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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.

July 23, 2014

-----/

TRANSCRIPT OF TRIAL - VOLUME THREE  
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, July 23, 2014

3 (At about 9:14 a.m.)

4 - - -

5 (Call to Order of the Court)

6 THE CLERK OF THE COURT: You may be seated. Calling the case of  
7 United States of America versus Doreen Hendrickson, case number 13-20371.  
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.

11 THE COURT: Good morning.

12 MRS. HENDRICKSON: Doreen Hendrickson.

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

14 THE COURT: Good morning. Thank you, everyone. Good morning,  
15 ladies and gentlemen. How are you? Good. Good.

16 Mr. Metcalfe, you are back on the witness stand. How are you today?

17 THE WITNESS: Fine. Thank you, ma'am.

18 THE COURT: And Mrs. Hendrickson, are you ready for your  
19 Cross-examination of Mr. Metcalfe?

20 MRS. HENDRICKSON: Yes, I am.

21 THE COURT: All right.

22 THE COURT: Mr. Metcalfe, you are still under oath from yesterday.

23 THE WITNESS: Yes, Your Honor.

24 THE COURT: Thank you.

25 MRS. HENDRICKSON: I'm going to need this.

1 **ROBERT METCALFE, A GOVERNMENT WITNESS RETOOK THE WITNESS**  
2 **STAND AT ABOUT 9:15 A.M.**

3 **CROSS-EXAMINATION**

4 **BY MRS. HENDRICKSON:**

5 Q. Good morning.

6 A. Good morning.

7 Q. Mr. Metcalfe, you filed a lawsuit four days before tax day in 2006 alleging that  
8 the United States just made a big mistake when it honored the tax returns that my  
9 husband and --

10 MS. SISKIND: (Interjecting) Objection. Argumentative.

11 THE COURT: I'd like to hear the question. And Mrs. Hendrickson, can  
12 you pull the microphone up and speak louder?

13 MRS. HENDRICKSON: Is that better?

14 THE COURT: It is better. Thank you.

15 Q. (By Mrs. Hendrickson continuing) When it honored tax returns my husband  
16 and I had filed in 2002 and 2003 and issued refunds to us as claimed on those  
17 returns, is that true?

18 A. I don't think I understand your question --

19 Q. (Interjecting) You filed a lawsuit four days before --

20 THE COURT: (Interjecting) Mrs. Hendrickson, why don't you start at the  
21 very beginning with your entire question?

22 Q. (By Mrs. Hendrickson continuing) You filed a lawsuit four days before tax day  
23 in 2006 alleging that the United States made a mistake when it honored tax returns  
24 my husband and I had filed concerning 2002 and 2003 and issued the refunds to us  
25 as claimed on those returns, is that true?

1 A. I don't understand your question.

2 Q. Did you file a lawsuit four days before tax day in 2006 against my husband and  
3 I?

4 A. I don't know what day tax day was, so I couldn't tell you that. I know it was filed  
5 on April 12th of 2006.

6 Q. We were sued on the 12th and I think you said yesterday that you filed it on the  
7 11th. That's the day you signed it was the 11th, but --

8 A. It was the day I signed it, but we --

9 Q. But right before tax day in any case. And part of that was that you had in there  
10 that my husband and I had been issued refunds by mistake. Yes or no?

11 A. I think the allegation was that you were erroneously issued tax refunds.

12 Q. That's kind of the same thing. That's just semantics. The statute that you  
13 relied on as authority for filing your suit, 26 U.S.C. 7405 is called Action for Recovery  
14 of Erroneous Refunds, correct?

15 A. That's correct.

16 Q. Okay. Your Complaint has already been introduced as Government Exhibit 12  
17 and I'd like to look at page two of that. Okay, so here's the one page of that. It's page  
18 two of that Exhibit with some highlighting. Now in the very first paragraph after the  
19 boilerplate jurisdiction stuff which was paragraph seven, you state: Hendrickson's  
20 bogus zero income scheme fraudulently asserts that the payment of Federal taxes is  
21 voluntary, right?

22 A. That's what it says.

23 Q. By bogus zero income tax scheme, you mean my husband's book?

24 A. I think we're talking about the theories that are contained in the book *Cracking*  
25 *the Code* by Peter Eric Hendrickson, your husband.

1 Q. Yes, and that's the bogus zero income tax scheme that you're referring to in  
2 your allegation?

3 A. Yes.

4 Q. Okay. Is this the book that you're referring to?

5 A. I don't know. There's been several editions of the book, so I don't know if that's  
6 the same edition that I used.

7 Q. Well, we have both, but this looks like it and yes, we do put out --

8 MS. SISKIND: Objection.

9 MRS. HENDRICKSON: -- New ones.

10 MS. SISKIND: The Defendant is testifying.

11 THE COURT: Yes. Do you have a question to ask?

12 Q. (By Ms. Hendrickson continuing) But this looks like the book that you used?

13 A. It looks like the book.

14 Q. Okay. I'd like to admit the book into evidence please.

15 MS. SISKIND: Objection, Your Honor. There's already a copy of the  
16 book in evidence that came in yesterday and the copy the Government put in was as  
17 Mr. Metcalfe testified, the exact copy that was used in the litigation.

18 THE COURT: Why do you want to have another one admitted?

19 MRS. HENDRICKSON: Well, I'll be using it further on as well.

20 THE COURT: I'm sorry?

21 MRS. HENDRICKSON: I will be using this one further on as well  
22 because it has an index and such that I'll need later.

23 THE COURT: Well, the *Cracking the Code* that Mr. Metcalfe relied upon  
24 in formulating the Complaint is in evidence. I don't know why this would have to be  
25 admitted into evidence and a foundation hasn't been laid for it.

1 MRS. HENDRICKSON: May I do it later then when I need it later?

2 THE COURT: You may. You may try. All right.

3 MRS. HENDRICKSON: Thank you. This one is a little more awkward,  
4 but let's see.

5 THE COURT: Is that the one that has been admitted into evidence?

6 MS. SISKIND: It's a copy of it. The original book is in the Exhibit Binder.

7 THE COURT: Thank you. So Mr. Metcalfe --

8 MRS. HENDRICKSON: (Interjecting) Oh, okay. That's convenient.

9 THE COURT: You can use the one --

10 MRS. HENDRICKSON: (Interjecting) Actually 'cause I did highlighting  
11 in this one that I want him to look at and I didn't do highlighting in that one.

12 THE COURT: For the time being, let's allow the witness to use the one  
13 that is at the witness box. If you need to point out something to him particularly, you  
14 can do that. What exhibit number is it?

15 THE WITNESS: Exhibit 34, Your Honor.

16 THE COURT: Thank you.

17 MRS. HENDRICKSON: If you would turn to the first page --

18 THE COURT: Excuse me. My book goes to 33.

19 MS. SISKIND: At the beginning of court on Monday I provided your  
20 courtroom deputy with a red well that contained Exhibits 34 on.

21 THE COURT: Oh, I see it. Thank you. Your question?

22 Q. (By Ms. Hendrickson continuing) Okay. This is page like lower case i. Would  
23 you read the highlighted portion please, the very first words?

24 A. Let's get this said aloud and clear right at the outset. If you have taxable  
25 income, you are subject to the income tax.

1 Q. Okay, thank you. Now in paragraph nine of your Complaint, you say that my  
2 husband argues that wages are not income and that only Federal workers are  
3 required to pay income taxes. Here in the second highlighted portion.

4 A. I'm sorry. Is that a question?

5 Q. Do you see in the second highlighted portion you allege that my husband  
6 argues that wages are not income and that only Federal workers are required to pay  
7 income taxes?

8 A. Correct.

9 Q. Okay. The third -- that third allegation about *Cracking the Code's* message  
10 that only Federal Government workers plus State and local workers are subject to the  
11 income tax is explicitly incorporated into one of the Orders that you asked Judge  
12 Nancy Edmunds to make to me, right?

13 A. I'd have to see the Order to know that.

14 Q. Okay. That's your Exhibit 12.

15 A. Are you referring to the Complaint?

16 Q. Yes. I might have it in an easier fashion here. I'm not sure which page it is  
17 right now. Is it the Order?

18 THE COURT: Are you directing him to the Complaint or to the Order that  
19 was entered?

20 MRS. HENDRICKSON: I'm sorry. It was the Order.

21 THE COURT: And what Exhibit is that?

22 MRS. HENDRICKSON: Well, I have a copy of just the thing.

23 THE COURT: What exhibit number is the Order?

24 MS. SISKIND: Judge Edmunds' Order is Exhibit 15.

25 THE COURT: Thank you. Can you get to 15, Mr. Metcalfe?

1 THE WITNESS: Yes, Your Honor.

2 Q. (By Mrs. Hendrickson continuing) That's paragraph 27 of the Order. I can  
3 kind of put it here. We saw it yesterday in any case. The third allegation about  
4 *Cracking the Code's* message that only Federal workers -- Federal Government  
5 workers plus State and local Government workers are subject to income taxes is  
6 incorporated into one of the Orders. That would be the first one, and that's one of the  
7 Orders that you asked Judge Edmunds to make to me, is that correct?

8 A. We asked the Court to enter Amended Judgment and Order of Permanent  
9 Injunction that's marked as Exhibit 15.

10 Q. Yes, and paragraph 27 is a part of that?

11 A. Yes.

12 Q. Okay. So that's part of what you asked her to order?

13 A. Yes.

14 Q. Okay. So if *Cracking the Code* doesn't say that, then someone filing a return  
15 conforming to the book would not be in violation of that Order, wouldn't you say?

16 MS. SISKIND: Objection, Your Honor. Calls for legal testimony and  
17 goes to the ultimate issue in this case.

18 THE COURT: Sustained.

19 Q. (By Ms. Hendrickson continuing) Let me put it a different way then perhaps. As  
20 the author of the Order and as an attorney under oath, if someone filed their return  
21 not based on this notion, not based on the fact or their idea that only Federal, State  
22 and local Government workers are subject to income tax, if they filed a return that  
23 wasn't based on that, would they still be in violation of the Order?

24 MS. SISKIND: Objection, Your Honor. Same objection.

25 THE COURT: Sustained.

1 MRS. HENDRICKSON: Interesting.

2 THE COURT: And Mrs. Hendrickson, just ask questions and don't  
3 comment please.

4 Q. (By Ms. Hendrickson continuing) If the claim that only Federal, State and local  
5 Government workers are subject to income taxes is not found in the book, that's not in  
6 the book, anyone filing a return based on what is in the book would be okay and  
7 wouldn't have violated this Order?

8 MS. SISKIND: Objection. Same objection.

9 THE COURT: Sustained.

10 Q. (By Ms. Hendrickson continuing) Okay. Mr. Metcalfe, yesterday you said you  
11 read this book, right?

12 A. Yes, I did.

13 Q. You also said that it was on the basis of what you read there that you wrote in  
14 your Complaint and in one of the Orders you asked for from Judge Edmunds that this  
15 book claims that only Federal, State, local Government workers are subject to the  
16 income tax. So if you would please, I'll have to go with this since you don't have it  
17 now. Turn to page 12 in *Cracking the Code*, the copy that you have, and would you  
18 please read the highlighted portions there and on the next page?

19 A. On July 1st, 1862 in the heat of the Civil War and in the face of looming and  
20 intractable revenue troubles for the Northern Government, its Congress passed the  
21 Revenue Act of 1862, being an Act to provide Internal Revenue to support the  
22 Government and to pay interest on the public debt. Among the lengthy list of  
23 measures imposing a variety of excises and duties were the following sections under  
24 the heading Income Duty. Section 86. And be it further enacted that on and after the  
25 first day of August, 1862, there should be levied, collected and paid on all salaries of

1 officers or payments to persons in the civil military of officers or payments to persons  
2 in the civil military, naval or other employment or service of the United States,  
3 including Senators and Representatives and Delegates in Congress when exceeding  
4 the rate of \$600 per annum, a duty of three percentum. Section 90. And be it further  
5 enacted that there shall be levied, collected and paid annually upon the annual gains,  
6 profits or income of every person residing in the United States, whether derived from  
7 any kind of property, rents, interest, dividends, salaries, or from any profession, trade,  
8 employment, or vocation carried on in the United States or elsewhere or from any  
9 other source whatever, except as herein after mentioned. If such annual gains, profits  
10 or income exceed the sum of \$600 and do not exceed the sum of \$10,000, a duty of  
11 three percentum on the amount of such annual gains, profits or income over and  
12 above the said sum of \$600.

13 Q. Okay. Now on page 15, would you please read the highlighted portion?

14 A. Subsequent acts changed the rate and eventually added progressivity, but the  
15 imposition of the tax and the specifications of and exclusions from its object remain.

16 Q. Okay, thank you. Would you please turn to page 68?

17 A. However, in the preface to the Internal Revenue Code of 1939 describing its  
18 nature as a compilation, we find the following: The title contains no provision except  
19 for effective date not derived from the law approved prior to January 3rd, 1939, the  
20 whole body of Internal Revenue law in effect on January 2nd, 1939, therefore has its  
21 ultimate origin in 164 separate enactments of Congress. The earliest of these was  
22 approved July 1st, 1862; the latest, June 16th, 1938.

23 Q. Thank you. Would you please turn to page 126?

24 A. Now here is the definition of a withholding agent and the title in the sections to  
25 which that definition refers. Title 26, Section 7701, paragraph 16: Withholding agent.

1 The term withholding agent means any person required to deduct and withhold any  
2 tax under the provisions of Section 1441, 1442, 1443 or 1461. Section 1441,  
3 withholding of tax on nonresident aliens. Section 1442, withholding of tax on foreign  
4 corporations.

5 Q. And please turn to page 129.

6 A. 1441, withholding of tax on nonresident aliens. A, general rule. Except as  
7 otherwise provided in Subsection C, all persons and whatever capacity acting,  
8 including lessees or mortgagers of real or personal property, fiduciaries, employees  
9 and all officers and employees of the United States having the control, receipt,  
10 custody, disposal or payment of any of the items of income specified in Subsection B,  
11 to the extent that any of such items constitutes gross income from sources within the  
12 United States of any nonresident alien individual or of any foreign partnership shall,  
13 except as otherwise provided in regulations prescribed by the Secretary under  
14 Section 874, deduct and withhold from such items a tax equal to 30% thereof.  
15 Section 1442, withholding of tax on foreign corporations. A, general rule. In the case  
16 of foreign corporations subject to taxation under the subtitle, there shall be deducted  
17 and withheld at the source in the same manner and on the same items of income as  
18 provided in Section 1441 a tax equal to 30% thereof.

19 Q. Now Mr. Metcalfe, on page 149 and 150 please.

20 A. Section 3402, income tax collected at source. P, voluntary withholding  
21 agreements. Three, authority for other voluntary withholding. The Secretary's  
22 authorized by regulations to provide for withholding, A, from the remuneration for  
23 services performed by an employee for the employee's employer which without regard  
24 to this paragraph does not constitute wages and, B, from any other type of payment  
25 with respect to which the Secretary finds that withholding would be appropriate under

1 the provisions of this chapter. If the employer and employee or the persons making  
2 and the persons receiving such other type of payment agree to such withholding, such  
3 agreement shall be in the form and the manner as a Secretary may by regulations  
4 prescribe. For purposes of this chapter and so much of subtitle F as relates to this  
5 chapter, remuneration or other payments with respect to which such agreement is  
6 made shall be treated as if they were wages paid by an employer to an employee to  
7 the extent that such remuneration is paid or other payments are made during the  
8 period for which the agreement is in effect.

9 Q. Okay, thank you. Now this book was a newer edition that was into print  
10 already when I filed my --

11 MS. SISKIND: Objection, Your Honor.

12 THE COURT: Yes.

13 MRS. HENDRICKSON: Okay, I'm sorry. I'm not following the rules.

14 THE COURT: I'm sorry, Mrs. Hendrickson. Can I speak?

15 MRS. HENDRICKSON: Sorry.

16 THE COURT: Before you publish or try to publish exhibits to the Jury,  
17 you have to lay a foundation to get it admitted.

18 MRS. HENDRICKSON: Okay. Mr. Metcalfe, this is another copy of  
19 *Cracking the Code* and for ease I put its publication date on it, and so this one would  
20 have been in print already when I filed my 2008 returns and so the next section that I  
21 would like to cover is pertinent. Do you recognize this as a copy of *Cracking the Code*  
22 anyhow?

23 THE WITNESS: I'm not sure I've ever seen that before.

24 THE COURT: Excuse me, Mr. Metcalfe. Excuse me. Do you have an  
25 objection?

1 MS. SISKIND: Your Honor, I think we've addressed this; that the copy of  
2 the *Cracking the Code* that is relevant in this case is the one that the Government  
3 used and presented to Judge Edmunds in seeking the Injunction.

4 THE COURT: I think this witness is not a proper witness for you to lay a  
5 foundation for that book to come into evidence. He relied on a particular copy in filing  
6 his Complaint against you.

7 MRS. HENDRICKSON: Would this be good while I'm testifying?

8 THE COURT: I can't give you advice, Mrs. Hendrickson.

9 MRS. HENDRICKSON: I think that probably makes sense. Okay.

10 Q. (By Ms. Hendrickson continuing) Mr. Metcalfe, do you recognize this please.

11 THE COURT: Have you provided a copy to counsel for the  
12 Government?

13 MRS. HENDRICKSON: Yes.

14 MS. SISKIND: What Exhibit is it?

15 MRS. HENDRICKSON: It's number 550.

16 THE WITNESS: I recognize --

17 THE COURT: (Interjecting) One moment, Mr. Metcalfe.

18 MS. SISKIND: Your Honor, It may be the same as Government Exhibit  
19 One.

20 MRS. HENDRICKSON: I think it is, yes. But I have different highlighting  
21 on mine.

22 THE COURT: Do you have it highlighted and can you put it on the  
23 screen? If it's the same as -- if it is the same as Government One, we don't need to  
24 admit another copy.

25 MRS. HENDRICKSON: I didn't know. Okay.

1 Q. (By Ms. Hendrickson continuing) Mr. Metcalfe, will you please read the  
2 highlighted portions of this?

3 A. This is the exhibit you just showed me?

4 Q. Yes. It's our tax return for 2002.

5 THE COURT: It's in the book as One.

6 MRS. HENDRICKSON: As Number One.

7 THE WITNESS: I'm sorry?

8 Q. (By Ms. Hendrickson continuing) Just read the highlighted portions please.

9 A. Income and it looks like an entry of \$20.

10 Q. Okay, and this one please. This is the 2003 income tax return for us. It's your  
11 Number Four I believe.

12 A. It says income and it looks like \$2.70 and then below that there's an entry of  
13 \$283.44 and the total appears to be \$286.14.

14 Q. Thank you. Thank you. According to your assertion about what is claimed in  
15 *Cracking the Code* which you say I relied on when I filed -- when filing my returns that  
16 only Federal, State, local and Government workers are subject to the tax, was I a  
17 Government worker in 2002/2003, Mr. Metcalfe, when I reported on my tax returns  
18 filled out and filed in accordance with what is in the book?

