently. So the Court will thank and excuse Miss
19 Yaeger. Thank you.

20 THE CLERK OF THE COURT: Now we will have juror number 185,
21 Kelly Rose please.

22 THE COURT: Miss Rose, any reason you can't be with us?

23 JUROR ROSE: No.

24 THE COURT: Reluctantly you can't think of anything?

25 JUROR ROSE: I could, but it's not extraordinary.

1 THE COURT: Thank you very much.

2 Ladies and gentlemen, let me just explain. You've seen now a little bit about
3 how seats get filled. When we start asking you the questions, there may be reasons
4 that appear as to why somebody should not serve as a juror and Counsel and Miss
5 Hendrickson can challenge somebody's service as a juror and if the Court accepts
6 that challenge, then that person would be excused and then another person will come
7 up and fill the seat. There are other ways that a juror could be excused and that's for
8 no reason at all except for a reason that would be illegal, and so seats might be
9 emptied that way as well. So we will keep going through this voir dire process until
10 we end up with 12 jurors or 14 because we'll have two alternates, with 14 jurors who
11 will be able to sit and consider the evidence in the case. So it may take a little bit of
12 time this morning for us to get a jury, but that's the plan at least for right now.

13 Ladies and gentlemen, I'm now going to read the Indictment that the
14 Government issued in this case against Miss Hendrickson.

15 This is a criminal matter and I will be explaining to you the different burdens of
16 proof between -- the Court will be explaining to you the different burdens of proof
17 between a criminal and a civil case, but right now just understand that this is a
18 criminal case and there is an Indictment and the Grand Jury issued this Indictment
19 after the presentation of evidence by the Government.

20 It says the Grand Jury -- it's United States versus Doreen Hendrickson.
21 Indictment the Grand Jury charges. Introduction: At times material to this Indictment,
22 Doreen Hendrickson was a resident of Commerce Township, Michigan.

23 On or about August 25, 2003 Hendrickson filed with the Internal Revenue
24 Service a joint 2002 United States Individual Income Tax Return Form 1040 that
25 requested a refund of \$10,152.96 based on the false claim that she and her husband

1 earned zero wages in 2002. The IRS issued the requested refund.

2 On or about April 15, 2004, Hendrickson filed with the IRS a joint 2003 U.S.
3 Individual Income Tax Refund Form 1040 that requested a refund of \$10,228 based
4 on the false claim that she and her husband earned zero wages in 2003. The IRS
5 issued the requested refund.

6 The 2002 and 2003 Returns were based on the false and frivolous theory set
7 forth in a book written by Defendant's husband, Peter Hendrickson, entitled *Cracking*
8 *the Code* that only Federal, State or local government workers are liable for the
9 payment of Federal income tax or subject to the withholding of Federal income, Social
10 Security and Medicare taxes from their wages under the Internal Revenue laws.

11 On or about May 2nd, 2007, the United States District Court for the Eastern
12 District of Michigan issued an amended Judgment and Order of Permanent Injunction
13 against Hendrickson in the case of United States versus Peter and Doreen
14 Hendrickson, case number 06-11753. In the amended Judgment and Order of
15 Permanent Injunction, the Court found that the 2002 and 2003 Returns were based
16 upon a frivolous and false theory and found that Hendrickson was indebted to the
17 United States for 2002 and 2003 refunds by the IRS. Hendrickson has not repaid any
18 portion of the 2002 and 2003 refunds.

19 In Paragraph 27 of its May 2nd, 2007 amended Judgment and Order of
20 Permanent Injunction, the Court ordered that Hendrickson A., was prohibited from
21 filing any tax return, amended return form including but not limited to Form 4852,
22 which is a substitute for Form W-2 Wage and Tax Statement or other writing or paper
23 with the IRS that is based on the false and frivolous claims set forth in *Cracking the*
24 *Code* and B., was required within 30 days of entry of the amended Judgment and
25 Order of Permanent Injunction, i.e. June 1, 2007 to file with the IRS amended U.S.

1 Individual Income Tax Returns for 2002 and 2003.

2 Count One of this Indictment charges Criminal Contempt in violation of 18 U.S.
3 Code 401 Section Three, and it is against Doreen Hendrickson.

4 It says Paragraphs one through six that I just read of this Indictment are
5 re-alleged as if set forth in full herein. On or about and between the dates listed below
6 in the Eastern District of Michigan and elsewhere, Doreen Hendrickson did knowingly
7 and willfully disobey and resist the lawful orders of a Court of the United States,
8 namely Paragraph 27 of the May 2nd, 2007 amended Judgment and Order of
9 Permanent Injunction against Doreen Hendrickson in the case of United States versus
10 Peter and Doreen Hendrickson, case number 06-11753.

11 Then the Indictment sets forth the dates and the violation of order. The first
12 one the date is March 23, 2009 and the violation alleged is filing a 2008 U.S. income
13 tax return for single and joint filers with no dependents Form 1040 EZ which falsely
14 reported that she earned zero wages in 2008. And the second date is June 1, 2007.
15 The violation listed is failing to file with the IRS amended U.S. Individual Income Tax
16 Returns for 2002 and 2003 in violation of Title 18 United States Code Section 401(3) t

17 This Indictment is signed by the Foreperson of the Grand Jury. It is signed by
18 Melissa Siskind and Jeffrey Bender, whom you have met, and this Indictment is dated
19 May 14th, 2013.

20 Ladies and gentlemen, does anything in this Indictment sound familiar to any of
21 you? Any of the facts alleged in this Indictment have you heard anything about it
22 before? No. All right.

23 So now we're going to start the voir dire process and we're going to start with
24 the -- I think we need a microphone. We're going to start with you answering the
25 questions on the sheets that are in your seats. We'll go -- beginning with Mr. Scallen

1 and go right down the line and then we'll pass the microphone to Miss Huby and will
2 do the front row.

3 Good morning again, Mr. Scallen, and please announce -- well, it tells you what
4 to do there.

5 JUROR SCALLEN: My name is Thomas Scallen. S-c-a-l-l-e-n. I live in
6 Wayne County. I'm 66 years old. I'm married. I have two adult children both of
7 whom are presently seeking employment. I'm an attorney. I have been practicing
8 since 1973. I'm retired from the Michigan Department of Attorney General. I retired in
9 December, 2010 after 25 years at the Department. My wife is a substitute at the St.
10 Clair Parish Offices. My education, I have a law degree. I have hobbies. I swim and
11 run. I'm a member of the local family Y. I read the Detroit Free Press. I do not
12 belong to any social media sites. I have no bumper stickers on my car.

13 THE COURT: Mr. Scallen, what Division of the Attorney General's Office
14 did you work.

15 JUROR SCALLEN: The first couple years I was with the Revenue and
16 Collections Division. The next 11 or 12 years I was with the Transportation Division
17 and the last dozen years I was with the -- what -- eventually I retired from the
18 Licensing and Regulation Division.

19 THE COURT: So Revenue and Collection Division, that was early in
20 your career, the first --

21 JUROR SCALLEN: That was 1985 through '87 approximately, Judge.

22 THE COURT: And in that Division, did you have anything to do with the
23 collection of taxes?

24 JUROR SCALLEN: Yes.

25 THE COURT: And did you have anything to do with tax returns and

1 things like that.

2 JUROR SCALLEN: It's going back a long ways, but I was doing
3 primarily probate type work inheritance tax and student loans as far as taxes are
4 concerned.

5 THE COURT: Okay. And then later in your career with the AG's Office
6 Transportation Division, Licensing & Regulation.

7 JUROR SCALLEN: Yes.

8 THE COURT: Did that have anything to do with the collection of taxes
9 on behalf of the State of Michigan.

10 JUROR SCALLEN: No, it did not. The Transportation Division was
11 primarily construction litigation work and property acquisition and the licensing and
12 regulation involved representing the Bureau of Health Professions in actions against
13 the licenses of health professionals, and we did some -- I oversaw some construction
14 type work too.

15 THE COURT: Thank you very much. Miss Keane, good morning.

16 JUROR KEANE: Good morning. My name is Janet Keane. K-e-a-n-e.
17 I live in Oakland County. I'm 39, married. I have two children who live with me, 10
18 and seven years old. I am an engineer for General Motors. I've been there for 16
19 years. My husband is also an engineer. I have a Masters and Bachelors degree in
20 engineering. My hobbies include sports. I'm a member of the Beverly Hills Athletic
21 Club and Beverly Elementary PTA. I do not subscribe to newspapers or magazines
22 since most of them are free online, but I do read them. I belong to Facebook, Twitter
23 and that's it. I don't have any bumper stickers and that's it.

24 THE COURT: Thank you. Miss Goff, good morning.

25 JUROR GOFF: Good morning. My name is Lorene Goff, G-o-f-f. I live

1 in Oakland County. I'm was 73 on October 11th. I've been married 50 years to my
2 husband. No children. I'm presently retired, and I retired from Northwest Airlines 12
3 years ago after 42 years in the airline industry. My husband is retired.

4 THE COURT: You're going to tell us you were a pilot, right?

5 JUROR GOFF: No, I wasn't a pilot and I wasn't a flight attendant. I had
6 my feet on the ground. I graduated from Central Michigan University. My hobbies are
7 I write, I do embroidery and I've tried just about everything, so golfing and walking and
8 whatever. I belong to several writing groups. I read the Detroit News and Free Press.
9 I do not belong to any Internet social media sites. There's no bumper stickers. My
10 sister died on my birthday.

11 THE COURT: Oh, sorry to hear that but congratulations on reaching 73.
12 What did you do for Northwest Airlines?

13 JUROR GOFF: Various positions in Reservations.

14 THE COURT: Thank you very much.

15 JUROR KULKARNI: Good morning. My name is Warsha Kulkarni,
16 K-u-l-k-a-r-n-i. I live in Oakland County. I'm 49. I'm divorced. I've got two kids. One
17 works in Chicago. One is in Ohio going to school. I work for Bloomfield Township as
18 a property appraiser. I have a Bachelors degree and a level-three assessing
19 certification. I like to scrapbook. I do quilting. I'm a member of the Marathimandal of
20 Detroit.

21 THE COURT: I'm sorry. A member of what?

22 JUROR KULKARNI: Marathimandal of Detroit. It's our cultural
23 organization.

24 THE COURT: Could you spell that please?

25 JUROR KULKARNI: M-a-r-a-t-h-i-m-a-n-d-a-l of Detroit. I don't

1 subscribe to any newspapers or magazines. I'm on Facebook only as a way to follow
2 my kids and keep track of what they're doing. I have no bumper stickers and that's it.

3 THE COURT: Okay. And how long have you been a property appraiser
4 at Bloomfield Township?

5 JUROR KULKARNI: For 14 years.

6 THE COURT: And can you tell us a little bit about what you do and does
7 it involve at all the collection of or assessment of taxes?

8 JUROR KULKARNI: I appraise the properties for property taxes. I do
9 Board of Review. I do defend the Township for Tax Tribunal at the MTT.

10 THE COURT: And so you make decisions about whether property has
11 been properly appraised and whether there's going to be a reduction or increase?

12 JUROR KULKARNI: The Board of Review does that. I appraise them
13 as far as whether there's fires, additions, permits, foreclosures, if there's mold,
14 whatever.

15 THE COURT: Thank you very much.

16 JUROR AMICUCCI: Good morning. My name is Catherine Amicucci.
17 A-m-i-c-u-c-c-i. I live in Macomb County. I'm 52 years old. I'm married and have
18 three adult children. My oldest is an executive chef in Wyoming. The other two are in
19 school currently for broadcast and pastry. I'm a teacher. I've been teaching in Frazier
20 Public Schools for 22 years. My husband is a dental technician. I have a Masters in
21 Education. I enjoy reading, watching movies, hanging out at home with my dog. I
22 belong to the MEA. I do not have any magazines or newspapers that I currently
23 subscribe to. I do belong to Facebook, MySpace. I know I have a Twitters account.
24 I'm the computer technology teacher at school, so I have a lot of the -- those
25 connections and it was also a way to keep tabs on my children. I do not have bumper

1 stickers on my car and I think that's about it.

2 THE COURT: Thank you very much.

3 JUROR BAGDADY: Good morning, Your Honor. My name is Carol
4 Bagdady. I live in Oakland County. I'm 54. I'm married with three adult children; one
5 is a doctor, one is a lawyer, the other one is in college. I currently work for UAW Ford
6 National Program Center as a program manager/attorney. I've been there 28 years.

7 THE COURT: Where do you work?

8 JUROR BAGDADY: UAW Ford National Program Center. It's a joint
9 venture between UAW and Ford Motor Company. Been there 28 years. My husband
10 is also an attorney. I have a JD. I like to cook and read. I'm a member of a lawyer's
11 book club and also at work I'm a member of a Union, OPEIU. I read the Detroit News,
12 the Novi News and subscribe to Sports Illustrated. I do belong to LinkedIn and I do
13 not have any bumper stickers.

14 THE COURT: Can you tell us a bit about your job at the UAW Ford
15 Motor Company about this program?

16 JUROR BAGDADY: Sure. I design and develop training programs for
17 Ford facilities across the United States. So it involves a lot of contractual work, a lot
18 of writing.

19 THE COURT: So you are an attorney?

20 JUROR BAGDADY: Yes.

21 THE COURT: But you don't practice law in this position?

22 JUROR BAGDADY: I do transactional work. I do negotiate and write
23 the contracts for my employer.

24 THE COURT: What kind of law does your husband practice?

25 JUROR BAGDADY: He's labor and employment law, management

1 side.

2 THE COURT: Who's he with?

3 JUROR BAGDADY: He works for Hall Render.

4 THE COURT: Hall Render. Where's that located?

5 JUROR BAGDADY: Their Detroit office is in Troy.

6 THE COURT: That's a little ironic, isn't it? Their Detroit Office is in Troy.
7 What about your son, the lawyer, what kind of work does he do?

8 JUROR BAGDADY: He does securities litigation. He practices in
9 Washington, D.C.

10 THE COURT: Okay. And do you know what firm he's with?

11 JUROR BAGDADY: Orrick, O-r-r-i-c-k et al.

12 THE COURT: Thank you. Tonya Perman, good morning

13 JUROR PERMAN: Hi. My name is Tonya Perman. P-e-r-m-a-n. I live
14 in Macomb County. I'm 41 years old. I'm divorced. I have a 16 and a 14-year old. I
15 am a registered nurse. I work for Korum IV Specialty Home Infusions. I've been
16 there for six years. Previously I was a registered nurse at the U of M Hospital in Ann
17 Arbor. My degree is my registered nurse. Hobbies are my children, sports. I don't
18 belong to any groups. I don't subscribe to any newspapers or magazines. I'm on
19 Facebook and I don't have any bumper stickers.

20 THE COURT: Thank you very much. Can you pass the microphone
21 down?

22 JUROR HUBY: Good morning, Your Honor.

23 THE COURT: Good morning.

24 JUROR HUBY: My name is Nicole Huby. H-u-b-y. I live in Wayne
25 County. I'm 43 years old. I am single and I have no children. I work as a

1 psychologist at the Center for Forensic Psychiatry and I've been there about five and
2 a half years. I have a Doctorate degree in Clinical Psychology. I like to read and
3 collect art. I'm a member of the UAW and I read the Detroit News and sometimes
4 The Economist. I do not have any social media accounts, no bumper stickers.

5 THE COURT: Thank you very much.

6 JUROR ROSE: Good morning. My name is Kelly Rose. R-o-s-e. I live
7 in Wayne County. I am just shy of 32. I'm married with two children; one is 10 and
8 the other one is just shy of a year and a half. I'm currently a teacher at Creative
9 Montessori. I've been there, this is my second year. My husband works at Ford
10 Motor Company on the line. I'm not exactly sure what he does. I have a Bachelors in
11 Education with a couple -- just endorsements to go with it. My hobbies include being
12 with my kids, sports, reading, that type of stuff. I don't believe I currently have any
13 organizations that I belong to. I think they're all expired. I don't read any newspapers
14 or magazines. I just search the web when I can. I belong to Facebook. I used to
15 have MySpace, LinkedIn. I have a Twitter, but I don't use it and I don't have any
16 bumper stickers.

17 THE COURT: Thank you very much. Miss Waller, good morning.

18 JUROR WALLER: Good morning. My name is Delonda Waller. Waller.
19 I live in Oakland County. I'm 51. I'm single. I work at Painting With a Twist.

20 THE COURT: You work at where?

21 JUROR WALLER: Painting with a Twist. It's a new sip and paint. You
22 come in and you paint and you sip wine. It's a great job.

23 THE COURT: When do we go? Wow. Where is that place?

24 JUROR WALLER: There's one in Ferndale and there's one in
25 Farmington. My cousin owns it. It's an up and coming new franchise. I want all you

1 guys to check it out.

2 THE COURT: What do you do there?

3 JUROR WALLER: I'm administrative assistant. I book the parties.

4 THE COURT: Oh, you can have a party there?

5 JUROR WALLER: Yeah. You come there and we do birthday parties,
6 bachelorette parties. No spouse. Education, high school diploma, some business.
7 Hobbies include taking care of my grandson and going to the movies. No groups.
8 The newspaper, I read that online. I belong to Facebook, LinkedIn, Twitter.
9 Instagram. No bumper stickers.

10 THE COURT: Thank you very much. Helen Hoppenworth.

11 JUROR HOPPENWORTH: My name is Helen Hoppenworth.
12 H-o-p-p-e-n-w-o-r-t-h. I'm from Sanilac County and I'm 72. I'm married for 53 years.
13 I have two children. I'm retired from Ford Hospital. My husband was a tool and die
14 maker, but he's retired. I graduated high school. Hobbies, I read and not much else.
15 My membership organization, I have -- I do not belong to any. I read The Times
16 Herald. I'm not on Facebook and no bumper stickers.

17 THE COURT: Miss Hoppenworth, what did you do at Ford Hospital?

18 JUROR HOPPENWORTH: Housekeeping.

19 THE COURT: And your two children, are they employed?

20 JUROR HOPPENWORTH: One is employed at Eaton and one is
21 employed at Coca Cola.

22 THE COURT: What is that the work of Eaton?

23 JUROR HOPPENWORTH: I don't know.

24 THE COURT: Do you know, is this a young man or young woman?

25 JUROR HOPPENWORTH: It's a young man.

1 THE COURT: Do you know what he does at Eaton?

2 JUROR HOPPENWORTH: No, I don't.

3 THE COURT: Thank you. Miss Hemelgarn?

4 JUROR HEMELGARN: My name is Helen

5 Hemelgarn. H-e-m-e-l-g-a-r-n. I live in Monroe County. I'm 64 years old. I'm married
6 with five adult children. One of them is with USA Volleyball. Three are in fitness
7 business and the other one is in finance and credit. I'm a homemaker. My spouse is
8 in the fitness business. My education is high school. My hobbies are cooking, my
9 family and grandchildren and I have no memberships to any groups. I read the
10 Monroe Evening News, The Blade and USA Today and I do not belong to any social
11 media and I have no bumper stickers.

12 THE COURT: Thank you. Miss Hemelgarn, does your husband own his
13 own business?

14 JUROR HEMELGARN: Yes, he does.

15 THE COURT: And what is the name of that business?

16 JUROR HEMELGARN: It's called Super Fitness in Toledo.

17 THE COURT: And how long has he had that business?

18 JUROR HEMELGARN: For 40 years.

19 JUROR SZYMANSKI: My name is Stanley Szymanski.

20 S-z-y-m-a-n-s-k-i. I live in Wayne County. I'm 61 years old, married and have no
21 kids. My present occupation, I'm self-employed. I work as a Master Trainer in
22 occupational safety and health for the Center for Construction Research and Training
23 out of Silver Spring, Maryland and I've been doing that since 2007. I'm retired from
24 the Asbestos Abatement Worker's Region Local 207 in Taylor, Michigan where I
25 worked as a worker/supervisor/superintendent and the last five years of that I worked

1 as a union organizer and business agent. My wife works for CW Price Retail. My
2 education, high school education plus various union training courses. My hobbies, I
3 like to travel, ride a bike. Membership in any organized group, I'm retired from the
4 asbestos workers. Newspaper, I like to read The Free Press and The Heritage
5 newspapers. I don't belong to any social media. I don't have any bumper stickers.

6 THE COURT: Okay. Thank you very much. Good morning.

7 JUROR HAMMITTE: Good morning. My name is Laurie Hammitte.
8 H-a-m-m-i-t-t-e. I'm from Wayne County. I'm 42 years old. I'm married. I have three
9 children; ages are 14, 12 and 15 months. I am a radiation therapist for Karmanos.
10 I've been there for 18 years. My spouse works; he's a computer analysis IT. My
11 education is I've got a Bachelor degree and I'm ARRT certified. My hobbies are
12 gardening and I'm involved with anything I possibly can with my children. I am a
13 member of the ASRT. I do not get the newspaper at all, and magazines I'm involved
14 with are all related to my career. I am on Facebook and I do not have a bumper
15 sticker on my car.

16 THE COURT: Thank you very much. Let me ask just a few questions,
17 ladies and gentlemen, then I will turn the questioning over to Counsel for the
18 Government and to Miss Hendrickson.

19 Have any of you ever served on a jury before? Can I see a show of hands?
20 And you've got the microphone. Pass it to Mr. Szymanski? Can you tell me about
21 your prior jury service? Was it civil or criminal?

22 JUROR SZYMANSKI: It was criminal. It was a murder trial and it was a
23 couple guys that had robbed a video store and killed a gentleman and we ended up
24 convicting.

25 THE COURT: Was that in Records Court or Wayne County? What

1 county do you live in?

2 JUROR SZYMANSKI: I live in Wayne County. I think it was 36th
3 District.

4 THE COURT: Oh, a murder trial in 36th District. How long ago was
5 that?

6 JUROR SZYMANSKI: Geez. Three, four years ago maybe.

7 THE COURT: And is the extent of your jury service?

8 JUROR SZYMANSKI: I've been called a couple other times, but not
9 selected.

10 THE COURT: Thank you. Can you pass the mic to Miss Hoppenworth?

11 JUROR HOPPENWORTH: I served in Sanilac County and it was more
12 of a fight in a bar deal.

13 THE COURT: Was it a criminal case?

14 JUROR HOPPENWORTH: No, just a barroom brawl.

15 THE COURT: So did you go to a verdict in that case?

16 JUROR HOPPENWORTH: Yes.

17 THE COURT: Do you remember what the verdict was?

18 JUROR HOPPENWORTH: One guy was innocent.

19 THE COURT: One guy was found innocent?

20 JUROR HOPPENWORTH: One was guilty.

21 THE COURT: So it was a criminal case.

22 JUROR HOPPENWORTH: I guess.

23 THE COURT: If you found somebody guilty or innocent, it was --

24 JUROR HOPPENWORTH: (Interjecting) He was guilty of beating him
25 up.

1 THE COURT: How long ago was that?

2 JUROR HOPPENWORTH: About 10 years ago.

3 THE COURT: Anybody else in the front row? And in the back row I see
4 a couple of hands. Miss Goff.

5 JUROR GOFF: It was a number of years ago in Oakland County. I
6 believe it was a civic trial. There was a walker at a mall that fell because it was water
7 on the floor, and they had to litigate her suit against the owner of the mall.

8 THE COURT: And did you -- who did you find in favor of? The person
9 who fell or the mall owner?

10 JUROR GOFF: Well, actually we found in favor of her, but we also
11 found she had a responsibility by using that mall which was so graciously free and so
12 the amount of the dollars was reduced somewhat because of that.

13 THE COURT: I got you. Okay, thank you. And Miss Kulkarni, did you
14 have a hand up?

15 JUROR KULKARNI: Yeah. I was in a trial up in Oakland County. It
16 was a drug dealer. We found him guilty.

17 THE COURT: Of dealing drugs?

18 JUROR KULKARNI: Yes.

19 THE COURT: Anybody else? Yes.

20 JUROR AMICUCCI: Catherine Amicucci. About 30 years ago here, a
21 young man was arrested for illegal possession of a firearm and was found guilty.

22 THE COURT: You had a trial here in Federal Court?

23 JUROR AMICUCCI: Yes.

24 THE COURT: Do you remember what Judge you were in front of?

25 JUROR AMICUCCI: It was 30 years ago.

1 THE COURT: It wasn't me.

2 JUROR AMICUCCI: I have no idea.

3 THE COURT: Thank you. So for any of you who have had prior jury
4 service, anything about that experience that you think might color your ability to listen
5 to the evidence in this case and decide this case? Anyone think that that might be an
6 issue for them? I didn't hear anything in your responses, but let me ask you some
7 questions now about connections to law enforcement.

8 Any of you ever worked in law enforcement or a close family member in any
9 type of law enforcement capacity? Anyone? And I see Miss Waller's hand up. Can
10 you tell us about that?

11 JUROR WALLER: My cousin is a police officer. Well, I have several
12 members of the family that's police officers. My sister is an attorney.

13 THE COURT: What kind of law does your sister practice?

14 JUROR WALLER: She does bankruptcy.

15 THE COURT: And the people who are in law enforcement, who are
16 they?

17 JUROR WALLER: It's my cousin. She works for the Detroit Police
18 Department and then I have some that's out-of-state in New York that works for the
19 police department.

