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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 24, 2014

-----/

TRANSCRIPT OF TRIAL - VOLUME FOUR  
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                   Thursday, July 24, 2014

3                   (At about 9:05 a.m.)

4                                 - - -

5                   (Call to Order of the Court)

6                   **(Out of the presence of the Jury)**

7                   THE COURT: Good morning.

8                   MR. McLELLAN: Good morning, Your Honor.

9                   THE COURT: We will wait 'til we bring the Jury out to call the case. Do  
10                   you have a matter before the Jury comes out, Counsel? You can take your seats  
11                   everyone.

12                   MS. SISKIND: Your Honor, the Defense has issued a subpoena to  
13                   Judge Edmunds. The Government submits that the proposed topics of her testimony  
14                   would be inadmissible, so we would ask that she not be permitted to testify in this  
15                   matter. It may be helpful for the Defense to proffer what she would testify to and then  
16                   we can address that issue.

17                   THE COURT: Yes.

18                   MRS. HENDRICKSON: Andrew talked with her a couple of days ago,  
19                   and one of the things that was brought up during Mr. Applegate's testimony was that I  
20                   had changed the filing status on my 2002 and 2003 amended Returns to single  
21                   instead of married joint and I would not have thought of that on my own, but when I  
22                   was in chambers with Judge Edmunds, she indicated to me in some fashion that do  
23                   what I had to do to file those amended Returns even though I couldn't get my  
24                   husband's signature on them and the only way to do that would be for me to do  
25                   married filing separate and I know that Mr. Applegate pointed out that on that form

1 somewhere there's a caution about not being able to change the filing status, but on  
2 the other hand, that's what I took from my conversation with Judge Edmunds.

3 THE COURT: That's what she said, do what you have to do.

4 MRS. HENDRICKSON: It was words to that effect. This was a couple  
5 years ago, Your Honor.

6 THE COURT: No, I understand. But she didn't say you can file as a  
7 single person.

8 MRS. HENDRICKSON: I don't know if she said those specific words  
9 because the thing that I was saying is I can't get his signature. I can't act for him. I  
10 can't put his signature on the forms and I don't know what to do, and somehow or  
11 other from that conversation the notion came up about then married file separate or  
12 something like that and then she said to Mr. Wise, to Andrew that she didn't recall the  
13 particular conversation of suggesting that to me, but she can't say that she didn't  
14 make the suggestion either. She just doesn't know whether she actually suggested  
15 that or not.

16 THE COURT: Okay. That's it? That's what you want to ask her about.

17 MRS. HENDRICKSON: Well, yes. That and then she also indicated to  
18 Andrew when he asked her about had she ever actually read *Cracking the Code*, and  
19 she stated unqualified no, she had not.

20 THE COURT: That's it? Okay. Thank you. Miss Siskind?

21 MS. SISKIND: On the issue of the purported conversation in chambers,  
22 Judge Edmunds would say she doesn't remember. She can't say she said it, she  
23 can't say she didn't say it, so the Government would submit there's no probative value  
24 in her lack of recollection about that conversation. Under 401, how would that  
25 testimony that she doesn't remember whether she said it or not have any tendency to

1 make any fact that's at issue in this case more or less probable? The Government  
2 would submit that it does not.

3 On the issue of whether or not Judge Edmunds read the book, that goes to the  
4 Judge's thought processes and mental impressions that led to her issuing the Order  
5 that's at issue in this case and Courts have held that Judges should not be called to  
6 testify as to their mental impressions and their thought processes behind their judicial  
7 actions. The Supreme Court has held Judges under -- are under no obligation to  
8 divulge the reasons that motivated them in their official acts. The mental processes  
9 employed in formulating the decision may not be probed. And one Court has said  
10 should a Judge be vulnerable to subpoena as to the basis of every action taken by  
11 him, the judiciary would be open to frivolous attacks upon its dignity and integrity and  
12 interruption of its ordinary and proper functioning.