19 MS. SISKIND: Objection, Your Honor. Lack of foundation to what he  
20 knows about her employment.

21 THE COURT: If you can answer it, Mr. Metcalfe.

22 THE WITNESS: I don't know where you were employed.

23 Q. (By Ms. Hendrickson continuing) You said earlier I was employed with Una  
24 Dworkin or I worked for Una Dworkin as a tutor?

25 A. I think that's correct. Are you talking about 2002?

1 Q. And 2003.

2 A. I know that you reported -- well, I take that back. I know there was a Form  
3 1099 that reported receiving on your return no income from Una Dworkin.

4 Q. That's true, and was I a Federal worker at that time then if I was working for  
5 Una Dworkin?

6 A. To the best of my knowledge I don't think you were a Federal worker in 2002 or  
7 2003.

8 Q. Okay. So if I was not a Government worker and I reported income on my tax  
9 returns, how can I be said to have filed my returns based on the notion that only  
10 Government workers are subject to the tax?

11 A. I don't think I understand your question.

12 Q. I was not a Government worker and yet I showed income on my returns. So  
13 how could I -- how could I be said to have filed my returns based on the idea that only  
14 Federal workers are subject to the tax if I wasn't a Federal worker and yet I showed  
15 income on my returns?

16 A. The allegations that we made in the Complaint concern Mr. Hendrickson's  
17 theories as set forth in the book *Cracking the Code*. Now I don't know what you  
18 personally believed or thought.

19 Q. Well, that's true, but you said that the book says only Federal, State and local  
20 Government workers are subject to the tax, and if I wasn't a Federal worker yet I  
21 reported income.

22 A. Well --

23 Q. That's not logical.

24 THE COURT: What's your question?

25 Q. Well, I asked if I wasn't a Government worker, how can I be said to have filed

1 my returns based on what you claim is the notion in the book?

2 A. What I -- what I based our allegation on in the Complaint is a passage that's  
3 taken from page 76 of *Cracking the Code* where it says so actually withholding only  
4 applies to the pay of Federal Government workers exactly as it always has, plus State  
5 Government workers since 1939 and those of the District of Columbia since 1921.

6 Q. Yes. Did you notice that you said withholding only applies? That's not the  
7 same as the income tax. So you a summarized 200-page book with a snippet and it's  
8 not even accurate. You said that said withholding and we're talking about the income  
9 tax here.

10 THE COURT: Is there a question, Mrs. Hendrickson?

11 Q. (By Ms. Hendrickson continuing) Well, I don't think Mr. Metcalfe is going to  
12 answer my question. Okay. Do you still maintain that this book argues that wages  
13 are not income and that only Federal workers are required to pay income tax, Mr.  
14 Metcalfe? Are you still maintaining that this book argues that point; that wages are  
15 not income and that only Federal workers are required to pay income tax?

16 A. Yes.

17 Q. So is it your understanding that nonresident aliens and foreign corporations  
18 described in the book as being subject to the withholding are Federal workers? We  
19 just went through some of the pages from the book.

20 A. You're asking me if it's my understanding that nonresident aliens and foreign  
21 corporations are Government workers?

22 Q. Well, we just went through some pages from the book that said nonresident  
23 aliens and foreign corporations are subject to the income tax. They're obviously not  
24 Federal workers, so -- but by your definition the way that you've interpreted the book I  
25 think is that only Federal workers and State and local workers are subject to the

1 income tax. So is it your understanding that nonresident aliens and foreign  
2 corporations then are Federal workers?

3 MS. SISKIND: Your Honor, objection to this witness's understanding of  
4 the tax laws. That's not at issue.

5 MRS. HENDRICKSON: He's a tax attorney.

6 THE COURT: I don't know how -- if that's relevant. Sustained.

7 Q. (By Ms. Hendrickson continuing) Is it your understanding that the private sector  
8 Americans you read about repeatedly as subject to the tax in the book are Federal  
9 workers?

10 MS. SISKIND: Same objection, Your Honor, as to this witness's  
11 understanding.

12 THE COURT: What's your question, Mrs. Hendrickson?

13 MRS. HENDRICKSON: I said is it your understanding that private sector  
14 Americans you read about repeatedly as subject to the tax in the book are Federal  
15 workers?

16 THE COURT: Mr. Metcalfe, if you can answer that.

17 THE WITNESS: I don't think that's what we allege and it's certainly not  
18 my understanding.

19 Q. (By Ms. Hendrickson continuing) So private sector Americans are not Federal  
20 workers?

21 A. They can be.

22 Q. They could be, yes. But not necessarily?

23 A. I think that's probably true.

24 Q. Okay. And so some of the passages that I just had you read apply to private  
25 sector people also, so it's not just Federal workers. Some private sector people are

1 subject to the tax.

2 A. I would say that all private sector people are subject to the tax.

3 Q. Right. That's true. Some, but not all?

4 A. But that's my understanding of the Federal tax laws, not of what's in your book.

5 Q. Is it your understanding that the wages you repeatedly read about in the book  
6 as being income subject to the tax are somehow really not wages?

7 MS. SISKIND: Your Honor, we continue to object to this witness's  
8 understanding of the tax laws. That is not an issue that is in this case.

9 THE COURT: Sustained.

10 Q. (By Ms. Hendrickson continuing) All right. So this will be -- is it your contention  
11 that this book says that wages are not income and that only Federal workers are  
12 required to pay the income tax? Are you still advocating that?

13 MS. SISKIND: Your Honor, objection to the relevance of that.

14 THE COURT: Overruled.

15 THE WITNESS: I'm sorry. Could you repeat the question?

16 Q. (By Mrs. Hendrickson continuing) Is it still your contention that this book says  
17 that wages are not income and that only Federal workers are required to pay income  
18 tax?

19 A. There was a question about as we allege in the Complaint, it was I think  
20 Federal, State and local workers.

21 Q. I'll expand --

22 A. That's how we characterize your theory.

23 Q. I'll expand that then. Is it still your contention that this book says that wages  
24 are not income and that only Federal, State and local workers are required to pay  
25 income tax?

1 A. Yes.

2 Q. Yesterday you said you'd read this book prior to preparing the lawsuit in which  
3 you claimed over your signature that the book argues that only Federal, State and  
4 local workers are subject to the income tax and that wages are not income.

5 A. Is that a question?

6 Q. Yes. Is that correct?

7 A. I think what we said was that Mr. Hendrickson's theories espouse that only  
8 Federal, State and local workers are subject to the income tax.

9 Q. Yes, and you read the whole book before you filed the lawsuit.

10 THE COURT: Asked and answered. He's already answered that  
11 question several times.

12 MRS. HENDRICKSON: That he actually read the whole book?

13 THE COURT: I think so.

14 Q. (By Ms. Hendrickson continuing) Okay. Mr. Metcalfe, the lawsuit you wrote  
15 claimed that the refunds you wanted back had been issued in error, didn't you?

16 A. That's correct.

17 Q. Had the Government received W-2's from the company my husband worked  
18 for during those years?

19 A. You're talking about 2002 and 2003?

20 Q. Yes.

21 A. Yes.

22 Q. So okay. Let's go back to it's my 550, but your Number One.

23 THE COURT: Your 550 is not in evidence.

24 MRS. HENDRICKSON: Okay. I'm sorry. I had it listed in my notes as  
25 550. Okay.

1 Q. This is the third page of Number One. Could you read what's highlighted  
2 please on your copy?

3 A. The amounts listed as withheld on the W-2 it's submitted are correct however.  
4 (sic)

5 Q. And this is for second to last page. It's of Number Four of yours?

6 A. The amounts listed as withheld on the W-2 it's submitted are correct however.

7 Q. Do you see where my husband directed the Government's attention to those  
8 W-2's then? I can put it back up.

9 A. I don't know what --

10 Q. (Interjecting) I said do you see where he directed the Government's, the IRS's  
11 attention to the W-2's?

12 A. You mean in the highlighted language?

13 Q. Yes.

14 A. Yes.

15 Q. Had the Government received 1099's from Una Dworkin who paid me for  
16 tutoring during those years?

17 A. To the best of my knowledge, yes.

18 Q. If you'd go to -- I guess you're on Number Four now. Might as well just stay  
19 right there. This is -- I'm sorry. Go back to Number One. It's the same as the one in  
20 Number Four in any case. Okay. This is the rebuttal of the 1099's included with our  
21 returns. Would you please read the highlighted portion?

22 A. To rebut a document known to have been submitted by the party identified  
23 above as payer which erroneously alleges a payment to the party identified above as  
24 the recipient of gains, profit or income made in the course of a trade or business.

25 Under penalty of perjury I declare that I have examined this statement and to the best

1 of my knowledge and belief it is true, correct and complete.

2 Q. So does it appear that I'm directing the Government or the IRS to the original  
3 1099?

4 A. I think what you're trying to do is to rebut the original Form 1099 that was sent  
5 to the IRS by Una Dworkin.

6 Q. Sure. So our returns indicate our beliefs that almost, almost none of what we  
7 earned during those years qualified as tax-related income, but some did while also  
8 showing that a fair amount of money had been withheld from us and they claimed, the  
9 returns claimed that we wanted that money back, isn't that true? Our tax returns, we  
10 were asking the Government to send the money back to us that we did not -- we felt  
11 we did not owe.

12 MS. SISKIND: Objection to what he knows about what they felt.

13 THE COURT: Sustained.

14 Q. (By Ms. Hendrickson continuing) Okay. Did those returns request a refund for  
15 the money that was owed to us or that we requested money back. We claimed some  
16 income and some not income, correct? On both years? We claimed on 2002, we  
17 claimed \$20 of income and on 2003 because of an early IRA distribution it was close  
18 to \$300 or something like that. So we did claim some income, is that correct?

19 A. There was some, there was some income reported --

20 Q. Yes.

21 A. -- On each of your returns.

22 Q. Okay. I think you said you were head office based Department of Justice Tax  
23 Division Specialist, Mr. Metcalfe? If I remember correctly from yesterday?

24 A. What my title is?

25 Q. Yes. Something like that?

1 A. Currently I'm an Assistant Chief in the Civil Trial Section Eastern Region of the  
2 Tax Division in the Department of Justice. When I drafted the Complaint and served  
3 as the lead trial attorney in this case, I was in a different Section. I was in the what is  
4 called Civil Trial Section Central Region in the Tax Division of the Department of  
5 Justice.

6 Q. Is it common that returns just slip through the cracks sort of which your  
7 Complaint alleges that they just didn't notice that they were going to be sending us  
8 that money back two consecutive years. Is that common in your experience?

9 MS. SISKIND: Objection, Your Honor. Argumentative.

10 THE COURT: Sustained.

11 Q. (By Ms. Hendrickson continuing) Doesn't the IRS -- I think you do work for  
12 them, right? That's part of your job is working with the IRS?

13 A. That's correct.

14 Q. Yes, okay. So doesn't the agency in your Tax Division -- you do the litigating  
15 and maintain programs by which all refund claims are at least somewhat scrutinized  
16 before the returns are processed and the refunds issued? Is that part of what you're  
17 involved with?

18 A. Actually it's not. I don't have anything to do with examining tax returns.

19 Q. Have you ever heard of the IRS's Questionable Refund Program?

20 A. I may have heard of something, but I have never heard of it by that name.

21 Q. May I show the witness this?

22 MS. SISKIND: What is it?

23 MRS. HENDRICKSON: It's Number 547.

24 THE COURT: One moment before you answer, Mr. Metcalfe. Do you  
25 have it?

1 MS. SISKIND: I do, Your Honor. Thank you.

2 THE COURT: All right, Mr. Metcalfe, you can answer it. What's the  
3 question?

4 MRS. HENDRICKSON: I asked have you ever heard of the IRS's  
5 Questionable Refund Program.

6 THE COURT: I know, and now you've given him something and what's  
7 your question?

8 Q. (By Ms. Hendrickson continuing) Well, he answered that. Can you identify this  
9 document?

10 A. It purports to be a multi-page copy of a document that is titled Questionable  
11 Refund Program Criminal Investigation.

12 Q. May I admit this into evidence?

13 MS. SISKIND: Objection, Your Honor. Lack of foundation.

14 THE COURT: Sustained.

15 MRS. HENDRICKSON: May I ask then -- one moment please.

16 Q. So are you aware of different programs and protocols in the IRS that are  
17 supposed to stop erroneous refunds?

18 A. I don't have any personal knowledge of those programs.

19 Q. So you don't know that any exist?

20 A. I think what you're trying to get at is what we call the Frivolous Return Program  
21 --

22 Q. (Interjecting) No, I'm sorry. That wasn't what I was getting at.

23 A. If you're talking about a Questionable Return Program, that is part of what is  
24 called the Criminal Investigation or criminal part of the Internal Revenue Service. My  
25 work --

1 THE COURT: (Interjecting) Excuse me. Let him finish.

2 MRS. HENDRICKSON: Well, that's not what I was asking, so -- have  
3 you ever heard of the IRS's Electronic Fraud Detention System?

4 A. I've heard of it, but I don't know anything about it.

5 Q. Okay. Are you aware, Mr. Metcalfe, that our refunds were issued only after  
6 exhaustive Government scrutiny and examination?

7 A. I'm not aware of that at all.

8 Q. Okay. Now speaking of examinations like our returns might have gone  
9 through, by the time you filed your lawsuit, the IRS, which is the Government's tax  
10 accounting agency, had had plenty of time to do a formal examination of our returns  
11 and in fact, probably should have done so to substantiate your claims in your lawsuit,  
12 isn't that true? This is the -- the IRS should have done some kind of an examination,  
13 a formal examination so that you could file this lawsuit.

14 A. I do know that prior to the time the lawsuit was filed, your 2002 and 2003 tax  
15 returns were examined. I do not know whether or not they were examined prior to the  
16 time the IRS issued refunds to you for 2002 and 2003.

17 Q. Okay. You included something from an IRS Examiner in your Motion for  
18 Summary Judgment on your suit, did you not?

19 A. Yes, that's true.

20 Q. I believe you mentioned it yesterday when reading through your exhibit list for  
21 that motion, but you didn't discuss that exhibit at all. It's number 566.

22 MS. SISKIND: 566 is actually part of Government Exhibit 13 which is  
23 already in evidence.

24 THE COURT: All right. If you would use Government 13 please.

25 MRS. HENDRICKSON: That's fine.

1 Q. (By Ms. Hendrickson continuing) Okay. Government 13?

2 Q. So this document was used to help Judge Edmunds make her decision in your  
3 Motion for Summary Judgment, is that a good way to interpret that? This is the  
4 Declaration of Terry Grant.

5 A. If I could just look at the -- the Declaration of Terry Grant was filed with our  
6 Motion for Summary Judgment.

7 Q. That's correct, yes. And that was to support your motion?

8 A. Correct.

9 Q. Okay. So this was the supporting document when you were seeking an Order  
10 from the Court. Would you read this portion from the second page please?

11 A. The preparation of this report did not constitute a formal audit or examination of  
12 the taxpayers' 2002 or 2003 Federal income tax liabilities or tax returns for the tax  
13 years at issue.

14 Q. I'll just leave that there for now. Okay. Speaking as an attorney, Mr. Metcalfe  
15 -- that's your profession -- would you not agree that legally speaking the numbers on  
16 Terry Grant's report are no better than something you might have had your kid write  
17 down?

18 MS. SISKIND: Objection, Your Honor.

19 THE COURT: Sustained.

20 Q. (By Ms. Hendrickson continuing) All right. The numbers on Terry Grant's  
21 report are precisely and to the penny what appears in Judge Edmunds' Findings of  
22 Fact, don't they?

23 A. I'm not sure which numbers you're referring to.

24 Q. It's on the back page.

25 THE COURT: Back page of what?

1 Q. Of Terry Grant's Declaration, so --

2 A. Are you talking about page four of the Declaration of Terry Grant?

3 Q. I have it as just the last page, but I don't know if you've got it as four. You  
4 might have something else in there. This is the Income Tax Examination Changes  
5 that were submitted by Terry Grant after having stated that the preparation did not  
6 constitute a formal audit or examination of our returns. I'm not sure where the  
7 numbers came from if it wasn't a formal audit or examination, but in any case, those  
8 were the numbers that appear in Judge Edmunds' Finding of Fact in the Complaint.

9 A. I have to see her Finding of Fact. You want me to compare them? Is that what  
10 you're asking me to do?

11 Q. Yes, you can.

12 A. I'm not sure exactly what numbers you're asking me to compare to what  
13 numbers. There's a lot of numbers on the Income Tax Examination Changes, the  
14 Form 4549 that you asked me to look at.

15 Q. Well, this is from your original Complaint and I've just enlarged paragraph 47 to  
16 make it a little bit easier to see.

17 Q. If I'm looking at the Amended Judgment and Order of Permanent Injunction, I'm  
18 not sure which number you have that's already been entered.

19 MS. SISKIND: That is Exhibit 15.

20 Q. Fifteen? Your 15?

21 A. Okay.

22 Q. And then you've got Terry Grant's sort of examination and the numbers pretty  
23 closely match up to what's in your Complaint in your requested Order.

24 A. Without knowing what numbers you're referring to I cannot answer your  
25 question.

1 Q. Okay. Well, I'll leave that for the moment. I'll come back to that. The numbers  
2 that Terry Grant gave you, is that what you based your requested Order on, the  
3 numbers that were given to you by Terry Grant? I'm trying to go at it in maybe a little  
4 easier fashion?

5 A. The figures that are set forth in the Declaration of Terry Grant were what the  
6 Government used to support in part its Motion for Summary Judgment in this case.

7 Q. Okay. But Terry Grant says that the report was not a formal audit or  
8 examination, so I'm not sure where the numbers would have come from if not a formal  
9 audit or examination. Did you request that Terry Grant do a formal audit or  
10 examination?

11 A. The Department of Justice is not requesting that she do this. It was -- it had  
12 been done -- well, what we requested was the Declaration from Miss Grant who  
13 examined the returns in the sense that she looked at them or reviewed them.  
14 Examination is kind of a term of art within the Internal Revenue Code. What she did  
15 was she looked at the returns that you had filed and attempted to determine --

16 Q. That's all right. You don't need to go thumbing through papers. Maybe she  
17 didn't have time to do a formal examination.

18 THE COURT: Do you want him to answer another question now, Mrs.  
19 Hendrickson?

20 MRS. HENDRICKSON: Yes.

21 Q. To your knowledge Mr. Metcalfe, has any Government official ever said that my  
22 earnings are of a variety subject to the tax to the best of his or her knowledge and  
23 belief over his or her own signature under any kind of oath or affirmation as to the  
24 truth of that?

25 A. Well, I think the Declaration of Terry Grant that we've just been examining did

1 establish that you had a tax liability for 2002 and 2003.

2 Q. Although I think wouldn't it have to be a little more precise than -- I mean not  
3 just saying this is not a formal audit or examination, wouldn't you want someone who's  
4 going to sign something to be a little more precise than that? Don't worry about it.