20 THE COURT: Thank you. Anybody else with any connections to law
21 enforcement? I see Mr. Scallen has his hand up.

22 JUROR SCALLEN: Yes, Your Honor. While I didn't do any specific
23 criminal work, we did during the course of my time at the Attorney General's Office
24 work with State investigators on cases.

25 THE COURT: Was that when you were in all of those divisions or just

1 with Transportation?

2 JUROR SCALLEN: Primarily licensing and regulations work at the last
3 dozen years. There was one case in particular where investigators were involved a
4 good deal. It involved an individual's acquisition of cemeteries in Michigan.

5 THE COURT: And Miss Goff, did you have a hand up?

6 JUROR GOFF: My husband was a volunteer fireman, so I'm not sure
7 that's closely associated. He was for 25 years.

8 THE COURT: Anyone else? So my question is this; it's not necessarily
9 to those people who have said they have law enforcement connections, but to
10 everyone. There is going to be testimony in this case from people who are in law
11 enforcement. Do any of you believe that people who are in law enforcement are more
12 credible as witnesses because they are law enforcement? Does anybody hold that
13 belief? Anyone? No. And so let me ask the opposite of that. Does anyone believe
14 that people who are in law enforcement are less credible because they are law
15 enforcement people? No. I'm seeing no hands. Okay.

16 Have any of you ever had any tax issues? That's very general. Anyone --

17 JUROR WALLER: Like if you owe the IRS?

18 THE COURT: Yeah, that could be an issue. Does anybody here -- let's
19 start with owe back taxes? Anyone here owe the IRS currently taxes? Okay. One
20 minute. I see Miss Rose's hand and anybody else? And Miss Waller you have in the
21 past. So where's the microphone?

22 JUROR ROSE: I have a question. I don't think it's back taxes, but I did
23 recently get a bill just saying that our -- there was a -- just something happened on the
24 last one we filed, but we paid that.

25 THE COURT: Thank you. Miss Waller, what have been your tax

1 issues?

2 JUROR WALLER: Well, I just owed taxes.

3 THE COURT: After you filed --

4 JUROR WALLER: After I filed, yes.

5 THE COURT: You filed a return. You got a notice from IRS that you
6 owed more in taxes?

7 JUROR WALLER: Yes.

8 THE COURT: And then what happened after that?

9 JUROR WALLER: I paid them. Over years I paid them.

10 THE COURT: Has anyone ever been audited by the IRS? No one?
11 What about any close family members? Any of them that you know about? Miss
12 Hemelgarn, you mentioned that your husband has owned his own business and so I
13 presume that he takes care of his own taxes or has an accountant who does that.
14 Have you ever known of any issues, tax issues that your husband has had?

15 JUROR HEMELGARN: No. He has the tax accountant to do everything
16 and to do it by the book, so everything is good.

17 THE COURT: Mr. Szymanski, I think you said you are self-employed so
18 you're taking -- you've got a business?

19 JUROR SZYMANSKI: Yes. I get called to see if I'm available to do
20 different training classes for different unions around the country. I do make quarterly
21 payments to the IRS; currently behind one, but that's it. It will be going out in a couple
22 weeks hopefully. That's how I take care of my taxes, quarterly.

23 THE COURT: Thank you. Do any of you have any feelings or opinions
24 about the IRS that would impact your ability to impartially -- I see some people smiling
25 here -- that would effect your ability to impartially consider the evidence in this case?

1 Miss Bagdady, Miss Perman, Miss Amicucci, you've got this look, and so can I talk to
2 the three of you about your look? Who's got the microphone? Miss Bagdady.

3 JUROR BAGDADY: No, it's just most people do not like the IRS.

4 THE COURT: You just don't like the IRS.

5 JUROR BAGDADY: You get your tax bill and you pay it.

6 THE COURT: But you don't like to pay taxes?

7 JUROR BAGDADY: I understand why we pay taxes.

8 THE COURT: You've always paid your taxes?

9 JUROR BAGDADY: Absolutely.

10 THE COURT: What about you, Miss Perman?

11 JUROR PERMAN: Same.

12 THE COURT: Miss Amicucci?

13 JUROR AMICUCCI: Same thing. It's just the IRS is just fun to make
14 fun of because we have to pay taxes. Sorry. It's human nature I think.

15 THE COURT: That's fair. I think that's fair. Let me just go over now
16 before I turn it over to the lawyers some principles of law that you will need to know
17 and abide by during the course of this trial.

18 So from movies, television, you probably have heard certain terms that I now
19 want to discuss with you and these terms and principles of law are very important in
20 criminal cases and you do need to understand them.

21 The first one is the right to remain silent. We don't know whether Miss
22 Hendrickson is going to testify or not, but she does have a constitutional right to
23 remain silent and what that means is that she is not under any obligation to testify in
24 this trial. She can remain silent and she can require the Government to prove the
25 charge against her, and there's no obligation for her to take the witness stand or to

1 prove anything. So if Miss Hendrickson elects not to take the witness stand in this
2 case, if she elects to exercise her constitutional right not to testify, would any of you
3 hold that against her?

4 And one thing that I need to tell you also is that if she elects not to testify, that's
5 not even something that you can discuss in the -- during deliberations. You can't talk
6 about well, why didn't she testify. Do you understand that? Because she has no
7 burden of proof.

8 Another principle is the presumption of innocence. At all criminal trials the
9 Defendant is presumed to be innocent. The Indictment that I read to you is the way
10 that the Government puts citizens on notice that they face criminal charges, and that's
11 how it is. It's on a notice provision and the Defendant here -- so Miss Hendrickson
12 begins this trial with a clean slate and that is with a presumption of innocence. So do
13 any of you believe that just the fact of the Indictment means that she must be guilty of
14 something? Does anybody believe that? So it's very important for you to get that.
15 You could be the subject of an Indictment. Your kids could be the subject of an
16 Indictment, and they and you could profess your innocence and Miss Hendrickson
17 has pled not guilty and so she begins this trial with a clean slate.

18 Another principle is the burden of proof. The Government has the obligation to
19 prove a defendant guilty beyond a reasonable doubt and the Government has this
20 burden in all criminal cases regardless of what the charge is and regardless of what --
21 of who the Defendant is and since the Government is the one that elected to bring a
22 charge against Miss Hendrickson, it does have the burden of proof.

23 So I guess this is another way of talking to you about whether she takes the
24 witness stand or not. Do any of you believe that Miss Hendrickson must prove that
25 she is innocent? Does anybody believe that?

1 The burden of proof on the Government is to prove that she is guilty beyond a
2 reasonable doubt, and that means that the certainty -- if you are going to convict her --
3 the certainty that you must have about her guilt must be the certainty that you have
4 about the most important decisions that you would make in your own life. That's how
5 heavy the burden is on the Government. So does anybody believe that they could not
6 hold the Government to that high burden of proof? Does anybody believe that the
7 burden of proof should be anything less than that?

8 All right. I think with that I will turn the questioning over to Counsel. Miss
9 Siskind, are you going to do this?

10 MS. SISKIND: Thank you, Your Honor. Do any members of the jury
11 panel have any formal or informal training in tax or accounting?

12 Have any of you heard of a web site called Lost Horizons or a book called
13 *Cracking the Code*?

14 Have you or any close family members ever been under criminal investigation
15 or charged or convicted of a crime?

16 THE COURT: Miss Rose, yes.

17 JUROR ROSE: Is it something I can say privately?

18 THE COURT: Can you step out of the jury box then and come to the
19 side? And can I have Counsel and Miss Hendrickson up here?

20 **(Sidebar conference out of the hearing of the jury as follows)**

21 JUROR ROSE: Hi. I don't know how much I should say, but my
22 husband was convicted of a felony charge back like 15 years ago. So I didn't know if
23 that's --

24 THE COURT: (Interjecting) What was the charge.

25 JUROR ROSE: It was -- he was found not guilty of some kind of sexual

1 conduct when he was 17, 18, something like that with a girl who was 15.

2 THE COURT: So he went to trial and he was found not guilty or you said
3 he was convicted of a felony?

4 JUROR ROSE: He has a charge on him. He's on the Sex Offender's
5 List for 30 years.

6 THE COURT: So was he convicted of another sexual conduct crime?

7 JUROR ROSE: I'm not a hundred percent sure. I don't like to ask about
8 it, so I don't. I kind of try to block it out.

9 THE COURT: So you don't know how he ended up on the Registry?

10 JUROR ROSE: I know he's had -- he was -- has a felony charge
11 against him, so I'm guessing maybe --

12 THE COURT: Wait one minute. She can't record if we're both talking.
13 You said that he was found not guilty and if he was found not guilty he wouldn't be on
14 a Registry, so maybe he was found guilty?

15 JUROR ROSE: Maybe. I know he never went to prison or anything, so
16 I don't know.

17 THE COURT: Counsel or Miss Hendrickson, do you have questions?

18 MS. SISKIND: Is there anything about that experience that would make
19 you have a difficult time being fair and impartial in this case?

20 JUROR ROSE: No.

21 THE COURT: Miss Hendrickson, do you have questions?

22 MS. HENDRICKSON: No.

23 THE COURT: Okay. Why don't you take your seat? Thank you.
24 Anybody think that that's a reason to excuse her?

25 MS. SISKIND: Not for cause, Your Honor.

1 MS. HENDRICKSON: No, I don't think so.

2 THE COURT: Okay.

3 **(END OF SIDEBAR CONFERENCE)**

4 THE COURT: All right. You want to continue, Miss Siskind?

5 MS. SISKIND: Do any members of the jury panel, either yourself or
6 close members of your family believe that the tax laws of the United States are
7 unconstitutional or people should not be required to pay taxes to the Government?

8 And do any of you believe that there's any reason you would have a hard time
9 being fair and impartial because this case involves the Department of Justice and the
10 Internal Revenue Service? Thank you, Your Honor.

11 THE COURT: Thank you. Miss Hendrickson, do you have any voir dire?

12 MS. HENDRICKSON: Yes, ma'am. First off, do you understand that I'm
13 only on trial -- I'm not on trial for any offense that is not alleged in the Indictment?
14 There's the one charge. Yes?

15 Do you understand that if the Prosecution is to meet its burden of proof, it has
16 to prove that I committed the specific crime that's charged in the Indictment? Do you
17 understand if the Prosecution proves that I committed some offense other than the
18 one charged, your verdict still must be not guilty? Would it bother you if the
19 Prosecution proved that a defendant committed an offense, but not an offense
20 charged in the Indictment that you still must find that defendant not guilty?

21 THE COURT: Well, Miss Hendrickson, let me just clarify something. I
22 would not be allowing into evidence proof of crimes that are not charged in the
23 Indictment, all right?

24 MS. HENDRICKSON: Thank you.

25 THE COURT: Thank you.

1 MS. HENDRICKSON: This was covered a little bit as far as law
2 enforcement goes, but would you give greater credence to the testimony of a
3 Government official just because they're a Government official?

4 If I were to testify, would you give more credibility to the testimony of the
5 Government official than you would to me?

6 Would you give more credence to the testimony of a Federal official than any
7 other witness?

8 Do you appreciate the fact that just as with any witness there can be situations
9 in which a Federal official would either be mistaken or maybe even not tell the truth?

10 This was sort of covered as well. I have it on my list. Assuming that someone
11 close to you such as your mom or your daughter were standing trial instead of me,
12 would you be satisfied with 12 jurors of the same frame of mind as your own?

13 And will you take the time necessary to examine all of the evidence and apply
14 the law? Will you apply only the law that is applicable to the case and not any law
15 that may apply to a different case or to -- or what you think the law should be?

16 Would you feel an obligation to reach a verdict because of the majority of your
17 fellow jurors? If you have a reasonable doubt of my guilt or about my guilt at the end
18 of a case and after listening to the arguments of your fellow jurors, could you and will
19 you stick to your guns and refuse to change your verdict even though it might make
20 you unpopular with the other jurors? Even if it were 4:30 on a Friday and you wanted
21 to go home?

22 If you are chosen as a juror, will you stand by your opinion based only on the
23 evidence that comes to trial?

24 Would it be embarrassing to you in any way if you were sitting on the jury and
25 you acquitted me? Or any defendant for that matter? If you were to ultimately vote

1 for acquittal, would that action create any problems for you in your neighborhood, at
2 your workplace or anything like that?

3 Is there anything about this case that bothers you at all? Have any of the
4 questions that have been asked created negative feelings in such a way that you
5 could not sit as a fair and impartial juror? Do you know of any reason why you could
6 not sit as a fair and impartial juror in this case?

7 I think that will do.

8 THE COURT: Thank you very much, Miss Hendrickson. I will take any
9 challenges now. Any challenges for cause, Miss Siskind or Miss Hendrickson?

10 MS. SISKIND: None from the Government, Your Honor.

11 MS. HENDRICKSON: I guess not.

12 THE COURT: No challenges for cause? Miss Siskind, do you have any
13 peremptory challenges to exercise?

14 MS. SISKIND: Yes, Your Honor.

15 THE COURT: Who would that be?

16 MS. SISKIND: Miss Huby.

17 THE COURT: All right. Miss Huby, you're excused and may I ask if Miss
18 Hendrickson -- just one moment Miss Huby. Miss Hendrickson, do you have any
19 challenges?

20 MS. HENDRICKSON: Miss Kelly -- Miss Rose.

21 THE COURT: Miss Kelly Rose in seat nine. So Miss Huby, Miss Kelly
22 Rose, thank you very much. You need to go back to our jury room. Thank you.
23 We will fill those two seats now.

24 THE CLERK OF THE COURT: Juror number 293, Marvin Wanamaker
25 and that's in the first seat in seven. Juror number 246, Deborah Chris. In seat nine.

1 THE COURT: Good morning Mr. W and miss Chris. Is there any
2 reason, health reason or extraordinary other reason that either of you could not sit
3 during this trial?

4 JUROR WANAMAKER: No.

5 JUROR CHRIS: No.

6 THE COURT: And we asked some questions about prior jury service,
7 either of you had that? Yes. Mr. Wanamaker, you had?

8 JUROR WANAMAKER: It was a criminal case in Detroit.

9 THE COURT: And what kind of criminal case was it?

10 JUROR WANAMAKER: It was assault and battery.

11 THE COURT: And did you go to verdict on that case?

12 JUROR WANAMAKER: I did not. I was the extra person.

13 THE COURT: You were an alternate. You got excused?

14 JUROR WANAMAKER: I was excused.

15 THE COURT: And Miss Chris, have you had any service?

16 JUROR CHRIS: I have not.

17 THE COURT: We asked some questions about any issues with the IRS.
18 Have either of you had any IRS issues? Do either of you have strong feelings against
19 the IRS? And do any of you have any connections to law enforcement or close family
20 members? Do either of you believe that people in law enforcement are more credible
21 because they are law enforcement? Either of you believe they're less credible
22 because they're law enforcement?

23 Mr. Wanamaker, you've got the microphone. Could you rise and answer our
24 questions please?

25 JUROR WANAMAKER: My name is Marvin Wanamaker. That's

1 W-a-n-a-m-a-k-e-r. I live in Wayne County. I'm 61 years old. I'm married. I have two
2 adult children, 33 and 25. My daughter is 33 and works at a pharmacy and my son is
3 unemployed at this time. I'm a registered nurse. I work in the Chemical Dependency
4 Unit. My wife is a nurse and works at a nursing home. I have no hobbies as far as
5 my motorcycle. I belong to Facebook. I read the Detroit News every few days. I
6 belong to as I said Facebook. I have a bumper sticker on my vehicle, Harley
7 Davidson and that's it.

8 THE COURT: What are your bumper stickers?

9 JUROR WANAMAKER: My bumper sticker says Harley Davidson.

10 THE COURT: Thank you. Miss Chris.

11 JUROR CHRIS: My name is Deborah Chris, C-h-r-i-s. I live in Macomb
12 County. I'm 49 years old. I am divorced, no children. I'm an administrative assistant
13 for a corporate law firm based in Detroit. I have a paralegal degree from Wayne State
14 University. My hobbies are movies, reading and scrapbooking. I don't belong to any
15 social clubs. I do not subscribe to newspapers or magazines. I do not have social
16 media sites that I subscribe to. I do not have bumper stickers on my car.

17 THE COURT: Who is it that you work with or for?

18 JUROR CHRIS: Kerr, Russell and Weber.

19 THE COURT: What do you do there?

20 JUROR CHRIS: I'm an administrative assistant for a partner.

21 THE COURT: What partner do you work for?

22 JUROR CHRIS: George Christopoulos. He specializes in mergers,
23 acquisitions and estate planning.

24 THE COURT: Thank you. I neglected to ask you. You two heard the
25 Indictment that I read, correct? Anything in there that sounds familiar to you? What

1 about the witness names, any of them familiar to you?

2 JUROR CHRIS: No.

3 JUROR WANAMAKER: No.

4 JUROR CHRIS: I know someone named Susan Smith.

5 THE COURT: That was on your list, correct?

6 MS. HENDRICKSON: Yes, it was.

7 THE COURT: Who is the Susan Smith that you know?

8 JUROR CHRIS: She also works at Kerr, Russell and Weber.

9 THE COURT: Does your Susan Smith work at a law firm?

10 MS. HENDRICKSON: No.

11 THE COURT: Do either of you have any disagreement with the
12 principles of law that I gave earlier? Thank you. Miss Siskind, do you have questions
13 or let me ask you. Do you have -- you heard all the questions. Anything that you want
14 to bring to our attention that you would have said?

15 JUROR WANAMAKER: No.

16 JUROR CHRIS: No.

17 THE COURT: Thank you. Miss Siskind.

18 MS. SISKIND: No questions, Your Honor.

19 THE COURT: Miss Hendrickson?

20 MS. HENDRICKSON: No, ma'am.

21 THE COURT: Thank you. Any challenges for cause to either of these
22 two witnesses?

23 MS. SISKIND: No, Your Honor.

24 THE COURT: Miss Hendrickson?

25 MS. HENDRICKSON: No.

1 THE COURT: Miss Hendrickson, do you have a peremptory challenge
2 you want to exercise?

3 MS. HENDRICKSON: Yes. I think Mr. Scallen in seat number one.

4 THE COURT: What about you, Miss Siskind, do you have any
5 challenges to exercise?

6 MS. SISKIND: No, Your Honor.

7 THE COURT: Mr. Scallen, thank you very much. We will fill seat
8 number one now.

9 THE CLERK OF THE COURT: Juror number 213, Kathleen
10 Lash-Beurer.

11 THE COURT: Good morning, Miss Lash-Beurer. So Miss Lash-Beurer
12 --

13 JUROR LASH-BEURER: Lash is good.

14 THE COURT: Lash is good? Okay. So Miss Lash, you heard the
15 Indictment in this case. Is it familiar to you?

16 JUROR LASH: No.

17 THE COURT: What about witness names?

18 JUROR LASH: No.

19 THE COURT: Any reason you would not be able to be here through the
20 trial through the estimated time that we've given you?

21 JUROR LASH: No.

22 THE COURT: And what about prior jury service, have you had any?

23 JUROR LASH: I've been called many times but never on a jury.

24 THE COURT: What about any issues with the IRS? Have you had any?

25 JUROR LASH: No.

1 THE COURT: Are you sure?

2 JUROR LASH: Yeah. No, I haven't.

3 THE COURT: You have not?

4 JUROR LASH: No. Sometimes my attitude needs adjusting.

5 THE COURT: All right. Do you have any connections to law
6 enforcement?

7 JUROR LASH: No. Just a second cousin that retired years ago.

8 THE COURT: Do you believe for any reason that people in law
9 enforcement are more credible than other people?

10 JUROR LASH: No.

11 THE COURT: Less credible?

12 JUROR LASH: No.

13 THE COURT: And do you have any disagreement with the principles of
14 law that I gave earlier?

15 JUROR LASH: No.

16 THE COURT: Thank you. Miss Siskind, do you have questions?

17 MS. SISKIND: Is there anything about the fact that this case will involve
18 the IRS that makes you concerned you won't be able to be fair and impartial in this
19 case?

20 JUROR LASH: I am. I'm the type of person I would love to say I hope
21 not, but to be honest I'm like you know back and forth. I tend to be very honest and
22 try to be very fair with anything I do.

23 THE COURT: So what does that mean? What are you telling us
24 exactly? What are you saying?

25 JUROR LASH: I don't know. I guess collecting money from the IRS is

1 off the wall and it's just been in my mind that funds are mismanaged. I think our taxes
2 are being mismanaged and that it sticks with me, and it really has nothing to do with
3 this case. It's just -- I don't have the faith in the IRS or the State like I used to.

4 THE COURT: All right. I asked Miss Siskind if you have questions.
5 Miss Hendrickson, do you have questions?

6 MS. HENDRICKSON: No, I don't.

7 THE COURT: And I failed to -- if you could -- Miss Lash, could you
8 answer the questions on that sheet please?

9 JUROR LASH: I'm sorry. My name is Kathleen Lash-Beurer. I live in
10 Wayne County. I'm 54. I'm widowed. I have one son who is studying law in -- at
11 State. I've been unemployed as of April. I have a high school education with some
12 colleges. My hobbies, golf, college football. I'm not really -- I'm involved in the
13 Dearborn Animal Shelter. I really rarely read a newspaper or magazine. I find
14 everything online. I do have Facebook and a LinkedIn. I don't really use the LinkedIn.
15 I have three bumper stickers on my car and that's about it.

16 THE COURT: And you said you've been unemployed since April.
17 Where do you work before?

18 JUROR LASH: Allen Park School District. I was accounts payable
19 secretary.

20 THE COURT: How long did you have that position?

21 JUROR LASH: Not long. I was pretty shocked. From December to
22 April. December of 2012 to April of 2013.

23 THE COURT: And before that, were you working?

24 JUROR LASH: I was unemployed. I've been unemployed since 2010
25 and I did work at Target during the holidays prior to the Allen Park Schools and

1 worked for a cement company beforehand.

2 THE COURT: Thank you. Counsel and Miss Hendrickson, may I see
3 you at side bar please?

4 **(Sidebar conference out of the hearing of the jury as follows)**

5 THE COURT: Is there a challenge for cause here?

6 MS. SISKIND: Yes, Your Honor. We move to strike Miss Lash-Beurer
7 for cause.

8 THE COURT: Do you have a response, Miss Hendrickson?

9 MS. HENDRICKSON: No.

10 THE COURT: No response.

11 MS. HENDRICKSON: She said she could be honest, so I really don't
12 understand.

13 THE COURT: I think I will strike her. Has there been agreement on how
14 we're getting rid of alternates?

15 MS. SISKIND: No, Your Honor.

16 MS. HENDRICKSON: I thought we would draw names out of a hat.

17 THE COURT: Is that what you want to do? Otherwise it's the last two
18 who enter the box.

19 MS. SISKIND: We would agree to the random selection of alternates.

20 THE COURT: And you agree to random selection?

21 MS. HENDRICKSON: Yes. That's pulling --

22 THE COURT: Yes.

23 MS. HENDRICKSON: Okay.

24 **(END OF SIDEBAR CONFERENCE)**

25 THE COURT: The Court is going to thank and excuse Miss

1 Lash-Beurer. Thank you.

2 THE CLERK OF THE COURT: Juror number 289, Jeffrey Vanwormer.

3 THE COURT: Good morning, Mr. Vanwormer. Could you answer our
4 questions there?

5 JUROR VANWORMER: My name is Jeff Vanwormer.

6 V-a-n-w-o-r-m-e-r. I live in Jackson County. I'm 60 years old. I've been married for
7 34 years and we have a 28-year old high-functioning adult autistic son. I'm a welder.
8 I've been working at the Sweepster/Paladin for the last 16 years; that's in Dexter. My
9 wife is a homemaker. I've had high school and some college. My hobbies include
10 power walking and I compose Christian music. I don't belong to any group or social
11 media circles or things of this nature. We get the Jackson Citizen Patriot about three
12 days a week. I read it maybe once. As I said, I don't do social interaction. I have no
13 bumper stickers. That's basically it.

14 THE COURT: Thank you. Mr. Vanwormer, have you ever served on a
15 jury?

16 JUROR VANWORMER: I've been called a couple of times, but never
17 been picked.

18 THE COURT: Have you ever had any issues in the IRS.

19 JUROR VANWORMER: None.

20 THE COURT: None. You say that very forcefully. Any connections to
21 law enforcement?

22 JUROR VANWORMER: Not that I can think of.

23 THE COURT: Do you believe that law enforcement people are more
24 credible?

25 JUROR VANWORMER: Not necessarily.

1 THE COURT: Do you think --

2 JUROR VANWORMER: There's good cops and there's bad cops.

3 THE COURT: Do you think they're less credible because they're law
4 enforcement?

5 JUROR VANWORMER: Not necessarily.

6 THE COURT: Any reason you would not be able to serve on this jury?

7 JUROR VANWORMER: Other than extraordinary inconvenience, none.

8 THE COURT: And the Indictment, is that familiar to you at all?

9 JUROR VANWORMER: No.

10 THE COURT: What about the witnesses?

11 JUROR VANWORMER: Don't ring a bell.

12 THE COURT: Thank you. Miss Siskind, do you have questions?

13 MS. SISKIND: Court's indulgence, Your Honor. Is there anything about
14 the fact that this case involves the IRS and taxes that leaves you concern you might
15 not be able to be fair and impartial?