13 So as to the first topic of testimony, we would suggest it's irrelevant because  
14 the Judge does not recall having that conversation, and as to the second proposed  
15 area of testimony, we would submit it's inappropriate to ask Judge Edmunds about  
16 what she considered in reaching her decision.

17 THE COURT: Thank you. Do you have a response.

18 MRS. HENDRICKSON: I do. I don't think that asking her about whether  
19 or not she's read a book is questioning the basis of her decision. So I'm not asking  
20 her to --

21 THE COURT: (Interjecting) Why are you asking her whether she read  
22 the book.

23 MRS. HENDRICKSON: Because it seems to me that if you're going to  
24 quote the book in a decision, then you would have read it, but that's -- but that's not  
25 saying how did you come to that conclusion. Obviously she came to that conclusion

1 by reading Mr. Metcalfe's stuff.

2 And as far as the other issue, if I'm contending that I was somehow led to  
3 believe that I could change that filing status and Miss Siskind is going to say that that  
4 made me file a Return that couldn't be processed, then at least whether she  
5 remembers specifically the conversation or not, the fact that she's acknowledging a  
6 conversation occurred, at least it doesn't undermine me saying that that's where I got  
7 the idea. I wouldn't have come up with the idea on my own.

8 THE COURT: All right. With respect to whether Judge Edmunds read  
9 *Cracking the Code* in connection with issuing her Opinion, the Court is not going to  
10 allow you to ask questions along those lines. The Court agrees with the Government  
11 that whether she read *Cracking the Code*, especially given the fact that it was quoted  
12 in her Opinion does go to her and would go to her thought processes and it is true that  
13 Judges are not required to divulge the reasons behind their decisions. So no  
14 questions about *Cracking the Code*. If you want to call her in and ask her whether --  
15 about a conversation that you had with her -- was this in chambers.

16 MRS. HENDRICKSON: Yes, it was.

17 THE COURT: And the Government was present.

18 MRS. HENDRICKSON: No, they weren't.

19 THE COURT: I don't see how do what you must do gets you to filing a  
20 tax return under a different status when you're saying that on the form itself it says  
21 you can't change your status.

22 MRS. HENDRICKSON: I'm sorry. I was in such a state --

23 THE COURT: I'm talking. And now I'm talking to Miss Siskind. Does  
24 the form itself say you can't change your status?

25 MS. SISKIND: Yes. Mr. Applegate testified it says that after the due

1 date of the Return which had passed by that point, you cannot change your status.

2 THE COURT: Okay. Well, maybe an objection that you have, Miss  
3 Siskind, would go to the weight rather than the admissibility, especially if the form  
4 itself says you can't do it and you want to suggest that Judge Edmunds gave you a  
5 license to do what you did. You can call her if you want and ask that question. Is she  
6 subpoenaed.

7 MRS. HENDRICKSON: Yes, she is. She said she can come in at one  
8 o'clock.

9 THE COURT: All right. Anything else? We need -- the Stipulation, are  
10 you ready with it?

11 MS. SISKIND: We're very close. I think just a few more minutes we  
12 should be able to figure it out.

13 THE COURT: Okay. Maybe you can figure it out on a break.

14 MS. SISKIND: Yes, Your Honor.

15 THE COURT: Are you ready with your witnesses.

16 MRS. HENDRICKSON: Yes. I just wondered then we have this --

17 THE COURT: Are you ready with witnesses.

18 MRS. HENDRICKSON: Yes.

19 THE COURT: Who do you have? You have your order figured out now.

20 MRS. HENDRICKSON: Yes, I believe so.

21 THE COURT: Did you have something to say, Mr. Wise?

22 MR. WISE: Yes. Just with respect to Judge Edmunds and the  
23 testimony and the scheduling --

24 THE COURT: Yes.

25 MR. WISE: Because she's conducting a bench trial right now.



1 THE COURT: Okay.

2 MR. WISE: And when I served her with the subpoena she indicated that  
3 she would probably not be available until one.