5 This is our number 552. Would you identify this please?

6 A. Yes. It appears to be a -- are you talking about the highlighted portion?

7 Q. No, just what it is.

8 A. Okay. It appears to be a copy -- it appears to be a copy of two provisions of  
9 the Internal Revenue Code, Section 6020 and 6065.

10 Q. Thank you. Move for admission please.

11 MS. SISKIND: Objection, Your Honor. Relevance. If the Court looks at  
12 this document, it relates to the failure to file tax returns which was not an issue in this  
13 case as the Defendants filed tax returns.

14 MRS. HENDRICKSON: That is not correct.

15 THE COURT: Well, you want the Jury to have for its consideration  
16 provisions of a law?

17 MRS. HENDRICKSON: Yes.

18 THE COURT: And that's not within their realm. They are determining  
19 facts.

20 MRS. HENDRICKSON: Can you take judicial notice of it? It's a statute.

21 THE COURT: Do you want to ask him a question about that? It doesn't  
22 have to be admitted into evidence, but I'm not admitting law into evidence. The Jury  
23 will get the instructions on the law from the Court.

24 MRS. HENDRICKSON: Well, can you take judicial notice of it? It is law.

25 THE COURT: What is your question? May I see it?

1 MRS. HENDRICKSON: Yes. I have a couple of things, because it's not  
2 just failure to file.

3 THE COURT: This just says the Secretary -- and I don't know who this  
4 Secretary is -- has permission under the law to prepare tax returns if people don't file  
5 their returns.

6 MRS. HENDRICKSON: It's the Secretary of Treasury and it says shall  
7 make a return if someone doesn't file or files false or fraudulent returns.

8 THE COURT: This isn't -- do you have a question for Mr. Metcalfe?

9 MRS. HENDRICKSON: Yes I do.

10 THE COURT: What is the question?

11 MRS. HENDRICKSON: Do you want me to say it quietly?

12 THE COURT: You can say it out loud. I would like to know how this  
13 factors into a question that you have for him.

14 Q. (By Ms. Hendrickson continuing) Okay. Shall make is what this statute --

15 THE COURT: What is your question to Mr. Metcalfe?

16 MRS. HENDRICKSON: Can you point to where in the record of events  
17 prior to your suit these returns appear that were prepared by somebody who is  
18 alleging that we filed false returns? If the statute says they shall make one, they  
19 never did.

20 THE COURT: Okay. You're standing here testifying and so I would --

21 MRS. HENDRICKSON: I'm sorry.

22 THE COURT: I would like for you -- not to me -- direct your question to  
23 Mr. Metcalfe and let's see if there's an objection about the question, all right?

24 MRS. HENDRICKSON: Can he read this?

25 THE COURT: I already read it. I read it. Can he read that? Sure.

1 MRS. HENDRICKSON: Can I enter it?

2 THE COURT: No, you don't need to enter it into evidence.

3 Q. (By Ms. Hendrickson continuing) Okay. It indicates there that a -- I'm sorry. I  
4 should talk louder for you. It indicates that a return shall be made by the Secretary --

5 THE COURT: Mrs. Hendrickson, may I -- if I start to speak, would you  
6 at least give me the courtesy of saying what I would like to say without talking over  
7 me?

8 MRS. HENDRICKSON: Yes.

9 THE COURT: You've given it to him to read. He's reading it. He's read  
10 it. What is your question?

11 Q. (By Ms. Hendrickson continuing) Can you point to where in the record of  
12 events prior to your suit that these returns appear?

13 MS. SISKIND: Objection; relevance. Mrs. Hendrickson is attempting to  
14 attack the procedures that led to Judge Edmunds' Order, but the legality of the Order  
15 is not a question in this case.

16 THE COURT: Sustained.

17 Q. (By Ms. Hendrickson continuing) Did you say in your Complaint that our returns  
18 were false?

19 A. I'd have to look at the Complaint.

20 Q. Go head.

21 A. There are allegations in the Complaint that your husband falsely and  
22 fraudulently reported receiving no wages or salaries during the taxable years ending  
23 on December 31st, 2002 and December 31st, 2003. And there's --

24 Q. (Interjecting) So --

25 THE COURT: He's still talking.

1 MRS. HENDRICKSON: Actually --

2 THE COURT: He's still giving his answer.

3 MRS. HENDRICKSON: It was a yes or no question.

4 THE COURT: Mrs. Hendrickson, would you allow him to finish  
5 speaking? I've lost my train of thought. Mrs. Coleman, would you read back what he  
6 was saying?

7 **(Whereupon the witness's answer was read before the Court)**

8 THE COURT: Are you done with your answer, Mr. Metcalfe?

9 THE WITNESS: No, Your Honor. I had one more thing to say.

10 THE COURT: All right.

11 THE WITNESS: There's also an allegation in paragraph 14 of the  
12 Complaint that on their 2002 and 2003 joint income tax returns, Defendants falsely  
13 and fraudulently reported receiving no taxable income during 2002 and 2003. So to  
14 answer your question, I don't believe we actually said the returns themselves were  
15 false. What we said was that you falsely reported this on your return.

16 Q. (By Ms. Hendrickson continuing) Okay. Continuing. Mr. Metcalfe, you are the  
17 person who signed the Complaint against me asking for Judge Edmunds to take  
18 control of my speech, is that true?

19 MS. SISKIND: Objection; argumentative.

20 THE COURT: Sustained.

21 Q. (By Ms. Hendrickson continuing) You are the person who signed the Complaint  
22 against me asking Judge Edmunds to order me to change my testimony on a legal  
23 document, is that true?

24 MS. SISKIND: Objection; argumentative.

25 THE COURT: Sustained.

1 Q. (By Ms. Hendrickson continuing) You're the person who signed the Complaint  
2 against me asking Judge Edmunds to order me to amend my previously sworn  
3 testimony, is that true?

4 A. I would say no.

5 Q. So I was not ordered to file amended returns?

6 A. What we sought in the Complaint was an Order from the Court under Section  
7 7402(a) of the Internal Revenue Code that required you to file correct returns that took  
8 into income what you received from Una Dworkin and what your husband received  
9 from Capital -- or Personnel Management, Inc. in 2002 and 2003.

10 Q. In order to do what you would term corrected returns, that would be ordering us  
11 to amend our previously sworn testimony, is that correct?

12 A. I wouldn't characterize it as previously sworn testimony.

13 Q. We signed a document under penalty of perjury swearing that to the best of our  
14 knowledge and belief the returns were true and correct.

15 THE COURT: What's your question?

16 Q. (By Ms. Hendrickson continuing) So is that not previously sworn testimony?

17 A. I don't consider it to be testimony.

18 Q. So the Jurat on the 1040 is not sworn testimony?

19 THE COURT: He's answered your question, Mrs. Hendrickson. He  
20 doesn't agree with you.

21 Q. So that's not an Affidavit on there then. The tax return is not an Affidavit. It's  
22 not a sworn document?

23 A. I think it's a sworn document, but I don't understand it to be testimony the way  
24 that you do.

25 Q. Okay. Have you ever before asked for an Order from a Judge telling someone

1 what she -- he or she must say over their sworn signature?

2 MS. SISKIND: Objection. Argumentative.

3 MRS. HENDRICKSON: I don't believe it is.

4 THE COURT: Sustained.

5 Q. (By Ms. Hendrickson continuing) Have you ever on other situations dictated to  
6 someone what they must put on their tax return and sign it under penalty of perjury?

7 A. I don't think I understand your question.

8 Q. Have you ever requested an Order that would dictate to someone what they  
9 must put on their tax return and sign it under penalty of perjury?

10 A. I don't think I've ever done that.

11 Q. Except now.

12 A. I would disagree with that.

13 Q. This is paragraph 27 from the Order that you requested. It's just enlarged a bit  
14 for ease of reading. Just read the first sentence.

15 A. The one that begins after ordered?

16 Q. Yes.

17 A. Ordered that within 30 days of the entry of this Amended Judgment and Order  
18 of Permanent Injunction, Defendants will file amended U.S. individual income tax  
19 returns for the taxable years ending on December 31st, 2002 and December 31st,  
20 2003 with the Internal Revenue Service.

21 Q. So ordered to file amended income tax returns? Yes?

22 A. Correct.

23 Q. Because you and the IRS didn't like what was on the original returns that we  
24 filed?

25 A. No, because the law requires you to do that.

1 Q. We did file returns, but that's okay. We will continue. Have you ever asked for  
2 an Order from a Judge telling someone what she can't say over her own sworn  
3 signature?

4 MS. SISKIND: Objection; vague.

5 THE COURT: What's your objection?

6 MS. SISKIND: It's a vague question. It's unclear exactly.

7 THE COURT: Sustained.

8 Q. (By Ms. Hendrickson continuing) Did you ever ask a Judge to tell someone  
9 what she is not to say over her own signature?

10 A. I don't understand that question.

11 Q. Okay. Have you ever wanted a Judge to issue an Order saying you can't say  
12 this, whatever the this is? Have you ever asked a Judge to issue an Order saying you  
13 cannot say this?

14 A. I have never done that.

15 Q. Please read the first three lines after accordingly.

16 A. Ordered that Defendants are prohibited from filing any tax return, amended  
17 return, form, including but not limited to Form 4852 Substitute for Form W-2 Wage  
18 and Tax Statement, et cetera or other writing or paper with the --

19 Q. Sorry.

20 A. -- With the IRS that is based on the false and frivolous claims set forth in  
21 Cracking the Code that only Federal, State or local Government workers are liable for  
22 the payment of Federal income tax or subject to the withholding of Federal income,  
23 Social Security and Medicare taxes from their wages under the Internal Revenue laws  
24 26 U.S. Code.

25 Q. Isn't being prohibited from saying something analogous to being prohibited

1 from filing something? Saying, filing, writing, it's all of a nature. It's all of the same  
2 thing, so here you'd requested that we be prohibited from filing something according  
3 to our own beliefs. It's the same as being prohibited from saying something or writing  
4 it down, yet you just said that you've never asked for that.

5 A. I'm sorry. Which question do you want me to answer? You asked like three  
6 questions.

7 Q. Did you ask the Judge to issue this Order prohibiting me from filing something?

8 THE COURT: Mrs. Hendrickson, I think that has been well-established.  
9 The Order speaks for itself and he requested that Order.

10 Q. Yes, ma'am, except for he just denied that he had ever --

11 THE COURT: (Interjecting) No. Your last question was did you file this  
12 asking the Court to prohibit us from filing, and that question has been asked,  
13 answered, established, the answer to that question.

14 Q. (By Mrs. Hendrickson continuing) Mr. Metcalfe, you asked Judge Edmunds to  
15 issue two Orders to me, is that correct? They were just on the screen.

16 MS. SISKIND: Objection, Your Honor. That mischaracterizes the  
17 evidence. It's one Order.

18 MRS. HENDRICKSON: It looks like two to me.

19 THE COURT: One Order was entered by Judge Edmunds. It may have  
20 had multiple parts to it, but there was one Order entered by the Court.

21 Q. (By Ms. Hendrickson continuing) The first part, the first paragraph was that --  
22 well, actually that's not the first one. It's the second one was to repudiate my freely  
23 made testimony on tax returns I had long since filed, right?

24 MS. SISKIND: Objection; argumentative.

25 THE COURT: Sustained.

1 MRS. HENDRICKSON: I don't understand why.

2 THE COURT: What's your question?

3 MRS. HENDRICKSON: I don't understand why.

4 THE COURT: Your freely made -- it's argumentative. Just ask a  
5 question I guess without editorial comment.

6 Q. (By Ms. Hendrickson continuing) Okay. And those returns -- okay. One order  
7 was that I repudiate my testimony on tax returns long since filed and had sworn to  
8 under penalty of perjury. That was --

9 THE COURT: Is there an objection?

10 MS. SISKIND: It's argumentative, Your Honor

11 THE COURT: Are you reading from the Order? Did the Order say  
12 repudiate? What are you reading from?

13 MRS. HENDRICKSON: Well, to file an amended return you have to take  
14 back what you already said, so that's repudiating your previous testimony.

15 THE COURT: Ask your question.

16 Q. (By Ms. Hendrickson continuing) One was an order that I repudiate my  
17 testimony on tax returns I had long since filed and had sworn to under penalty of  
18 perjury, is that correct?

19 MS. SISKIND: Objection. Your Honor, it misstates what the Order says.  
20 The Order is in evidence.

21 THE COURT: It is a misstatement of what the Order says, but the Jury  
22 will have it. They've seen the paragraph. Can you answer the question, Mr.  
23 Metcalfe?

24 THE WITNESS: When we asked the Judge to enter this particular  
25 Order, we did not -- we were not asking her to order you to repudiate anything.

1 Q. (By Mrs. Hendrickson continuing) Would it be possible for me to file an  
2 amended return without basically saying I take back what I said before? Yes or no?

3 A. I have to think about this for a second, I'm sorry. My understanding was that  
4 we asked her to file an amended return that correctly reflected what you and your  
5 husband had received as far as taxable income was concerned in 2002 and 2003.  
6 We're not asking to repudiate anything else. All we were doing was asking you to file  
7 correct Federal income tax returns like any other citizen was required to do under the  
8 Internal Revenue Code.

9 Q. That was a little bit evasive because I said --

10 THE COURT: Well, that's -- excuse me. That's pretty argumentative.

11 Do you have a question? Do you have a question?

12 Q. (By Ms. Hendrickson continuing) Yes. Is it possible for someone to file an  
13 amended return without taking back the words they put on their previous return? Is it  
14 possible? That's just a yes or no.

15 A. I suppose anything is possible.

16 Q. It's possible to file an amended return without it replacing the original? Yes or  
17 no?

18 A. That's a different question.

19 Q. Well, yeah it is. I'm asking you a different question. You said maybe, so I  
20 could file an amended return and still have my original return in place and in play, is  
21 that what you're saying? Yes or no?

22 A. My understanding is --

23 Q. (Interjecting) Just yes or no?

24 A. I can't answer your question yes or no.

25 Q. Okay, that's fine. To your knowledge has anyone in the Government ever

1 sworn to a belief in what you asked Judge Edmunds to order me to swear that I  
2 believe?

3 MS. SISKIND: Objection, Your Honor, vague and --

4 THE COURT: Sustained.

5 Q. (By Ms. Hendrickson continuing) I'll try to clarify it a little bit. You had  
6 requested that I file what you would term corrected returns or correct according to  
7 your belief, but has anyone in the Government ever sworn to that same belief over  
8 their signature regarding my earnings?

9 MS. SISKIND: Objection, Your Honor. Same objection.

10 THE COURT: I don't get your question. You want him to ask about  
11 whether anyone ever in history in Government has ever done -- he can't answer that  
12 question. Ask another question.

13 MRS. HENDRICKSON: I just said to your knowledge. Okay.

14 Q. I think you admitted yesterday that there was no trial before these Orders were  
15 issued, is that correct?

16 A. Yes.

17 Q. Was there a hearing before these Orders were issued?

18 A. You mean like --

19 Q. Just --

20 A. Like here?

21 Q. Yes, in court.

22 A. No.

23 Q. Do you recall that my husband and I requested a hearing?

24 A. I don't remember.

25 Q. Was there ever a single appearance in person by anyone before Judge

1 Edmunds prior to these Orders being issued?

2 A. No.

3 Q. Is there a reason that you didn't mention in your Complaint when you asked for  
4 summary judgment that you didn't have a formal IRS examination report supporting  
5 your allegations? Is there a reason that you didn't mention that to Judge Edmunds;  
6 that Terry Grant's was not a formal examination, but it was something that she came  
7 up with, just kind of came up with? It's just a yes or no. Is there a reason why you  
8 didn't mention in your Complaint that there was no formal examination?

9 A. We did mention in her Declaration that there had not been a -- or at least what  
10 she had done did not constitute a formal examination.

11 Q. Thank you. And is there a reason why you didn't mention to Judge Edmunds  
12 that that wasn't a formal examination?

13 A. We did.

14 Q. You told Judge Edmunds that it wasn't a formal examination? Just curious. I  
15 mean somewhere?

16 A. The Declaration of Terry Grant -- let me find it. In order to answer your  
17 question I have to refer to the --

18 Q. I have it here.

19 A. -- Declaration of Terry.

20 Q. Do you want to see it? I have my copy. It might be easier for you to look at  
21 this.

22 A. I have it here. What we said in paragraph six of the Declaration of Terry Grant  
23 who was a Tax Examining Technician for the Frivolous Return Program at the IRS's  
24 Ogden Compliance Services Campus in Ogden, Utah. In paragraph six of her  
25 Declaration, she stated that attached to her Declaration was an IRS Form 4549

1 Income Tax Examination Changes which she had prepared with respect to the 1040  
2 returns filed by you and your husband and the IRS for the tax years at issue which  
3 were 2002 and 2003. It goes on to say in a quote: "The preparation of this report did  
4 not constitute a formal audit or examination of the taxpayer's 2002 or 2003 Federal  
5 income tax liabilities or tax returns for the years at issue."

6 Q. Correct. So I'm guessing then without having specifically said to Judge  
7 Edmunds, we don't have a formal examination, you figured that she would just see  
8 this on there then?

9 A. Well, first of all we submitted --

10 THE COURT: Excuse me, Mrs. Hendrickson. Allow him to answer.

11 MRS. HENDRICKSON: I don't get when I ask a yes --

12 THE COURT: You asked a question. Allow him to give an answer  
13 please.

14 MRS. HENDRICKSON: May I ask you something?

15 THE COURT: Mrs. Hendrickson, Mrs. Hendrickson. Janice Coleman,  
16 what is the question?

17 THE COURT: What is your answer, Mr. Metcalfe?

18 THE WITNESS: My answer is that we specifically told the Court that her  
19 Report did not constitute a formal audit or examination of the taxpayer's 2002 or 2003  
20 Federal income tax liabilities. That was part of our Motion for Summary Judgment in  
21 this case and then as far as I know, there was no legal requirement that we actually  
22 conduct a formal audit or examination of the -- of your tax returns prior to either filing  
23 this case or moving for summary judgment or obtaining the relief we sought in the  
24 Complaint.

25 Q. (By Ms. Hendrickson continuing) I can't go there. Mr. Metcalfe, the other Order

1 that you wrote and asked Judge Edmunds to make to me was very specifically to not  
2 file any return or other document with the IRS based on the notion that only Federal,  
3 State or local workers are liable for the payment of Federal income tax or subject to  
4 the withholding of income -- Federal income, Social Security, Medicare taxes from  
5 their wages, is that true?

6 MS. SISKIND: Your Honor, we've gone over what's in the Order.

7 Q. (By Ms. Hendrickson continuing) Okay. You did not seek and Judge Edmunds  
8 did not issue an Order merely enjoining me from filing allegedly false returns or  
9 returns allegedly incorrect as to the amount of wages reported, is that true? You did  
10 not seek to have me banned from filing false returns. It was very specific the  
11 language in her Order, is that correct? Yes or no?