16 JUROR VANWORMER: If we're given all the evidence like we will not
17 present this because of that, I hear this all the time. Criminal cases, whatever. Well,
18 if the jury couldn't hear that because blah blah blah kept it out. Well, if they would
19 have heard it, it might have made a difference. So are we going to hear everything
20 available if I'm on this jury?

21 THE COURT: Mr. Vanwormer, let me say this. There are certain rules
22 that apply in every criminal case and the parties may disagree about what is
23 admissible evidence and what is not admissible evidence. You may hear objections
24 from one side or the other, and then the Court has to rule on that objection and I will
25 ultimately make the decision about whether something is admissible or not admissible

1 and I could say not admissible and if I say that, then that means that the jury won't get
2 that evidence. And you won't get that evidence because I've made a decision that the
3 evidence is not relevant to the case or it doesn't go to prove one of the elements.

4 There are a variety of reasons, but there are Rules of Evidence that apply in every
5 case and you may or may not get to see everything that is proposed. So given that,
6 you're going to get what is relevant and you're going to get what is pertinent that the
7 Government believes it needs to put into evidence to prove its case and Miss
8 Hendrickson may make objections and I'll rule on objections as they come up.

9 So does that effect your answer here?

10 JUROR VANWORMER: I don't think so, no.

11 THE COURT: Do you think that you would you be able to be a fair and
12 impartial juror in this case if I say you're not going to get to see something proposed
13 as evidence?

14 JUROR VANWORMER: I believe so.

15 THE COURT: Miss Siskind, do you have follow-up questions?

16 MS. SISKIND: I'm not sure if you answered my question specifically
17 about the IRS, if there's anything about the fact that this case involves taxes or the
18 IRS that makes you concerned you might not be able to be a fair and impartial juror.

19 JUROR VANWORMER: I don't think so.

20 THE COURT: Thank you. Miss Hendrickson, do you have any
21 questions of Mr. Vanwormer?

22 MS. HENDRICKSON: No, I don't.

23 THE COURT: Thank you. Any challenges for cause?

24 MS. SISKIND: No, Your Honor.

25 THE COURT: All right. And Miss Siskind, do you have any

1 peremptories?

2 MS. SISKIND: We move to strike Mr. Vanwormer.

3 THE COURT: Thank you. And what about you, Miss Hendrickson, do
4 you have any challenges?

5 MS. HENDRICKSON: Miss Bagdady please.

6 THE COURT: Miss Bagdady, thank you. So Mr. Vanwormer. Seats
7 number one and six need to be filled. Both of you need to go back to the jury room.
8 Thank you very much.

9 THE CLERK OF THE COURT: Juror number 265, Darrin Kraatz in seat
10 one and juror number 830, Deborah Wood in seat six.

11 THE COURT: Good morning to both of you. Mr. Kraatz, would you
12 answer the questions?

13 JUROR KRAATZ: Sure. My name is Darrin Kraatz. I live in Macomb
14 County. I'm 40 years old. Currently married. I've got three children; 10, almost six
15 and four. I'm currently the Deputy Assessor of Bloomfield Township Property Tax
16 Division. My wife is a cardiac stenographer. I have a Bachelors degree in Public
17 Administration from Central Michigan. My hobbies are coaching my son's baseball
18 team. I'm a member of various professional organizations around this area, and in
19 the state. I read the Detroit Free Press. I have a Facebook and LinkedIn account.
20 The only bumper sticker I have is from my son's baseball team and that's it.

21 THE COURT: Thank you. And tell us a little bit about your work as
22 Deputy Assessor in Bloomfield Township.

23 JUROR KRAATZ: Basically we go around and we appraise property
24 and defend property for Bloomfield Township and that's about it.

25 THE COURT: Thank you very much. And Miss Deborah Wood, good

1 morning.

2 JUROR WOOD: My name is Deborah Wood. I live in Oakland County.
3 I'm 61. I'm married. Between the two of us we have seven adult children, 12
4 grandchildren and my present -- I'm presently retired. I just retired in June. I was an
5 RN at University of Michigan. I worked in the Emergency Room for 35 years and the
6 rest was in a satellite clinic. My husband is a builder. He owns his own business. My
7 hobbies are golfing, all sports and taking care of my grandkids. I'm not currently in
8 any membership other than like a nurses association, things of that nature. I do not
9 read any newspapers, but I read online. I do belong to Facebook. The only bumper
10 sticker I have is a hockey sticker for my grandson for his hockey team.

11 THE COURT: Thank you. So Miss Wood, you said your husband owns
12 his own business. Have you known him ever to have any tax issues?

13 JUROR WOOD: No.

14 THE COURT: And what about you as a couple, you as an individual,
15 ever any issues with the IRS?

16 JUROR WOOD: No I have not.

17 THE COURT: Thank you. And what about you, Mr. Kraatz?

18 JUROR KRAATZ: No.

19 THE COURT: No tax issues. Have either of you served on a jury?

20 JUROR WOOD: I served in Oakland County. It was a criminal case. It
21 was a paraphernalia, drug paraphernalia that was found in his car and he was found
22 not guilty.

23 THE COURT: So while you have the microphone, any reason you
24 couldn't serve on this jury?

25 JUROR WOOD: No.

1 THE COURT: The Indictment sound familiar to you?

2 JUROR WOOD: No.

3 THE COURT: Witnesses?

4 JUROR WOOD: No.

5 THE COURT: And any connections to law enforcement?

6 JUROR WOOD: No.

7 THE COURT: Do you agree with the principles of law that I outlined
8 earlier?

9 JUROR WOOD: Yes.

10 THE COURT: You do. Thank you. And Mr. Kraatz, basically the same
11 questions. Can you pass the microphone down to him please? Mr. Kraatz, any
12 reason you would not be able to serve as a juror?

13 JUROR KRAATZ: No.

14 THE COURT: Indictment familiar to you?

15 JUROR KRAATZ: No.

16 THE COURT: Is anything I read in the Indictment familiar to you?

17 JUROR KRAATZ: No.

18 THE COURT: What about the witnesses?

19 JUROR KRAATZ: No.

20 THE COURT: Any prior jury service?

21 JUROR KRAATZ: No.

22 THE COURT: And I asked you about IRS issues. Do you agree with the
23 principles of law I outlined earlier?

24 JUROR KRAATZ: Yes

25 THE COURT: Miss Siskind, do you have questions?

1 MS. SISKIND: Yes, Your Honor. Miss Wood, does your husband use
2 an accountant to prepare tax returns for his business?

3 JUROR WOOD: Yes.

4 MS. SISKIND: Then to both of you, is there anything about the fact this
5 case involves income taxes and the IRS that would give you concern about being a
6 fair and impartial juror?

7 JUROR WOOD: No.

8 JUROR KRAATZ: No.

9 MS. SISKIND: Thank you, Your Honor.

10 THE COURT: Do you have questions?

11 MS. HENDRICKSON: No, ma'am.

12 THE COURT: No questions. Thank you. So Miss Hendrickson, I
13 believe -- well first, let me ask any challenges for cause?

14 MS. SISKIND: No, Your Honor.

15 MS. HENDRICKSON: No.

16 THE COURT: And Miss Hendrickson, do you have any peremptory
17 challenges to exercise?

18 MS. HENDRICKSON: I think Miss Chris.

19 THE COURT: You want to excuse Miss Chris in seat nine?

20 MS. HENDRICKSON: Yes, please.

21 THE COURT: Okay. And Miss Siskind, do you have any challenges?

22 MS. SISKIND: No, Your Honor.

23 THE COURT: Thank you. Miss Chris, thank you very much.

24 THE CLERK OF THE COURT: Juror 827, Lakiesha Harvey.

25 THE COURT: Good morning, Miss Harvey. Can you answer our

1 questions?

2 JUROR HARVEY: My full name is Lakiesha Harvey. H-a-r-v-e-y. I live
3 in Wayne County. Age 41, single, no kids. I have two jobs. I work as a store
4 manager at Payless Shoes and I work for The Michigan Chronicle Newspaper.

5 MS. HENDRICKSON: I'm sorry. I didn't hear that.

6 THE COURT: Michigan Chronicle.

7 JUROR HARVEY: Education, high school and a little college. Hobbies,
8 sports. Memberships, no. I read all the newspapers because I work at the
9 newspaper. I have all social media. No bumper stickers and that is it.

10 THE COURT: What kind of work do you do at the Michigan Chronicle?

11 JUROR HARVEY: I'm a freelance sports photographer.

12 THE COURT: Freelance sports photographer. Thank you. Have you
13 ever served on a jury?

14 JUROR HARVEY: No.

15 THE COURT: And did you heard me read the Indictment. Is anything in
16 that familiar to you?

17 JUROR HARVEY: No.

18 THE COURT: What about any of the witnesses whose names were
19 given?

20 JUROR HARVEY: No.

21 THE COURT: Have you ever had any issues with the IRS?

22 JUROR HARVEY: Yes.

23 THE COURT: Can you tell us about those please?

24 JUROR HARVEY: I owed and I couldn't figure out what year I owed, but
25 they said I owed, but I finally paid it so it's all taken care of.

1 THE COURT: So how long ago did you get some notice that you owed
2 taxes?

3 JUROR HARVEY: About six or seven years ago. I don't understand
4 why it takes so long for them to come back.

5 THE COURT: Let me ask a question. You got a notice six or seven
6 years ago?

7 JUROR HARVEY: Yes, and I owed for those years and something like
8 that. I can't remember the dates, but I took care of it.

9 THE COURT: You got a notice six or seven years ago for years that or
10 did you just get it?

11 JUROR HARVEY: No. How does this work? Let me see. Maybe it's
12 like in 2001 or two that I owed and then I finally got something like five or six years
13 ago saying that's the years I owed for.

14 THE COURT: So you got something that you believe said you owed for
15 2001/2002 and you got that notice a few years ago?

16 JUROR HARVEY: Yes.

17 THE COURT: And what happened when you got that notice?

18 JUROR HARVEY: They said I owed.

19 THE COURT: And then what happened?

20 JUROR HARVEY: I paid.

21 THE COURT: Okay. And have you gotten any notices since?

22 JUROR HARVEY: No, except for the City. But they said since I work
23 outside the city that I owed them, so it's just a mess with me. I don't understand.

24 THE COURT: Are your taxes current?

25 JUROR HARVEY: I'm good now. Since I work in a different city, that

1 they don't have to take out Detroit taxes, so I didn't know that. So it's just weird.

2 THE COURT: Okay. Yeah, I know about that.

3 JUROR HARVEY: Do you understand? It's just weird.

4 THE COURT: Okay. Is there any reason because you got this notice
5 and because you don't quite understand about the withholding of taxes for the City of
6 Detroit, anything about that that might effect your ability to be a fair and impartial juror
7 here?

8 JUROR HARVEY: I hope not, no. I think I can be partial.

9 THE COURT: You think you can be impartial or partial? Which one?
10 Do you think you can be fair?

11 JUROR HARVEY: No.

12 THE COURT: You don't believe you can be fair?

13 JUROR HARVEY: No.

14 THE COURT: Do you have any questions, Miss Siskind?

15 MS. SISKIND: No, Your Honor.

16 THE COURT: Miss Harvey, the Court will excuse you. Thank you very
17 much.

18 THE CLERK OF THE COURT: Juror 216, Arthur Settle.

19 THE COURT: You know I just don't get this phenomena. Sometimes a
20 particular seat is just so hard to fill. You are the sixth person in that seat, Mr. Settle.

21 JUROR SETTLE: Perhaps because the person before me had a cold.

22 THE COURT: I don't know.

23 THE COURT: Is there any reason you couldn't serve as a juror?

24 JUROR SETTLE: Not that I can think of.

25 THE COURT: Answer our questions.

1 JUROR SETTLE: Okay. My name is Arthur settle and it's spelled
2 S-e-t-t-l-e. And I live in Macomb County. I'm 41 years old. I'm single with no kids.
3 I'm currently a User Support Specialist for Oakland County. I'm based out of the
4 Oakland County Friend of the Court Building.

5 THE COURT: What does that mean? What's a User Support
6 Specialist?

7 JUROR SETTLE: Basically if someone has a problem with their
8 computer mouse, their doesn't work, their keyboard doesn't work, I switch it out or
9 figure out why. If they're having a problem with the program, I try to help them with
10 the program. If they have a virus on the computer, I run all kinds of scans. I update
11 Windows updates and things like that.

12 THE COURT: Thank you.

13 JUROR SETTLE: My education is I have a Bachelor's degree of
14 Psychology at Central Michigan University. My hobbies are I love to play video
15 games and I love to watch basketball. I'm not a member of any group that I know of.
16 I do read the Sports Section of the newspaper when I get a chance, if I can get one. I
17 also subscribe to Game Informer, a video game magazine, another video game
18 magazine that I don't know the name of and I subscribe to Playboy Magazine. I don't
19 have any kind of Facebook, MySpace, LinkedIn, Twitter, Blog, any of that stuff. I
20 have no bumper stickers and that's it.

21 THE COURT: You're the first person who's ever admitted a subscription
22 to Playboy Magazine.

23 JUROR SETTLE: Well, it is the Court so I figure I should be honest.

24 THE COURT: True. Mr. Settle, have you served on a jury before?

25 JUROR SETTLE: No, I never have.

1 THE COURT: And have you ever had any issues with the IRS?

2 JUROR SETTLE: No, none.

3 THE COURT: You're current on your taxes?

4 JUROR SETTLE: I'm current on my taxes, yes.

5 THE COURT: Do you have any connections to law enforcement?

6 JUROR SETTLE: No.

7 THE COURT: Do you believe that people in law enforcement are more
8 or less credible?

9 JUROR SETTLE: I think they're the same as anyone else.

10 THE COURT: And what about the principles of law that I went over
11 earlier; do you have any disagreement with them?

12 JUROR SETTLE: No.

13 THE COURT: Do you think you could follow them?

14 JUROR SETTLE: Sure.

15 THE COURT: Thank you. Miss Siskind, do you have questions?

16 MS. SISKIND: No, Your Honor.

17 THE COURT: Miss Hendrickson, do you have questions?

18 MS. HENDRICKSON: No, ma'am.

19 THE COURT: Are there any challenges -- is there a challenge for
20 cause?

21 MS. SISKIND: Not from the Government, Your Honor.

22 THE COURT: All right. And Miss Siskind, do you have a peremptory?

23 MS. SISKIND: No, Your Honor.

24 THE COURT: Miss Hendrickson, do you have a peremptory?

25 MS. HENDRICKSON: No, I don't.

1 THE COURT: Wow. Do you know what that means? You are the lucky
2 group. You are the unlucky group back here because you get to go home.

3 Ladies and gentlemen, thank you very much. I hope that you haven't felt your
4 time was wasted here this morning. I hope you have a better sense of the process
5 that we go through and that you understand how important it is for people to come
6 and serve on juries, so please let everyone know you had a very pleasant experience
7 here in Federal Court and you'll have to go back up to the jury room. Thank you.

8 You're magical, Mr. Settle. He doesn't deny it. He says oh yeah, I guess I am.

9 All right. Would you all rise, ladies and gentlemen? You need to take an oath.

10 **JURY PANEL SWORN**

11 **(At about 11:08 a.m. Jury of 14 sworn under oath by the Clerk of the Court)**

12 THE COURT: Why don't you take your seats a moment and I'll let you
13 take a break in a moment before I bring you back and we will have -- I'll need to give
14 you some opening instructions and then can you tell me how you see today unfolding,
15 Miss Siskind?

16 MS. SISKIND: Your Honor, the Government anticipates its opening
17 statement will be no more than 10 minutes, and its first witness who's already waiting
18 outside the courtroom will be approximately no more than half an hour on Direct
19 Examination. Then we have our other two witnesses on standby about five minutes
20 away for this afternoon.

21 THE COURT: Thank you. Miss Hendrickson, do you know how long
22 you are going to take for your opening?

23 MS. HENDRICKSON: Well, I practiced it and I think maybe about 20
24 minutes.

25 THE COURT: Thank you. So, ladies and gentlemen, let's take a break,

1 grab something to eat or drink and then I'll give you the opening instructions. We'll
2 hear opening statements and then depending on that time, maybe we'll take a lunch
3 break and come back and start hearing witnesses, but we'll just watch the time now.
4 All rise for this Jury please. Thank you.

5 **(Jury exited courtroom at 11:10 a.m.)**

6 THE COURT: We will resume at 11:30. Thank you. We're adjourned.

7 **(COURT RECESSED AT ABOUT 11:10 A.M.)**

8 **(At about 11:33 a.m.)**

9 **(Court, Counsel, Jury and parties present)**

10 THE COURT: Everyone, you can take your seats. Ladies and
11 gentlemen, I have some preliminary instructions to give you before we go to opening
12 statements.

13 It will be your duty to find from the evidence what the facts are. You and you
14 alone will be the judges of the facts. You will then have to apply those facts, the law
15 as the Court gives it to you. You must follow the law whether you agree with it or not.
16 Nothing that the Court says or does during the course of this trial is intended to
17 indicate or should be taken by you as indicating what your verdict should be.

18 Now the evidence. The evidence from which you will find the facts will consist
19 of the testimony of witnesses, documents and other things received into the record as
20 exhibits and any facts the lawyers agree to or stipulate to or that the Court instructs
21 you to find. Certain things are not evidence and must not be considered by you and
22 I'm going to list them.

23 First, statements, arguments and questions by lawyers are not evidence.

24 Two, objections to questions are not evidence. Lawyers have an obligation to
25 their clients to make objections when they believe evidence is being offered --

1 evidence offered is improper under the Rules of Evidence and you should not be
2 influenced by the objection or by the Court's ruling on it. If the objection is sustained,
3 you are to ignore the question. If it is overruled, you treat the answer like any other.
4 If you are instructed that some item of evidence is received for a limited purpose only,
5 then you must follow that instruction.

6 Three, testimony that the Court excludes or tells you to disregard is not
7 evidence and must not be considered by you.

8 And four, anything that you see or hear outside of the courtroom is not
9 evidence and must be disregarded by you. You are to decide the case solely on the
10 evidence that is presented here in the courtroom and admitted.

11 There are two kinds of evidence, direct and circumstantial. Direct evidence is
12 direct proof of a fact such as the testimony of an eye witness. Circumstantial
13 evidence is proof of facts from which you may infer or conclude that other facts exist.
14 I will give you further instructions on these as well as other matters at the end of the
15 case, but please keep in mind that you may consider both direct and circumstantial
16 evidence.

17 It will be up to you to decide which witnesses to believe, which witnesses not to
18 believe, and how much of any witness's testimony to accept or reject and the Court is
19 going to give you some guidelines for determining the credibility of witnesses.

20 So some rules for criminal cases. Three basic rules. First, the Defendant is
21 presumed innocent until proven guilty. The Indictment brought by the Government as
22 I said is only an accusation and not more than that. It is not proof of guilt or anything
23 else and she stands here with a clean slate, Miss Hendrickson.

24 Secondly, the burden of proof is on the Government until the very end of the
25 case. The Defendant has no burden to prove her innocence or to present any

1 evidence to you or to testify. Since the Defendant has the right to remain silent, the
2 law prohibits you from arriving at your verdict by considering that she may not have
3 testified.

4 And third, the Government must prove Miss Hendrickson's guilt beyond a
5 reasonable doubt and the Court will give you further instruction on this point later, but
6 please bear in mind that this is a criminal case, not a civil case, where the burden of
7 proof is very, very different.

8 Now a few words about your conduct as jurors. You as jurors must decide this
9 case based solely on the evidence presented here within this courtroom. This means
10 that during the trial you must not conduct any independent research about this case,
11 the matters in the case and the parties involved in the case. In other words, you are
12 not to consult dictionaries or reference materials, search the Internet, websites or
13 blogs or use any other electronic tool to obtain information about the case or to help
14 you decide the case. So bottom line, do not try to find out any information from any
15 source outside of what you hear on the witness stand or documents presented to you
16 here in the trial.

17 Until you retire to deliberate, you may not discuss the case with anyone even
18 your fellow jurors. After you retire to deliberate, you may begin discussing the case
19 with your fellow jurors, but you cannot discuss the case with anyone else until you
20 have returned a verdict.

21 Many of you have -- we talked a little bit about your social networking activities
22 and habits. You are not to use any of those social networks to talk about this case
23 and I think the best rule for you to follow is not even to mention anything on any
24 website that you may be on that you are a juror in a case because it will only prompt
25 questions. Verdicts that -- in cases that have gone on for weeks and weeks and

1 weeks have been overturned, ladies and gentlemen, because of juror misconduct with
2 respect to being on social websites, asking for advice on how they should make a
3 decision, doing really crazy things on the web, so please don't do that. We don't want
4 anything like that to upset a verdict that you may render in this case. So just don't do
5 it. Don't talk about it.

6 If you want to take notes during the course of the trial, you may do so.
7 However, don't take notes on the opening statements or on closing arguments
8 because that's not evidence. But the notes that you do take, if you choose to take
9 them, can be used by you during your deliberations. You can share them with your
10 fellow jurors, but just remember that the note-taking -- it's a tool, and if your notes
11 differ from your recollection of the evidence, please rely on your recollection.
12 Everyone doesn't need to take notes. Lots of people, that's not the way they learn. A
13 lot of people learn by taking notes. Whatever your learning style is, whatever will help
14 you and if taking notes helps you, please do that.

15 I want to give you the credibility instruction. I'm going to give it to you again at
16 the end because it's very important. One part of your job as jurors is to decide how
17 credible or believable each witness was or is and this is your job, not mine. It is up to
18 you to decide if a witness's testimony was believable and how much weight you think
19 it deserves.

20 You are free to believe everything that a witness says or only part of it or none
21 of it at all, but you should act reasonably and carefully in making your decision. And
22 let me suggest some things for you to consider in evaluating each witness's
23 testimony.

24 Ask yourself if the witness was able to clearly see or hear the events.
25 Sometimes even an honest witness may not have been able to see or hear what was

1 happening and may make a mistake.

2 Ask yourself how good the witness's memory seemed to be. Did the witness
3 seem to accurately remember what happened?

4 Ask yourself if there was anything else that may have interfered with the
5 witness's ability to perceive or remember the events.

6 Ask yourself how the witness testified or acted while testifying. Did the witness
7 appear honest or did the witness appear to be lying?

8 Ask yourself if the witness had any relationship to the Government or to the
9 Defendant or anything to gain or lose from the case that might influence the witness's
10 testimony.

11 Ask yourself if the witness had any bias or prejudice or reason for testifying that
12 might cause the witness to lie or slant the testimony in favor of one side or the other.

13 Ask yourself if the witness testified inconsistently while on the witness stand or
14 if the witness said or did something or failed to say or do something at any other time
15 that is inconsistent with what the witness says while testifying. If you believe that the
16 witness was inconsistent, ask yourself if this makes the witness's testimony less
17 believable. Sometimes it may, other times it may not. Consider whether the
18 inconsistency was about something important or about an unimportant detail. Ask
19 yourself if it seemed like an innocent mistake or if it seemed to be deliberate.

20 Ask yourself how believable the witness's testimony was in light of all of the
21 other evidence. Was the witness's testimony supported or contradicted by other
22 evidence that you did find believable? If you believe that a witness's testimony was
23 contradicted by other evidence, remember that people sometimes forget things and
24 that even two honest people who witness the same event may not describe it in
25 exactly the same way.

1 Now, ladies and gentlemen, these are only some of the things that you may
2 consider in deciding how believable each witness is. You may also consider other
3 things that you think shed light on the witness's believability. We ask that you use
4 your common sense and your everyday experience in dealing with other people and
5 then decide what testimony you believe and how much testimony you think it
6 deserves.

7 Now the course of this trial. The Government gets to make an opening
8 statement. Miss Hendrickson gets to make an opening statement; she doesn't have
9 to, but she can do it now or she can reserve it. And the opening statements are
10 simply an outline from the parties to help you understand the evidence as it comes in.
11 Opening statements are not evidence.

12 The Government after the opening statements are concluded, will present its
13 witnesses; you heard that they have three and Miss Hendrickson will be able to
14 cross-examine the Government witnesses. After the Government has put in all of its
15 witnesses and all of its evidence, the Government rests and Miss Hendrickson can
16 choose to put in evidence, although she is not required to do that.

17 After all the evidence is in, the attorneys will give you closing arguments which
18 is their interpretation of the evidence, but is not evidence itself, and then the Court will
19 instruct you on the law. After those things are done, you will begin your deliberations
20 and then everything is in your hands, ladies and gentlemen.

21 Counsel, Miss Hendrickson, anything the Court failed to instruct on at this
22 juncture?

23 MS. SISKIND: No, Your Honor.

24 THE COURT: Miss Hendrickson?

25 MS. HENDRICKSON: I'm sorry. You did mention that you were going to

1 talk about inferring evidence or --

2 THE COURT: I talked about direct and I talked about circumstantial
3 evidence.

4 MS. HENDRICKSON: Okay.

5 THE COURT: Miss Siskind, are you ready for your opening statement
6 please?

7 MS. SISKIND: Yes, Your Honor. And before we proceed we would ask
8 that all potential witnesses be excluded from the courtroom.

9 THE COURT: All right. That's fair. Are there any people on your
10 witness list, Miss Hendrickson, who are in the courtroom right now?