4 THE COURT: I know. That's what Counsel just said or somebody just  
5 told me that.

6 MRS. HENDRICKSON: I did.

7 MR. WISE: I'm sorry. So A, I guess I would just like to put on the  
8 record that we did propose a Stipulation to Judge Edmunds' testimony that the  
9 Government has declined to enter into.

10 THE COURT: A Stipulation that she would say she can't remember the  
11 conversation?

12 MR. WISE: Correct.

13 MRS. HENDRICKSON: Yes. Would you like to see it?

14 THE COURT: You don't want to stipulate to that?

15 MS. SISKIND: We may if we could change -- the wording that was  
16 proposed we would not agree to. We could also work on the Stipulation at a break  
17 and come up with something.

18 MR. WISE: I just don't know.

19 THE COURT: All right. Maybe I could persuade her to come in for a  
20 moment if we get to her before one o'clock. I'll see.

21 What is your order of witnesses? Would you like to call Judge Edmunds now?

22 MS. SISKIND: Your Honor, I think we can agree to the Stipulation. My  
23 name is spelled wrong and if we could enter it as it is.

24 THE COURT: Okay. So the changes you've made are agreeable to  
25 Mrs. Hendrickson?

1 MS. SISKIND: We will do this one.

2 MR. WISE: Okay.

3 MRS. HENDRICKSON: Can we put an exhibit sticker or how do you  
4 want to do this, your Honor?

5 THE COURT: I'll just read it.

6 MS. SISKIND: May I approach, Your Honor?

7 THE COURT: Yes. So this is agreeable to Judge Edmunds, this what  
8 you have here? Why don't we do this? May I just send this to her and make sure that  
9 this is okay?

10 MR. WISE: Certainly. I mean it's based on two conversations that I had  
11 with her.

12 THE COURT: All right. So Carol, could you get that to her quickly? Can  
13 you tell me the order of witnesses please.

14 MRS. HENDRICKSON: As I have it right now, assuming everyone  
15 shows up in order and I think most are here already, I have Harold O'Boyle and then  
16 Kathryn Hendrickson and then Greg Belcher and then Tony Wright and then Brian  
17 Wright and then the Ebys consecutively, whichever one comes in first, and then me  
18 and I don't have Judge Edmunds on here, but -- and then the only thing was Miss  
19 Siskind yesterday agreed that whatever time the Ebys get here because they had  
20 another appointment this morning, so after we were leaving yesterday she said that  
21 their testimony would be short so whatever time they could get here around their  
22 appointment they already have, we could fit them in wherever.

23 THE COURT: Okay.

24 MRS. HENDRICKSON: If that's okay.

25 THE COURT: That's fine. Are we ready for the Jury?

1 THE CLERK OF THE COURT: I am.

2 **(Jury entered courtroom at about 9:18 a.m.)**

3 THE CLERK OF THE COURT: Calling the case of United States of  
4 America versus Doreen Hendrickson, case number 13-20371. Please state your  
5 appearances for the record.

6 MS. SISKIND: Good morning, Your Honor. Melissa Siskind and Jeffrey  
7 McLellan on behalf of the United States, along with Special Agent Lance Lockhart.

8 MRS. HENDRICKSON: Doreen Hendrickson.

9 MR. WISE: Andrew Wise as standby counsel.

10 THE COURT: Thank you. Good morning. Good morning, ladies and  
11 gentlemen. How are you?

12 So do you all scatter out of Detroit as soon as I dismiss you in the afternoon?  
13 Everybody scatters? You know this is Detroit's birthday today, 313 years old and  
14 there's a beach party down at Campus Martius. Do you know where that is? If you  
15 go out the building Lafayette side and go to the right and go across Woodward, we  
16 have a beach in downtown Detroit. There's a bar there. So don't scatter. Go and  
17 enjoy. It's very lovely and a lovely walk along the riverfront. Today is supposed to be  
18 a great day ,so if you can stick around, go see what we're doing in Detroit.