12 A. I don't know how to answer that question.

13 Q. You asked for very specific language in the Order which Miss Siskind says we  
14 shouldn't go over again, so that was very specific language in that Order. Whereas --  
15 and I said you didn't seek an Order to simply say do not ever file anymore false  
16 returns or allegedly incorrect returns. The Order is very specific as opposed to being  
17 general, do not file false returns. This is Order specific to what's here about what's  
18 allegedly in *Cracking the Code*, but you had a very specific Order as opposed to just  
19 asking her to tell me you can't file anymore false returns, Mrs. Hendrickson.

20 A. Are you finished with your question?

21 Q. You didn't ask for that, did you? You asked for the very specific language as  
22 opposed to something more general like you can't file a false return and you have to  
23 report what's on your W-2's. It was a very specific language, is that correct? That's  
24 really just yes or no.

25 A. Are you finished with your question?

1 Q. Yes.

2 A. Okay.

3 Q. But it's just a yes or no answer.

4 A. Well, I would disagree with that. I can't simply say yes or no in response to  
5 your question. The Order that was actually entered by the Court required you to do  
6 many specific things.

7 Q. Or forbade me from doing specific things.

8 A. It forbade you from doing certain specific things, yes. That's correct.

9 Q. All right. Do the explicit words of the Order that you wrote and that Judge  
10 Edmunds issued prohibit me from simply filing what some here would like to  
11 characterize as a false return? Or do they -- so if the Order that you wrote, does it  
12 just say -- prohibit me from simply filing a false return or only a false return based on  
13 those specific things? It's one or the other.

14 A. The Order did not simply refer to not filing false returns.

15 Q. Correct. Thank you. So if anyone were to tell this Jury that I had simply been  
16 ordered to not file false returns, if someone told the Jury that that was my order, do  
17 not file false returns, that would be a lie, right?

18 A. Are you asking me to speculate or --

19 MS. SISKIND: Objection, Your Honor. It calls for speculation.

20 MRS. HENDRICKSON: I don't believe it does. If someone told them  
21 that that's what the Order says.

22 THE COURT: Sustained. Sustained.

23 Q. (By Ms. Hendrickson continuing) Mr. Metcalfe, you contend in your lawsuit  
24 against my husband and me was just to recover refunds made in error, is that  
25 correct? You said that was the reason for filing it?

1 A. Actually there were two reasons. Do you want me to tell you what they are?

2 Q. I think you covered it yesterday. The basis of your assertion that the refunds  
3 made to us were errors is that we actually owe taxes for those years in greater  
4 amounts than what appeared on our returns, is that correct?

5 A. Yes.

6 Q. Basis of the assertion. Yes? Okay. Has there ever been a tax assessed  
7 against us for those years other than as shown on our returns, the ones that your suit  
8 claims to be false? Has there ever been a tax assessed against us for those years?

9 A. As far as I know, the answer to your question is no.

10 Q. These are -- I'll have to coordinate numbers here. Your Exhibits Two and Five  
11 -- actually you already said no and that's what it is. We have had no tax assessed on  
12 us. So to your knowledge at this point because these were current as of yesterday I  
13 believe Miss Siskind said, the -- so to your knowledge has there ever been an  
14 assessment contrary to our original freely made returns -- can't say freely made.

15 MS. SISKIND: Objection; asked and answered. He testified to his  
16 knowledge there were none.

17 THE COURT: Sustained.

18 Q. (By Ms. Hendrickson continuing) How long has it been since our original  
19 returns were filed, Mr. Metcalfe?

20 A. Are you talking about for 2002 and 2003?

21 Q. Yes.

22 A. I'd have to look at the returns themselves.

23 Q. Guesstimate it. I mean they were timely returns.

24 A. Well, the 2002 return would have to have been filed by April 15th of 2003. So  
25 that's approximately 11 years. The 2003 return would have had to be filed by April

1 15th of 2004, so that's about 10 years.

2 Q. Yeah, 10 and 11 years. How long since Judge Edmunds issued her ruling in  
3 your lawsuit, Mr. Metcalfe?

4 A. If you're referring to the Amended Judgment and Order of Permanent  
5 Injunction, that was entered on May 2nd of 2007.

6 Q. How long is that now?

7 A. Approximately seven years.

8 Q. And yet according to your Numbers Two and Five, no taxes have been  
9 assessed against us in all that time.

10 THE COURT: Question has been asked and answered.

11 Q. (By Ms. Hendrickson continuing) So at this point, Mr. Metcalfe, isn't it true that  
12 we really don't owe any taxes for those years?

13 A. No, that's incorrect. The Order that was entered by the Judge in this case  
14 determined that you were indebted to the United States for the amount of the  
15 erroneous refunds that were made to you for 2002 and 2003, so you owed the tax.  
16 There was not a formal tax assessment made against you, but you were determined  
17 to be liable for the taxes for those two years.

18 Q. I need to speak with Andrew for just a moment. I'm not sure what exhibit  
19 number you have for the transcripts. It's nine in your book that we're going to. The  
20 Government has included in Exhibit Nine a Certificate of Assessment concerning IRS  
21 records about me and the year 2008, and I'm not sure in yours it's all broken down.  
22 Mine is stapled together. I have it like the third and fourth to the last pages.

23 MS. SISKIND: Your Honor, this is beyond the scope of the witness's  
24 Direct Examination. It relates to a tax year that was not part of the Injunction suit that  
25 he was involved with.

1 MRS. HENDRICKSON: All right. Okay, that's fine.

2 THE COURT: All right.

3 Q. (By Mrs. Hendrickson continuing) You said in your Complaint that you think  
4 what I did for Una Dworkin, the woman who ran the tutoring service that I was a  
5 contractor for, in your Complaint you allege that the work I did for her is a taxable kind  
6 of activity, isn't that right? Yes or no?

7 A. I think what you were paid by Una Dworkin constituted taxable income.

8 Q. That would be -- that would have to be a taxable activity then, but okay. It's  
9 just semantics. I had said in any returns for those years under oath and as an actual  
10 party to the relationship, that I don't think it's kind of a taxable activity. That's what I  
11 declared on my returns, is that correct? Yes or no?

12 A. I would have to look at your return in order to tell that.

13 Q. Okay. You have my returns there, One and Four I think.

14 A. In your tax returns for 2002 and 2003, what you did was you took the Form  
15 1099 that had been issued by Una Dworkin and you had typed in some words at the  
16 bottom --

17 Q. Yes.

18 A. -- In which you said that the corrected Form 1099-MISC which you prepared  
19 was submitted to rebut a document known to have been submitted by the party  
20 identified above as payer, which was Una Dworkin, which according to what you  
21 wrote here, erroneously alleges a payment to the party identified above as the  
22 recipient, which is you and --

23 Q. (Interjecting) Yes, we did that --

24 THE COURT: Excuse me. Let him finish talking.

25 THE WITNESS: -- Of gains, profit or income in quotations, made in the

1 course of a trade or business. And under the penalty of perjury, I declare I've  
2 examined the statement and to the best of my knowledge and belief it is true, correct  
3 and complete. So I have knowledge of your submitting this document.

4 Q. Okay. That's because I'm claiming that I don't believe it's a taxable kind of  
5 activity. I wouldn't sign it under penalty of perjury if I thought it was taxable activity. I  
6 wouldn't put zero down.

7 MS. SISKIND: Objection. Lack of personal knowledge.

8 THE COURT: Sustained.

9 Q. (By Ms. Hendrickson continuing) Do you have any personal knowledge of what  
10 I did or under what circumstances on which to base your assertion, firsthand personal  
11 knowledge? Yes or no?

12 A. Of what you did with respect to what?

13 Q. My tutoring and my relationship with Mrs. Dworkin.

14 A. I have no personal knowledge of that.

15 Q. Did you produce anything from anyone else with firsthand personal knowledge  
16 to back up your contention about my activities? Yes or no?

17 A. I would say no.

18 Q. Did you or do you have any personal firsthand knowledge making you  
19 competent to determine that what appears on the 1099's is true and my rebuttals are  
20 not? Yes or no?

21 A. I don't know how to answer that question.

22 Q. Do you have any personal firsthand knowledge making you competent to  
23 determine that what appears on my 1099's is true or that my rebuttals are not? Yes  
24 or no?

25 A. When I look at your Form 2002 --

1 Q. (Interjecting) I just asked a yes or no question.

2 A. I don't think it's question that can be answered either yes or no.

3 Q. Do you have personal firsthand knowledge making you competent to determine  
4 that what appears is true or false?

5 A. And I have no idea how to answer that question.

6 Q. Mr. Metcalfe, you said yesterday that you'd supplied Judge Edmunds with a  
7 Declaration from Kim Halbrook, a worker at Personnel Management, the company my  
8 husband had worked for in 2002/2003. Isn't it true that Miss Halbrook never appeared  
9 in any hearing to be questioned about that statement of her's, which you said last year  
10 you arranged to be prepared and signed by her?

11 A. So you're asking if she ever appeared in any court hearing?

12 Q. Right. Last year you said that you arranged for the -- her statement to be  
13 prepared and signed by her and did you -- isn't it true that she never appeared in any  
14 hearing so that she could be questioned about the statement that you prepared for  
15 her? That's a yes or no as well.

16 A. Well, I'm trying to answer your question.

17 Q. Did she ever appear in a hearing so she could be questioned about the  
18 statement that you prepared for her?

19 A. No.

20 Q. And my husband filed his own Affidavit with the Court disputing her having any  
21 personal knowledge of what she simply found in some file cabinets at the company  
22 she worked for.

23 MS. SISKIND: Objection; argumentative.

24 MRS. HENDRICKSON: Didn't he? He filed an affidavit?

25 THE COURT: What was what the question?

1 MRS. HENDRICKSON: My husband filed his own Affidavit with the  
2 Court disputing her having any personal knowledge of what she simply found in the  
3 file cabinets at the work where he worked.

4 THE COURT: What's the question?

5 MRS. HENDRICKSON: I said did he file the Affidavit?

6 THE COURT: Did he file an Affidavit disputing --

7 MRS. HENDRICKSON: Kim Halbrook's.

8 THE COURT: Overruled.

9 THE WITNESS: I believe he did file an Affidavit. At this point since this  
10 is approximately eight years since this case was decided, I don't recall what the exact  
11 contents were of his Affidavit.

12 Q. (By Ms. Hendrickson continuing) Kim Halbrook was not the person who signed  
13 the W-2's and took responsibility for their contents, was she?

14 A. Well, first of all the W-2's aren't signed by anyone.

15 Q. W-3's I guess, whichever number it is they send into the Government.  
16 Somebody has to sign the page. Was she the one who signed it?

17 A. I don't know.

18 Q. If you don't know if she signed it or not, then why would you be interested in  
19 what she has to say? I mean I'll put it a different way. If you're going to present this  
20 to Judge Edmunds as some kind of evidence and she didn't even sign those W-2's  
21 why would you have any interest in what she has to say as opposed to the person  
22 who's actually responsible for them?

23 A. The first part, the Declaration of Kim Halbrook contains in paragraph three the  
24 statement that I have personal knowledge of the matter set forth in this Declaration,  
25 and if called upon to testify to said matters, could do so competently.

1 Q. Yes, she could testify that she had these things in the file cabinet, right.

2 A. If I could finish please? The purpose of the Halbrook Declaration was to  
3 identify the W-2 wage and tax statements that were issued to your husband for the  
4 2002 and the 2003 tax years that were based on the wages that were paid to him, the  
5 amount of the Federal income, Social Security, Medicare taxes that Personnel  
6 Management, Inc. took out of his pay and were paid over to the Internal Revenue  
7 Service.

8 Q. So she could attest that she found these documents in the drawer, but she  
9 didn't sign them so she is not personally responsible for them. Okay, that's fine.

10 THE COURT: Is there a question there?

11 MRS. HENDRICKSON: He kind of answered it, but you know --

12 THE COURT: You didn't just ask a question, Mrs. Hendrickson --

13 MRS. HENDRICKSON: (Interjecting) No, I'm just --

14 THE COURT: Mrs. Hendrickson, I'm really very tired of you interrupting  
15 me. I do have a right to say things in this courtroom and during the course of this trial,  
16 and you continuously make statements that are not questions.

17 MRS. HENDRICKSON: I'm sorry.

18 THE COURT: So I'm asking you now to not make any statements, but to  
19 simply ask questions of this witness. Do you understand?

20 MRS. HENDRICKSON: Yes.

21 THE COURT: And please stop commenting on the answer after you get  
22 it. Do you understand that?

23 MRS. HENDRICKSON: Yes.

24 Q. (By Ms. Hendrickson continuing) Mr. Metcalfe, you introduced yourself to us all  
25 yesterday as an attorney in the Tax Division of the Department of Justice, correct?

1 A. That's correct.

2 Q. You've been there a long time, correct?

3 THE COURT: That's already a matter of record, Mrs. Hendrickson.  
4 What is your question?

5 Q. (By Ms. Hendrickson continuing) So it would be safe to say -- would it be safe  
6 to say that you know something about basic principles involved in the making and  
7 validating of tax returns?

8 A. The things that I have knowledge of are the provisions of the Internal Revenue  
9 Code and the Treasury regulations that I need to do my job. As far as how tax returns  
10 are processed or examined or how assessments are made, I don't really have any  
11 knowledge of that.

12 Q. Okay. Yesterday and actually today as well -- I just want to clarify -- you asked  
13 Judge Edmunds to issue against us -- issue against us simply ordered us to file  
14 correct returns as you put it, correct?

15 THE COURT: Asked and answered.

16 Q. (By Ms. Hendrickson continuing) Okay. In your understanding then in your  
17 position with the Department of Justice Tax Division, as a supervisory person, is a  
18 document which may look like a tax return but is not freely made as to the content, but  
19 is one for which someone other than the signer has dictated the content in which the  
20 signer would not put in on her own, is such a dictated thing actually a return in a legal  
21 sense? (Sic)

22 A. I have no idea how to answer that question.

23 Q. If you put something down on a return and sign it, is it a valid legal return even  
24 though it's not what you believe?

25 A. When I look at a return, all I look at is what is put in or what is reflected on the

1 face of the return itself. I have no way of knowing whether that is consistent with or in  
2 opposition to what someone either secretly thinks or believes.

3 Q. That's reasonable. But my question was is if you somehow could determine  
4 that they didn't believe what they had put down, would it be a valid return if there were  
5 a way for you to find out that they didn't really believe what they said?

6 MS. SISKIND: Objection; relevance. Calls for speculation.

7 THE COURT: Sustained.

8 Q. (By Ms. Hendrickson continuing) One of the four things that defines a return is  
9 that it be honestly signed under penalties of perjury, is that correct?

10 A. That's correct.

11 Q. Honestly signing something under penalties of perjury means truthfully  
12 declaring that one actually believes in what is signed off on, doesn't it? You sign  
13 something under penalty of perjury, it means that you're truthfully declaring you  
14 believe what you're signing?

15 A. I think what you are acknowledging is what appears on the return is true and  
16 correct.

17 Q. I didn't say return necessarily. I just said in general, but okay. But if you  
18 honestly sign something under penalty of perjury, then you're supposed to be stating  
19 that yes, I'm being truthful and honest and I believe what I put down here?

20 A. Again, I can only say what the Jurat on the tax return means is that what  
21 appears on the return is true and correct, regardless of what you might think about the  
22 Internal Revenue laws or any theories or things like that you may have in your head.

23 Q. But I was being a little more general. Just in general -- I'm not specific to the  
24 tax return. In general if you sign something under penalty of perjury, then it's  
25 assumed that you're being honest in stating what you really believe.

1 MS. SISKIND: Objection; relevance.

2 THE COURT: Sustained.

3 Q. (By Ms. Hendrickson continuing) Only something with -- so only something with  
4 testimony actually believed by the signer to be true can be an actual return 'cause if  
5 they don't believe it, is it an actual return?

6 A. I don't know how to answer that question.

7 Q. So speaking with your experience, it would be impossible to comply with an  
8 Order to produce a tax return that must have on it testimony that was dictated or  
9 controlled by someone else, is that correct?

10 MS. SISKIND: Objection. Calls for speculation.

11 MRS. HENDRICKSON: He's a tax attorney.

12 THE COURT: Excuse me. Excuse me. I think you tried to ask these  
13 questions, get answers to them about an hour ago. Sustained.

14 MRS. HENDRICKSON: May I show this to Mr. Metcalfe?

15 THE COURT: What is it?

16 MRS. HENDRICKSON: A Memorandum.

17 THE COURT: Does it have a number on it?

18 MRS. HENDRICKSON: It's 528. Sorry.

19 MS. SISKIND: I have it, Your Honor.

20 THE COURT: Continue.

21 Q. (By Ms. Hendrickson continuing) Can you identify this?

22 A. Exhibit Number 528 purports to be a copy of a Memorandum from the Ogden  
23 Service Center dated June 11, 2001 from at that time the Branch Chief of the  
24 Administrative Provisions and Judicial Practice of the Department of the Treasury  
25 Internal Revenue Service, part of Chief Counsel. It's basically an internal

1 Memorandum that goes from the Chief Counsel of the Internal Revenue Service to  
2 the Ogden Service Center in Ogden, Utah.

3 Q. Thank you. This sets some parameters for what constitutes a valid return  
4 vis-a-vis the signature?

5 MS. SISKIND: I would object to the admission of this document. First,  
6 this is not the proper witness to lay a foundation for an IRS record. He's a  
7 Department of Justice employee. Additionally, this document is replete with legal  
8 conclusions of an entity of the Department of Treasury.

9 THE COURT: May I see it please, Mrs. Hendrickson? Thank you.

10 MRS. HENDRICKSON: You're welcome.

11 THE COURT: The Court is not going to admit that. Mrs. Hendrickson,  
12 do you know how much longer you have with this witness?

13 MRS. HENDRICKSON: We can take a break. I'm at a stopping point.

14 THE COURT: Do you know how much longer is my question with this  
15 witness?

16 MRS. HENDRICKSON: Oh, not too much. I just have two pages.

17 THE COURT: You have Redirect?

18 MS. SISKIND: It will be very brief so far, Your Honor.

19 THE COURT: We'll take a break. Some of our jurors need to take a  
20 break. We'll come back at 11:30. Thank you.

21 **(Court recessed at about 11:20 a.m.)**

22 **(At about 11 37 a.m.)**

23 **Court, Counsel, Jury and parties present)**

24 THE COURT: Mrs. Hendrickson, you want to continue?

25 MRS. HENDRICKSON: Yes please. Thank you.

1 Q. (By Ms. Hendrickson continuing) I just have a couple of things left about the  
2 Order itself that was brought to my attention by Mr. Wise. You wrote the Order that  
3 Judge Edmunds signed, the Summary Order, is that correct?

4 A. We submitted a proposed Order to the Court and I believe the Court signed it,  
5 yes.

6 Q. Yes, okay. So she signed it just as you submitted it. I understood from him  
7 that's like what would normally happen or something?

8 THE COURT: What's your question?

9 MRS. HENDRICKSON: I was clarifying because I was kind of surprised  
10 by that.

11 THE COURT: But tell me what your question is.

12 Q. (By Ms. Hendrickson continuing) Oh, that she signed your proposed Order as  
13 you submitted it with no changes?

14 A. I believe that's correct.

15 Q. Okay. I just wanted to go back to that. Now this is just the last topic I believe,  
16 and this has to do with the Appeals Court when we appealed the decision. When we  
17 submitted our appeal, we filed with that two Memoranda, one having to do with the  
18 legal nature of the income tax and one of detailing some procedural issues in the  
19 District Court proceedings, is that correct? Do you recall that at all?