11 MS. HENDRICKSON: Yes.

12 THE COURT: Who are they and will you excuse yourselves please?

13 MS. SISKIND: Thank you. May I proceed, Your Honor?

14 THE COURT: You may.

15 MS. SISKIND: Ladies and gentlemen, this case is about law and order
16 and more precisely it's about an Order requiring someone to follow the law. In May,
17 2007, a Federal Judge ordered Doreen Hendrickson, the Defendant, and her
18 husband, to pay back tax refunds they had received from the IRS for the years 2002
19 and 2003 after they filed false tax returns for those years.

20 The Judge also ordered the Hendricksons to file amended tax returns to report
21 all of their income from 2002 and 2003 to the IRS, and the Judge ordered them never
22 to file any false tax returns again in the future.

23 The Defendant is now on trial for her ongoing violation of that Court Order. To
24 this day she has not filed amended returns. She has not paid back the more than
25 \$20,000 that her and her husband received in refunds when they filed their false tax

1 returns, and in 2009 she filed an additional false tax return for the 2008 tax year.

2 Miss Hendrickson is charged in a one-count Indictment with the crime of
3 Criminal Contempt and you heard that Indictment read this morning. Contempt is just
4 another way of saying that a person intentionally violated a Judge's Order and in this
5 case, it was an Order issued on May 2nd, 2007 by Judge Nancy Edmunds, who's
6 another Federal Judge here in Detroit.

7 The Court Order that the Defendant is charged with violating resulted from a
8 civil lawsuit that the Government brought against Mrs. Hendrickson and her husband
9 here in Detroit to recover \$20,380.96 in tax refunds that they obtained from the IRS by
10 filing false returns for 2002 and 2003.

11 You'll hear from the evidence in this trial that during those years, both the
12 Defendant and her husband were employed. You'll hear that the Defendant's
13 husband was paid wages working for a company called Personnel Management and
14 that the Defendant also earned money working for a woman named Una Dworkin and
15 together the Defendant and her husband made about \$63,000 a year.

16 Although they filed tax returns with the IRS for 2002 and 2003, they didn't
17 report any of that income on their tax returns. They put down that their income was
18 merely zero. Not only that, but they requested substantial refunds of more than
19 \$10,000 each year from the Government.

20 These tax returns on which they failed to report their income were based on a
21 scheme promoted by the Defendant's husband in a book called *Cracking the Code*,
22 which falsely claims among other things, that only Government employees can have
23 taxes withheld from their wages.

24 Now before the IRS could realize that the Hendricksons' 2002 and 2003 tax
25 returns were false, they issued the refunds to them. So in 2006, the Department of

1 Justice filed a civil lawsuit against the Defendant and her husband to get the money
2 back, and after more than a year of litigation, Judge Edmunds issued an Order
3 against the Hendricksons on May 2nd, 2007 that first prohibited them from filing any
4 additional false tax returns like those they had filed in 2002 and 2003, and also
5 requiring them to go back and amend their 2002 and 2003 returns and report all of
6 their income to the Government. That Order also made them indebted to the United
7 States in the amount of those false refunds. They had to pay the money back.

8 The evidence will show that the Defendant had notice of this Court Order and
9 that she intentionally violated it by filing a false tax return for 2008 and trying to get
10 another refund from the Government she wasn't entitled to, and you will also see that
11 she to this day is in continued violation of Judge Edmunds' Order because she has
12 not filed amended tax returns or paid back any of the money to the IRS.

13 The Government will call three witnesses during this trial and the first will be
14 Roger Smith, who's a representative from the IRS. He'll show you some of the tax
15 returns that we're going to be talking about in this case, the false 2002 and 2003
16 returns the Defendant filed with her husband and that false 2008 return that the
17 Government is charging is a violation of Judge Edmunds' Order.

18 You'll also see copies of some of the Defendant's refund checks that show the
19 money that she received from the IRS in filing false tax refunds.

20 The other two witnesses you'll hear from are Robert Metcalfe and Daniel
21 Applegate who are trial attorneys with the Department of Justice Tax Division, and
22 they were involved in the civil lawsuit against the Hendricksons and they'll tell you a
23 little bit about that case, show you some of the documents that were filed, read to you
24 from some of the transcripts of hearings in that case and they will tell you that the
25 Hendricksons challenged Judge Edmunds' Order and lost. You'll see a copy of an

1 Opinion from the 6th Circuit Court of Appeals upholding Judge Edmunds' Order
2 against the Hendricksons.

3 Mr. Applegate will also explain to you the unsuccessful efforts on the part of the
4 Government and on the part of the Court to get the Defendant to comply with Judge
5 Edmunds' Order and to file her amended tax returns.

6 Ladies and gentlemen, it's now been more than six years since Judge
7 Edmunds ordered Doreen Hendrickson to comply with the law. During those years
8 she was told time and time again by Courts, by attorneys that she needed to comply
9 with this Order by filing amended returns, by paying back the money. But knowing full
10 well what that Order required of her, the evidence will show the Defendant
11 intentionally violated it. She hasn't filed her amended returns. She hasn't paid back
12 that \$20,000 or more in taxes, and she filed an additional false tax return for 2008.

13 Ladies and gentlemen, this is a straightforward case of criminal contempt and
14 the Government is confident that the evidence you'll hear over the next few days will
15 prove to you beyond a reasonable doubt that the Defendant is guilty of the crime
16 charged in the Indictment.

17 THE COURT: Thank you, Miss Siskind. Miss Hendrickson?

18 MS. HENDRICKSON: Good morning, ladies and gentlemen. The first
19 thing I want to say and you've already been told this, thank you for your service.
20 Your is a noble and solemn responsibility. As jurors, you are constitutional officers.
21 Your job is to supervise the behavior of the Government and the Courts. Your goal is
22 to protect the rights of your fellow citizens from abuse by those to whom we've given
23 so much power over our lives.

24 We, the people set up a jury system as a check on Government. We created
25 three branches of the Federal Government; the legislature, the Executive and the

1 Courts to help each of us protect our inalienable rights from abuse by anyone and
2 particularly by our Government. As our Declaration of Independence put it,
3 Governments are instituted among men for no other purpose than to secure our
4 rights.

5 But we are not so naive as to believe that because Governments are created to
6 protect our rights that there is no danger that Government will abuse or ignore those
7 rights. Thomas Paine, whose work called *Common Sense* inspired the American
8 Revolution put it this way: Society in every state is a blessing, but Government even
9 in its best state is but a necessary evil. In its worst state an intolerable one.

10 Thomas Jefferson, the author of the Declaration of Independence, our first
11 Secretary of State and our third President said it this way: Let us hear no more
12 confident -- no more of confidence in men, but instead bind the Government down by
13 the chains of the Constitution.

14 James Madison, Father of the Constitution and our fourth President explained
15 that if men were angels, no Government would be necessary, but men are not angels
16 and because men are not angels we will not find any occupying Government offices.

17 The Founders were well aware that Government itself can be a great threat to
18 our rights and for that reason they created a procedure to protect citizens from
19 Government. That very special procedure is trial by jury.

20 The procedure is simple. Whenever Government wants to take our property or
21 our liberty, the Government's actions are subject to review by the -- a jury of ordinary
22 Americans. Ultimately, the lawfulness, fairness and justice of any punitive
23 Government action against any one of us must be approved by a skeptical group of
24 citizens. Here today you are that group of citizens. You here today are performing a
25 solemn and vital constitutional duty.

1 It is you as jurors who are charged with a skeptical and jealous duty to protect
2 your fellow citizens and yourselves from any attempt by our Government to evade or
3 overreach the limits of authority we've granted it.

4 The Government has charged me with a crime for my refusal to swear to
5 something I do not believe is true. The Government's position is that if I refuse to
6 adopt the Government's preferred testimony, I have committed a crime for which I
7 deserve to be in prison. As a jury, you must judge the justice of such a use of force
8 against a neighbor and a fellow American. You should do so with the full knowledge
9 that your Government is fully capable of using that same force against any of you.

10 If, after you learn what this case is all about, you think the Government has the
11 lawful authority to tell me, you or any American exactly what we must say under oath,
12 then you can authorize the Government's action by finding me guilty.

13 If you would not find it acceptable that the Government can tell you or anyone
14 else what they must swear to, then you, all of you together or even just one of you can
15 and should find me not guilty.

16 Now here's what the case is about. I'm accused by the Government of having
17 committed a crime for refusing to obey an Order to swear to facts I do not believe are
18 true. I agreed to obey the Order if I could also simply add to my signature that I had
19 been ordered by a Judge to swear to the facts. That didn't suit the Government,
20 however.

21 Not only must I obey an Order to swear to something I do not believe, but I am
22 not allowed to indicate that I've been ordered to swear to it under threat of
23 imprisonment.

24 This did begin more than seven years ago. The Government did not like
25 testimony I had given by Affidavit on an income tax-related civil case. Attorneys from

1 the Department of Justice asked a Federal Judge by way of a lawsuit to order me to
2 abandon my testimony and replace it with words they dictated to me. The Judge,
3 without ever having laid eyes on me, without reviewing any evidence and without
4 holding any hearing at all signed a ruling that was written by a Government Attorney.
5 The Court ordered me to say what the Government Attorney wanted me to say. The
6 Court ordered me to swear to it under penalty of perjury. I was to put these dictated
7 words on a legal document that was part of a civil case in which the Government was
8 a party and by which the Government would benefit.

9 I want to be clear about this. I was not ordered simply to testify. I was ordered
10 exactly what to testify. The Government asked a Judge to tell me to speak the words
11 it dictated to me and to refrain from saying what I really believed simply because the
12 Government doesn't like my belief or finds my freely made testimony a hinderance to
13 its purposes.

14 Without a trial or even a hearing, the Judge simply adopted every allegation the
15 Government attorneys made. No witness ever testified. I was not allowed to
16 cross-examine any of the attorneys' allegations. The Court offered no explanation of
17 its authority to dictate sworn testimony. I was ordered to say what the Government
18 demanded I say. I was ordered not to say what it didn't want me to say. I was
19 ordered to sign a sworn statement declaring that I believe what I was being forced to
20 say. I was ordered to lie about the fact that my statements were completely coerced.

21 I know this whole scenario sounds weird and many legal concepts are not easy
22 to understand, but you don't need to know anything about the law to see the injustice
23 of coerced testimony.

24 We've all seen the B-movies where the evil interrogators are shoving chop
25 sticks under the fingernails of a downed pilot to extract a confession that the pilot was

1 targeting schools and hospitals. There's no bamboo under the nails here, but
2 between you and me, the threat of time in Federal prison can be just as convincing.

3 Frankly, every single person to whom I've ever explained this case finds it
4 inconceivable that such orders have been made to an American. Equally incredible is
5 that an American could be threatened with prison for insisting on her right to control
6 her own statements and beliefs.

7 As best I've been able to discover, no American has ever made an order --
8 been made an order like this before nor has anyone ever been subjected to criminal
9 charges for refusing to swear to testimony dictated by the Government.

10 The Government Attorneys are going to try to get you to overlook the simple
11 fact that the Orders in this case dictate and control my speech. That is to say, the
12 Government Attorneys are going to try to get you to overlook the fact that these
13 Orders tell me exactly what I must say and even worse, they will try to convince you
14 that I actually believe the lies I've been ordered to swear to. I was told that to stay out
15 of prison not only must I swear to what I've been ordered to believe, but I must also
16 pretend that I really do believe it.

17 The Government Attorneys are also going to try to get you to overlook the fact
18 that the law against disobedience or resistance to a Court's Order under which I've
19 been charged, says specifically that only lawful Court Orders must be obeyed. It is
20 not a criminal act to disobey an Order you believe is unlawful, even if other people
21 believe, claim or conclude that those Orders are lawful.

22 The Government is going to try to get you to overlook everything that is really
23 involved in this case and try instead to get you to view this as some kind of tax case.
24 Whenever the Government tries to do something it shouldn't, something it shouldn't
25 be allowed to do, it always tries to argue that it's really doing something else. The

1 something else is carefully calculated to provide the reaction that oh that? Well,
2 everybody knows that's okay.

3 You'll never hear a Government Attorney say this is a gut-the-Fourth
4 Amendment case or that we have an invade-everyone's-financial-privacy case, or this
5 is a warrantless wiretapping case. They won't say that. Instead, they'll say it's a drug
6 case or it's a money laundering case or a national security case.

7 In this case, they are not going to say it's an
8 Order-an-American-to-lie-and-swear-to-it case, or a punish Doreen Hendrickson for
9 not saying what we want her to say case. No, they won't say that. Instead they're
10 going to say or imply that it's just a tax case. They very much hope you'll be misled.
11 This is not a tax case, not even a little bit.

12 As you look through the Indictment, you will see that even though there's a
13 whole lot about taxes, the actual charge has nothing to do with taxes. There's one
14 Count and the only thing that charges is that I didn't speak like a trained seal when the
15 Court ordered me to say words that the Government wanted to put in my mouth.
16 That's it. This is a we want to control what Americans say case and nothing else. It's
17 also a we want to find out what we can get away with case. What they get away with
18 and will be doing either to you or not doing to you next is in your hands.

19 Now I want to tell you what you're going to see throughout this trial. You're
20 going to see that the Government has never formally stated that it believes what it has
21 persuaded the Court to force me to say. You're going to see that instead, the
22 Government has acknowledged that thousands of returns just like the ones they
23 disapprove of for me are absolutely correct.

24 For 10 years now in thousands of cases, some involving determined resistance
25 by the IRS, the Service has agreed to correctness of returns exactly like mine. You're

1 going to see that the Government's own internal documents acknowledge the
2 correctness of the very returns the Government asked the Court to order me to
3 repudiate.

4 You're going to see that the Government itself doesn't believe the words they
5 are forcing me to say or that they want to come out of my mouth.

6 You're going to see that the Government's Attorneys responsible for the Court
7 Orders I'm accused of willfully violating themselves have no personal knowledge of
8 facts they want me to swear to.

9 You're going to see a whole lot of Supreme Court rulings supporting everything
10 I believe about the tax law. You're going to see evidence supporting my belief that I
11 can't lawfully be ordered to say something, far less something I don't believe is true
12 even when ordered to do so by a Federal judge.

13 You're also going to see that when the Government Attorneys decided three
14 years after these Orders were issued to get the Judge who issued them to enforce
15 one of them against me, that same Judge when she finally and for the first time ever
16 saw me, recognized that I don't believe what she ordered me to say. That Judge
17 herself was fully aware of Orders such as the one she issued dictating and controlling
18 speech are improper and unjust.

19 You're going to see that in recognition of the impropriety of her Order, the
20 Judge changed it to allow me to truthfully state on the signed document that my
21 signature was ordered by the Court. With that change, I willingly complied with the
22 Court's Order. You're going to see that after I complied with the Court's new Order,
23 the Government went back to the judge to complain that I could not be allowed to
24 truthfully state on the document that my signature was coerced. The cooperative
25 Judge revised the Order again. I was now ordered to make the documents look as

1 though they were voluntarily signed, but I would be allowed to file a separate
2 disclaimer with the Court stating the truth of the matter. Again, I obeyed the Court's
3 Order.

4 Nevertheless, the Government came back complaining that even with my true
5 testimony filed as a separate affidavit, the documents I produced in compliance with
6 the Order were not good enough. The Government urged the Judge to hold me in
7 civil contempt. Civil contempt can involve an indefinite jail time until the victim relents.
8 That was almost three years ago. The Judge who issued the original Order has
9 declined to rule on the Government's Motion for Civil Contempt.

10 At the same time, you're going to see that throughout all the intervening years
11 and despite repeated appearances and proceedings before the Order-issuing Judge,
12 the Government has never complained about my 2008 filing, which it now alleges is in
13 criminal contempt of the Court's Order. The Government persists in its charges in
14 spite of the fact that the issuing Judge clearly recognizes the impropriety of her
15 original order, has twice revised it to allow me to state the truth, and has failed to
16 move to enforce it.

17 Indeed, you will see that even in its initial lawsuit where all this began in 2006,
18 the Government made no complaint about my 2004 returns, identical in every respect
19 to my 2002, 2003 and 2008 returns. Nor about my husband's 2004 return also
20 identical to mine. In fact, you're going to see a huge number of returns identical to my
21 2002, 2003 and 2008 returns which have been being filed by Americans from all over
22 the country for 10 years now. Not one of which has ever led to a Court Order seeking
23 to take control of its content and dictate to its signer what he or she must say or must
24 not say under oath.

25 Finally for my part, you're also going to see that my earnings for the year 2008

1 amounted to a grand total of \$59, one day pay as a movie extra with my son.

2 Similarly, my total earnings for 2002 and 2003 were within a dinner and a
3 movie of the exemption amount, even if those earnings were taxable. I just don't earn
4 that much money. This means all this is happening over virtually no potential tax
5 liability regardless of how my earnings are characterized.

6 As I said to you earlier this is not and never has been a tax case. This is and
7 always has been a case of forbidding speech the Government doesn't like. From the
8 Government, you're going to see a whole lot of documents concerning which no one
9 will testify or be subject to Cross-examination for any fact that appears on them.

10 You will see records kept by the IRS, but you'll not hear from anyone who will
11 testify to the accuracy, reliability or trustworthiness of them, nor will you hear
12 testimony from any who will take responsibility for the facts stated in them. You'll see
13 things from a couple of Government Attorneys who will introduce these documents
14 into evidence, but you'll discover that these attorneys have no personal knowledge of
15 any kind about the correctness of my returns and never have. Everything the
16 Government will state or imply about my returns will be based on unquestioning
17 acceptance of statements by other people; that is, by third parties whose statements
18 benefit the Government.

19 In the end, you will see that the only crime revealed in this trial is a
20 Government crime and you will then be authorized and charged with responsibility for
21 stopping it here and now for my sake and for your own.

22 THE COURT: All right. Thank you, Miss Hendrickson. I think we'll take
23 a lunch break now, ladies and gentlemen. We will do that and we will plan on
24 resuming trial at 1:15 this afternoon. All rise for this Jury please.

25 **(Jury exited courtroom at 12:12 p.m.)**

1 THE COURT: Anything before we close the record?

2 MS. SISKIND: Your Honor, just that it seems from the Defense's
3 opening statement there may be a number of exhibits they attempt to introduce the
4 Government will be objecting to at the time they're offered.

5 THE COURT: All right. Has there been any agreement over any
6 exhibits yet, any of the Government exhibits? Is there any agreement?

7 MS. HENDRICKSON: I think they're just doing records, right? As far as
8 I know.

9 THE COURT: I don't know what they're doing and I don't know what
10 discussion you have had. Have you agreed to entry of any of the Government
11 exhibits?

12 MR. WISE: Judge, if I may, Miss Hendrickson filed a motion in limine to
13 exclude a number of them. The Court ruled on that against her.

14 THE COURT: Correct.

15 MR. WISE: So I mean to the extent that we need to protect the record, I
16 think there's not an exhibit -- an agreement as to those exhibits, although we certainly
17 respect the Court's rulings.

18 THE COURT: So you'll raise them at the appropriate time? Because
19 frankly I don't know which ones go with that motion. I know that I generally denied. I
20 mean it was your motion. Whose motion in limine was it?

21 MS. HENDRICKSON: Mine.

22 THE COURT: Yours. I generally denied your motion in limine. So you'll
23 point out the particular exhibits?

24 MR. WISE: If that's the Court's preference.

25 THE COURT: Yes, because I don't think that anything in particular was

1 listed as part of the motion. Okay, thank you.

2 **(COURT RECESSED AT ABOUT 12:13 P.M.)**

3 **(At about 1:20 p.m.)**

4 **(Court, Counsel, Jury and parties present)**

5 THE COURT: Miss Siskind, who is your first witness?

6 MR. McLELLAN: Your Honor, the Government calls Roger Smith.

7 THE COURT: Okay. Come forward, Mr. Smith. Good afternoon, Mr.
8 Smith.

9 THE WITNESS: Good afternoon.

10 THE CLERK OF THE COURT: Would you raise your right hand?

11 **ROGER SMITH,**

12 **Having been sworn under oath at about 1:21 p.m., testified:**

13 THE COURT: The photos are only to help you when you're deliberating
14 to sort of keep track of testimony so you have pictures of the witnesses. Mr.
15 McLellan?

16 MR. McLELLAN: May I inquire of the witness, Your Honor?

17 THE COURT: Yes.

18 **DIRECT-EXAMINATION**

19 **BY MR. McLELLAN:**

20 Q. Thank you, Your Honor. Good afternoon, sir.

21 A. Good afternoon.

22 Q. Could you state your full name and spell it for the court reporter?

23 A. My full name, first name is Roger, R-o-g-e-r and the last name is Smith,
24 S-m-i-t-h.

25 Q. And who is your employer?

1 A. I work for the Internal Revenue Service Criminal Investigation Division.

2 Q. In what location?

3 A. The Cincinnati, Ohio Service Center.

4 Q. How long have you been with the IRS?

5 A. I just celebrated my 16th anniversary this past August.

6 Q. What is your current job title?

7 A. I'm a Court Witness Coordinator.

8 Q. Generally what are your job responsibilities?

9 A. I work with Special Agents in the Department of Justice to produce certified
10 documents, whether they be tax returns filed by paper or electronically and any other
11 correspondence or documents that might be related to a case.

12 Q. In what computer system do you do your research in?

13 A. The entire database of all tax returns is on what we call the Integrated Data
14 Retrieval System, and we call it IDRS for short.

15 Q. Is that a system that's routinely and regularly used by the IRS?

16 A. Yes, sir.

17 Q. And would you say that people in the IRS rely on that system?

18 A. Absolutely.

19 Q. And are you able to use that system to verify documents against IRS records?

20 A. Yes.

21 Q. In the course of your duties, were you assigned to conduct research on the tax
22 records of a person named Doreen Hendrickson?

23 A. Yes, I was.

24 Q. How about Doreen Wright?

25 A. Yes.

1 Q. And --

2 A. I saw both names, yes.

3 Q. And as far as those two names are concerned, did documents under both
4 those names share the same Social Security number?

5 A. Yes, they did.

6 Q. I direct your attention to a document that you should have in the binder in front
7 of you, number one. Take a look at the second page of that document. Do you have
8 that?

9 A. Yes sir, I do.

10 Q. Is that a Form 1040 U.S. Individual Income Tax Return for 2002?

11 A. Yes, it is.

12 Q. And who are the taxpayers?

13 A. The names that are listed are Peter E. Hendrickson and Doreen M.
14 Hendrickson.

15 Q. Did you verify that document against IRS records?

16 A. Yes, I did.

17 Q. The Government offers One.

18 THE COURT: Is there any objection, Miss Hendrickson, to Government
19 Exhibit One?

20 MS. HENDRICKSON: No, ma'am.

21 THE COURT: All right, it's in. Thank you.

22 Q. (By Mr. McLellan continuing) I direct your attention to the top of the tax form,
23 Mr. Smith. Who are the taxpayers named in the label box?

24 A. They are Peter E. Hendrickson and Doreen M. Hendrickson.

25 Q. And what does it give as the city or town?

1 A. I believe that says Commerce Township, Michigan.

2 Q. And can you make out the last four digits of the Social Security number for Mr.
3 Hendrickson?

4 A. Yes, I can.

5 Q. What are those?

6 A. Four four eight seven.

7 Q. And how about for Mrs. Hendrickson?

8 A. Four four zero nine.

9 Q. And turning to the lower left-hand corner of that document, is there a date
10 stamp on there?

11 A. Yes, there is.

12 Q. And when does that stamp indicate this was received at the IRS?

13 A. On August 25th, 2003.

14 Q. Let's take a look at line seven of the Return for wages, salaries and tips,
15 et cetera. Do you see that?

16 A. Yes, sir.

17 Q. And what is the entry on this Return for wages, salaries, tips, et cetera?

18 A. The entry is zero.

19 Q. Is there an entry below that for line 8A for taxable interest?

20 A. Yes, there is.

21 Q. And what's the amount of that?

22 A. That is \$20.

23 Q. And turning to the last line of that section, line 22, what does this Return give
24 as the total income for the Hendricksons?

25 A. Twenty dollars.

- 1 Q. Let's take a look at the next page. At line 62 of the Return at the payment
2 section, do you see that?
- 3 A. Yes, sir.
- 4 Q. What does it give as the Federal income tax withheld from Forms W-2 and
5 1099?
- 6 A. The figure listed is \$10,252.96.
- 7 Q. And taking a look at line 71A, what is the amount requested to be refunded?
- 8 A. Ten thousand one hundred fifty-two dollars and 96 cents.
- 9 Q. How does that compare with the amount of Federal income tax payments
10 reported as withheld at line 62?
- 11 A. They match exactly.
- 12 Q. Now turning to the signature block on this Return on the lower part of the page,
13 is there a section there that requires the signatures of the taxpayer?
- 14 A. Yes, there is.
- 15 Q. And as far as the first person who appears to have signed, what is the date?
- 16 A. August 12th, 2003.
- 17 Q. And what does that person give as a occupation?
- 18 A. Citizen.
- 19 Q. And under spouse's signature, can you make out the first name apparently
20 signed there?
- 21 A. It appears to be Doreen.
- 22 Q. And what's the date given for her?
- 23 A. August 12th, 2003.
- 24 Q. And what occupation is listed here for spouse's occupation?
- 25 A. Person.