19 Mrs. Hendrickson, good morning.

20 MRS. HENDRICKSON: Good morning.

21 THE COURT: Are you ready to call your first witness.

22 MRS. HENDRICKSON: Yes, I am.

23 THE COURT: And who would that be.

24 MRS. HENDRICKSON: Hal O'Boyle.

25 THE COURT: All right.

1 MRS. HENDRICKSON: You sound like a cheerleader for Detroit.

2 THE COURT: I am a cheerleader for Detroit. It's a real beach. There  
3 are beach balls and sand and chairs and a bar.

4 MS. HENDRICKSON: They do that in Walled Lake too. They close  
5 down East Lake Drive for a weekend.

6 THE COURT: That's nice. Good morning, Mr. O'Boyle.

7 WITNESS O'BOYLE: Good morning, Judge Roberts.

8 THE CLERK OF THE COURT: Can you raise your right hand?

9 **HAROLD O'BOYLE, A DEFENSE WITNESS, SWORN AT ABOUT 9:20 A.M.**

10 **DIRECT-EXAMINATION**

11 **BY MRS. HENDRICKSON:**

12 Q. Good morning, Hal.

13 A. Good morning, Doreen. How are you?

14 Q. Thanks for coming. What do you do for a living, Hal?

15 A. I am a chicken farmer and a writer.

16 Q. And where do you live?

17 A. I live in eastern Kentucky in a very tiny rural town.

18 Q. How many years have you known me?

19 A. I believe I've known you since about 2006.

20 Q. On what occasions have you and I conversed?

21 A. We exchanged emails and we see each other ones or twice a week pretty  
22 routinely.

23 Q. Has the subject of the Orders made to me by Judge Nancy Edmunds ever  
24 come up in our conversations?

25 A. Yes, we've talked about it.

1 THE COURT: I'm sorry, Mrs. Hendrickson, what was your question.

2 MRS. HENDRICKSON: I said has the subject of the Orders made to me  
3 by Judge Nancy Edmunds ever come up in our conversation.

4 THE COURT: All right. Thank you.

5 THE WITNESS: And the answer is yes, it has.

6 Q. (By Ms. Hendrickson continuing) Could you explain what you understand these  
7 Orders to be?

8 A. The --

9 MR. McLELLAN: Objection, Your Honor.

10 THE COURT: And what's your objection?

11 MR. McLELLAN: I mean this witness's understanding isn't relevant.

12 THE COURT: Sustained.

13 Q. (By Ms. Hendrickson continuing) Okay. Have I ever told you how I view these  
14 Orders?

15 A. Yes, you have.

16 Q. Have I been consistent in what I have said about my view of the Orders?

17 A. Absolutely consistent, yes.

18 Q. And has this been over the entire span of time that you've known me?

19 A. I don't believe you've changed your opinions of your Orders and what you are  
20 compelled to do here.

21 Q. Have you ever read *Cracking the Code, The Fascinating Truth About Taxation*  
22 *in America*?

23 A. I have.

24 MR. McLELLAN: Objection, Your Honor.

25 THE COURT: What's your objection?

1 MR. McLELLAN: Well, this line of questioning is -- bears on this  
2 witness's prospective or observations about that book and that's not relevant.

3 THE COURT: Sustained.

4 MRS. HENDRICKSON: I think that the relevance is that he can just  
5 testify to what's in the book factually. It's not opinion; it's just fact.

6 THE COURT: Why is his -- what he believes is contained in the book  
7 relevant to this proceeding.

8 MRS. HENDRICKSON: Because that's what we based our  
9 conversations on when we're talking about this case or my perceptions, my views, my  
10 beliefs.

11 THE COURT: Do you expect that this witness is going to tell the Jury  
12 about your beliefs.

13 MRS. HENDRICKSON: No, just about our specific conversations.

14 THE COURT: What do you think of that?

15 MR. McLELLAN: Well, I mean the -- that would come in over a hearsay  
16 objection if it goes to the -- if it goes to Mrs. Hendrickson's state of mind. In that  
17 respect it would be admissible, but it remains to be seen what she's trying to elicit  
18 here.