20 A. I did not handle the case on appeal.

21 Q. I thought you --

22 THE COURT: What's your question?

23 Q. (By Ms. Hendrickson continuing) Well, you filed a motion to prevent the  
24 appeals court from seeing those Memoranda.

25 A. I need to clarify. I was a trial attorney. We have a separate Appellate Section

1 that handles cases that are appealed to the Circuit Courts of Appeal, and when you  
2 filed you're Notice of Appeal, the case was transferred to our Appellate Section and a  
3 different attorney who represents the United States before the Court of Appeals for  
4 the 6th Circuit would have handled the case, so I would not know what it is you filed  
5 with the 6th Circuit.

6 Q. Okay. Well, if you did not handle the appeal part, then you can't really answer  
7 these questions and I will deal with it a different way. Then I'm sorry I took your time  
8 before break because that's all I had left was the two pages of appeal stuff.

9 THE COURT: Not a problem. Some of the jurors had to use the  
10 bathroom. You're done?

11 MRS. HENDRICKSON: Yeah.

12 THE COURT: Thanks. Do you have a Redirect, Miss Siskind?

13 MS. SISKIND: I do, Your Honor.

14 **REDIRECT-EXAMINATION**

15 **BY MS. SISKIND:**

16 Q. Mr. Metcalfe, Mrs. Hendrickson was asking you some questions about whether  
17 you had personal knowledge about whether Mr. Hendrickson's W-2's were accurate,  
18 do you recall that?

19 A. Yes.

20 Q. When you're handling cases for the Tax Division, do you generally have  
21 personal knowledge about what appears on a W-2 or a 1099?

22 A. No.

23 Q. And what do you generally rely upon in your duties to determine whether a  
24 person has income that needs to be reported on a tax return?

25 A. I would look to documents such as a W-2 Wage and Tax Statement or a Form

1 1099 to show whether or not the taxpayer had received income from their employer.

2 Q. And in this case, what if anything about the W-2 submitted by Personnel  
3 Management caused you to believe this was something you could rely on to  
4 determine Mr. Hendrickson had income?

5 A. We actually contacted Personnel Management to discover if we could obtain a  
6 copy of the W-2 that had been furnished to Mr. Hendrickson in this case for 2002 and  
7 2003, and after some negotiations back and forth, we asked an individual named Kim  
8 Halbrook to sign a Declaration that was both under Section 74 -- 1746 of Title 28  
9 U.S.C. and before a -- sworn to before a notary public that those were true and  
10 correct copies of the W-2's that were actually issued to Mr. Hendrickson by Personnel  
11 Management, Inc. and filed with the Internal Revenue Service.

12 Q. And did you also rely on Forms 1099 issued to Mrs. Hendrickson by Una  
13 Dworkin?

14 A. I did.

15 Q. Was there anything about the 1099 that you looked at that would cause you to  
16 doubt whether they were reliable?

17 A. No.

18 Q. In Judge Edmunds' May 2nd, 2007 Order, she found that the 2002 and 2003  
19 tax returns the Hendricksons filed were based on a scheme in *Cracking the Code*, is  
20 that correct?

21 A. Yes.

22 Q. And ordered that the Hendricksons not file anymore returns following that  
23 scheme, is that right?

24 A. That's also correct.

25 Q. The scheme that was talked about in the Judge's Order --

1 MRS. HENDRICKSON: (Interjecting) May I object please? The use of  
2 the term scheme is inflammatory.

3 THE COURT: Is scheme in the Order?

4 MS. SISKIND: I will check, Your Honor.

5 THE COURT: Thank you.

6 MS. SISKIND: I'll rephrase, Your Honor.

7 Q. (By Ms Siskind continuing) Did Judge Edmunds find that the Hendricksons'  
8 2002 and 2003 returns were based on false and frivolous claims set forth in the book  
9 *Cracking the Code*?

10 A. That's correct.

11 Q. And did those false and frivolous claims include the use of a Form 4852 to  
12 correct a Form W-2?

13 A. That's correct.

14 Q. And is that in fact something that the Hendricksons did on their 2002 and 2003  
15 returns?

16 A. Yes.

17 Q. And do you still have in front of you copy of Government Exhibit 34, the book?

18 A. Yes.

19 Q. Directing your attention to page 230, is there actually a copy of that Form 4852  
20 in the book?

21 A. Yes.

22 Q. And is this the same form that was attached to Mr. & Mrs. Hendrickson's 2002  
23 and 2003 returns?

24 A. Yes.

25 Q. And Mrs. Hendrickson was asking you about whether any formal audits had

1       been done in this case?

2       A.     That's correct.

3       Q.     Did there need to be a formal IRS audit in order for the Department of Justice  
4       Tax Division to file suit in this matter?

5       A.     No.

6       Q.     Why not?

7       A.     What we were seeking in this case was two things. One was a recovery of  
8       erroneous refunds that were paid to the Hendricksons which consisted of the taxes  
9       that had been withheld from Peter Eric Hendrickson's wages in 2002 and 2003, along  
10      with an Injunction requiring them to file corrected returns for 2002 and 2003 that  
11      reported the income that he had actually received and that Mrs. Hendrickson had  
12      actually received. In order to determine the amount of the Judgment for the  
13      erroneous refunds for 2002 and 2003, we asked the IRS to calculate the amounts that  
14      the Hendricksons had actually received by way of erroneous refunds for 2002 and  
15      2003, along with the interest that had accrued on those erroneous refunds since the  
16      time that they were made to the Hendricksons and that was the function of the  
17      Declaration that we have been discussing in this case.

18      Q.     Does the fact that the IRS did not conduct an audit prior to the Government  
19      bringing suit in this case have any bearing on whether the Defendants are required to  
20      comply with the Order?

21      A.     None whatsoever.

22      Q.     I have no further questions, Your Honor.

23                   THE COURT: Thank you. Mrs. Hendrickson, do you have a  
24      Recross-examination?

25                   MRS. HENDRICKSON: No, ma'am.

1 THE COURT: All right. Thank you. Mr. Metcalfe, you're done. Thank  
2 you very much. You have another witness?

3 MS. SISKIND: I'm hoping he's outside, Your Honor.

4 THE COURT: Who would that be?

5 MS. SISKIND: Daniel Applegate.

6 THE COURT: Good morning, Mr. Applegate.

7 **DANIEL APPLGATE, A GOVERNMENT WITNESS, SWORN AT ABOUT 11:48**

8 **A.M.**

9 MS. SISKIND: May I inquire, Your Honor?

10 THE COURT: You may.

11 **DIRECT-EXAMINATION**

12 **BY MS. SISKIND:**

13 Q. Good morning, Mr. Applegate.

14 A. Good morning.

15 Q. Can you please introduce yourself to the Jury and tell them what you do for a  
16 living?

17 A. Yes. My name is Dan Applegate. I'm an attorney for the United States  
18 Department of Justice Tax Division. I work in a civil trial section. It's called the Civil  
19 Trial Section Central Region. We handle cases in specific areas of the country. We  
20 handle suits where people sue the United States for a refund, suits where we're trying  
21 to collect unpaid taxes and also among other things, Injunction suits where we sue to  
22 either bar specific legal conduct from occurring or to require specific conduct to be  
23 performed pursuant to the law.

24 Q. How long have you been with the Tax Division?

25 A. Almost seven years.

1 Q. Did there come a time where you were assigned to the case of United States  
2 versus Peter and Doreen Hendrickson?

3 A. Yes. That was in October, 2009 after Bob Metcalfe was promoted.

4 Q. If I could direct your attention to what's been marked for identification as  
5 Government Exhibit 18.

6 A. Okay.

7 Q. What is this?

8 A. This is a letter that I sent to Doreen Hendrickson in November of 2009 and the  
9 purpose of the letter was to inform her that she had not paid the Judgment that had  
10 been entered against her and also had not filed amended tax returns for 2002 and  
11 2003.

12 Q. The Government moves for admission of Exhibit 18.

13 THE COURT: Is there an objection?

14 MRS. HENDRICKSON: No.

15 THE COURT: Eighteen is in. Thank you.

16 Q. (By Ms. Siskind continuing) Was this one of the first things you did as part of  
17 your work on the case?

18 A. Yes, because I just entered my appearance in the case about three weeks  
19 before I sent this letter.

20 Q. Can you read the first sentence please?

21 A. I'm sorry? The first sentence?

22 Q. Yes.

23 A. On February 26th, 2007 as amended on May 2nd, 2007, Judgment was  
24 entered in favor of the United States and jointly against you and Peter Eric  
25 Hendrickson in the above captioned case.

1 Q. And can you read the second paragraph please?

2 A. Yes. This letter is to demand prompt payment of the Judgment. Please  
3 deposit with this Office within 21 days of this date a cashiers or certified check or  
4 money order made payable to the U.S. Treasury in the amount of \$29,369.28 which  
5 includes interest to November 18th, 2009. Please be sure to include the appropriate  
6 Social Security number on the check. You and Peter Hendrickson may divide the  
7 payment of this amount between you so long as your combined payments equal the  
8 full amount owed. Copies of the Judgment and Amended Judgment are enclosed.

9 Q. And taking a look at the next paragraph, was there anything else that you  
10 enclosed with this letter?

11 A. Yes. So if they claimed that they didn't have the ability to make the full  
12 payment at that time, I enclosed Interrogatories and Requests for Production of  
13 Documents to determine their current financial status and see whether they might be  
14 able to make a payment plan of some sort.

15 Q. And can you read the next paragraph please?

16 A. Finally, pursuant to the Judgment as amended, you are required within 30 days  
17 of the Amended Judgment to file amended U.S. Individual Income Tax Returns for the  
18 taxable years ending on December 31st, 2002 and December 31st, 2003 with the  
19 Internal Revenue Service. These returns were required in part to include in your  
20 gross income for the 2002 and 2003 taxable years the amounts that you, Doreen  
21 Hendrickson, received from Una E. Dworkin during 2002 and 2003. A copy of this  
22 Amended Judgment is enclosed. Internal Revenue Service records show that to date  
23 you have failed to file required amended returns. Therefore, you must file the  
24 amended U.S. Individual Income Tax Returns for the taxable years ending on  
25 December 31st, 2002 and December 31st, 2003 with the Internal Revenue Service

1 within 60 days of this letter. Otherwise, we will ask the Court to hold you in Contempt  
2 of Court.

3 Q. Did Mrs. Hendrickson respond to this letter by paying the amount of money set  
4 forth on the first page?

5 A. No, she did not.

6 Q. Did she respond to this letter by completing either Interrogatories or Document  
7 Requests?

8 A. No, she did not.

9 Q. Did she respond to this letter by filing amended tax returns?

10 A. No.

11 Q. Did she respond to this letter in any way?

12 A. No.

13 Q. After you sent this letter to Mrs. Hendrickson on November 18th, 2009, did you  
14 send her another letter demanding payment of the taxes and the filing of amended  
15 returns?

16 A. Yes I did.

17 Q. If you could turn to what's been marked for identification as Government's  
18 Exhibit 19? Is that a copy of that second demand letter?

19 A. Yes, this is.

20 Q. Government moves for the admission of Exhibit 19.

21 THE COURT: Any objection?

22 MRS. HENDRICKSON: No.

23 THE COURT: It's in.

24 Q. (By Ms. Siskind continuing) What is the date of your second letter to Mrs.  
25 Hendrickson?

1 A. December 31st, 2009.

2 Q. And generally, what are you saying to her in this letter?

3 A. It's pretty much the same. It says that I sent you a letter before asking you to  
4 make payment within 21 days; you haven't done that. It also says if you claim an  
5 inability to pay, I ask you to complete the Interrogatories and produce certain  
6 documents to me which you also have not done.

7 Q. And what do you say you will do if you do not receive Interrogatories and  
8 Document Requests by January 8, 2010?

9 Q. I informed her that we would be filing a motion to compel her responses with  
10 the Court.

11 Q. Did Mrs. Hendrickson respond to this letter by submitting responses to your  
12 Interrogatories and Document Requests?

13 A. No.

14 Q. Did she respond to this letter by filing amended tax returns?

15 A. No.

16 Q. Did she respond to this letter by paying taxes?

17 A. No.

18 Q. Did she respond to this letter in any way?

19 A. No.

20 Q. After Mrs. Hendrickson failed to respond to either of the letters we just looked  
21 at, did you in fact file a motion to compel her responses?

22 A. Yes, I did.

23 Q. And directing your attention to what's already in evidence as Government  
24 Exhibit 31, if you could turn to the eighth page?

25 A. Okay.

1 Q. What happened on January 15th, 2010?

2 A. That's the day I filed the motion to compel her responses to the Interrogatories  
3 and Requests for Production of Documents.

4 Q. And what does it mean a Motion to Compel?

5 A. Basically when someone doesn't comply with the request, you file a motion  
6 with the Court seeking a Court Order that orders them to answer the discovery  
7 requests.

8 Q. Looking further down on that page, what happened on January 26th of 2010?

9 A. That's the day I filed a Motion for Contempt.

10 Q. What was the purpose of that motion?

11 A. That was because she still had not filed the amended tax returns for 2002 and  
12 2003.

13 Q. Did Judge Edmunds hold a hearing on these motions?

14 A. Yes, she did.

15 Q. If you could turn to what's been marked for identification as Government Exhibit  
16 20. Is this a transcript of the hearing held by the Court on your motions?

17 A. Yes, it is.

18 Q. The Government moves for the admission of Exhibit 20.

19 THE COURT: Is there an objection?

20 MRS. HENDRICKSON: No, ma'am.

21 THE COURT: Twenty is in.

22 Q. (By Ms. Siskind continuing) What is the date of this hearing?

23 A. It was June 10th, 2010.

24 Q. And who appeared for the Government?

25 A. Bob Metcalfe did.

1 Q. Why did he appear and not you?

2 A. I was in a different city working on a different case and I couldn't be here.

3 Q. And who appeared for the Defendant?

4 A. Both Mr. & Mrs. Hendrickson appeared.

5 Q. During the course of this hearing, did Mr. Hendrickson attempt to challenge  
6 Judge Edmunds' Order of May 2nd, 2007?

7 A. Yes, he did.

8 Q. Did Judge Edmunds respond to these challenges?

9 A. Yes, she did.

10 Q. If you could direct your attention to page six. Can you read what Judge  
11 Edmunds says beginning at line 14?

12 A. But Mr. Hendrickson, you have made these arguments all the way to the  
13 United States Supreme Court. It's not like you have not been afforded procedural due  
14 process to make whatever arguments you felt were appropriate. You made them to  
15 the Magistrate judge, you made them to me, to this Court. You made them to the 6th  
16 Circuit Court of Appeals, and you made them to the United States Supreme Court and  
17 they were rejected all the way along the line. At this point, you need to accept that  
18 whether or not you agree with the statements concerning your owing taxes on your  
19 wages --

20 Q. And then what did Mr. Hendrickson say interrupting Judge Edmunds?

21 A. We didn't -- I'm sorry. I'm sorry. I don't mean to interrupt.

22 Q. Then what did Judge Edmunds said at the top of page seven?

23 A. You need to file these amended returns. That's been ordered at three different  
24 levels and affirmed by fourth level of the Federal Courts and you need to comply.

25 Q. If you could turn to the next page. Can you read what Judge Edmunds said

1 starting at line 16, just those three lines?

2 A. On page 18 or eight?

3 Q. Eight please, yes.

4 A. Well, you have lost on that argument at every possible stage and by continuing  
5 to refuse to follow your amended return, you are in fact in Contempt of Court.

6 Q. If you could direct your attention to page 10. Can you read what Mr.  
7 Hendrickson said to the Court at lines four through six?

8 A. What we maintain, Your Honor, is that the Government hasn't produced any  
9 evidence that we owe this tax.

10 Q. And what does the Court respond on line seven?

11 A. And you've lost on that as well.

12 Q. And for all of this back and forth between Judge Edmunds and Mr.  
13 Hendrickson, was Mrs. Hendrickson present in the courtroom?

14 A. Yes.

15 Q. Can you turn to what's been marked for identification as Government Exhibit  
16 21?

17 A. Okay.

18 Q. Was this an Order issued following that hearing?

19 A. Yes, it is.

20 Q. By what Judge?

21 A. Judge Edmunds.

22 Q. Government moves for the admission of Exhibit 21.

23 THE COURT: Is there an objection?

24 MRS. HENDRICKSON: No, there's not.

25 THE COURT: Twenty-one is in.

1 Q. (By Ms. Siskind continuing) What is the title of this Order?

2 A. It is the Opinion and Order Granting Plaintiff's Motion to Hold Defendants in  
3 Contempt for Failing to Comply with an Order to File Amended Tax Returns for 2002  
4 and 2003 and Granting Plaintiff's Motion to Hold Defendants in Contempt for Failing to  
5 Comply with an Order to Compel Responses to Post-judgment Discovery Requests.

6 Q. And in the first -- roman numeral one, the first section of this Order, Procedural  
7 Posture, do you see that?

8 A. Yes.

9 Q. And just taking a look through this section, does it recount the history of the  
10 case?

11 A. Yeah, that's what this section is doing.

12 Q. And in particular does it mention the appeal that the Hendricksons took to the  
13 6th Circuit Court of Appeals?

14 A. Yeah. I see that on page three and into page four.

15 Q. Can you read the paragraph that begins at the bottom of page three?

16 A. Sure. Defendants appealed to the United States Court of Appeals for the 6th  
17 Circuit. On June 12, 2008 the 6th Circuit affirmed this Court's Judgment in a written,  
18 noting that the Hendricksons make numerous challenges to the District Court's  
19 jurisdiction and judgment which fairly can be characterized as plainly baseless tax  
20 protester arguments. In addition, citing the patent baselessness of the Hendricksons'  
21 assertion on appeal, the 6th Circuit imposed sanctions in the amount of \$4000.

22 Q. If you could turn to page seven. Can you read what appears under roman  
23 number three, Show Cause Hearing?

24 A. On June 10, 2010, a show cause hearing was held on Plaintiff's motions to  
25 hold Defendants in contempt for failing to comply with an order to file amended tax

1 returns for 2002 and 2003, and Plaintiff's motion to hold Defendants in contempt for  
2 failing to comply with an order to compel responses to post-judgment discovery  
3 requests.

4 The Court having reviewed the pleadings in this matter, being fully advised on  
5 the premises and for the reasons set forth on the record, hereby grants Plaintiff's  
6 motions.

7 It is ordered and adjudged that Defendants are in contempt for failing to comply  
8 with Orders of this Court. It is further ordered that a conditional fine of \$100 per day is  
9 hereby imposed for each Defendant until such time as Defendants comply with this  
10 Order to file amended tax returns for 2002 and 2003 as ordered by this Court.