1 Q. Let's take a look at the next page of that Return. Do you see a form at the top
2 4852?

3 A. Yes, sir.

4 Q. And read the caption of that form please.

5 A. Substitute for Form W-2 Wage and Tax Statement or Form 1099R distributions
6 from pensions, annuities, retirement or profit-sharing plans, IRAs, insurance contracts,
7 et cetera. And it also gives the instruction to attach this form to Form 1040, 1040A or
8 1040-EZ or 1040X.

9 Q. And what name appears in the box at line one?

10 A. That is Peter E. Hendrickson.

11 Q. What does it give as the last four digits of his Social Security number at line
12 two?

13 A. Four four eight seven.

14 Q. And what's the address as far as the municipality is concerned?

15 A. What is listed that I can read is Commerce Township, Michigan.

16 Q. And there's a line four that says please fill in the year at the end of the
17 statement. Do you see that?

18 A. Yes, I do.

19 Q. And please read the text that's entered after that sentence.

20 A. I have been unable to obtain or have received an incorrect Form W-2 Wage
21 and Tax Statement or Form 1099-R distributions from pensions, annuities, retirement
22 or profit-sharing plans, IRAs, insurance contracts, et cetera from my employer or
23 payer named below. I hereby notify the Internal Revenue Service of this fact. The
24 amounts shown below are my best estimates of all wages or payments paid to me
25 and Federal taxes withheld by this employer or payer during 2002 has been entered

1 on the line for the tax year.

2 Q. For line five for employers or payer's name, could you just read the name of
3 the company please?

4 A. Yes. Personnel Management, Incorporated.

5 Q. And at line 7A(a) for wages, what does this form give as wages for Mr.
6 Hendrickson?

7 A. On that line there is a zero that has been entered.

8 Q. And at the line F to the right of it, what does it give as the Federal income tax
9 withheld?

10 A. \$5,642.20.

11 Q. And turning to line nine of that form, do you see an entry there under explain
12 your efforts to obtain Form W-2, 1099-R or W-2C?

13 A. Yes.

14 Q. What does it say?

15 A. Request, but the company refuses to issue forms correctly listing payments of
16 wages as defined in 3401(a) and 3121, again with a small A in parenthesis, for fear of
17 IRS retaliation. The amounts listed as withheld on the W-2 it's submitted are correct,
18 however.

19 Q. And does this form have a signature on it at line I0?

20 A. Yes, line I0 does have a signature.

21 Q. And taking a look at the entry above that, does that say under penalties of
22 perjury?

23 A. Yes.

24 Q. Turning to the next page of this Return, do you see a form 1099 M-I-S-C there?

25 A. Yes sir, I do.

1 Q. Is that for 2002?

2 A. It is.

3 Q. And what is a form like that used for typically?

4 A. To report income when someone is paid not as an employee, but as a
5 self-employed individual.

6 Q. So in the upper left corner, who's the payer here?

7 A. The payer is listed as Una, U-n-a, middle initial E, and Dworkin. D-w-o-r-k-i-n.

8 Q. And who's listed as the recipient?

9 A. Doreen Hendrickson is listed as the recipient.

10 Q. And at line seven, what does it give as nonemployee compensation for Miss
11 Hendrickson?

12 A. A zero has been entered.

13 Q. And do you see what appears to be a signature over the name Doreen
14 Hendrickson at the bottom of that form?

15 A. Yes, I do.

16 Q. When does it appear to have been signed?

17 A. On August 12, 2003.

18 Q. And please read the text of the statement above that signature.

19 A. Okay. I've got a hole in the very beginning of the sentence, so I'm missing -- I
20 think it says the corrected form 1099-MISC is submitted to rebut a document known to
21 have been submitted by the party identified above as payer, which erroneously
22 alleges a payment to the party identified above as the recipient of gains, profit or
23 income made in the course of a trade or business. Under penalty of perjury, I declare
24 that I have examined this statement and to the best of my knowledge and belief, it is
25 true, correct and complete.

1 Q. Mr. Smith, have you reviewed other documents in this case that show Doreen
2 Hendrickson actually did receive nonemployee compensation for 2002?

3 A. Yes.

4 Q. I direct your attention to a document marked number 32 in your binder.

5 MR. McLELLAN: Your Honor, this is a -- Your Honor, this is a document
6 that the Government offers as a business record offered by certification under Rules
7 803(6) and 902.11 of the Federal Rules of Evidence. The certificate has been
8 provided to the Defendant. I have it available if the Court would like to inspect it at
9 this time.

10 THE COURT: You said number 32?

11 MR. McLELLAN: Yes, Your Honor.

12 THE COURT: One moment. I would like to see it. I'll take it.

13 MR. McLELLAN: Thank you, Your Honor.

14 THE COURT: And you've shown this --

15 MR. McLELLAN: It was previously provided to the Defendant within the
16 last month, Your Honor.

17 THE COURT: Do you have any objection to the admission of the
18 Government's Number 32?

19 MS. HENDRICKSON: Yes, I do.

20 THE COURT: What's your objection?

21 MS. HENDRICKSON: Based on what I've previously stated, that person
22 who actually filled out this form isn't here to testify.

23 THE COURT: It's admissible under the Rules of Evidence as a business
24 record. Thank you.

25 Q. (By Mr. McLellan continuing) Thank you, Your Honor. Mr. Smith, you have 32

1 in front of you?

2 A. Yes sir, I do.

3 Q. Is that another Form 1099-MISC for 2002?

4 A. Yes, it is.

5 Q. Does that give Una Dworkin as the payer?

6 A. Yes.

7 Q. Who's the recipient?

8 A. Doreen Hendrickson.

9 Q. And what does this give at box seven for nonemployee compensation?

10 A. \$3,773.00 even

11 Q. Turning to Exhibit One again please. If you flip to the Form 1099-MISC for Ms.
12 Hendrickson that was filed with that Return. Is this one also with the payer Una
13 Dworkin for the year 2002? It should be the fifth page of that exhibit.

14 A. Yes. Thank you. Yes, it is.

15 Q. And for the one that was filed, what does it list as nonemployee compensation
16 to Ms. Hendrickson?

17 A. Zero dollars.

18 Q. Let's take a look at the document marked Number Two that you should have in
19 your binder, Mr. Smith.

20 A. Sure.

21 Q. Is that a certificate of assessments, payments and other specified matters?

22 A. Yes, it is.

23 Q. And who are the taxpayers?

24 A. This was prepared for Peter E. and Doreen M. Hendrickson.

25 Q. What does it say for the type of tax?

1 A. It indicates that this is for a Form 1040 for the tax period of December 31st,
2 2002.

3 Q. Your Honor, the Government offers Two.

4 THE COURT: Any objection, Miss Hendrickson?

5 MS. HENDRICKSON: No.

6 THE COURT: Government Two is in.

7 Q. (By Mr. McLellan continuing) Turning to the middle of the -- of this document,
8 this lists at the date of 4/15 2003 a withholding, is that correct sir?

9 A. Yes it does.

10 Q. What was the amount withheld?

11 A. \$10,152.96.

12 Q. And is this a record of withheld taxes that pertain to these taxpayers?

13 A. Yes, that's what this document is. It's basically a transcript of the information
14 that's located in the account.

15 Q. Now turning to the entry -- I guess there's multiple entries there. There's three
16 of them for 4/15 2003. Do you see those?

17 A. Yes, I do.

18 Q. What does it say just for the text next to those dates?

19 A. The first one indicates that an overpayment credit was transferred to a Form
20 1040 for the years -- excuse me -- for the year of 2000 and that contains Ms.
21 Hendrickson's Social Security number.

22 Q. And then looking at the one below, is there another one of those transfers?

23 A. Yes. This was transferred to the 2001 Tax Return.

24 Q. And below that is that another similar transaction?

25 A. Yes. Again, monies were transferred to the Tax Return for the 2000 tax year.

1 Q. As far as the withholding that's listed here in the amount of \$10,152.96, what's
2 happening to that amount withheld according to these transfer entries?

3 A. The Tax Return was processed and a refund would have been issued for that
4 amount except there were balance dues on other related tax returns for the
5 Hendricksons and those monies were offset to balance on those balance dues.

6 Q. So as a result of those transfers, what effect if any would that have on whether
7 a refund check would be issued for that year?

8 A. If the debts did not total and exceed the amount of the refund, then any monies
9 left over if there is no more debt, it is sent as a refund.

10 Q. And examining this form, what does it look like happened for this particular tax
11 year? Let me ask you this, sir. I'll stop you there. What as far as the year 2000 is
12 concerned, 2001 and 2000 again would have happened with these taxpayers that
13 would result in a situation like this?

14 A. They would have had balance dues on the other tax years involved.

15 Q. What does it mean when the IRS says there's a balance due?

16 A. They owe us money for either underpayment of tax -- there can be a variety of
17 reasons and penalties and interest assessed on a balance due.

18 Q. Let's take a look at document you should have in your binder marked four.

19 A. Yes, sir.

20 Q. Is that a Form 1040 U.S. Individual Income Tax Return?

21 A. Yes.

22 Q. For what year?

23 A. 2003.

24 Q. Who were the taxpayers?

25 A. Peter E. Hendrickson and Doreen M. Hendrickson.

1 Q. Did you verify that document against IRS records?

2 A. Yes.

3 Q. The Government offers Four.

4 THE COURT: Any objection?

5 MS. HENDRICKSON: I'm sorry?

6 THE COURT: Is there an objection to Government Number Four?

7 MS. HENDRICKSON: No, not right now. Thank you.

8 THE COURT: It is in.

9 Q. (By Mr. McLellan continuing) So let's take a look at line seven, Mr. Smith, of
10 this 2003 Tax Return for the Hendricksons. What does it list as the amount of wages
11 and salaries and tips?

12 A. Zero dollars.

13 Q. And at 8A for taxable interest, what does it put there?

14 A. \$2 and 70 cents.

15 Q. And as far as the entry at line 15B for other types of income, what does it list
16 there?

17 A. It indicates that there was a IRA distribution of \$283.44.

18 Q. At line 22 what does it list as total income for these taxpayers for 2003?

19 A. \$286.14.

20 Q. Turn to the next page of the Exhibit please and let's look at the section that
21 says payments. What's the entry at line 61 for Federal income tax withheld from
22 Forms W-2 and 1099?

23 A. \$10,256.34.

24 Q. And looking at line 70A for the amount requested to be refunded, what's the
25 refund being requested here?

- 1 A. \$10,228.00
- 2 Q. And does this appear down below in the section that says sign here, to have
3 the signatures of a couple of different people?
- 4 A. Yes, it does.
- 5 Q. And under spouse's signature can you make out what looks to be the first
6 name there?
- 7 A. It appears to be Doreen.
- 8 Q. And what's the date given of that signature?
- 9 A. April 7th, 2004.
- 10 Q. What does she give as her occupation?
- 11 A. A Michigan resident.
- 12 Q. And what's listed as the occupation above of her husband?
- 13 A. American citizen.
- 14 Q. And what date was that signature put there according to this?
- 15 A. April 7th, 2004.
- 16 Q. Let's look at the next page of the Return. Is that the IRS Form 4852?
- 17 A. Yes sir, it is.
- 18 Q. Just read the first line of the caption of that form please.
- 19 A. Substitute for Form W-2, Wage and Tax Statement or Form 1099-R.
- 20 Q. And in line one, whose name is entered there?
- 21 A. Peter E. Hendrickson.
- 22 Q. And at line five, what does it give -- just the company name for the employer?
- 23 A. Personnel Management, Incorporated.
- 24 Q. And at line 7(a) for wages, what is listed on this form as wages received by Mr.
25 Hendrickson?

1 A. Zero.

2 Q. At the line F what does it say for the Federal income tax withheld?

3 A. \$5,620.02.

4 Q. How about for the State income tax withheld?

5 A. \$1,942.80 indicating for Michigan.

6 Q. At line nine do you see an explanation entered there?

7 A. Yes, I do.

8 Q. Is that for efforts to obtain Form W-2 1099-R?

9 A. Yes.

10 Q. Please read the explanation.

11 A. Request, but the company refuses to issue forms correctly listing payments of
12 wages as defined in 3401A(a) and 3121, again followed by a small A in parenthesis
13 for fear of IRS retaliation. The amounts listed as withheld on the W-2 submitted are
14 correct, however.

15 Q. And for at line 11 for the date for the signature what does it give as the date
16 signed here?

17 A. March 24th, 2004.

18 Q. Let's turn to the next page of this Exhibit. Is this a Form 1099-MISC for 2003?

19 A. Yes, it is.

20 Q. Is that reporting miscellaneous income from a particular payer?

21 A. Yes, it is.

22 Q. What's the name of that payer?

23 A. Una E. Dworkin.

24 Q. What does it give as the name of the recipient?

25 A. Doreen Hendrickson.

1 Q. And at box seven, what does it provide as the amount of nonemployee
2 compensation?

3 A. It indicates zero dollars.

4 Q. And turning to the bottom of the -- turning to the bottom of this document, do
5 you see what appears to be a signature there?

6 A. Yes, I do.

7 Q. And beneath that, what's the name typed in?

8 A. The name that is typed below the signature line is Doreen Hendrickson.

9 Q. And what appears to be the date it was signed?

10 A. March 24th, 2004.

11 Q. And please read the statement that's typed in above that signature.

12 A. Again, I'm sorry. There is a punch hole right at the very beginning. It says
13 corrected Form 1099-MISC is submitted to rebut a document known to have been
14 submitted by the party identified above as payer which erroneously alleges a payment
15 to the party identified above as the recipient of gains, profit or income made in the
16 course of a trade or business. Under penalty of perjury, I declare that I have
17 examined this statement and to the best of my knowledge and belief it is a true --
18 excuse me -- it is true, correct and complete.

19 Q. Mr. Smith, please take a look at Government's Exhibit 32 again, and I direct
20 your attention to the second page of that document.

21 A. I'm on the second page now, sir.

22 Q. Does this say -- is this another IRS Form 1099-MISC?

23 A. Yes.

24 Q. For what year?

25 A. For 2003.

1 Q. Whose the payer?

2 A. Una E. Dworkin.

3 Q. And at line seven, what does it give as the nonemployee compensation paid by
4 Una E. Dworkin?

5 A. The amount listed is \$3,188.50.

6 Q. Who does it say is the recipient of that nonemployee compensation?

7 A. Doreen Hendrickson.

8 Q. And turning back to the Return we were just looking at at Exhibit Four, how
9 does the -- as far as the 1099-MISC that's attached to that Return, how does the
10 figure given by Ms. Dworkin on her 1099 compare with the one at box seven given by
11 Miss Hendrickson on her 1099?

12 A. The 1099 miscellaneous document that is associated with Exhibit Four lists a
13 nonemployee compensation as zero dollars while the other document for 2003 is for --
14 it's 2003 -- that document indicates that the amount of money that was paid to Miss
15 Hendrickson was \$3,188.50.

16 Q. And just focusing on the Form 1099-MISC that's part of Exhibit Four, just
17 looking at that one.

18 A. Ah-hum.

19 Q. Did that one come into the Internal Revenue Service as part of a tax return?

20 A. It appears that it did.

21 Q. And whose tax return is it associated with?

22 A. This document is associated with the 2003 Form 1040, married filing jointly
23 between Peter E. and Doreen M. Hendrickson.

24 Q. Let's take a look at the document in your binder marked five. Do you have that
25 there?

1 A. Yes, I do.

2 Q. Is that a Certificate of Assessments, Payments and Other Specified Matters?

3 A. Yes, it is.

4 Q. Does it come from the IRS's system?

5 A. Yes, it does.

6 Q. For which taxpayers?

7 A. It lists Peter E. and Doreen M. Hendrickson.

8 Q. And for what year or for what tax period?

9 A. For the tax period ending December 31st, 2003.

10 Q. The Government offers Five.

11 THE COURT: Is there objection?

12 MS. HENDRICKSON: No, ma'am.

13 THE COURT: Thank you. Five is in.

14 Q. (By Mr. McLellan continuing) Let's take a look at the entry for withholding on
15 this Certificate. On the date of 4/15/2004, what does it give as the withholding?

16 A. The amount of money that is listed for withholding is \$10,256.34.

17 Q. And below that, are those transfers associated with that amount?

18 A. Yes, they are.

19 Q. What's going on there?

20 A. The 2003 tax return received -- excuse me, I'm sorry. There was a transfer to
21 the 2000 tax return in the amount of \$5,551.44 and after all of the credits were
22 transferred and there were three credits that follow, one in the amount of \$515.66,
23 one \$553.17 and a third one for \$529.18. What the overall result was that there was a
24 refund and the amount of the refund was \$3,172.30 and that included \$60.84 in
25 interest that was paid to the taxpayer.

1 Q. Typically in a situation like this, how does the IRS pay the refund?

2 A. Depending upon what the tax year was and what the options were available, if
3 they ask for a direct deposit, the money would be sent to their bank account and if for
4 some reason the bank account -- there was something wrong with the number or it
5 wouldn't work, we would automatically send a paper check.

6 Q. And have you seen copies of a refund check to the Hendricksons associated
7 with this tax year?

8 A. Yes, I have.

9 Q. Let's take a look at document seven. Is that a copy of a Treasury check for
10 Income Tax Refund?

11 A. Yes.

12 Q. Who does it pay to the order of?

13 A. Peter E. and Doreen M. Hendrickson.

14 Q. What's the tax year?

15 A. December, 2003.

16 Q. And taking a look at the amount on the document number seven, how does
17 that compare with the refund on the exhibit we were just looking at requested on
18 Exhibit Five?

19 THE COURT: Have you moved the admission of this?

20 MR. McLELLAN: I have not. I'm sorry, Your Honor.

21 THE COURT: Are you moving it?

22 MR. McLELLAN: This is part of the foundation, Your Honor.

23 THE COURT: You're getting all the details of it.

24 MR. McLELLAN: The Government offers Seven.

25 THE COURT: All right. Is there an objection?

1 MS. HENDRICKSON: No.

2 THE COURT: It's in.

3 Q. (By Mr. McLellan continuing) So let's take a look at this U.S. Treasury check.
4 What in the section that's to the upper left of the amount, what year is this tax year --
5 does this pertain to?

6 A. The refund check was issued for December, 2003.

7 Q. Let's take a look at a document marked number eight. Is that an IRS form
8 1040-EZ?

9 A. Yes sir, it is.

10 Q. Who's the taxpayer?

11 A. Doreen M. Hendrickson.

12 Q. And what's the year?

13 A. This is for the year 2008.

14 Q. Did you verify this document against IRS records?

15 A. Yes, I did.

16 Q. The Government offers Eight.

17 THE COURT: Miss Hendrickson?

18 MS. HENDRICKSON: That's fine.

19 THE COURT: All right. It's in.

20 Q. (By Mr. McLellan continuing) Taking a look at the label section, Mr. Smith,
21 whose name is given here and what way?

22 A. Taxpayer's name that's listed is Doreen M. Hendrickson.

23 Q. And at line one in the Income section, what does it give as the amount of
24 wages and salaries and tips?

25 A. Zero dollars.

1 Q. And what's the instruction that follows the words wages, salaries and tips
2 there?

3 A. This should be shown in box one of your form or Forms W-2. Attach your form
4 or Forms W-2.

5 Q. And looking at line seven in the Payment section, what does it give as the
6 Federal income tax withheld?

7 A. \$5.

8 Q. And turning to line 12A, the Refund section, what does it list as your refund?

9 A. \$5.

10 Q. And is -- does that appear to be a signature on this document in the signature
11 block?

12 A. Yes, someone has signed it.

13 Q. And on what date?

14 A. March 23rd, 2009.

15 Q. What does it give as this person's occupation?

16 A. It says the word none.

17 Q. And turning to the next page of the Return, do you see a Form 4852?

18 A. Yes.

19 Q. Is that another substitute for Form W-2 Wage and Tax Statement?

20 A. Yes, it is.

21 Q. And who's the taxpayer at box one?

22 A. Doreen M. Hendrickson.

23 Q. And please read the text at box four.

24 A. Enter -- excuse me -- enter year and space provided and check one box. For
25 the tax year ending December 31st, and then 2008 has been entered I have been

1 unable to obtain or have received an incorrect -- there is a box next that has a check
2 mark in it indicating that a form, an incorrect Form W-2 was received or again with a
3 box in front of it Form 1099-R that does not have a check in it. And the next thing I
4 see is I hereby notify the IRS of this fact. It appears that hereby has been
5 handwritten. It is not typed on the form. I hereby notify the IRS of this fact. The
6 amount shown on line seven and line eight are my best estimates for all wages or
7 payments made to me and tax withheld by my employer or payer named on line five.

8 Q. And does there appear to be a signature on this form?

9 A. Yes, there is a signature on the form.

10 Q. When does it -- when is it dated?

11 A. March 23rd, 2009.

12 Q. I direct your attention to document marked number 33. Your Honor, this is
13 another one of these documents that the Government offers into evidence pursuant to
14 a Rule 902.11 certification. I have available for the Court's inspection the pertinent
15 form.

16 THE COURT: Yes, please. Do you have an objection, Miss
17 Hendrickson?

18 MS. HENDRICKSON: Yes, I have the same objection as 32.

19 THE COURT: All right. And the Court -- the Court admits number 33.

20 Q. (By Mr. McLellan continuing) Mr. Smith, let's take a look at the -- this
21 document. In the upper left-hand corner what does it say this document is?

22 A. A 2008 W-2 and Earnings Summary.

23 Q. And who is it from by way of a company?

24 A. Monarch Consulting, Incorporated.

25 Q. Where does it say they're located?

1 A. The address listed is 4100 West Burbank Boulevard, Burbank, California,
2 91505.

3 Q. Beneath that, who does it give as the name of the employee?

4 A. The name of the employee that is listed on this form is Doreen Wright.

5 Q. And what's the last four digits of her Social Security number?

6 A. Four four zero nine.

7 Q. And looking at the form on the right of that information in box one, what does it
8 give as wages, tips and other compensation?

9 A. \$59 and 20 cents is listed as the compensation received.

10 Q. And under employee's first name and initial, what's typed in there?

11 A. Doreen Wright.

12 Q. And what does it give as the municipality of residence?

13 A. Again Commerce Township, Michigan.

14 Q. Let's take a look back at Government's Exhibit Seven. Keep your hand in the
15 -- that spot for Exhibit 33 please, Mr. Smith.

16 A. Sure. I'm sorry.

17 Q. I'm sorry. Begging the Court's indulgence, Your Honor?

18 THE COURT: Yes.

19 Q. Mr. Smith, take a look at Exhibit Eight, the Form 1040-EZ for Mrs. Hendrickson.
20 Do you have that there?

21 A. Yes sir, I do.

22 Q. For 2008?

23 A. Yes.

24 Q. And taking a look at the line one for wages, salaries and tips. What does it
25 give as the amount of wages, salaries and tips income for that year?

1 A. It lists zero.

2 Q. And turning to the next page, is that Form 4852?

3 A. Yes, sir.

4 Q. Of the Return. Who's the employer listed at line five?

5 A. Monarch Consulting, Incorporated.

6 Q. But on this document at line seven, what does it say about wages, tips and
7 other compensation received from Monarch Consulting?

8 A. Zero dollars.

9 Q. Taking a look at Exhibit 33, what is the employer Monarch Consulting reporting
10 for wages, tips and other compensation at line one?

11 A. \$59 and 20 cents.

12 Q. Let's take a look at a document marked number 10. Is that a document from
13 the IRS's computer system?

14 A. Yes sir, it is.

15 Q. And does it relate to payments received by a person?

16 A. Yes.

17 Q. And what's the name of that person?

18 A. The person listed on the document is Doreen Wright.

19 Q. And what's the name of the payer entities?

20 A. Monarch Consulting, Incorporated.

21 Q. The Government offers 10.

22 THE COURT: Is there an objection, Miss Hendrickson?

23 MS. HENDRICKSON: No, ma'am.

24 THE COURT: All right, 10 is in.

25 Q. (By Mr. McLellan continuing) And turning to the section in the lower left-hand

1 corner where it says type of employment all others. What's given as the wages here?

2 A. \$59.

3 Q. Now if we take a look at document number 11, is that a United States Treasury
4 check?

5 A. Yes.

6 Q. Who does it pay to the order of?

7 A. Doreen M. Hendrickson.

8 Q. And what year does it pertain to?

9 A. Pertains to the period ending December 31st, 2008.

10 Q. The Government offers 11.

11 THE COURT: Any objection?

12 MS. HENDRICKSON: No.

13 THE COURT: All right, it's in.

14 Q. (By Mr. McLellan continuing) Mr. Smith, what is the amount of this refund
15 check for the year 2008 for Ms. Hendrickson?

16 A. Five dollars even.

17 Q. Mr. Smith, you have a document marked number nine in front of you?

18 A. Yes I do, sir.

19 Q. Is that a Certificate of Assessments, Payments and Other Specified Matters?

20 A. Yes, it is.

21 Q. And who's the taxpayer?

22 A. It is for Doreen M. Hendrickson.

23 Q. And what's the tax period?

24 A. This would be for December 31st, 2008.

25 Q. Does this come from the IRS's computer system?

1 A. Yes, it does.

2 Q. The Government offers Nine.

3 THE COURT: Any objection?

4 MS. HENDRICKSON: No.

5 THE COURT: Nine is in.

6 Q. (By Mr. McLellan continuing) Mr. Smith, taking a look at the entry here for
7 withholding on 4/15 2009. Do you see that?

8 A. Yes, sir.

9 Q. And what's the amount of the withholding?

10 A. Five dollars.

11 Q. And on April the 27th, 2009 does it give a refund amount?

12 A. Yes it does.

13 Q. And what amount?

14 A. For \$5.

15 Q. How does that compare with the amount on that Treasury check to Miss
16 Hendrickson that we just saw?

17 A. It matches exactly.

18 Q. Mr. Smith, I want to ask you about amended returns in connection with this
19 case. Prior to testifying today, did you review IRS records to determine whether
20 Doreen Hendrickson filed amended tax returns with the IRS for the years 2002 and
21 2003?

22 A. Yes, I did.

23 Q. And when did you last review those records?

24 A. Last evening.

25 Q. And as of last night, has Doreen Hendrickson filed an amended tax return for

1 2002?

2 A. There were no amended tax returns for 2002.

3 Q. Has she filed one for 2003?

4 A. I was not able to locate anything in -- an amended Return for 2003 either.

5 Q. Court's indulgence? That's all for this witness at this time, Your Honor.

6 THE COURT: All right. Thank you. Miss Hendrickson, do you have a
7 Cross-examination of Mr. Smith?

8 MS. HENDRICKSON: Yes, please.

9 **CROSS-EXAMINATION**

10 **BY MS. HENDRICKSON:**

11 Q. Mr. Smith, have we ever met?

12 A. No we have not.

13 Q. So then I'm wondering, do you have personal knowledge whatsoever
14 concerning the correctness of anything on the documents that you've just introduced,
15 personal knowledge?

16 A. Not personal knowledge, no.

17 Q. Okay. So they may be accurate copies of something and they're found in
18 some IRS archive, but that doesn't necessarily mean you have personal knowledge of
19 their accuracy?

20 A. That would be a fair and correct statement.

21 Q. I do have to ask you about something that came up and it's not in my notes,
22 but a lot of these documents were requested quite some time ago. Is there any
23 reason for that?

24 THE COURT: I don't understand your question.

25 Q. I have down here Exhibit Number Two, the date at the bottom of it was 9/8/09.

1 Number five, same date. Eight and 10 were January 23rd of '10. Number Nine was
2 June 1st of '10, and I'm just wondering why they were -- why you requested them
3 quite so long ago?

4 A. I personally did not request those.

5 Q. Do you know for what purpose they were requested then? I mean that's what's
6 on their documents.

7 A. Yes. And it must have been a prior court action.

8 Q. Okay. Also on Number Five it had credit transferred entries on April 15th and I
9 have no idea what that's about.

10 A. Let's take a look here.

11 Q. On Number Five, there are three entries for credit transfers.

12 MR. McLELLAN: Your Honor, is there a question here.

13 Q. Yes. I'd like to know what those credit transfers are about. Can they please
14 explain them?

15 A. Excuse me. The --

16 Q. I mean it might be a perfectly logical explanation, but I have no idea.

17 A. The monies that were generated from the tax return that was processed for the
18 refund were offset to other tax years and the first credit transfer is for a 1040 for the
19 year 2000.

20 Q. What about the three for April 15th?

21 A. It does not identify the specific tax periods that they were -- where they were
22 credit transferred to. This document does not indicate that. What we did was the total
23 refund minus the amount of money that was transferred for the balance due, then left
24 the amount of 3000 -- actually the \$3,172.30 that we saw the check for, that included
25 \$60.84. It doesn't show -- on this particular exhibit it doesn't break down what the

1 exact amount is. You'd have to subtract \$60.84.

2 THE COURT: The question has to do with what are the -- can you
3 explain the credit transferred, the three listed here? Can you explain those?

4 THE WITNESS: The three credit transfers were sent to balance dues
5 and unfortunately this transcript does not identify the specific tax periods they were
6 moved to.

7 Q. (By Ms. Hendrickson continuing) So you just bring the records in?

8 A. That is correct.

9 Q. I see. Okay, thank you. Now on these tax returns that were filed and that were
10 as exhibited, do you have any personal knowledge of the sincerity with whatever
11 appears on these documents was written? Do you know if the person who wrote
12 them was actually sincere in what they wrote?

13 MR. McLELLAN: Objection.

14 MS. HENDRICKSON: Do you have any knowledge of that?

15 THE COURT: Excuse me. What's your objection?

16 MR. McLELLAN: Lack of foundation, Your Honor.

17 THE COURT: I think it would cause him to speculate. The objection is
18 sustained.

19 Q. (By Ms. Hendrickson continuing) Okay, that's fine. That's true. That would be
20 speculation. I wouldn't want that. Many of these documents characterize my
21 earnings as wages or self-employment income or generally imply in one way or
22 another a conclusion that my earnings are of a variety that is subject to the income
23 tax. Do you have any personal knowledge that any of those characterizations or
24 implications --

25 MR. McLELLAN: (Interjecting) Objection, Your Honor.

1 THE COURT: I don't know what the question is yet.

2 MS. HENDRICKSON: Well, if --

3 THE COURT: No, don't explain it. Just finish your question so that I can
4 know what you're objecting to, Mr. McLellan.

5 Q. (By Ms. Hendrickson continuing) Do you have personal knowledge that any of
6 the characterizations that my earnings are wages or self-employment income, do you
7 have any personal knowledge that that's a true characterization of the money that I
8 earn?

9 THE COURT: What's your objection?

10 MR. McLELLAN: It calls for a legal conclusion, Your Honor.

11 THE COURT: Objection is sustained.

12 Q. (By Ms. Hendrickson continuing) And this would probably be the same thing,
13 so I won't even go with that. Do you have any knowledge of what characterizes or
14 what constitutes wages or self-employment income when somebody earns money?

15 MR. McLELLAN: Objection, Your Honor. Same objection.

16 THE COURT: Do you understand the question?

17 THE WITNESS: Yes I do.

18 THE COURT: Can you answer it?

19 THE WITNESS: Yes I can.

20 THE COURT: Objection is overruled.

21 THE WITNESS: Yes. I do understand the difference between the for
22 example a W-2 and a 1099-Miscellaneous Income Form. It determines whether you
23 have an employer that's responsible for withholding Social Security, Medicare,
24 Federal income tax withheld and if required State, local, city withholding on the
25 income that you are paid. If you are a self-employed contractor, you are given a 1099

1 and it's your entire responsibility to make sure that the withholding is sent in according
2 to the rules of the IRS with dates and so on. I think it gets complicated, but that's
3 basically the difference.

4 Q. (By Ms. Hendrickson continuing) Would it be fair then to say that that payer is
5 reporting himself as -- him or herself as an employer whether -- I mean maybe they
6 don't know. They might not have read the law. Would it be fair to at least say that?

7 MR. McLELLAN: Objection, Your Honor.

8 THE COURT: What's your objection?

9 MR. McLELLAN: Calls for speculation.

10 THE COURT: You're asking that question just generally about any
11 payer?

12 MS. HENDRICKSON: Yeah.

13 THE COURT: I just want to make sure I understand the question and
14 the objection is sustained.

15 Q. (By Ms. Hendrickson continuing) Okay. Nothing further. Thank you?

16 A. You're very welcome.

17 THE COURT: Thank you. Do you have any follow-up, Mr. McLellan?

18 MR. McLELLAN: Nothing further. Your Honor.

19 THE COURT: Thank you. Mr. Smith, you're done. Thank you very
20 much. Just leave that binder there.

21 THE WITNESS: Thank you very much, Your Honor.

22 THE COURT: You're welcome. Your next witness please?

23 MS. SISKIND: United States calls Robert Metcalfe.

24 THE COURT: All right.

25 **ROBERT METCALFE,**

1 **Having been sworn under oath at about 2:23 p.m., testified:**

2 MS. SISKIND: May I proceed, Your Honor?

3 THE COURT: You may.

4 **DIRECT-EXAMINATION**

5 **BY MS. SISKIND:**

6 Q. Good afternoon, sir.

7 A. Good afternoon.

8 Q. Could you please introduce yourself to the Jury and spell your first and last
9 name for the court reporter?

10 A. My name is Robert Metcalfe. My first name is spelled R-o-b-e-r-t. My last
11 name is spelled M-e-t-c-a-l-f-e.

12 Q. And how are you employed, Mr. Metcalfe?

13 A. I'm an Assistant Chief in the Civil Trial Section Eastern Region of the Tax
14 Division of the United States Department of Justice in Washington, D. C.

15 Q. What does the Tax Division of the U.S. Department of Justice do?

16 A. Basically we enforce the civil tax laws and criminal tax laws of the United
17 States.

18 Q. And specifically what are your current job duties?

19 A. I supervise approximately 25 trial attorneys in the Eastern Region of the Tax
20 Division in one of the Civil Trial Sections. Our cases come from Delaware down to
21 North Carolina, as far west as Tennessee and Kentucky, but we're involved
22 exclusively in civil matters, that is things that are not criminal. We try to collect taxes
23 and we defend suits that are brought against the United States seeking refunds or
24 overpayments of Federal income and other taxes.

25 THE COURT: Miss Siskind, can you -- can we pause for a moment so

1 Miss Pinegar can take Mr. Metcalfe's picture?

2 MS. SISKIND: Sure.

3 THE COURT: Thank you.

4 Q. (By Ms. Siskind continuing) The position that you currently hold within the Tax
5 Division, is that the only position that you've held there?

6 A. No, it's not.

7 Q. What other positions have you held?

8 A. I took my prior -- my present position in January of 2009. Before that, I was a
9 trial attorney in the Civil Trial Section Central Region of the Tax Division of the
10 Department of Justice.

11 Q. And what were your duties as a trial attorney in the Central Region?

12 A. I handled cases that were assigned to me that involved civil tax matters
13 including actions to collect taxes and suits brought against the United States.

14 Q. And are there any special functions delegated to the Central Region of the Tax
15 Division?

16 A. We also handle on a nationwide basis suits for Injunctions brought against
17 people who have promoted abusive taxable avoidance schemes.

18 Q. In total, how many years have you been with the Department of Justice?

19 A. Twenty-eight.

20 Q. During the course of your work as a trial attorney in the Central Region of the
21 Department of Justice Tax Division, did you become familiar with the name Doreen
22 Hendrickson?

23 A. Yes, I did.

24 Q. And how did you become familiar with Miss Hendrickson?

25 A. In 2006 I was assigned a case to be brought against Peter Eric Hendrickson

1 and Doreen M. Hendrickson to recover tax refunds that had been erroneously paid to
2 them by the Internal Revenue Service and also to obtain an Injunction against them
3 requiring them to file income tax returns for 2002 and 2003 and to prevent them from
4 filing false and fraudulent returns in years after that.

5 Q. And did the Government ultimately file a civil lawsuit against both Peter and
6 Doreen Hendrickson?

7 A. Yes, it did.

8 Q. And were you initially the attorney assigned to that lawsuit?

9 A. I was.

10 Q. If I could direct your attention to what's been marked as Government Exhibit 31
11 in the binder? And generally what is this document?

12 A. This is a copy of the -- or a printout of the civil docket for case number
13 06-CV-11753, United States versus Peter and Doreen Hendrickson.

14 Q. Is this a certified copy of that docket sheet?

15 A. It is.

16 Q. The Government moves for the admission of Exhibit 31.

17 THE COURT: Any objection?

18 MS. HENDRICKSON: No.

19 THE COURT: It's in.

20 Q. (By Ms Siskind continuing) As set forth on this docket sheet, who was the
21 Judge assigned to the case of United States versus Peter and Doreen Hendrickson?

22 A. It was United States District Judge Nancy G. Edmunds.

23 Q. And in what court did this litigation take place?

24 A. The Eastern District of Michigan.

25 Q. Is that the district we're in right now?

1 A. That's correct.

2 Q. Was it actually in this courthouse that we're in?

3 A. Yes.

4 Q. And do you see where it says Plaintiff?

5 A. Yes.

6 Q. For those who might not be familiar, what does Plaintiff mean in a civil case?

7 A. Someone who brings an action or -- to recover on a claim in a civil case
8 against another party.

9 Q. and who was the Plaintiff in this case?

10 A. The United States of America.

11 Q. Is that your name as indicating that you represent the United States?

12 A. Yes, it is.

13 Q. If turn to the next page, who were listed as the Defendants?

14 A. Peter Eric Hendrickson and Doreen M. Hendrickson.

15 Q. And who were they represented by in that case?

16 A. They represented themselves.

17 Q. Is that what it means when it says pro se?

18 A. Yes.

19 Q. Directing your attention to the next page of this docket, when did the
20 Government's civil lawsuit against the Hendricksons formally begin?

21 A. It began when we filed the Complaint back on April 12th of 2006.

22 Q. And what is a Complaint?

23 A. A Complaint is a document, a written document that sets forth a party's claims
24 against another party. In this case, the Complaint contained two sets of claims. The
25 first was to recover or get back erroneous tax refunds that had been made to Peter

1 Eric Hendrickson and Doreen M. Hendrickson and the second claim was for an
2 Injunction to get them to file correct amended tax returns for 2002 and 2003 and to
3 prevent them from filing false and fraudulent income tax returns in future years.

4 Q. Were you involved in filing the Complaint in this case?

5 A. Yes. I was actually the person who drafted the Complaint and arranged for it to
6 be filed with the United States District Court for the Eastern District of Michigan.

7 Q. If you could turn to what's been marked for identification as Government Exhibit
8 12 please? And what is this?

9 A. It's a copy of the Complaint for Erroneous Tax Refunds and Permanent
10 Injunction that I drafted and arranged to be filed with the United States District Court
11 on April 12th of 2006.

12 Q. And is this a certified copy of that Complaint?

13 A. Yes, it is.

14 Q. The Government moves for the admission of Exhibit 12.

15 THE COURT: Is there an objection?

16 MS. HENDRICKSON: No, there's not.

17 THE COURT: It's in.

18 Q. (By Ms Siskind continuing) Can you read just the title of this document?

19 A. It's Complaint for Erroneous Tax Refunds and Permanent Injunction.

20 Q. And can you read what appears below that please?

21 A. Plaintiff, the United States of America complains and alleges against the
22 Defendants Peter Eric Hendrickson and Doreen M. Hendrickson as follows.

23 Q. And if you could just read the first paragraph please.

24 A. Paragraph one states: This is a civil action in which the United States seeks to
25 recover with interest the erroneous tax refunds of Federal income, Social Security and

1 Medicare taxes totalling \$20,380.96 that the Defendants, Peter Eric Hendrickson and
2 Doreen M. Hendrickson received as a result of the misrepresentations that they made
3 on their 2002 and 2003 Form 1040 Tax Returns and to enjoin the Defendants under
4 Internal Revenue Service Code Section 7402 from filing false and fraudulent returns
5 and forms with the Internal Revenue Service.

6 Q. What does it mean to enjoin someone from doing something?

7 A. To prohibit or bar or preclude them from doing a specific act.

8 Q. If you could turn to the next page please. Can you read Paragraphs Five and
9 Six?

10 A. Paragraph Five provides that Peter Eric Hendrickson herein after Hendrickson,
11 resides in Commerce Township, Michigan. Hendrickson does business on the
12 Internet through his website, www.lost horizons.com. Paragraph Six states that
13 Doreen M. Hendrickson is married to Peter Eric Hendrickson and resides in
14 Commerce Township, Michigan.

15 Q. If you could flip to the fourth page of this Complaint and read Paragraph 12?

16 A. Paragraph 12 states: The United States of America seeks to recover with
17 interest pursuant to Internal Revenue Service Code Section 7405, the erroneous
18 refunds of 2002 and 2003 Federal taxes totalling \$10,152.96 and 10,000 dollars --
19 \$10,228 respectively. The Defendants were issued or received by way of credit
20 supplied to unpaid Federal tax liabilities assessed against Defendants for other tax
21 periods.

22 Q. Would you read the next three paragraphs as well please?

23 A. Paragraph 13 states: On 2002 and 2003 joint income tax returns described
24 above, Hendrickson falsely and fraudulently reported receiving no wages or salaries
25 during the taxable years ending on December 31st, 2002 and December 31st, 2003.

1 Paragraph 14 states: On their 2002 and 2003 joint income tax returns, Defendants
2 falsely and fraudulently reported receiving no taxable income during 2002 and 2003.
3 Paragraph 15 states: Defendants filed an IRS Form 1099-MISC with their joint 2002
4 and 2003 Federal income tax returns that were signed under penalty of perjury by the
5 Defendant Doreen Hendrickson in which she falsely fraudulently claimed that she
6 received zero or no nonemployee compensation in 2002 and 2003.

7 Q. If you could turn forward to page seven please? And if you could just read
8 paragraph 23?

9 A. Paragraph 23 states: Because Defendants falsely and fraudulently claimed
10 they received no taxable income on their 2002 and 2003 Federal income tax returns,
11 and claimed credit for the \$10,152.96 and \$10,228 in Federal income, Social Security
12 or FICA and Medicare taxes withheld from Defendant Peter Eric Hendrickson's wages
13 or salary in 2002 and 2003 respectively, the IRS should not have issued the refunds
14 and therefore the issuance of the \$10,252.96 and \$10,228 in tax refunds to or credit
15 transfers for the benefit of Defendants was erroneous.

16 Q. If you could turn to page 10 please, does the last part of this Complaint set
17 forth what the Government is trying to accomplish by filing this lawsuit?

18 A. Yes. This is what is called the prayer for relief where we -- this is what we are
19 asking the Court to do in this case if we are successful in proving the allegations
20 made in the Complaint.

21 Q. Can you please read it?

22 A. Wherefore, the Plaintiff, the United States of America prays for the following
23 relief. Paragraph A: That this Court determine that the United States erroneously
24 issued refunds to the Defendants, Peter Eric Hendrickson and Doreen M.
25 Hendrickson in the amounts of \$10,152.96 and \$10,228 for the 2002 and 2003 tax

1 years respectively, and Paragraph B: That Judgment be entered on behalf of the
2 United States and against the Defendants, Peter Eric Hendrickson and Doreen M.
3 Hendrickson in the amount of 2000 -- amount of \$20,380.96 consisting \$10,152.96 for
4 the 2002 tax year and \$10,228 for the 2003 tax year, plus interest thereon as allowed
5 by Internal Revenue Service Code Section 6602 from the dates of the erroneous
6 refunds to the dates of payment. Paragraph C: That the Court find that Defendants,
7 Peter Eric Hendrickson and Doreen M. Hendrickson have engaged in conduct that
8 interferes with administration and enforcement of the Internal Revenue laws and that
9 injunctive relief is appropriate to prevent the occurrence of that conduct pursuant the
10 Court's inherent equity powers and Internal Revenue Code Section 7402(a).

11 Paragraph D: That this Court pursuant to Internal Revenue Code Section 7402(a)
12 enter a Permanent Injunction requiring Defendants, Peter Eric Hendrickson and
13 Doreen M. Hendrickson to file corrected Federal Income Tax Returns for 2002 and
14 2003 reversing the false entries described above, and enjoining the Defendants from
15 filing false or fraudulent claims, forms or returns with the IRS in the future, including
16 claims, forms and returns based on the false statements about the Federal tax laws
17 described in the Complaint. Paragraph E: That this Court order that the United States
18 is permitted to engage in post-judgment discovery to insure compliance with the
19 Permanent Injunction and Paragraph F: That this Court grant the United States such
20 other relief, including the cost of this action as is just and equitable.

21 Q. Did you sign this Complaint?

22 A. I did.

23 Q. On what date?

24 A. On April 11, 2006.

25 Q. Did the Government provide Miss Hendrickson with a copy of the Complaint?

1 A. Yes. We arranged for the copy -- copies of the Complaint to be served on both
2 her and her husband.

3 Q. By what means?

4 A. By personal service.

5 Q. And if you could go back to the docket in Exhibit 31 please and directing your
6 attention to the third page. Do you see an entry reflecting the fact that a copy of this
7 Complaint was served on Miss Hendrickson?

8 A. The Exhibit indicates that on April 19th of 2006 -- and this is docket numbers
9 two and three -- that the summons in this case was returned executed. Entry number
10 three shows that the summons which was returned executed on Doreen M.
11 Hendrickson being served on April 12th of 2006 and the answer being due on May
12 2nd, 2006.

13 Q. After the Government filed this Complaint, did it make something called a
14 Motion for Summary Judgment?

15 A. It did.

16 Q. What is the purpose of that kind of motion?

17 A. In the Motion for Summary Judgment we were asking the District Judge
18 assigned to this case to determine that as a matter of law the United States was
19 entitled to the relief that we had sought in our Complaint.

20 Q. If you could go to the fourth page of the docket in Exhibit 31, on what date -- do
21 you see an entry reflecting the filing of that Motion for Summary Judgment?

22 A. I do.

23 Q. Is that docket entry number nine?

24 A. It is.

25 Q. On what date was it filed?

1 A. It was entered on the docket on July 13th, 2006.

2 Q. Directing your attention to what's been marked for identification as Exhibit 13.
3 What is this?

4 A. It is a copy of the Plaintiff's Motion for Summary Judgment in the civil case
5 number 13-20371, United States versus Peter and Doreen Hendrickson.

6 Q. And this is a certified copy of that filing?

7 A. It is.

8 Q. The Government moves for admission of Exhibit 13.

9 THE COURT: Is there an objection?

10 MS. HENDRICKSON: That's fine.

11 THE COURT: All right. It's in.

12 Q. (By Ms Siskind continuing) Now is this a motion that you filed with the Court?

13 A. It is.

14 Q. And are there any types of documents attached to your Motion?

15 A. There are a number of attachments that we filed with our Motion for Summary
16 Judgment in order to establish that there were no genuine issues of material fact and
17 that we were entitled to a Judgment as a matter of law.

18 Q. So if you could go to -- do you see an Exhibit Index? It's marked document 9-2
19 on the top. It should be the 22nd page of the exhibit.

20 A. I found it.

21 Q. What is this?

22 A. This is a list of the exhibits that we submitted to the Court in connection or to
23 support our Motion for Summary Judgment.

24 Q. Was one of those documents a set of Forms W-2 issued to Peter Hendrickson
25 for 2002 and 2003?

1 A. It was.

2 Q. And if you flip forward a few more pages, do you see those Forms W-2?

3 A. Yes. They appear under the Declaration of Kim Halbrook.

4 Q. And so the first one for 2002, who issued this Form W-2 to Peter Hendrickson?

5 A. Personnel Management, Inc.

6 Q. And what tax year is this one for?

7 A. For 2002.

8 Q. And according to this Form W-2 from Personnel Management, how much did
9 this company pay Mr. Hendrickson in wages for 2002?

10 A. \$58,965.

11 Q. And based on the documents you reviewed as part of your work on this case,
12 was any of that amount reported on the Hendricksons' 2002 Income Tax Return?

13 A. It was not.

14 Q. And if you go to the next page?

15 A. This is a copy of the Form W-2 Wage and Tax Statement that was issued to
16 the taxpayer Peter Eric Hendrickson by Personnel Management, Inc. for the 2003
17 taxable year.

18 Q. What does Personnel Management report they paid in wages to Mr.
19 Hendrickson for 2003?

20 A. \$60,608.

21 Q. And was any of that amount reported on the Hendricksons' joint 2003 Income
22 Tax Return?

23 A. It was not.

24 Q. When you filed your Motion for Summary Judgment and included these
25 exhibits, did you also include copies of the Hendricksons' 2002 and 2003 Returns?

1 A. Yes.

2 Q. Did you include documents that set forth the amount of refunds issued to them
3 for those years?

4 A. I believe we did, yes.

5 Q. And are all those part of this Exhibit here?

6 A. They are.

7 Q. If you flip back to the docket in Exhibit 31 and go to the fourth page. Directing
8 your attention to docket entry 13. Did the Hendricksons have an opportunity to
9 respond and submit something to the Court in response to your Motion for Summary
10 Judgment?

11 A. Yes, they did.

12 Q. And on what date was that filed?

13 A. It was entered on the docket on September 7th of 2006. It was the response to
14 our Motion for Summary Judgment that was filed by Peter Eric Hendrickson and
15 Doreen M. Hendrickson.

16 Q. And now did Judge Edmunds ultimately enter a Judgment in favor of the United
17 States in this case?

18 A. Yes.

19 Q. If you could turn to what's been marked for identification as Government Exhibit
20 15? Court's indulgence, Your Honor.

21 THE COURT: Yes.

22 Q. (By Ms Siskind continuing) What is document marked Exhibit 15?

23 A. It's a copy of the Amended Judgment and Order of Permanent Injunction in the
24 civil case United States of America versus Peter Eric Hendrickson and Doreen M.
25 Hendrickson.