11 It is further ordered that a conditional fine of \$50 per day is hereby imposed for  
12 each Defendant until such time that Defendants comply with this order to submit  
13 complete and accurate responses to the post-judgment discovery requests as ordered  
14 by this Court.

15 It is further ordered that if Defendants have not filed the amended tax returns  
16 for 2002 and 2003 and submitted complete and accurate responses to the  
17 post-judgment discovery requests within 14 days of the imposition of per diem fines,  
18 Defendants are hereby ordered to be incarcerated until they comply with this Order.

19 Q. Looking in the middle of page eight, was a copy of this Order served on all the  
20 parties?

21 A. Yes.

22 Q. Directing your attention back to the docket in Government Exhibit 31. I'm  
23 looking at page 12.

24 A. Okay.

25 Q. Did the Hendricksons appeal this Order of Judge Edmunds?

1 A. Yes, they did on June 21st, 2010.

2 Q. And looking forward to docket entry 91 on page 16 of the docket, did the Court  
3 of Appeals for the 6th Circuit rule on that appeal?

4 A. Yes, and affirmed the District Court's Orders.

5 Q. On what date?

6 A. November 22nd, 2011.

7 Q. After Judge Edmunds issued the Order on June 10th, 2010 granting the  
8 Government's Motion to Compel and Motion for Contempt, did Mrs. Hendrickson and  
9 her husband submit what they claimed to be were amended returns?

10 A. Yes. On around June 25th, 2010 they mailed them to me and I received them  
11 on June 28, 2010.

12 Q. If you could turn to what's been marked for identification as Government  
13 Exhibits 22 and 23. Do you have those?

14 A. Yes.

15 Q. Are these copies of the returns that were mailed to you?

16 A. Yes.

17 Q. For what tax years?

18 A. For 2002 and 2003.

19 Q. And what taxpayers?

20 A. Peter and Doreen Hendrickson. Both of them.

21 Q. Government moves for admission of Exhibits 22 and 23.

22 THE COURT: Do you have objection?

23 MRS. HENDRICKSON: No I don't.

24 THE COURT: Thank you. They're in.

25 Q. (By Ms. Siskind continuing) Starting with 22, what is the -- what type of return is

1 this?

2 A. This is an Amended Individual Income Tax Return.

3 Q. For which year?

4 A. 2002.

5 Q. Does it show corrected amounts of income?

6 A. It does.

7 Q. And looking at the signature box on the bottom of the page, does that appear  
8 to be some additional language written above or below the signatures?

9 A. Yes. There are two things here. First of all, over the signatures it has written  
10 under duress, and then right above that there are asterisks that refer to a statement  
11 that was made a part of this return.

12 Q. And if you go to the third page of this return, is that where the statement  
13 appears?

14 A. Yes.

15 Q. Can you read it please? I know it's long.

16 A. Sure. It's called a Statement Controlling Signatures on Form 1040X for 2002  
17 Bearing The Names Of Peter Eric Hendrickson and/or Doreen Hendrickson.

18 The documents to which this statement is constructively attached, being any  
19 and all Federal tax-related documents concerning the year 2002 completed in 2010  
20 and bearing the signatures of and/or other identifying information regarding Peter Eric  
21 Hendrickson and/or Doreen Marie Hendrickson, together with all documents  
22 associated or sociable therewith are completed under duress and protest and as  
23 dictated being contrary to law, are categorically not believed by us. The fact that  
24 figures appear in certain places on these documents -- those documents and are  
25 associated with certain labels or designations and the fact that any figures appear on

1 the forms at all, and/or that our names and/or identifying information appear on those  
2 forms, and/or that our signatures appear on those forms, is solely because we have  
3 coerced under threat of imprisonment into putting figures we believe are not indicated  
4 by law and which are maliciously specified by other persons into those places and  
5 onto those documents.

6 The association of any form created by any other person such as a Form W-2  
7 or Form 1099-MISC on the contents of such forms with any document described  
8 above is not an endorsement or adoption by us of anything said on such form and in  
9 fact, we specifically and categorically deny the accuracy of anything said on such  
10 forms.

11 Nothing appearing on any document described above is to be taken as an  
12 admission of the receipt of any income, wages, self-employment income,  
13 nonemployee compensation, net earnings from self-employment or anything else  
14 taxable or reflecting the conduct of any taxable activities, or happening of any taxable  
15 event under any other name, label or characterization. It is not such an admission,  
16 invitation or authorization.

17 Due to police-state threats, the signatures or even mere provision of -- on any  
18 documents described above attached hereto are null and void except as qualified by  
19 all provisions and declarations of this statement.

20 It is especially hypocritical and insulting to all law-abiding Americans that the  
21 aforementioned Stalinist coercive diktat, demanding that we sign a document we don't  
22 believe in was crafted by minions of Treasury Secretary Timothy Geithner, a known  
23 serial, never prosecuted income tax cheat of the most brazen sort.

24 Q. Does this statement appear to be signed by both Peter Hendrickson and  
25 Doreen Hendrickson?

1 A. Yes.

2 Q. If you turn to the previous page of this return, do you see a section in Part Two  
3 called Explanation of Changes to Income, Deductions and Credits?

4 A. I do.

5 Q. What is the purpose of this portion of an amended tax return?

6 A. It's to provide an explanation of why you're filing amended return, what the  
7 need for it is.

8 Q. Can you read what's handwritten in this box?

9 A. So there are certain numbers here that refer to -- I believe they refer to the  
10 lines of the tax return itself, and the first one says: Number one, adding amounts  
11 under duress as dictated by Fed Judge Nancy Edmunds. Number three, amounts  
12 changed under duress as dictated by Fed Judge Nancy Edmunds. Four, added  
13 dependent children. Five, six, nine and 11, amounts changed under duress due to  
14 using figures dictated by Fed Judge Nancy Edmunds.

15 Q. If you can turn to Exhibit 23, what is this?

16 A. This is what the Hendricksons claim to be their amended tax return for 2003.

17 Q. Do the words under duress also appear in the signature box here?

18 A. Yes.

19 Q. Does it also have an asterisk directing the reader to a statement?

20 A. Yes.

21 Q. Is that statement on page three of this document?

22 A. Yes, it is.

23 Q. Does it appear to be the same statement you just read from in the previous  
24 exhibit?

25 A. Yes. I think the only difference is this one refers to the year 2003.

1 Q. And does it also appear to bear the signatures of Peter Hendrickson and  
2 Doreen Hendrickson?

3 A. It does.

4 Q. Looking at Explanation of Changes section on page two, does this appear to  
5 be similar to what was written for Explanation of Changes for the previous year?

6 A. Yes.

7 Q. What did you do with these returns after you received them?

8 A. I passed them along to the IRS.

9 Q. And what if anything happened next?

10 A. Well, the IRS couldn't process them because they're not valid returns.

11 Q. What if anything about these returns made them invalid?

12 A. Well, specifically the fact that the Jurat, which is the statement that says -- it's  
13 in the signature block. It says under penalties of perjury and you sign under penalty  
14 of perjury, that was altered by including the asterisk that incorporated the statement  
15 saying my signature is null and void and they also wrote under duress over the  
16 signatures.

17 Q. At the same time that the Hendricksons sent you these tax returns in Exhibits  
18 22 and 23, did they also send responses to your Interrogatories and Document  
19 Requests?

20 A. Yes.

21 Q. If you can turn to what's marked for identification as Government Exhibit 24. Is  
22 this Mrs. Hendrickson's response to your Interrogatories and Document Requests?

23 A. It is.

24 Q. The Government moves for the admission of Exhibit 24?

25 THE COURT: Is there an objection?

1 MRS. HENDRICKSON: No, ma'am.

2 THE COURT: Twenty-four is in.

3 Q. (By Ms. Siskind continuing) Did Mrs. Hendrickson provide answers to the  
4 questions listed in here?

5 A. To some of them. Maybe most of them.

6 Q. You look at page two question number three, what does Mrs. Hendrickson say  
7 about whether she had any employment in the last five years?

8 A. She wrote none.

9 Q. And what is the date of this response?

10 A. She didn't actually date it, I don't believe.

11 Q. If I could direct your attention to the actual last page of this exhibit, do you see  
12 a Federal Express envelope?

13 A. Right. So she didn't date the actual Interrogatories, but they were sent to me  
14 on June 25th, 2010.

15 Q. Look on page 19 please. Do they appear to be -- does this appear to be  
16 signed by Doreen Hendrickson?

17 A. Yes.

18 Q. If you turn to the next page, do you see the name Terrence Berg?

19 A. Yes.

20 Q. Who is that?

21 A. At the time Mr. Berg was the United States Attorney for the Eastern District of  
22 Michigan in Detroit.

23 Q. And why is his name on this document?

24 A. When we file documents with the Court or do court legal correspondence, we  
25 include the name of the U.S. Attorney in the District in which we're practicing.

1 Q. And what, if anything, did Mrs. Hendrickson write next to Mr. Berg's name?

2 A. She wrote asshole.

3 Q. Did there come a time after you received these responses and the tax returns  
4 that the Government moved to reduce the contempt fines to Judgment?

5 A. Yes.

6 Q. What does that mean?

7 A. So Judge Edmunds had imposed a fine and that fine is paid to the Court, so I  
8 filed a motion notifying Judge Edmunds of what day I received these responses and  
9 then she used that date to calculate the amount of the fines.

10 Q. Did Judge Edmunds hold a hearing on that motion?

11 A. She did.

12 Q. If you could turn to what's marked for identification as Government Exhibit 25.  
13 Is this a transcript of that hearing?

14 A. Yes.

15 Q. The Government moves for the admission of Exhibit 25.

16 THE COURT: Do you have an objection, Miss Hendrickson?

17 MRS. HENDRICKSON: No I don't.

18 THE COURT: It's in.

19 Q. (By Ms. Siskind continuing) What was the date of this hearing?

20 A. This is the December 15th hearing.

21 Q. Of what --

22 A. This wasn't for the contempt fines. This was for my follow-up motion requiring  
23 tax returns to be filed.

24 Q. And did you appear for the Government at this hearing?

25 A. Yes, I did.

1 Q. Now it says on the first page here for the Defendant Mr. Peter Hendrickson, is  
2 that correct?

3 A. No. Only Mrs. Hendrickson appeared at that hearing.

4 Q. If you could turn to the bottom of page three. I think you might have just  
5 addressed this, but if you could read what you told the Court what was the purpose of  
6 this hearing.

7 A. Okay. Your Honor, the United States brought this motion basically as a  
8 successor to the Motion for Contempt because the Hendricksons filed purported tax  
9 returns in response to the Motion for Contempt. However, these returns violated the  
10 Court's Order in that rather than including a separate statement discussing their  
11 disagreement with the Government's position, they attach a statement into the return  
12 that disavowed their signatures and the amounts reported on return. This posed two  
13 problems. Not only did it violate the Court's order, but the IRS is unable to process  
14 these returns because they're not valid. So we're asking the Court to give the  
15 Hendricksons a second chance and more time to file proper amended returns in  
16 which they can include a separate statement, but that statement needs to be separate  
17 from the return and cannot be used to invalidate their signatures on the return itself.

18 Q. This hearing was in 2010, correct?

19 A. Correct.

20 Q. And Judge Edmunds had issued her order directing the Hendricksons to file  
21 amended returns back in 2007?

22 A. The original Order, yes.

23 Q. But as of this hearing in 2010, is the Government still willing to give the  
24 Hendricksons more time to file?

25 A. Yes.

1 Q. If you could look farther down that page at line 18, does Mrs. Hendrickson  
2 address Judge Edmunds?

3 A. She does.

4 Q. And do actually her remarks continue for several more pages of this transcript?

5 A. Yes.

6 Q. All the way to page 12 or page 11?

7 A. Yes, page 11.

8 Q. On the top of page 12, did Judge Edmunds respond to what Mrs. Hendrickson  
9 had said?

10 A. She did.

11 Q. Can you read what the Judge said?

12 A. All right. Mrs. Hendrickson, there was a Motion for Contempt filed in this case.  
13 As part of the decision, the Court's decision in the Motion for Contempt, you were  
14 ordered to file tax returns and you were ordered that if you were unhappy with being  
15 as you call it coerced into filing tax returns, you could file a separate statement stating  
16 your objection. Instead of doing that, when you were explicitly told that you could not  
17 file a return that had markings and notations on it undermining the return itself, that's  
18 exactly what you did. The Government is 100% correct in this case that you have  
19 filed something that has not complied with the Court's ruling on the Motion for  
20 Contempt, nor does it comply with the IRS requirement that it be a usable tax return.

21 Q. If you could turn to the next page, can you read what the Judge said starting at  
22 line 13?

23 A. Mrs. Hendrickson, I'm giving you until January 7th to file your tax returns for  
24 2002 and 2003. If you do not file those tax returns in usable form, without any  
25 notations on them that undermine the verity of what you are filing or your signature,

1 you will be held in contempt and you will go to jail. Now you have pushed me to the  
2 end of my patience on this. You are weeping in my office you didn't have the money,  
3 could we give you extra time, please do this, please do that. We bent over backwards  
4 to try to accommodate you. Now you do what you're ordered or you're going to jail. Is  
5 that clear?

6 Q. What did Mrs. Hendrickson say?

7 A. I think I did what I was ordered.

8 Q. What did the Judge say in response?

9 A. You did not. You file a clean tax return with your signature on it and no  
10 additional notations, just the information requested on the tax return and that's it, and  
11 if you don't, you are going to jail.

12 Q. Did Judge Edmunds issue a written Order after this hearing?

13 A. She did.

14 Q. If you could turn to what's marked for identification as Government Exhibit 26.  
15 Is this a copy of that Order?

16 A. Yes, it is.

17 Q. The Government moves for the admission of Exhibit 26.

18 THE COURT: Objection?

19 MRS. HENDRICKSON: No.

20 THE COURT: It's in.

21 Q. (By Ms. Siskind continuing) What is the title of this document?

22 A. Order Granting Plaintiff's Motion to Require Defendants to File Valid Amended  
23 Tax Returns for 2002 and 2003.

24 Q. And can you please read it? It's a short order.

25 A. Sure. This matter comes before the Court on Plaintiff's Motion to Require

1 Defendants to File Valid Amended Tax Returns for 2002 and 2003.

2 The Court has twice previously ordered Defendants to file amended tax  
3 returns. When Defendants eventually filed tax returns, they invalidated the returns by  
4 repudiating their signatures by writing under duress over their signatures. This  
5 repudiation resulted in the Internal Revenue Service's inability to process the returns.

6 The Court, having reviewed the pleadings in this matter and being fully advised  
7 in the premises, grants Plaintiff's Motion.

8 The Court therefore orders Defendants to file valid tax returns in usable form  
9 that in no way undermine the verity of the returns by January 7, 2011. The Court has  
10 already found Defendants in contempt in this matter.

11 If Defendants fail to file their valid tax returns by January 7, 2011, the Court will  
12 find Defendants in further contempt.

13 Q. Was a copy of this Order served on all of the parties?

14 A. It was.

15 Q. After Judge Edmunds issued this Order on December 17, 2010, did Mrs.  
16 Hendrickson submit any other tax returns to you?

17 A. She submitted an Affidavit with her purported amended tax returns attached to  
18 it.

19 Q. If you could turn to Exhibits 27, 28 and 29. Are these copies of those tax  
20 returns that she sent you as well as the Affidavit?

21 A. Yes, 27 and 28 are copies of the tax returns and 29 is the Affidavit.

22 Q. The Government moves for the admission of Exhibits 27, 28 and 29.

23 THE COURT: Is there an objection?

24 MRS. HENDRICKSON: No, there's not.

25 THE COURT: Those are all in.

1 Q. (By Ms. Siskind continuing) Starting with Exhibit 27, what type of tax return is  
2 this?

3 A. This is another Amended Individual Tax Return for 2002.

4 Q. For what tax payer?

5 A. For just Doreen Hendrickson this time.

6 Q. Can you read what it says in the Explanation of Changes section, box C?

7 A. It says: See affidavit of Doreen Hendrickson filed January 7, 2011 in U.S.  
8 District Court, Eastern District of Michigan, case number 2:06-CV-11753.

9 Q. And looking at the next page, does this return appear to be signed by Mrs.  
10 Hendrickson?

11 A. Yes.

12 Q. On January 7, 2010?

13 A. Yes.

14 Q. Turning to Government Exhibit 28, is this an amended or purported amended  
15 return for 2003 that you received at the same time?

16 A. Yes.

17 Q. Also for Mrs. Hendrickson?

18 A. Yes.

19 Q. Does it have the same reference to the Affidavit in box C, Explanation of  
20 Changes?

21 A. It does.

22 Q. So if we could turn to that Affidavit in Exhibit 29. Before we get into the  
23 substance of the Affidavit, what did you do when you received those tax returns in  
24 Exhibits 27 and 28?

25 A. Yeah, I looked at them and then I sent them to the IRS again.

1 Q. Did the IRS process these returns?

2 A. No. Again they were invalid.

3 Q. And what if anything made them invalid in the eyes of the IRS?

4 A. There were two issues. First of all, again there's an Affidavit that basically  
5 repudiates the signature, says I don't believe this is valid. And then the other issue is  
6 with the return itself. The previous return -- the very first return that the Hendricksons  
7 filed was filed with status of married filing jointly, and these two returns that Doreen  
8 files alone, she checked the box for married filing separately and you can't change  
9 your status after the due date of return is due.

10 Q. Does it in fact say that on the return?

11 A. Yeah. Box A the return actually says: Caution, you cannot change your filing  
12 status from joint to separate returns after the due date.

13 Q. So looking at this Affidavit in Exhibit 29, was it in fact -- does it appear to have  
14 been filed with the Court?

15 A. Yes, it was.

16 Q. On what date?

17 A. On January 7, 2011.

18 Q. If you could turn to page four, can you read paragraph 17?

19 A. Since we believe the returns the Court and the Government are demanding of  
20 us have no verity, I am confused by this Order and do not know how to comply with it  
21 without perjuring myself and exposing myself to civil penalties, prosecution and  
22 possible imprisonment. I perceive the Judge's words and orders in this matter to be  
23 overt threats to my freedom should I fail to adopt the testimony of another as my own,  
24 and file with the IRS and Department of Justice documents I know to be false and  
25 perjurious in order to create the appearance of a debt owed to the Government.

1 Q. If you can turn to the next page, can you read paragraph 20 please?

2 A. I further disclaim these coerced amended returns because they are wholly  
3 false and fraudulent and not the product of my free will, but rather a product of the  
4 imposition of the power of the Government and Court over my civil liberties and  
5 person. For the same reasons, I further give notice that I disclaim any responsibility  
6 for these instruments and deny any debt or obligation that might be alleged to be  
7 created thereby.

8 Q. What if any impact did the statements in paragraph 20 and more generally in  
9 the rest of this Affidavit have on the IRS's ability to process these returns?

10 A. Again, it invalidates the return because it says basically the signature is not  
11 valid. It's not made under penalty of perjury. It's disclaimed.