1 Q. Is this a certified copy of that Judgment?

2 A. It is.

3 Q. Government offers Exhibit 15.

4 THE COURT: Is there an objection?

5 MS. HENDRICKSON: No.

6 THE COURT: Fifteen is in.

7 Q. (By Ms Siskind continuing) What is the date of this Order?

8 A. It's May 2nd of 2007.

9 Q. And who is the Judge that issued it?

10 A. The Honorable Nancy G. Edmunds.

11 Q. And again, what's the title of this document?

12 A. Amended Judgment and Order of Permanent Injunction.

13 Q. Can you read what appears below that please?

14 A. Upon consideration of Plaintiff's motion to amend Judgment and any response
15 thereto, good cause appearing, it is hereby ordered that Plaintiff's Motion to Amend
16 Judgment is granted and it is adjudged and ordered that Defendant Peter
17 Hendrickson and Defendant Doreen Hendrickson, collectively Defendants, are jointly
18 indented to the United States -- jointly indebted to Plaintiff for erroneous refunds for
19 the 2002 and 2003 tax years as shown below.

20 Q. Below does it set forth amounts for each year?

21 A. It does.

22 Q. And what is the amount for 2002?

23 A. \$10,152.96.

24 Q. And what are the amounts for 2003?

25 A. \$7,055.70 plus interest accruing on the amounts of the erroneous refunds from

1 April 15th, 2004 pursuant to two Sections of the Internal Revenue Code and the
2 second one is \$3,172.30 plus interest accruing on the amounts of erroneous refunds
3 from October 4th of 2004.

4 Q. Now starting on the next page, did Judge Edmunds make certain findings
5 about income earned by the Hendricksons for 2002 and 2003?

6 A. Yes, she did.

7 Q. And generally what were those findings?

8 A. That the Defendant, Peter Eric Hendrickson had -- was employed by Personnel
9 Management and earned wages of \$58,965 and \$60,608 during 2002 and 2003.

10 Q. And what if any findings did Judge Edmunds make in Paragraph Five with
11 respect to Doreen Hendrickson?

12 A. That the Defendant, Doreen Hendrickson received \$3,773 in nonemployee
13 compensation from Una Dworkin in 2002.

14 Q. If you go to the next page, can you read Paragraphs Eight and Nine?

15 A. Paragraph eight states: Defendants requested on line 70 of their joint 2002 tax
16 return a refund of the \$10,152.96 in Federal income, Social Security and Medicare
17 taxes that had been withheld from Defendant Peter Hendrickson's wages during 2002.
18 Paragraph Nine states: Because Defendants reported that they had no income, the
19 IRS unaware that Defendants' report was false, treated the withheld Federal taxes as
20 tax overpayments and applied them on April 15th 2004 to one, Defendant Doreen
21 Hendrickson's unpaid 2000 tax liability of \$1,699.86, and two, the outstanding
22 balances owed by Peter -- Defendant Peter Hendrickson for 2001 which was
23 \$6,521.11, in 2000 in the amount of \$1,931.99.

24 Q. And what if anything does Judge Edmunds say in the next paragraph about
25 whether the Defendants were entitled to those refunds?

1 A. The Judge says in the next paragraph they were not entitled to refunds of
2 Federal income tax or 2002 for the reason their Federal income tax liability for that
3 year exceeded the amounts of Federal income taxes withheld from Peter Eric
4 Hendrickson's wages by his employers.

5 Q. For the 2003 tax year, Judge Edmunds also make findings that the
6 Hendricksons had earned income?

7 A. Yes.

8 Q. Did she also find for that year that they were not entitled to the refund they
9 requested?

10 A. That's correct.

11 Q. If you go to page five, can you please read Paragraph 18?

12 A. Defendants contend that their Forms 4852 as described above accurately
13 reported that they received no wages or other compensation in 2002 and 2003.
14 Defendants based their contention on theories contained in a book entitled *Cracking*
15 *the Code*, which was written by Defendant Peter Hendrickson. On page 76 of
16 *Cracking the Code*, or CTC, Defendant Peter Hendrickson states: So actually
17 withholding only applies to the pay of Federal Government workers exactly as it
18 always has plus State Government workers since 1939 and those in the District of
19 Columbia since 1921.

20 Q. Can you read the first sentence of the next paragraph please?

21 A. Defendant's contention that withholding applies only to Government workers is
22 frivolous and false.

23 Q. If you go to the next page, page seven, does Paragraph 27 actually set forth
24 what Judge Edmunds is ordering here?

25 A. Yes, it does.

1 Q. Can you read 27 please?

2 A. Accordingly, it is hereby ordered that Defendants are prohibited from filing any
3 tax return, amended return, form paren including, but not limited to Form 4852 paren
4 quote substitute for Form W-2 Wage and Tax Statement, et cetera quote and double
5 paragraphs, apart or other writing or paper with the IRS that is based on the false and
6 frivolous claims set forth in *Cracking the Code* that only Federal, State or local
7 Government workers are liable for the payment of Federal income tax or subject to
8 the withholding of Federal income, Social Security and Medicare taxes from their
9 wages under the Internal Revenue laws 28 United States Code and it is further.

10 Q. Would you read the next part?

11 A. Ordered that within 30 days of the entry of this Amended Judgment and Order
12 of Permanent Injunction, Defendants will file amended U.S. Individual Income Tax
13 Returns for the taxable years ending on December 31st, 2002 and December 31st,
14 2003 with the Internal Revenue Service. The amended tax returns to be filed by
15 Defendants shall include in Defendant's gross income for the 2002 and 2003 taxable
16 years the amounts that Defendant Peter Hendrickson received from his former
17 employer, Personnel Management, Inc. during 2002 and 2003, as well as the
18 amounts that Defendant Doreen Hendrickson received from Una E. Dworkin during
19 2002 and 2003. So ordered.

20 Q. Who signed this Order?

21 A. United States District Judge Nancy G. Edmunds.

22 Q. On what date?

23 A. That was May 2nd of 2007.

24 Q. Was a copy of this Order served on Miss Hendrickson?

25 A. Yes it was.

1 Q. Did you also separately provide Miss Hendrickson with a copy of this Order?

2 A. We did.

3 Q. If you could turn to what's marked for identification as Government Exhibit 16.
4 Indicate what this is.

5 A. This is a letter that I wrote to Mr. & Mrs. Hendrickson back on May 4, 2007.

6 Q. The Government moves for the admission of Exhibit 16.

7 THE COURT: Is there an objection?

8 MS. HENDRICKSON: No, there's not.

9 THE COURT: All right, 16 is in.

10 Q. (By Ms Siskind continuing) And what do you indicate in the first paragraph of
11 this letter?

12 A. On May 2nd of 2007, Amended Judgment was entered in favor of the United
13 States and against you in the above captioned case.

14 Q. Did you attach a copy Judge Edmunds' Order to this letter?

15 A. I did.

16 Q. What does the second paragraph of your letter say?

17 A. This letter is to demand prompt payment of the Judgment. Please deposit with
18 this office within 21 days of this date a cashiers or certified check or money order
19 payable to the United States Treasury in the amount of \$25,381.39 which includes
20 interest to May 25th of 2007. Please be sure to include your Social Security numbers
21 on the check. Enclosed you will find a copy of the Judgment and our interest
22 computations.

23 Q. In response to this letter, did Miss Hendrickson send a check to your office for
24 this amount?

25 A. She did not.

1 Q. Did she send any check to your office for any amount?

2 A. No.

3 Q. And attached to this letter you indicated there's an interest computation?

4 A. Yes.

5 Q. Does that explain why the number 25,000 is higher than the number in the
6 Judge's Order?

7 A. Yes. The \$25,381.39 is the amount of the erroneous refunds plus the interest
8 that accrued on those refunds after they were made to the Hendricksons.

9 Q. Attached to this letter did you also include something called interrogatories?

10 A. Yes.

11 Q. What are interrogatories?

12 A. Interrogatories, in this case they were collection interrogatories. These are
13 written questions that are sent to the Defendants, Peter Hendrickson and Doreen
14 Hendrickson asking them questions about their assets, their ability to pay the
15 Judgement that was entered against them. Under the Federal Rules of Civil
16 Procedure they were required to answer those interrogatories within 30 days after
17 they'd been served on them and send the answers back to me.

18 Q. Did the Hendricksons challenge Judge Edmunds' Order by filing an appeal?

19 A. They did.

20 Q. And was that appeal filed with the United States Court of Appeals for the 6th
21 Circuit?

22 A. It was.

23 Q. Did the 6th Circuit Court of Appeals rule in that case?

24 A. To my knowledge, it did.

25 Q. Between the time that the Hendricksons filed their appeal and the time that the

1 6th Circuit ruled on it, did you cease to be primary trial attorney on this case?

2 A. I actually stopped being the primary trial attorney on this case in December of
3 2008, but the 6th Circuit had already ruled by then.

4 Q. And who took over as the attorney on the case after you left?

5 A. Daniel Applegate.

6 Q. What was the result of the Hendrickson's appeal to the 6th Circuit?

7 A. The 6th Circuit affirmed Judge Edmunds' Order requiring the Defendants to
8 repay the erroneous refunds and to -- enjoining them from filing false and fraudulent
9 returns and requiring them to file corrected returns for 2002 and 2003.

10 Q. What does it mean when an Order is affirmed?

11 A. It's approved or it's a determination that the lower Court's ruling was correct.

12 Q. If you could turn to what's been marked for identification as Government Exhibit
13 17. What is this?

14 A. This is a copy of the Opinion or Order entered by the United States Court of
15 Appeals for the 6th Circuit on June 11, 2008 on the appeal of the civil action that
16 we've been discussing here today.

17 Q. Is this a certified copy of that Order?

18 A. It is.

19 Q. The Government moves to admit Exhibit 17.

20 THE COURT: Is there an objection?

21 MS. HENDRICKSON: Oh, no.

22 THE COURT: All right, 17 is in.

23 Q. (By Ms Siskind continuing) Can you please read just the first sentence of this
24 Order?

25 A. Peter E. and Doreen M. Hendrickson pro se Michigan residents, appeal a

1 District Court grant of summary judgment for the Government in this action to recover
2 erroneous tax refunds filed under 26 United States Code Section 7405(b).

3 Q. If you go to the next page looking down at the bottom of page two, can you
4 read the paragraph that begins on appeal?

5 A. On appeal, the Hendricksons make numerous challenges to the District Court's
6 jurisdiction and judgment which can -- which fairly can be characterized as plainly
7 baseless tax protester arguments. The Government responds that the District Court's
8 Judgment was proper and has filed a separate Motion for Sanctions in the amount of
9 \$8000 pursuant to Federal Rule of Appellate Procedure 38.

10 Q. When the 6th Circuit refers to the District Court, is that Judge Edmunds?

11 A. Yes.

12 Q. And what does it mean when a motion for sanctions is filed?

13 A. In this case the United States took the position on appeal before the 6th Circuit
14 that what the Defendants or appellants, Peter Eric Hendrickson and Doreen
15 Hendrickson had filed with the 6th Circuit in support of their appeal was legally
16 frivolous or frivolous as a matter of law.

17 Q. And can you continue reading that paragraph please?

18 A. The Hendricksons have not responded to the Government's motion. Upon
19 consideration, we grant the Motion for Sanctions in part and affirm the District Court's
20 Judgment.

21 Q. Skipping the next paragraph, can you read the first two sentences of the
22 following paragraph?

23 A. First, the Hendricksons' jurisdictional challenges lack merit. The United States
24 plainly may sue for refunds -- for return of taxes erroneously refunded pursuant to 26
25 United States Code section 7405(B).

1 Q. If you go to the next page. Looking at the first full paragraph that starts the
2 Hendricksons, what does the 6th Circuit indicate about the remaining arguments
3 they're making on appeal?

4 A. It says the Hendricksons remaining claims also plainly lack merit.

5 Q. Did the 6th Circuit Court of Appeals sanction the Hendricksons for these
6 arguments?

7 A. Yes, but not in the amount sought by the United States originally. We sought
8 \$8000 in sanctions, and the 6th Circuit cut that back to \$4000.

9 Q. If you could just go to page five and just read the sentence that appears there?

10 A. For the foregoing reasons, the Government's Motion for Sanctions is granted in
11 the amount of \$4000 and District Court's Judgment is affirmed. See Rule 34J(2)(c)
12 Rules of the 6th Circuit.

13 Q. Finally, if you go to the next page do you see a letter addressed to Peter
14 Hendrickson?

15 A. Yes, I do.

16 Q. And is that providing him with a copy of this Order?

17 A. It does.

18 Q. Do you see a number of individuals who are cc'ed at the bottom of the page?

19 A. Yes.

20 Q. Is Ms. Hendrickson one of those individuals?

21 A. Yes.

22 Q. After the 6th Circuit issued this Order to affirm Judge Edmunds' Order, did the
23 Hendricksons also appeal to the Supreme Court?

24 A. Yes, to my knowledge.

25 Q. Did the Supreme Court agree to hear the case?

1 A. The Supreme Court declined to issue what is called a Writ of Certiorari which
2 said that they would not hear a further appeal in this case.

3 Q. And what if any effect does that decision have on whether Judge Edmunds'
4 Order stands?

5 A. To my understanding it meant that it became a final order no longer subject to
6 appeal.

7 Q. As you sit here today, are you aware of any Judge or any Court that has
8 reversed Judge Edmunds' Order of May 2nd, 2007?

9 A. I'm not.

10 Q. And are you aware of any Judge or any Court that has said that her Order was
11 invalid in some way?

12 A. No, I'm not aware of that at all.

13 Q. Court's indulgence? No further questions.

14 THE COURT: Thank you. Ladies and gentlemen, we are going to take
15 about a 10-minute break, re-energize ourselves. All rise for the jury please.

16 **(COURT RECESSED AT ABOUT 3:07 P.M.)**

17 **(At about 3:25 p.m.)**

18 **(Court, Counsel, Jury and parties present)**

19 THE COURT: Miss Hendrickson, do you have a Cross-examination?

20 MS. HENDRICKSON: I do.

21 **CROSS-EXAMINATION**

22 **BY MS. HENDRICKSON:**

23 Q. I'm sorry. I need the other exhibits. I just have a couple things I want to clear
24 up right away while it's fresh in my mind. On your packet that you have, the docket
25 number from I think it was number 31?

1 A. Do you mean Exhibit 31?

2 Q. Yes, please. There is -- there was issued an Opinion from the Appeals Court
3 and the Order -- where's the Order? It's the Order that was denying our appeal, that's
4 what I'm in reference to anyhow, but then on July 21st of '08 and I'm not sure on
5 yours. You might not have it marked, but on the docket on July 21st of '08, the
6 Government filed a motion to publish the Appeals Court Opinion. You should have
7 that in the docket.

8 MS. SISKIND: Your Honor, I don't see that date referenced in Exhibit 31.

9 MS. HENDRICKSON: It's -- I have it as Appellee's Motion to Publish
10 Opinion dated July 21st of '08.

11 MS. SISKIND: Your Honor, is that from Government Exhibit 31?

12 THE COURT: May I just ask, what's the question?

13 MS. HENDRICKSON: Well, the thing was the Government asked them
14 to publish their Opinion and the Appellate Court denied that motion. They did not
15 want their Opinion published and as I understand it, that means that the Opinion is not
16 binding on other courts in the Circuit. Is that true?

17 A. I don't know.

18 Q. Well, it's an unpublished Opinion.

19 A. That's correct.

20 Q. I made the assumption that as an attorney you would know what an
21 unpublished Opinion meant.

22 THE COURT: Miss Hendrickson, the decision of the Court of Appeals is
23 binding on this Court. That's really all that matters.

24 Q. But it can't be taken as a precedent for anyone else as far as I know.

25 Okay. Then you also made reference to the fact that the Supreme Court denied cert

1 to hear the appeal? Do you have any notion of how many cases the Supreme Court
2 has applied to it each year and how many they actually hear?

3 A. I don't.

4 Q. Can I show him this? I have a printout from the Supreme Court website, their
5 FAQ list.

6 THE COURT: Did you show it to Miss Siskind?

7 MS. HENDRICKSON: Yes. It's in our exhibit list.

8 MS. SISKIND: Which exhibit number?

9 MS. HENDRICKSON: It is our Exhibit Number 526.

10 MS. SISKIND: I have it. Thank you, Your Honor.

11 THE COURT: All right. Yes, you may show it to him.

12 MS. HENDRICKSON: Thank you. Could you read the highlighted
13 portion please?

14 MS. SISKIND: Objection; not in evidence.

15 THE COURT: It's not in evidence yet, Miss Hendrickson.

16 MS. HENDRICKSON: I'm sorry.

17 THE COURT: You need to ask him to identify it first.

18 Q. (By Ms. Hendrickson continuing) Oh. Can you identify this please?

19 A. It appears to be a printout of frequently asked questions Supreme Court of the
20 United States and it seems to be three pages in length.

21 Q. Thank you. May I admit this as evidence?

22 MS. SISKIND: Objection. Relevance, Your Honor.

23 THE COURT: Sustained. It's not admitted. It's not relevant.

24 MS. HENDRICKSON: May I explain at all?

25 THE COURT: No, you may not.

1 Q. (By Ms. Hendrickson continuing) Okay. All right. Mr. Metcalfe, you are the
2 person who signed the Complaint against me for asking Judge Edmunds to take
3 control of my speech, is that true?

4 MS. SISKIND: Objection; argumentative.

5 THE COURT: Sustained. Please rephrase your question.

6 Q. (By Ms. Hendrickson continuing) Okay. Mr. Metcalfe, are you the person who
7 signed the Complaint against me asking Judge Edmunds to make certain Orders
8 pertaining to documents that I was to sign?

9 A. I did sign the Complaint, but I'm not sure as to the last part of your question
10 exactly what you're asking.

11 Q. I think you were asking her to make me sign amended returns to certain
12 specifications.

13 A. That's correct.

14 Q. And to not make certain returns ever again in the future regardless of what I
15 believed was true.

16 A. Well, what we asked was that you not be able to file false or fraudulent returns.

17 Q. That's true. Nobody is allowed to file false and fraudulent returns. I
18 understand that. But on the other hand, by asking her to do that and putting it in that
19 phrase, were you implying to her that my returns were somehow false or fraudulent?

20 A. You mean in the Complaint?

21 Q. Correct.

22 A. In the Complaint we did characterize the returns you had filed for 2002 and
23 2003 with your husband as false and fraudulent, yes.

24 Q. Did you have personal knowledge not reliant on what someone else had
25 written or said on which you base that claim; personal knowledge of the money that I

1 earned or how I obtained that money?

2 A. I do not have personal knowledge of how you obtained your -- I'm assuming for
3 2002 and 2003?

4 Q. Correct.

5 A. I don't have any personal knowledge of how you -- or what you did to earn that.
6 All I know is from what was filed with the Internal Revenue Service.

7 Q. So someone else filed something characterizing my earnings as wages or
8 self-employment income and you based your decision on what someone else told
9 you?

10 A. That would be correct.

11 Q. Okay. So okay. Actually I covered the next question as well. So have you
12 ever said that my earnings are of a variety subject to the tax over your own signature
13 on penalties of perjury?

14 MS. SISKIND: Objection; relevance.

15 THE COURT: Sustained.

16 Q. (By Ms. Hendrickson continuing) To your knowledge has any Government
17 official ever said that my earnings are a variety subject to the tax to the best of his or
18 her knowledge or belief and over their signature or his or her signature?

19 MS. SISKIND: Objection; relevance.

20 THE COURT: Miss Hendrickson, I'm trying to understand your question.
21 Your premise is that the IRS should not have relied on W-2's or 1099's that were sent
22 in to make a decision about your tax liability?

23 MS. HENDRICKSON: I didn't hear the first part of what you just said.

24 THE COURT: Are you saying that the IRS should not have relied upon
25 W-2's or things that were submitted to the IRS concerning your income in deciding

1 your tax liability? Is that what you're saying?

2 MS. HENDRICKSON: I guess that's a round about way of saying it.

3 THE COURT: And that the IRS Agents, whoever worked on your case
4 had to have -- you're asking if anybody had personal knowledge about the source of
5 your income? Is that your question?

6 MS. HENDRICKSON: Well, I think what I'm trying to get at is that I
7 should have been able to question someone who was making allegations about my
8 earnings and that was never --

9 THE COURT: That's not your question. Can I -- wait a minute. Let's set
10 a ground rule here. Mrs. Coleman has to record everything that gets said, all right?

11 MS. HENDRICKSON: One at a time.

12 THE COURT: Excuse me. And so she cannot do that when two people
13 are talking at the same time, so give me the courtesy of allowing me to finish my
14 questions before you respond and I will extend the same courtesy to you.

15 MS. HENDRICKSON: Absolutely. I'm so sorry.

16 THE COURT: Thank you. So your question was did anyone ever say --
17 anyone ever at the IRS say that your earnings are subject to taxes and they signed it
18 based on their personal knowledge? That's your question?

19 MS. HENDRICKSON: Yes.

20 THE WITNESS: I'm not sure I understand what the question is.

21 THE COURT: Does anybody at the IRS have personal knowledge of the
22 source of her income other than what you may get from somebody submitting a W-2
23 or a 1099?

24 THE WITNESS: The answer would be no.

25 THE COURT: All right.

1 Q. (By Ms. Hendrickson continuing) Have you seen my signatures on returns
2 where I swore under oath and directly and forthright that I attested to the best of my
3 knowledge and belief that the only earnings I received during 2002 and 2003 of a
4 variety subject to the tax were interest from a national bank, and in 2003 little under
5 \$300 from a IRA distribution? Have you seen my signature that I'm attesting to the
6 best of my knowledge and belief that those facts are true?

7 A. This would be on your 2002 and 2003 income tax returns?

8 Q. Yes.

9 A. The original ones?

10 Q. Correct.

11 A. Yeah, you're right.

12 Q. Yes. You saw that I signed that to the best of my belief that that was where my
13 taxable earnings? (Sic)

14 A. Each of the tax returns that you signed contained what's called a Jurat --

15 Q. (Interjecting) Correct.

16 A. -- Or a statement that you had examined the return and to the best of your
17 knowledge and belief the returns were truthful, accurate and complete.

18 Q. Okay. In light of my sworn testimony -- and I'll leave that part out -- on what
19 basis did you aver in the Complaint, did you put in the Complaint that my testimony
20 was untrue and that alternative assertions not made by you or anyone else in the
21 United States on behalf of who you spoke were true so as to legitimize bringing the
22 lawsuit in the first place to a court to make me say what you and no one else in the
23 Government had said?

24 MS. SISKIND: Objection, Your Honor, to the form of the question.
25 Unless the witness understands the question.

1 THE WITNESS: I'm lost, Your Honor.

2 THE COURT: It was quite convoluted, Miss Hendrickson. Can you
3 rephrase that question?

4 Q. I will try to rephrase that. I had sworn testimony. No one in the United States,
5 you nor anyone else had any sworn testimony and yet in your Complaint you swore
6 that my testimony was wrong and someone else's was correct, yes?

7 A. By sworn testimony, do you mean the Jurat on your tax returns?

8 Q. That is testimony, yes. That's an Affidavit.

9 A. That's what you mean, right?

10 Q. Yes.

11 A. Okay. I did not -- first of all, the Complaint was not sworn. What I based the
12 Complaint on was the information that had been recorded to the Internal Revenue
13 Service by your employer, Una Dworkin and the case of Mr. Hendrickson by
14 Personnel Management, Inc.. Personnel Management, Inc. had sent to the Internal
15 Revenue Service at the same time it sent to Mr. Hendrickson what's called a Form
16 W-2 or Wage and Tax Statement for each of the taxable years in question, 2002 and
17 2003. The Una Dworkin had sent what are called Forms 1099-MISC or
18 miscellaneous reporting that she had paid you income in each of 2002 and 2003
19 roughly about \$3000 for each year. Those -- when I looked at that and then I looked
20 at the substitutes for return or substitutes for W-2 that Mr. Hendrickson had filed and
21 the corrected 1099's that you had filed with your Return, I could see that you are
22 claiming that despite the W-2's and the 1099's that were filed with the IRS for each of
23 the taxable years in question, that you were claiming that none of the money had
24 been paid to you or to your husband was taxable income under the Internal Revenue
25 Code and we consider that to be a false and fraudulent statement and that is why we

1 alleged in the Complaint that the Returns were erroneous because you had in fact
2 received taxable income for each of those years, but chose to characterize it on your
3 sworn income tax returns as not having received any income for those years.

4 Q. I'm glad that you used the word that we considered that to be true as opposed
5 to knowing it. Do you know there is a way if the Government or the IRS has a dispute
6 with a person's tax return, there's a method, there's a way for them to correct it?

7 A. I'm not sure what you're getting at.

8 Q. There's a way for them to file their own statement about what the IRS or
9 someone at the IRS believes is true and they can sign that statement themselves to
10 rebut my testimony.

11 A. I'm not familiar with that, no.

12 Q. Okay.

13 Q. This is my Exhibit Number 552.

14 THE COURT: Are these your exhibits here?

15 MS. HENDRICKSON: Yes, tabbed and marked for you.

16 THE COURT: You've seen this?

17 MS. SISKIND: Yes, Your Honor.

18 THE COURT: All right. You're trying to get this into evidence?

19 MS. HENDRICKSON: Yes, please.

20 THE COURT: All right.

21 MS. SISKIND: The Government objects, Your Honor.

22 THE COURT: You can approach Mr. Metcalfe and try to get this into
23 evidence.

24 THE WITNESS: Exhibit number 552 for identification appears to be a
25 copy or a printout, Internet printout of the provisions of Sections 6020 and 6065 of the

1 Internal Revenue Code Title 26.

2 MS. HENDRICKSON: May I enter this please?

3 THE COURT: What's your objection?

4 MS. SISKIND: Objection based on relevance and also it's legal material
5 that invades the province of the Court to instruct on the law.