12 Q. Did you file a response to this Affidavit with the Court?

13 A. I did.

14 Q. And if you could turn to what's marked for identification as Government Exhibit  
15 30.

16 A. Yes, this is a response I filed.

17 Q. The Government moves for the admission of Exhibit 30.

18 THE COURT: Is there an objection?

19 MRS. HENDRICKSON: No.

20 THE COURT: Thirty is in.

21 Q. (By Ms. Siskind continuing) When did you file this?

22 A. February 9th, 2011.

23 Q. Can you read the first paragraph please?

24 A. Sure. The United States responds to the Affidavit of Doreen Hendrickson filed  
25 January 7, 2011 purportedly in accordance with the Court's December 17th, 2010

1 Order requiring the Defendants to file valid Amended Tax Returns for 2002 and 2003  
2 no later than January 7, 2011. For the following reasons, the Court should impose a  
3 daily fine against Peter Hendrickson and incarcerate Doreen Hendrickson until they  
4 comply with the Court's Orders and impose any other civil contempt remedies  
5 deemed appropriate.

6 Q. Can you turn to the next page and read the first paragraph please?

7 A. Doreen Hendrickson, in response to the December 17th, 2010 Order, filed an  
8 Affidavit with the Court to which she attached as Exhibit C purported Amended Tax  
9 Returns for 2002 and 2003. The returns are not valid or processable (sic) because in  
10 the Explanation of Changes section, rather than simply state that the original  
11 purported amounts were incorrect or something to that effect, the returns cite to the  
12 Affidavit filed with the Court to which they are attached. The Affidavit in turn states in  
13 part that Doreen further disclaims these coerced amended returns because they are  
14 wholly false and fraudulent. The purported returns were provided to the Government  
15 in the same manner that they were provided to the Court, that is as attachments to  
16 the Affidavit.

17 Q. Did you serve a copy of this motion on Mrs. Hendrickson?

18 A. Yes.

19 Q. Mr. Applegate, to your knowledge has any Judge or any Court ever ruled that  
20 Judge Edmunds' May 2nd, 2007 Order was invalid in some way?

21 A. No Court has said that.

22 Q. As of today's date, to your knowledge, has Mrs. Hendrickson repaid any of the  
23 erroneous tax returns she received from the IRS?

24 A. No, she has not and I checked our DOJ electronic records on Monday to see if  
25 any payments have ever been applied and none ever have.

1 Q. To your knowledge as of today's date, has Mrs. Hendrickson filed valid tax  
2 returns that the IRS can process for 2002 and 2003?

3 A. No, she has not.

4 Q. I have no further questions.

5 THE COURT: Thank you. Do you have a Cross-examination, Mrs.  
6 Hendrickson?

7 MRS. HENDRICKSON: Yes, I do.

8 MR. WISE: Your Honor, before that starts can we approach?

9 THE COURT: You may.

10 **(Sidebar conference out of the hearing of the Jury as follows)**

11 MR. WISE: Judge, I just want to call something to the Court's attention  
12 in light of the last line of questioning by the Government with respect to whether or not  
13 any payments have been made towards the tax, because we know and I think the  
14 Government knows that Peter Hendrickson as part of his criminal prosecution was  
15 ordered to pay -- was ordered to pay restitution based on a criminal conviction  
16 involving among other things the 2002 and 2003 tax years and did pay something like  
17 over \$20,000 in restitution.

18 THE COURT: And that counts towards this back tax?

19 MR. WISE: That was based on his tax liability for those years by Judge  
20 Rosen in calculating the Restitution Order. He made those payments to the Court.  
21 The Court sent the payments to the IRS. The IRS chose to apply them to penalties  
22 and interest for those years, but essentially it was ordered to Peter to pay money to  
23 the IRS based on the tax liability for those years.

24 THE COURT: Okay. And so what are you asking?

25 MR. WISE: I'm calling that to the Court's attention because I think the

1 Government is misrepresenting the status of whether or not payments have been  
2 made by Mr. Hendrickson, or by the Hendricksons towards the taxes.

3 THE COURT: So do you want me to say something to the Jury that he  
4 made payments from another criminal conviction?

5 MR. WISE: No. I just feel like the Government at this point is asking  
6 these questions in bad faith.

7 MS. SISKIND: Can I respond, Your Honor?

8 THE COURT: You may.

9 MS. SISKIND: We have been very precise in the manner in which we  
10 asked the questions. The Government has been very precise in the manner in which  
11 it inquired about the repayment of the refunds. The way that I think put the question  
12 to both Mr. Metcalfe and Mr. Applegate or I'm sorry -- the way it was put to Mr.  
13 Crowley and Mr. Applegate was did Mrs. Hendrickson repay any of the refunds, which  
14 to the best of the Government's knowledge, Mrs. Hendrickson has never made any  
15 payments towards tax or any other payments towards the IRS.

16 THE COURT: But I think Mr. Wise's point is that the Jury may have the  
17 impression that all of this amount is still outstanding. I think that's what you want  
18 to clarify?

19 MR. WISE: That is my question and I think it leaves the Jury with the  
20 misimpression that particularly as Mr. Applegate notes in his letter, the Hendricksons  
21 are jointly and severally liable and payments by one should be applied to the other.

22 MS. SISKIND: The Government's position is that's appropriate fodder for  
23 Cross-examination. If the Defense believes there's something that wasn't fully  
24 explored on Direct, they have the opportunity to cross-examine and address that  
25 issue on Cross-examination. I don't believe the Government has concealed anything.

1 In fact, we produced records in discovery showing that restitution payments have  
2 been applied and we, as I indicated, have been very precise in not asking in the  
3 passive, has the debt been paid, but did Mrs. Hendrickson make any payments. If the  
4 Defense would like to put on evidence of payments Mr. Hendrickson made, they can  
5 attempt to do so and we can address the relevance of that.

6 THE COURT: So, Mrs. Hendrickson, do you want to ask a question  
7 along the lines --

8 MRS. HENDRICKSON: (Interjecting) I just want to interject here.

9 THE COURT: Can I finish talking?

10 MRS. HENDRICKSON: Okay.

11 THE COURT: Perhaps the question should be has a payment been  
12 made by Mr. Hendrickson that was applied towards penalty and interest and would  
13 therefore reduce your own tax liability since it is a joint and several obligation.

14 MRS. HENDRICKSON: I would add this, because it's a little  
15 disingenuous as well. While he was in prison, I had to kept at least \$235 a month in  
16 his commissary account that went directly to the restitution. That was me paying it.

17 THE COURT: I think my question is much more general and would take  
18 care of anything that came out of his commissary account. Mr. Wise, do you want to  
19 fashion a question for her to ask?

20 MR. WISE: I could, but I am not sure this witness has knowledge or not.

21 THE COURT: If she can ask the question, if this witness doesn't have  
22 knowledge, I will ask or tell the Jury that payments have been made.

23 MS. SISKIND: If that's the case, we should make clear exactly how  
24 much was paid because the restitution obligation is less than the amount of the  
25 erroneous refunds.

1 THE COURT: I understand. So she can either ask the question or we  
2 can wait until we have all the information and I will just instruct the Jury. Your choice.  
3 Your choice, Mrs. Hendrickson

4 MRS. HENDRICKSON: What do you think, Andrew?

5 MR. WISE: We can ask the question or we can wait. If you want to ask  
6 the question, ask the question. If not --

7 MRS. HENDRICKSON: Well, I don't understand. Wait for what?

8 THE COURT: Until the exact amount has been verified of payments  
9 made by and through your husband.

10 MS. SISKIND: It is verified.

11 THE COURT: We don't know -- us standing around here do not know  
12 the exact amount.

13 MS. SISKIND: We do know the exact amount. I think the three of us  
14 know the exact amount. I think we're all in agreement on the amount. It's just -- if she  
15 wants to elicit that, I think that would be fine.

16 THE COURT: So it's your choice, Mrs. Hendrickson. You can ask the  
17 question now or you can -- somebody can give me some information and I will give it  
18 to the Jury.

19 MRS. HENDRICKSON: If I ask the question and he doesn't know, you're  
20 going to give them the information anyhow, is that right?

21 THE COURT: That's true, yes.

22 MR. WISE: Let's go consult on our way back.

23 **(END OF SIDEBAR CONFERENCE)**

24 MS. SISKIND: Your Honor?

25 THE COURT: Yes.

1 MS. SISKIND: I'm writing out what could be a proposed Stipulation for  
2 this issue.

3 THE COURT: Thank you. In the meantime, Mrs. Hendrickson, do you  
4 want to get started? I'm sure you have questions outside of that area.

5 MRS. HENDRICKSON: Okay.

6 THE COURT: And just hold that please.

7 **CROSS-EXAMINATION**

8 **BY MRS. HENDRICKSON:**

9 Q. Okay. Hi.

10 A. Hi, Mrs. Hendrickson.

11 Q. Again. Mr. Applegate, you were the attorney who brought the motion before  
12 Judge Edmunds in 2010, right?

13 A. Which one?

14 Q. In -- oh, yes. June, 2010. That was the one that Mr. Metcalfe was at because  
15 you couldn't be?

16 A. Right. The Motion for Contempt, right.

17 Q. And that motion deals with one of the Orders in this case, right?

18 A. Right. The Judgment.

19 Q. Just the 2002/2003 because you weren't involved in anything with the other  
20 Order about the 2008 return?

21 A. Correct.

22 Q. At that hearing, I told Judge Edmunds that I didn't think the numbers on the  
23 returns you wanted me to file were true, didn't I?

24 A. I believe you did.

25 Q. And as a result, Judge Edmunds modified that Order, didn't she?

1 A. She never modified the Judgment, but what she did say is you could attach a  
2 separate statement.

3 Q. So at that point -- right. I put it down; a disclaimer of some sort that I could file  
4 with the returns. So at that point then, Judge Edmunds was allowing me to qualify the  
5 testimony that I was ordered to give in order for me to make clear that the statements  
6 I was being told to make on those returns were not necessarily my own testimony.  
7 That's my understanding. I could attach something saying I really didn't agree with  
8 this, but I was going to do it anyhow.

9 A. I can't speak to what Judge Edmunds was intending for you to do, but she did  
10 say you could attach a separate statement.

11 Q. Did Judge Edmunds' Orders as originally written provide for my appending,  
12 affixing or attaching a disclaimer?

13 A. No, it did not say that specifically.

14 Q. So after she did go head and she modified it and said I could file -- I did file the  
15 amended returns on June 25th as you said just a bit ago.

16 MS. SISKIND: Your Honor, this misstates the evidence. He said the  
17 Order was not modified.

18 THE COURT: What's your question, Mrs. Hendrickson?

19 Q. (By Ms. Hendrickson continuing) I just said, okay. I'll change a word. After  
20 Judge Edmunds -- what's a different word for modified? She -- during that hearing,  
21 she said I could file the amended returns with something attached to them saying I  
22 don't agree with them, and so then on June 25th I did file amended returns which we  
23 had them up on the screen.

24 A. On June 25th you sent me those two purported amended returns.

25 Q. Yes. And so those returns contained the numbers that you and Mr. Metcalfe

1 insisted be on them, did they not? They had the correct numbers on them?

2 A. They had the numbers as set forth in the Judge's Judgment, yes.

3 Q. You testified on a previous occasion that I did not submit amended returns in  
4 June of 2010, did you not?

5 A. These amended returns, they're not valid, so technically you did not file  
6 amended returns.

7 Q. But we saw them up on the screen.

8 A. But they aren't valid returns.

9 Q. Because you said --

10 A. Because you altered the Jurat.

11 Q. So you have to swear that they're true in order for them to be a valid return?

12 A. Correct. You cannot alter the Jurat. There's case law that says that.

13 Q. You're kind of in a quandary. Well, how would -- 'cause you're a tax attorney.  
14 How would you go about filing a return that you don't think is true, but you still have to  
15 swear that it's true? Is there some method for doing that?

16 MS. SISKIND: Objection. Relevance, Your Honor.

17 THE COURT: Overruled.

18 THE WITNESS: Are you referring to your specific case?

19 Q. (By Ms. Hendrickson continuing) I could say mine or anybody else's. If you  
20 have to swear that it's true and you don't think it is, then is there some method for  
21 filing an amended return without explaining that you're being told you have to sign it  
22 whether you believe it or not? Is there some method that you guys have that me or  
23 anyone else could use?

24 A. Well, in this case the Court determined what your income taxes were and gave  
25 you the amount and said this is your correct income tax as this Court has determined

1 based on the evidence before it, file an amended return reporting these amounts and  
2 then you sign that because those are the correct amounts.

3 Q. Well, but if I don't believe they're correct, then how do I file that amended return  
4 so that I'm still complying with her Order, but not lying on the Jurat?

5 A. If you signed those returns with the amounts that are correct as determined by  
6 the Court, you would not be lying.

7 Q. But if I don't agree with them, then I'm saying on that Jurat that I do agree with  
8 them.

9 A. And maybe that's why Judge Edmunds said you can attach a separate  
10 statement, but the problem is what you did was incorporate that statement as part of  
11 the return, numbering it as a page of the return and invalidating your signatures.

12 Q. Actually, and we've gone over this in the past as well, and I did send them to  
13 you as separate documents and as far as the return being attached to the Affidavit,  
14 you have to have some reason for filing an Affidavit. You can't just willy-nilly go filing  
15 papers with the Court.

16 MS. SISKIND: Objection, Your Honor.

17 THE COURT: What's the question?

18 MRS. HENDRICKSON: Well, because Mr. Applegate is saying that --

19 THE COURT: No, no, no. What is your question?

20 MRS. HENDRICKSON: I've kind of lost my train of thought for a  
21 moment. What was his response to me? That will regenerate my question please.

22 (Whereupon the witness's last answer was read in open court)

23 MRS. HENDRICKSON: Well, I guess it's possible that --

24 THE COURT: (Interjecting) Just ask a question, Mrs. Hendrickson.

25 Q. (By Ms. Hendrickson continuing) So the -- can -- so what I could do then was

1 make a return and then file an Affidavit, is that correct? Or I could even attach an  
2 Affidavit to the return. Initially that was what she ordered?

3 A. My understanding what she said in court is you can attach a separate  
4 statement.

5 Q. Yeah.

6 A. That's not what you did. But that's not what you did. It wasn't separate.

7 Q. Okay. There was a return attached to the Affidavit?

8 A. Let me just -- initially we were talking about the returns you sent to me on June  
9 25th. Are you now talking about the ones in January of 2010?

10 Q. That might be the one I'm thinking of.

11 A. Okay.

12 Q. We'll get to that then. About four months after that, you returned to Judge  
13 Edmunds' court complaining that the IRS couldn't process what I had submitted when  
14 I was -- I thought I was complying with the Judge's Order, isn't that so?

15 A. This is the December 15th hearing? Yes.

16 Q. You then asked Judge Edmunds to restore her Order to its original version and  
17 order me to conceal the fact that what I would be forced to put on these returns would  
18 be coerced, didn't you?

19 MS. SISKIND: Objection; argumentative.

20 THE COURT: Sustained.

21 MRS. HENDRICKSON: I thought it's Cross-examination.

22 THE COURT: It is, but I don't think he said anything that was asking her  
23 to order you to conceal anything. I think that's the part of your question that -- let me  
24 finish. That's the part of your question that Counsel objects to.

25 Q. (By Ms. Hendrickson continuing) Okay. In asking Judge Edmunds to restore

1 the Order to its original version, I was going to be able to file the Affidavit with the  
2 Court, but not put anything on the amended return indicating that it wouldn't be  
3 processable (sic) I guess would be the way or that would somehow nullify Jurat?

4 A. I didn't ask her to restore the Order to its original status or whatever. What I  
5 said to her is what I read into the record a few minutes ago, basically just saying I  
6 wanted her to order you to file valid returns that did not alter the Jurat because the  
7 returns you had filed or sent to me in January or June 25th you had invalidated your  
8 signature and invalidated those returns. So again, as the Judge also said at that  
9 hearing, the Judge said Mrs. Hendrickson, I told you you could file a separate  
10 statement, but that's not what you had done and so then she gave you a chance to  
11 file returns that had a separate statement that did not invalidate the return.

12 Q. Okay. You're an attorney and a member in good standing with the Bar, Mr.  
13 Applegate?

14 A. In the state of Michigan, yes.

15 Q. Okay. Could you tell us your official title?

16 A. It's Trial Attorney.

17 Q. And so you're admitted to practice though here and in Washington?

18 A. When you practice for the Federal Government, you only need to be admitted  
19 into one state. It could be any state.

20 Q. So would the Jury be safe in considering you a legal expert?

21 A. I guess it would depend on what matters. I don't do car accidents or --

22 Q. (Interjecting) Missed that ambulance, huh? Okay. So you're familiar with what  
23 an Affidavit is, are you?

24 A. Yes.

25 Q. Okay. Would you say that a tax return such as those I was ordered to file is a

1 form of an Affidavit?

2 A. It is. It is signed under penalty of perjury, supposed to be.

3 Q. Would you say the information on a tax return is sworn testimony of the person  
4 signing it?

5 A. Yes.

6 Q. Would you say that if the testimony on a tax return had been coerced that the  
7 return would be a valid affidavit?

8 A. It's presumed to be valid based on the signature under oath and whatever is  
9 presented within that is presumed to be valid.

10 Q. So that didn't quite answer the question. If the testimony on the tax return was  
11 coerced, would that be a valid affidavit?

12 A. As long as there was no facial deficiency yes, it would be considered valid.

13 Q. So it wouldn't matter if it were coerced testimony or not?

14 MS. SISKIND: Objection. Asked and answered.

15 THE COURT: Sustained.

16 Q. (By Ms. Hendrickson continuing) Would it be safe to say that testimony on any  
17 kind of Affidavit would be valid if it were not voluntarily offered?

18 MS. SISKIND: Objection, Your Honor, to the extent that it goes to  
19 Affidavits other than tax returns.

20 THE COURT: Sustained.

21 Q. (By Ms. Hendrickson continuing) Mr. Applegate, are things -- this is as -- you  
22 as an attorney -- are things which are not actual freely made instruments of their  
23 signers, tax returns or any others, really returns at all in a legal sense? If they're not  
24 freely made instruments of their signer, are they really returns at all?

25 A. If they're signed, it's a valid return even if you disagree with what's reported on

1 there. If you don't believe that you should have to pay taxes, it's still --

2 Q. (Interjecting) It doesn't have to be freely -- of free will to sign it?

3 MS. SISKIND: Objection. Asked and answered.

4 THE COURT: Sustained.

5 Q. (By Ms. Hendrickson continuing) Would you agree that it is impossible to  
6 create a legally valid return which is not freely signed?

7 A. No, I disagree.

8 Q. Is it your personal opinion, Mr. Applegate, that the Government should be able  
9 to force people to sign documents in legal contests that are -- is that action  
10 acceptable?

11 MS. SISKIND: Objection, Your Honor; relevance to this witness's  
12 personal opinion.

13 MRS. HENDRICKSON: Okay.

14 THE COURT: Are you talking about everything or are you talking about  
15 a tax return?

16 MRS. HENDRICKSON: I would say tax returns or anything else quite  
17 frankly.

18 THE COURT: Or anything else? Sustained.

19 MRS. HENDRICKSON: Well then, just tax returns.

20 A. Can you restate your question?

21 Q. Yes I will. Is it the position of the Government that forcing people to say what  
22 the Government wants them to on sworn tax documents involved and are relevant to  
23 legal contest is acceptable?

24 A. I don't know that I can speak as to the position of the entire Government on  
25 that issue.

1 Q. Is it okay in your Office?

2 A. We commonly file Injunction suits that require people to follow the law, and that  
3 would include following the provisions of the Internal Revenue Code, specifically filing  
4 tax returns that comply with the law and accurately report what someone has earned  
5 that year.

6 Q. Okay. Do you have any direct personal knowledge about the nature, origin or  
7 legal character of my earnings, Mr. Applegate?

8 A. Personal knowledge? No.

9 Q. Speaking as a tax attorney, Mr. Applegate, are all the earnings of any and  
10 every American from any and all activities always and automatically subject to the  
11 Federal income tax?

12 A. The general rule is that all income is taxable unless it's specifically exempted  
13 from taxation.

14 Q. I didn't ask about income. I will concede to you that all income is taxable, but  
15 that's a specially defined term. I asked if all earnings of any and every American from  
16 any and all activities. I specified earnings not income.

17 A. And I would say yes, generally that's the rule.

18 Q. All earnings?

19 A. Unless there's an exemption, yes.

20 Q. So your testimony is that all earnings are --

21 THE COURT: (Interjecting) You've asked the question. He's answered  
22 it.

23 Q. (By Ms. Hendrickson continuing) Mr. Applegate, after Judge Edmunds issued  
24 her revision orders in December 2010 of her first revised orders from June of 2010, I  
25 did file the amended returns, did I not?

1 A. Are you talking about the -- the January 7th, you sent me those two returns  
2 filed married filing separately just signed by you and not Mr. Hendrickson, and that  
3 Affidavit that you referred to and those returns, yes.

4 Q. And so this was at least my seventh sworn Declaration that I do not believe  
5 what you and -- I'll say colleagues -- I don't know what other term to use -- at the  
6 Department of Justice want me to put on these forms. So this is the seventh, my  
7 seventh sworn Declaration.

8 A. And I can't speak as to how many Declarations you may have filed with the  
9 Court or with me. I'm not sure what you're referring to exactly.

10 Q. Well, I could list them off for you, but they're all in the record anyhow.

11 THE COURT: What's your question?

12 MRS. HENDRICKSON: I was going --

13 THE COURT: Just ask a question.

14 Q. (By Ms. Hendrickson continuing) Where and how have you or any Government  
15 official sworn even once that you believe my earnings are self-employment income or  
16 tax relevant nonemployee compensation?

17 A. I have not sworn anything like that. My motions were all simply to say you  
18 have not complied with the Court's Orders, and I know we filed a Motion for Summary  
19 Judgment in this case which led to the Judgment and there were signed Declarations  
20 attached to that.

21 Q. So you're a tax attorney, so you know a little bit about tax law or maybe a  
22 whole lot about tax law. Isn't the Government obligated to create a sworn return of its  
23 own when someone has filed what the Government sincerely believes to be a  
24 required but false, fraudulent or frivolous return?

25 A. That's one option and then another option is what we did here was to seek an

1 Order under section 7402 of the Internal Revenue Code that would require you to  
2 prepare that document on your own and file that with the IRS.

3 Q. You're familiar though then with Section 6020(b)?

4 A. I'm not -- I don't know the number offhand.

5 Q. After I complied with Judge Edmunds' revised order about the amended returns  
6 in January of 2011, you did come back again in February again asking Judge  
7 Edmunds to hold me in contempt.

8 MS. SISKIND: Objection, Your Honor. Assumes facts not in evidence  
9 regarding compliance.

10 MRS. HENDRICKSON: Well, he --

11 THE COURT: Sustained.

12 MRS. HENDRICKSON: -- Sent returns.

13 THE COURT: There's a question about whether those returns were  
14 valid, Mrs. Hendrickson.

15 Q. (By Ms. Hendrickson continuing) Okay. I filed a response to your new motion  
16 also in February, is that correct?

17 A. I don't recall. Can I check the docket?

18 Q. Yes. I probably have it too.

19 A. Yes you did, on February 28th, 2011.

20 Q. Okay. You don't know which number that is of yours. The February -- my  
21 motion February, 2011. May I enter this in please?

22 THE COURT: I don't know what it is.

23 MRS. HENDRICKSON: It's Defendant's Reply Brief in Opposition to  
24 United States Response to Affidavit of Doreen Hendrickson and Renewed Motion for  
25 Civil Contempt.

1                   The COURT: Is there an objection?

2                   MS. SISKIND: No, Your Honor.

3                   THE COURT: Do you have it marked?

4                   MRS. HENDRICKSON: It's number 524.

5                   THE COURT: Defendant's number 524 is in.

6           Q.     (By Ms. Hendrickson continuing) After I filed that response, you never filed a  
7     reply and didn't pursue the motion any further, is that correct?

8           A.     That's correct.

9           Q.     This is the docket, so I'm not sure which number you have. Government's 31?

10          A.     I have it.

11          Q.     Would you just read off what Number 90 is on that just to be clear?

12          A.     Yes. Number 90 is the Response to Renewed Motion for Contempt and  
13     Response to Affidavit of Doreen Hendrickson filed by all Defendants.

14          Q.     Do you see -- on this docket do you see an entry for ruling on that motion?

15          A.     No. That motion is still pending before the Court.

16          Q.     Okay. Mr. Applegate, are you allowed to talk with a Judge at all about a case  
17     without the other party being present?

18          A.     Typically no.

19          Q.     Why would Judge Edmunds' decision -- why would her decision to issue a  
20     ruling on a fully briefed motion be related to what the DOJ is now doing two and a half  
21     years later or two and a quarter?

22          A.     Well, shortly after this I referred it for criminal contempt and at that point this  
23     case that we're here for today was started, so I assume that's the reason that this  
24     motion has never been ruled on civilly before Judge Edmunds.

25          Q.     If the DOJ had decided to abandon its action before Judge Edmunds not

1 because it was losing there, but because of this purported decision to prosecute this  
2 case, why did over two years go by before an Indictment was brought?

3 MS. SISKIND: Objection; relevance.

4 THE COURT: Sustained.

5 Q. (By Ms. Hendrickson continuing) Speaking as a lawyer, Mr. Applegate, if I were  
6 to file -- and of course as a tax attorney -- if I were to file a return the way you wanted  
7 completely concealing the fact that it was coerced or dictated, whatever you want to  
8 call it, and making it look like my own testimony, would that give the Government a  
9 basis for assessing a tax on me?

10 A. If you file a tax return yes, then the tax you reported on that return would be  
11 assessed against you.

12 Q. Have you seen my original returns for 2002 and 2003 filed under oath and  
13 freely made?

14 A. I have.

15 Q. So you've seen or I should say have you seen the signatures on those forms  
16 such as they are? It's One and Four I think in your packet.

17 A. I've seen it; not recently, but I've seen it.

18 Q. And those signatures are verified under oath because they're underneath the  
19 Jurat with no attachment and no asterisks and nothing?

20 A. Right.

21 Q. Okay. Do you or did Mr. Metcalfe have sworn testimony or other supported  
22 evidence of some kind contrary and superior to the forms that I signed that would  
23 overcome my own testimony?

24 A. I believe attached to the Summary Judgment was a Declaration from your  
25 employer, if I recall correctly, which set forth how much she paid to you in 2002 and

1 2003.

2 Q. And is there some reason why her testimony is superior to my testimony?

3 A. Superior? I wouldn't say superior, no.

4 Q. Okay. Is all the money earned by anyone and everyone from any and all  
5 activities of any kind and every kind automatically subject to the Federal income tax?

6 A. Again, that's sort of a general rule unless there are specific exemptions to that.

7 Q. Okay. You said previously that you just didn't know, just to remind you. You  
8 said under oath that you just didn't know.

9 A. Well, that's the general rule. So that's generally, yes. There's case law that  
10 supports that.

11 Q. Well, without having a complete knowledge of that whole Tax Code however  
12 thick it is, how could you know if mine are here and in the suit in Judge Edmunds'  
13 court if mine are of the taxable variety, my earnings?

14 A. Because the Judge looked at the evidence before her and determined what  
15 your tax liabilities were and entered an Order and Judgment laying those out and  
16 saying that you need to pay the money that you owe the Government and file  
17 amended returns that reflect those correct amounts.

18 Q. Are you implying that Judge Edmunds read the Tax Code before issuing her  
19 Judgment?

20 MS. SISKIND: Objection, Your Honor.

21 THE COURT: Mrs. Hendrickson, Judge Edmunds' Order is final. It's  
22 been appealed. It hasn't been overturned and it's not at issue here. The only issue is  
23 whether you have complied with it.

24 Q. (By Ms. Hendrickson continuing) All right. Now I have this to deal with. I have  
25 to go back to one other thing that was mentioned in the testimony earlier. Are you

1 aware that payments have been made on my husband's behalf toward the tax years  
2 of 2002/2003?

3 A. I'm not aware of that.

4 Q. Okay.

5 MS. SISKIND: We prepared a Stipulation addressing this issue. I  
6 showed it to Mr. Wise. I don't think Mrs. Hendrickson has seen it yet.

7 THE COURT: Can you look at it please?

8 MRS. HENDRICKSON: All right. I'm done.

9 THE COURT: Thank you. Do you have any Redirect?

10 MS. SISKIND: Yes, Your Honor.

11 **REDIRECT-EXAMINATION**

12 **BY MS. SISKIND:**

13 Q. In issuing her Order in this case, did Judge Edmunds find that Mrs.  
14 Hendrickson was legally required to report her income from Una Dworkin on a tax  
15 return?

16 A. Yes.

17 Q. Did anything in that Order require that Mrs. Hendrickson agree that that income  
18 was taxable?

19 A. No.

20 Q. And did that Order also require Mrs. Hendrickson to file amended returns for  
21 2002 and 2003?

22 A. Yes.

23 Q. Did Judge Edmunds in any way require that Mrs. Hendrickson agree with that  
24 Order?

25 A. No.

1 Q. And in fact, did Judge Edmunds give Mrs. Hendrickson some kind of vehicle for  
2 expressing her disagreement?

3 A. Yes. She said that Mrs. Hendrickson could attach a separate statement  
4 expressing her disagreement basically.

5 Q. I have no further questions.

6 THE COURT: Thank you. Mrs. Hendrickson, do you have more  
7 questions?

8 MRS. HENDRICKSON: No, I don't.

9 THE COURT: Thank you. Mr. Applegate, you're done. Thank you very  
10 much.

11 THE WITNESS: Thank you, Your Honor.

12 THE COURT: Step down. Do you have anymore witnesses?

13 MS. SISKIND: No, Your Honor.

14 THE COURT: The Government rests?

15 MS. SISKIND: Yes.

16 THE COURT: Ladies and gentlemen, I think we will conclude for today  
17 and we will resume tomorrow. Again, please don't discuss the case with anyone and  
18 we'll see you tomorrow at nine. Thank you very much.

19 THE CLERK OF THE COURT: All rise.

20 **(Jury exited courtroom at 1:07 p.m.)**

21 THE COURT: If you could just take your seats for a moment. Do you  
22 have an agreed upon Stipulation on the issue of payments?

23 MR. WISE: We don't, Your Honor. I haven't had a chance to review and  
24 discuss it with Miss Hendrickson.

25 THE COURT: We will take it up tomorrow then. Mrs. Hendrickson, can

1 you tell us who your witnesses are please?

2 MRS. HENDRICKSON: Yes. I won't know the exact order, but this is  
3 tentative because some of them I'll have to call so they can get down here, but we will  
4 be Harold O'Boyle and next planning on Kathryn Hendrickson, and then Greg Belcher  
5 and then Tony Wright and then it gets a little bit different. It's either the next three I'm  
6 not sure the order they'll be, but it will the Ebys and Brian Wright, but I'm not sure the  
7 order because the Ebys have to be somewhere tomorrow.

8 THE COURT: And are you saying that you don't know for sure if you're  
9 calling all of these --

10 MRS. HENDRICKSON: (Interjecting) No, but I'll call them, but I'm not  
11 sure the order of those three people.

12 THE COURT: I'm talking about the first four. Are you sure --

13 MRS. HENDRICKSON: (Interjecting) Yes. Yes.

14 THE COURT: Can I just finish please?

15 MRS. HENDRICKSON: Yes, ma'am.

16 THE COURT: Are you certain that you are calling the first four that you  
17 mentioned as witnesses?

18 MRS. HENDRICKSON: Yes.

19 THE COURT: And then the last three are maybes?

20 MRS. HENDRICKSON: No, they're going to testify, I'm just not sure  
21 which order they'll be.

22 THE COURT: So you have seven witnesses. Will you have them all  
23 here tomorrow please?

24 MRS. HENDRICKSON: Yes.

25 THE COURT: Is that a problem?

1 MRS. HENDRICKSON: No. Like I said, I don't know the order of those  
2 last three.

3 THE COURT: I understand.

4 MRS. HENDRICKSON: But they'll be here.

5 THE COURT: I understand that. I would just like to have them all here  
6 tomorrow and ready to go.

7 MRS. HENDRICKSON: I was going to say they've been here since  
8 yesterday.

9 THE COURT: Whether they've been here since yesterday or a week  
10 ago, I need them here tomorrow. Yes, ma'am.

11 MS. SISKIND: Your Honor, may I inquire whether those are the only  
12 seven witnesses the Defense intends to call? Certainly their list was longer than that.

13 THE COURT: I understand that. I'm assuming that this is a complete list  
14 of your witnesses?

15 MRS. HENDRICKSON: Yes, unless my cousin Debbie's health  
16 improves dramatically she can't make it and that would be my only other one.

17 THE COURT: Where is Debbie?

18 MRS. HENDRICKSON: She's the first one.

19 THE COURT: I thought you said Harold O'Boyle.

20 MRS. HENDRICKSON: Yes. No, I mean on my list. She's the first one  
21 on my list.

22 THE COURT: I don't have your list in front of me.

23 MRS. HENDRICKSON: Oh, I'm sorry. It's Deborah Blashfield.

24 THE COURT: Are the seven witnesses here that you've given us a  
25 complete list of your proposed witnesses with the exception of your cousin, Debbie?

1 MRS. HENDRICKSON: Who will attend if her health is okay.

2 THE COURT: Yes. Does that answer your question?

3 MS. SISKIND: It does. Thank you, Your Honor.

4 THE COURT: All right. We will begin at 9:00 tomorrow morning.

5 MR. WISE: And, Your Honor, I think Mrs. Hendrickson has a motion to  
6 make, but we can make that in the morning.

7 MRS. HENDRICKSON: Can we do it in the morning? I've got it.

8 THE COURT: You can do it now.

9 MRS. HENDRICKSON: Yes. Well, I'm going to testify as well. Did I  
10 need to tell you that too?

11 THE COURT: Yes.

12 MRS. HENDRICKSON: Okay. Sorry.

13 THE COURT: Do you know where in the order you will testify?

14 MRS. HENDRICKSON: I'll be the last one I'm sure.

15 THE COURT: All right. And how are you going to testify? Is -- Mr.  
16 Wise, are you asking questions?

17 MR. WISE: That's the plan so far, Your Honor.

18 THE COURT: Thank you. You have a motion?

19 MRS. HENDRICKSON: I do. This is a Rule 29 Motion. The  
20 Government has not only failed to prove its own case, but evidence presented during  
21 its case establishes that I did not violate the Order to not file a return based on the  
22 notion in *Cracking the Code* that only Federal, State and local Government workers  
23 are subject to the tax withholding, the notion made clear to not be found in the book at  
24 all. That's one of the orders.

25 Further, evidence presented during the Government's case establishes that I

1 complied with the Order to produce amended returns as ordered by Judge Edmunds  
2 once that Order was modified so as to be legally possible to comply with, and that at  
3 all other times the Order was not possible to comply with. Those two issues comprise  
4 the entirety of the charge in the Indictment and thus I respectfully move the Court to  
5 fine me not guilty and dismiss the case with prejudice.

6 THE COURT: Thank you. Do you have a response?

7 MS. SISKIND: Yes, Your Honor. The standard for Rule 29 is whether  
8 after viewing the evidence in a light most favorable to the Prosecution, any rational  
9 Trier of Fact can find the Defendant guilty beyond a reasonable doubt.

10 This case the Government has put forth an Order of May 2nd, 2007 issued by  
11 Judge Edmunds requiring Mrs. Hendrickson to file amended returns and refrain from  
12 filing future returns based on a frivolous theory in her husband's book. The evidence  
13 established that as of this date Mrs. Hendrickson still has not filed valid returns that  
14 can be processed by the IRS because she continuously altered those returns and  
15 declared them null and void. And further, that for the year 2008 she filed a tax return  
16 following the same methodology that was utilized for the 2002 and 2003 returns. The  
17 evidence has established that Mrs. Hendrickson was aware of the Order, participated  
18 in proceedings at which she had an opportunity to dialogue with Judge Edmunds, and  
19 the evidence established that Order has been appealed and been upheld by all  
20 Courts.

21 THE COURT: Thank you. Response, Mrs. Hendrickson?

22 MRS. HENDRICKSON: I would just reiterate that the Order was based  
23 on something that is not in the book and so I could not possibly have filed a return  
24 violating something that isn't there. That's like proving a negative.

25 THE COURT: All right. Viewing the evidence in the light most favorable

1 to the Government, the Court denies this Rule 29 Motion. That's it. We will resume at  
2 9:00 tomorrow morning.

3 MRS. HENDRICKSON: Well --

4 THE COURT: Yes, ma'am.

5 MRS. HENDRICKSON: Yes. Since we have to continue this anyhow,  
6 may I do a different opening statement tomorrow since I didn't get to finish my  
7 opening statement?

8 THE COURT: No. The Court gave you every opportunity, Mrs.  
9 Hendrickson, to comply with a proper opening statement and you did not heed my  
10 warnings. I think I gave you a number of warnings and the Court was very patient, so  
11 you will not be allowed to give another opening statement tomorrow.

12 MRS. HENDRICKSON: Okay.

13 THE COURT: We're adjourned.

14 (Proceedings adjourned at about 1:14 p.m.)

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24 COURT REPORTER'S CERTIFICATION

1 STATE OF MICHIGAN)

2 ) SS.

3 COUNTY OF WAYNE )  
4

5 I, Janice Coleman, Federal Official Court Reporter, in and  
6 for the United States District Court for the Eastern District  
7 of Michigan, do hereby certify that pursuant to Section 753,  
8 Title 28, United States Code, that the foregoing is a true and  
9 correct transcript of the stenographically reported proceedings  
10 held in this matter and that the transcript page format is in  
11 conformance with the regulations of the Judicial Conference of  
12 the United States.

13 /S/ JANICE COLEMAN

14 JANICE COLEMAN, CSR NO. 1095, RPR

15 FEDERAL OFFICIAL COURT REPORTER  
16

17 DATED: August 4, 2014  
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