6 THE COURT: Is this -- if somebody absolutely fails to file a return, then
7 the secretary can file the return with information submitted?

8 MS. HENDRICKSON: Yes, ma'am.

9 THE COURT: That's not the situation, is it?

10 MS. HENDRICKSON: It says the secretary shall make -- maybe I
11 shouldn't -- if you don't want me to read it in.

12 THE COURT: Miss Siskind.

13 MS. SISKIND: Your Honor, it appears that Your Honor's assessment is
14 correct; that there is a provision that would apply if individuals failed to file tax returns.
15 There's been no testimony in this case --

16 MS. HENDRICKSON: (Interjecting) If you go down to the second line --

17 THE COURT: Excuse me. Miss Hendrickson please, I'd like to finish
18 hearing Miss Siskind. Yes please.

19 MS. SISKIND: There's been no testimony in this case about any failure
20 by the Defendant to file returns. To the contrary, there's been testimony regarding
21 certain returns that were filed by the Defendant and deemed to be false by the
22 Government and later by a Court.

23 THE COURT: Your response please?

24 MS. HENDRICKSON: If you continue reading besides fails to file,
25 willfully -- makes willfully or otherwise a false or fraudulent return.

1 MS. SISKIND: Your Honor, we object to it being read into the record.

2 THE COURT: Miss Hendrickson, I'm not going to allow this to come into
3 evidence. Your situation is not this situation. Your situation went to a Judgment
4 through a Court and it's -- this doesn't apply, so 552 is not in evidence.

5 MS. SISKIND: Your Honor, could we approach at side bar very briefly?

6 THE COURT: All right.

7 **(Sidebar conference out of the hearing of the jury as follows)**

8 MS. SISKIND: Your Honor, during this last colloquy it appears that Miss
9 Hendrickson's husband keeps yelling things from the audience coaching her on how
10 to proceed on her examination of the witness which is --

11 THE COURT: Miss Hendrickson.

12 MS. HENDRICKSON: Sorry.

13 MS. SISKIND: I heard him on at least three times indicating to her how
14 she should proceed. Certainly it's inappropriate for anyone in the gallery to be
15 coaching an attorney or a party on how to proceed in this case.

16 MS. HENDRICKSON: I agree with you. I'll instruct him to not do that.

17 THE COURT: Mr. Wise, will you go talk to him please?

18 MR. WISE: Yeah, I just told him to stop, but I'll do it again.

19 THE COURT: Thank you.

20 MS. SISKIND: Thank you, Your Honor.

21 **(END OF SIDEBAR CONFERENCE)**

22 THE COURT: Continue, Miss Hendrickson.

23 MS. HENDRICKSON: Okay.

24 THE COURT: Excuse me. Is your husband on your witness list?

25 MS. HENDRICKSON: No, he decided not to be anymore.

1 THE COURT: All right, thank you. Continue.

2 Q. (By Ms. Hendrickson continuing) I have to skip past a couple things. Mr.
3 Metcalfe, were there any hearings held by Judge Edmunds, actual hearings before
4 she issued the Orders dictating me to file new Returns based on what the
5 Government thought I should put on them?

6 A. You mean like in court hearings?

7 Q. Ah-hum.

8 A. No, there were not.

9 Q. Okay. We did request hearings on that, do you recall that? We made formal
10 requests for hearings.

11 A. I believe you did, yes.

12 Q. Aside from the actual W-2's and 1099's that you entered into evidence, what
13 other evidence did you introduce into the record in support of those allegations?

14 A. Which allegations are you talking about?

15 Q. That any of our earnings were actually wages or nonemployee compensation.
16 You had the pieces of paper; I understand. Was there anything in support of those
17 other than those pieces of paper that somebody filed with the IRS alleging that we
18 had wages or nonemployee compensation?

19 A. Actually there were. During the break I looked at the Government's Motion for
20 Summary Judgment and one of the attachments to that that we submitted in support
21 of our Motion for Summary Judgment was the Declaration of a Kim Halbrook.
22 H-a-l-b-r-o-o-k.

23 Q. Yes.

24 A. Who provided what is called a Declaration or equivalent of an Affidavit. She
25 was the payroll or Human Resource Manager for Personnel Management, Inc. and it

1 was executed on personal knowledge and it indicated that Peter Eric Hendrickson
2 was employed by Personnel Management, Inc. during 2002 and 2003 and that as an
3 employee of Personnel Management, Inc. Hendrickson was paid a salary during 2002
4 and 2003, and in the years -- each year subsequent year, Personnel Management
5 issued Hendrickson a Form W-2 Wage and Tax Statement for the 2002 and 2003 tax
6 years and that true and correct copies of those were attached to the Declaration of
7 Kim Halbrook and those statements that were issued to Hendrickson for 2002 and
8 2003 were based upon the wages paid to him and the amounts of the Federal
9 income, Social Security and Medicare taxes that were withheld from his wages in
10 2002 and 2003 and paid over to the Internal Revenue Service.

11 Q. Did you establish Miss Halbrook's qualifications to make statements about tax
12 law?

13 A. Actually I did. I'm sorry.

14 Q. I said she's actually basically a file clerk.

15 A. Right, but I called up Personnel Management and spoke to Kim Halbrook and I
16 was the one who arranged for this Declaration to be prepared and signed by her and
17 she gave us copies of the Forms W-2 Wage and Tax Statements that had been
18 issued to your husband, Peter Eric Hendrickson and also filed with the Internal
19 Revenue Service for 2002 and 2003.

20 Q. Yes. So she established and gave to you more pieces of paper without
21 backing them up with any knowledge of tax law.

22 A. I don't --

23 Q. Let me rephrase just a little bit. She can pull papers out of a file drawer and
24 say here are copies of the forms that we gave to Mr. Hendrickson.

25 A. Is that a question?

1 Q. You said that's what she did. She gave you copies of the forms that she sent
2 to Mr. Hendrickson?

3 A. Well, she did more than that because she averred in her Declaration that Mr.
4 Hendrickson was employed by Personnel Management during 2002 and 2003, that he
5 was paid certain wages and that he was issued the Forms W-2 for each of those
6 years as well.

7 Q. Did you at some point establish that Miss Halbrook knew the definitions in the
8 Tax Code of wages, employee and employer?

9 A. I did not.

10 Q. So it's quite possible that she could be using the common definitions of those
11 terms, is it not?

12 MS. SISKIND: Objection. Calls for speculation.

13 THE COURT: Sustained.

14 Q. (By Ms. Hendrickson continuing) Okay. Mr. Metcalfe, before you brought your
15 lawsuit making all of the allegations and complaining about the need for the Court to
16 control what we put on our legal documents, we had each filed Returns concerning
17 2004 identical to those concerning 2002 and 2003.

18 MS. SISKIND: Objection, Your Honor, regarding 2004.

19 THE COURT: What's your objection?

20 MS. SISKIND: Relevance. The case was not related to the 2004 tax
21 year.

22 THE COURT: Why is 2004 relevant?

23 MS. HENDRICKSON: Because it's an identical filing to the current ones
24 and yet it was accepted without challenge.

25 THE COURT: And you want to know why?

1 MS. HENDRICKSON: That would be a start.

2 THE COURT: I'll allow some latitude here. Thank you.

3 Q. (By Ms. Hendrickson continuing) So we have the 2004 identically filed Returns
4 and we each had filed another concerning 2005 and my husband filed more for 2006,
5 none of them challenged.

6 THE COURT: I thought you started with -- excuse me, Miss
7 Hendrickson. Your question was about 2004 originally. Can he answer that question
8 please?

9 MS. HENDRICKSON: Okay.

10 A. Your question was what knowledge did I have about your 2004 tax return?

11 Q. That would be a start and if not that -- finish that. Go head.

12 A. I never saw or to the best of my knowledge never saw your 2004 tax return.

13 Q. Well, it went through unhindered and it's a bit puzzling to me.

14 THE COURT: Do you have a question, Miss Hendrickson?

15 Q. (By Ms. Hendrickson continuing) May I show him my 2004 Returns?

16 THE COURT: Yes. Are they one of your marked exhibits?

17 MS. HENDRICKSON: Yes, it's 552.

18 THE COURT: No, 552 is the statute I didn't allow.

19 MS. HENDRICKSON: Oh, okay.

20 THE COURT: 555?

21 MS. HENDRICKSON: Yes, 555. Sorry.

22 THE COURT: You want to show it to him?

23 MS. HENDRICKSON: Oh, okay.

24 THE WITNESS: Exhibit 555 appears to be a copy of a Form 1040
25 Income Tax Return for Peter Eric Hendrickson for the 2004 taxable year.

1 Q. (By Ms. Hendrickson continuing) Do you want to look at it any further?

2 A. I do not.

3 Q. Thank you.

4 A. It also contains a copy of the separate Return for Doreen Hendrickson Form
5 1040 for the 2004 tax year and like the Returns for 2002 and 2003, there is -- appears
6 to be a copy of a corrected Form 1099-MISC attached to that and as well as being
7 Returns for other years as well.

8 Q. Can that be admitted?

9 MS. SISKIND: Objection. Relevance, Your Honor.

10 THE COURT: Can you answer any questions about those? Do you
11 know anything about those tax returns?

12 THE WITNESS: Other than they appear to be prepared in the same way
13 as the returns for 2002 and 2003, no, Your Honor.

14 THE COURT: Do you know anything about the disposition of those
15 taxes?

16 THE WITNESS: No, I do not.

17 THE COURT: No.

18 MS. HENDRICKSON: This is my Exhibit 556.

19 THE WITNESS: Well, the Certificates of Assessment for 2002 and 2003
20 are already in evidence, are they not?

21 MS. SISKIND: That is correct, Your Honor.

22 THE COURT: So 2002/2003 are in evidence already, Miss Hendrickson
23 and the other years I guess you have to establish relevancy.

24 MS. HENDRICKSON: Okay. Well, this one is -- the front one is for
25 2003. The front one is for tax period ending December 31st, 2002 and the next one is

1 for 2003 in this packet.

2 THE COURT: What I'm saying to you is that the Government has
3 already admitted those into evidence. They are Government Exhibit Numbers Two
4 and Number Five.

5 MS. HENDRICKSON: They didn't go down to the end of them though
6 where it shows balance due zero.

7 THE COURT: Did you admit the full Certificates of Assessment?

8 MS. SISKIND: I believe so, Your Honor. I can pull up the Government's
9 version on the screen if you want to look at them.

10 THE COURT: All right. Please. This is Certificate of Assessment for
11 2003 -- two that's on the screen?

12 MS. SISKIND: Yes, Your Honor.

13 THE COURT: Is this what you have, Miss Hendrickson?

14 MS. HENDRICKSON: I have one more page to it.

15 MS. SISKIND: The Government has one more page as well.

16 MS. HENDRICKSON: It shows the zero balance.

17 THE COURT: My only point is that this is in evidence already and --

18 MS. HENDRICKSON: (Interjecting) So I just use the same thing?

19 THE COURT: You want to ask him questions about this now?

20 MS. HENDRICKSON: Yes, I did.

21 THE COURT: So can you leave it on your screen please?

22 MS. SISKIND: Yes, Your Honor.

23 THE COURT: Thank you.

24 MS. HENDRICKSON: I have my parts highlighted, which they don't.
25 Can I just give him my copy?

1 THE COURT: Yes.

2 THE WITNESS: This is Exhibit 556.

3 THE COURT: No, it's really Exhibit Two.

4 THE WITNESS: Oh, I see. And what page did you want me to look at?

5 MS. HENDRICKSON: I would ask you to just read the highlighted
6 portions throughout.

7 THE WITNESS: Okay. On page two in the upper left-hand corner is the
8 name Peter E. and Doreen M. Hendrickson.

9 THE COURT: Can you put page two up there?

10 THE WITNESS: Actually it's called page one and then it says tax period
11 December, 2002. That refers to the taxable year ending December 31st, 2002.

12 There's an entry where it says tax assessed and that's 0.00 is shown as the payment
13 or credit. And on the next page again the names of the taxpayers. This is page two
14 of the Certificate of Assessments and Payments is Peter E. and Doreen M.

15 Hendrickson and there is a balance of 0.00 and below there is highlighted material
16 that it says account status date and there's the date of September 3rd, 2009.

17 Q. And I think that the 2003 tax year that's in that packet will indicate the same
18 thing, as well as my 2008.

19 THE COURT: We're going to put Number Five up on the screen
20 Government Exhibit Five. That's the 2003 certificate.

21 A. Yes, and the names of the taxpayers are the same, Peter E. and Doreen M.
22 Hendrickson. The tax period is December, 2003 which refers to the taxable year
23 ending December 31st, 2003. There, however, the amount of tax assessed is \$28.34.
24 And on the next page again, the names of the taxpayers are highlighted Peter E. and
25 Doreen M. Hendrickson and the balance is 0.0 and the account status date is

1 September 3rd of 2009.

2 MS. HENDRICKSON: He can continue with 2008 if he wants to.

3 THE COURT: Is 2008 at issue?

4 MS. SISKIND: The 2008 certificate is in evidence. I'll pull that up, Your
5 Honor. That is Exhibit Nine.

6 THE COURT: Thank you. So can you look at 2008 please?

7 THE WITNESS: Yes it is, Your Honor. There the balance is 0.0 is
8 shown and the account status date is June 1st of 2010. On the next page it says
9 Doreen Hendrickson tax period December, 2008. That's for the taxable year ending
10 December 31st, 2008 and the tax assessed there is 0.00.

11 Q. (By Ms. Hendrickson continuing) Mr. Metcalfe, other Americans have filed
12 Returns effectively identical to the 2002, 2003 and 2008 Returns that you allege to be
13 false.

14 MS. SISKIND: Objection, Your Honor. Relevance.

15 THE COURT: Can I hear the question?

16 MS. HENDRICKSON: Do you know how many, Mr. Metcalfe?

17 THE COURT: What's the objection?

18 MS. SISKIND: The objection is to other Returns filed by other people
19 who are not the Defendant in this case, have no bearing on the charge in the
20 Indictment.

21 THE COURT: Objection is sustained.

22 Q. (By Ms. Hendrickson continuing) How many suits have you personally filed
23 trying to take control of what people put on their tax returns?

24 MS. SISKIND: Objection. Relevance and argumentative.

25 THE COURT: Sustained.

1 Q. (By Ms. Hendrickson continuing) You're an attorney in the Tax Division at the
2 Department of Justice. Would it be safe to say that you know something about basic
3 principles involved in the tax?

4 A. Federal income taxation?

5 Q. Correct.

6 A. Yes.

7 Q. I would think so.

8 THE COURT: We hope so.

9 Q. (By Ms. Hendrickson continuing) Yeah. All right. In your understanding, is a
10 document which may be called a tax return and look like a tax return, but is not freely
11 made as to content, that is one for which someone other than the signer has dictated
12 the content and one which the signer would not put in on her own, is such a dictated
13 document actually Return in a legal sense.

14 MS. SISKIND: Objection, Your Honor, as to his understanding and as to
15 the relevance of the question.

16 MS. HENDRICKSON: I just established that he understands the basic
17 principles in the income tax.

18 THE COURT: Well, I also think it's a very argumentative question, so the
19 objection is sustained.

20 MS. HENDRICKSON: Can I rephrase it?

21 THE COURT: You can try.

22 Q. (By Ms. Hendrickson continuing) Okay. If a document is submitted as a tax
23 return and is not freely sworn, for whatever reason it's not freely signed, is it actually a
24 Return in a legal sense?

25 MS. SISKIND: Objection, Your Honor. Calls for legal testimony and --

1 MS. HENDRICKSON: -- He's a lawyer.

2 THE COURT: Excuse me, Miss Hendrickson. You're asking that
3 question generally about any tax return that is not "freely sworn"?

4 MS. HENDRICKSON: Correct.

5 THE COURT: Can you answer that question, Mr. Metcalfe?

6 THE WITNESS: I don't understand what the term freely sworn means,
7 so I really can't answer the question.

8 THE COURT: He can't answer it.

9 Q. (By Ms. Hendrickson continuing) Okay. Sworn without any pressure, anyone
10 trying to tell you what you're supposed to put on it, just making it your own document.
11 If it's not done freely, it's what you put on it and you sign that Jurat and you're
12 swearing that it's true to the best of your knowledge and belief, if that isn't -- is that -- if
13 those conditions aren't met, is it illegal -- is it actually a tax return in a legal sense?

14 A. I really don't know what goes on in the minds of people who file their tax
15 returns. I think some people may feel that they don't want to file tax returns, but they
16 go head and do it because the law requires them to do it. But as to what people's
17 intentions are or how compelled they feel or anything like that, I really can't testify as
18 to that.

19 Q. If they sign the document and they don't sign it willingly, is it still a tax return in
20 a legal sense?

21 MS. SISKIND: Objection; relevance.

22 THE COURT: Sustained.

23 MS. HENDRICKSON: Okay. This is my Exhibit Number 528.

24 THE COURT: Miss Siskind, do you have anything to say?

25 MS. SISKIND: We would object to the admissibility of this document.

1 THE COURT: What's the relevancy of this?

2 MS. HENDRICKSON: It goes to my question about signing a Jurat of
3 your own free will.

4 THE COURT: You can show it to him.

5 THE WITNESS: The Exhibit that's marked 528 for identification is dated
6 June 11th, 2001 and it appears to be a Memorandum issued to the Ogden Service
7 Center regarding altered Jurats on Federal Income Tax Returns.

8 THE COURT: What is the Ogden Service Center?

9 THE WITNESS: The Ogden Service Center is -- the Internal Revenue
10 Service has various Service Centers throughout the United States. One of them is
11 located in Ogden, Utah and that's where Returns are received by the Internal
12 Revenue Service and they're processed to determine whether or not taxpayers owe or
13 are given refunds and like that, and the purpose of this Advice Memorandum appears
14 to be advice given to personnel at the Service Center in Ogden, Utah regarding
15 whether or not alterations to the Jurat, which is a phrase that appears above people's
16 signatures and says I have examined the Return, it's truthful according to the best of
17 my knowledge and belief. When people alter the words or they add things to it, this is
18 advice that is given to them to determine whether or not the Return can be processed.

19 THE COURT: So Mr. Metcalfe, is this a business record of the
20 Department of Treasury?

21 THE WITNESS: I honestly can't answer that, Your Honor. I mean this
22 is from the Internal Revenue Service. It's not from Department of Justice. This would
23 not be directed to me. I don't know whether or not anyone in the Service could
24 identify it. It appears to be genuine, but I have not read it before and to be honest, I
25 really couldn't say anything about it. I'm certainly not its custodian.

1 THE COURT: All right. He's not the proper witness to get this into
2 evidence.

3 MS. HENDRICKSON: Thank you.

4 THE COURT: So it's not admitted.

5 MS. HENDRICKSON: Thank you. That's it.

6 THE COURT: Thank you. Miss Siskind, do you have any Redirect?

7 MS. SISKIND: Yes, Your Honor.

8 **REDIRECT-EXAMINATION**

9 **BY MS. SISKIND:**

10 Q. Mr. Metcalfe, when the Department of Justice Tax Division filed its Complaint
11 against the Hendricksons in the civil lawsuit, what types of documents, what types of
12 tax documents was it relying on?

13 A. We were relying on several types of documents. First was the Returns that
14 were filed by the Hendricksons for the 2002 and 2003 years. We were also relying
15 upon the attachments to those Returns, including the substituted Forms W-2 for Peter
16 Eric Hendrickson and the corrected forms 1099 for Doreen Hendrickson. And then
17 we were also relying on the documents that had been provided to the Internal
18 Revenue Service by the employers of Peter Eric Hendrickson and Doreen M.
19 Hendrickson for 2002 and 2003.

20 Q. Would those be the Forms W-2 and 1099 you were talking about?

21 A. That's correct.

22 Q. In the course of your duties as a trial attorney with the Department of Justice
23 and now as an Assistant Chief, do you routinely rely on tax returns, W-2's and
24 1099's?

25 A. Yes.

1 Q. Was there anything about the W-2's and 1099's at issue in the civil case
2 against the Hendricksons that would cause you to hesitate in relying on them?

3 A. With respect to the documents that were filed with the Internal Revenue
4 Service, no.

5 Q. In fact, you testified in response to Miss Hendrickson's questions you actually
6 had a Declaration from Miss Halbrook at Personnel Management, correct?

7 A. That's correct.

8 Q. She was somebody -- she had personal knowledge of the fact that Mr.
9 Hendrickson did work for that company?

10 A. That's what she said in her Declaration.

11 Q. And she put in that Declaration that she had personal knowledge he earned
12 wages for working there?

13 A. Correct.

14 Q. And based on all that evidence that the Department of Justice gathered, the
15 Complaint was filed with the Court?

16 A. That's correct.

17 Q. Now Miss Hendrickson was asking you some questions about zero balances
18 that show up on IRS records. What if anything did Judge Edmunds order about
19 whether the Hendricksons owed money to the IRS for 2002 and 2003?

20 A. What she determined was that the Hendricksons had falsely reported that they
21 had no taxable income for each of the taxable years of 2002 and 2003 and that they
22 had fraudulently obtained tax refunds for those years consisting of the withholdings
23 that had been withheld from the money that had been paid to them and that that had
24 to be paid back to the United States.

25 Q. And in fact in the Order in the Permanent Injunction, did Judge Edmunds

1 indicate that the Hendricksons were indebted to the United States for in excess of
2 \$20,000?

3 A. That's correct.

4 Q. Miss Hendrickson also asked you questions about the effect of the 6th Circuit's
5 Opinion not being published. Do you recall that?

6 A. Yes.

7 Q. And as you sit here today as far as you are aware, is Judge Edmunds' Order
8 binding on Doreen Hendrickson?

9 A. Yes.

10 Q. I have no further questions.

11 THE COURT: Thank you. Miss Hendrickson, do you have anything
12 more?

13 MS. HENDRICKSON: No.

14 THE COURT: No?

15 MS. HENDRICKSON: No.

16 THE COURT: Thank you. Mr. Metcalfe, you're done. You can stand
17 down. Thank you.

18 THE COURT: Ladies and gentlemen, we are going to bring this to
19 conclusion for today. I think we have set a 9:00 start tomorrow? Yes, and all day.
20 Carol tells me you have to go back to the fifth floor before you leave today.

21 Ladies and gentlemen, have a good evening. Please do not talk about this
22 case with anyone. All rise for the Jury.

23 **(Jury exited courtroom at about 4:18 p.m.)**

24 THE COURT: Anything before we close the record today?

25 MS. SISKIND: Your Honor, just this evening when we get back to our

1 hotel, I'll re-email around to the Court and Miss Hendrickson, Mr. Wise, one additional
2 jury instruction in case we get to the charge conference tomorrow.

3 THE COURT: All right. So you have one witness in the -- the first thing
4 in the morning and you'll be done?

5 MS. SISKIND: Yes.

6 THE COURT: Miss Hendrickson, have you let the Government know for
7 sure who you're calling as witnesses and the order of your witnesses?

8 MS. HENDRICKSON: I didn't do an Order. I didn't know I had to do an
9 Order.

10 THE COURT: Yes, it would be helpful. Are you going to call all the
11 witnesses whose names you gave us today?

12 MS. HENDRICKSON: Yes. I told them all to be here at nine, but I was
13 just asking Miss Siskind should I just tell them to be here at 10 and she said sure, that
14 wouldn't be a problem.

15 THE COURT: I don't know. How long is your witness?

16 MS. SISKIND: It will be at least an hour, so I think that's fair if her
17 witnesses arrive at 10, but it would be helpful to have an Order.

18 THE COURT: Yes. I think you should give the Government an Order,
19 so if you can send that to them this evening. And have you decided yet whether
20 you're taking the witness stand, Miss Hendrickson?

21 MS. HENDRICKSON: Probably so.

22 THE COURT: Probably so. So Mr. Wise, have you talked about how
23 that examination is going to be handled?

24 MR. WISE: I had some discussions with Miss Hendrickson about that. I
25 don't think we've come to a final conclusion and I certainly welcome any guidance

1 from the Court as to what your preference would be.

2 THE COURT: My preference is not that she do any kind of narrative
3 testimony, so I guess my preference would be that you ask her questions. Do you
4 have objection to that?

5 MS. SISKIND: No. That's a procedure I've seen in other cases that I've
6 participated in, Your Honor.

7 THE COURT: Yes, so if she's going to take the witness stand, you need
8 to direct the examination.

9 MR. WISE: Will do.

10 THE COURT: Thank you. Anything more?

11 MS. SISKIND: No, Your Honor.

12 THE COURT: Thank you. Have a good evening everyone.

13 MS. SISKIND: You too, Your Honor.

14 (Proceedings adjourned at about 4:20 p.m.)

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16 COURT REPORTER'S CERTIFICATION

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19 STATE OF MICHIGAN)

20) SS.

21 COUNTY OF WAYNE)

22
23
24 I, Janice Coleman, Official Court Reporter, certify that the
25 foregoing pages are a correct transcript from the record of

1 proceedings taken by me to the best of my ability in the
2 above-entitled matter.

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5 S/ _____

6 JANICE COLEMAN, CSR 1095/RPR

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10 DATED: December 10, 2013