19 THE COURT: Ah-hum. The objection is sustained.

20 Q. (By Ms. Hendrickson continuing) Okay. This would be just a factual question  
21 then. In the book does it anywhere state that only Federal, State or local government  
22 workers are liable for the payment of Federal income tax or subject to the withholding  
23 of Federal income, Social Security and Medicare taxes from their wages under the  
24 Internal Revenue laws?

25 MR. McLELLAN: Objection. Same objection, Your Honor. Also

1 cumulative.

2 THE COURT: Cumulative how so?

3 MR. McLELLAN: The books in evidence, Your Honor, and it's  
4 cumulative to have a witness agree with what's in the book or recite the book  
5 piecemeal and have the witness say yes, that's in the book.

6 THE COURT: And what was your first objection?

7 MR. McLELLAN: That's my objection, Your Honor.

8 THE COURT: Okay. The objection is sustained.

9 MRS. HENDRICKSON: Well, it seems to me that this is part of my  
10 defense and I should be allowed to present my defense.

11 THE COURT: Well, that book is subject to probably a lot of interpretation  
12 and his interpretation of what that book says is not relevant to this proceeding.

13 MRS. HENDRICKSON: But factually stating what's in the book isn't an  
14 interpretation.

15 THE COURT: Well, you disagree that the book says what is in Judge  
16 Edmunds' Order, right? Judge Edmunds, right.

17 MRS. HENDRICKSON: Well, I'm trying to think how to phrase that. The  
18 Order doesn't have a complete quote and so what I'm trying to get in is to finish the  
19 quote. It's like when you take something out of context, then you can make it sound  
20 one way, but when you have the complete context, then it kind of changes things a  
21 little bit.

22 THE COURT: Why don't you go to the book then.

23 MRS. HENDRICKSON: Okay.

24 THE COURT: Why don't you point out particularly in the book what it is  
25 that you want this witness to say.

1 MRS. HENDRICKSON: Okay. I will have to -- I guess the thing is that  
2 I'm not sure because it doesn't say this particular quote, it does not say it, the book  
3 lists all kinds of --

4 MR. McLELLAN: (Interjecting) Your Honor, could we have a side bar?

5 THE COURT: Okay.

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

7 MR. McLELLAN: Your Honor, now the Defendant is testifying  
8 essentially and this matter ought to be resolved short of having her say these things in  
9 this manner in front of a jury.

10 MRS. HENDRICKSON: What I was trying to get at is if I'm trying to find  
11 where the book does not say something -- what I was trying to say is trying to say  
12 what the book does not say is like trying to prove a negative, so there isn't a specific  
13 spot in the book where it says that you know -- I'm saying the book does not say one  
14 thing and so someone can say they've thoroughly read the book and nowhere in the  
15 book does it say that particular fact.

16 THE COURT: But you said what's in the Order was taken out of context  
17 or wasn't a complete quote. Is it in the book.

18 MRS. HENDRICKSON: That particular thing that I was trying to get at  
19 that I have a italicized in my questions is not part of that context. What the Order had  
20 was an incomplete quote at the end of a two-paragraph section and that is what was  
21 pulled out of context, but the Order said you can't file a tax return based on the notion  
22 that only Federal, State and local government workers are liable for the tax and it  
23 doesn't say that anywhere in the book that that's true. So someone who has  
24 thoroughly and completely read the book and Hal has read it probably many times, he  
25 could say that is not in the book.



1 THE COURT: But his interpretation of what is in that book is not relevant  
2 to what the Jury has to decide. Your interpretation is important and relevant, but not  
3 his.

4 MRS. HENDRICKSON: So then I can follow this line of questioning in  
5 my own testimony?

6 THE COURT: Absolutely.

7 MRS. HENDRICKSON: Okay.

8 **(END OF SIDEBAR CONFERENCE)**

9 MS. HENDRICKSON: Just one second.

10 THE COURT: Excuse me, Mrs. Hendrickson. Counsel, may I just see  
11 you again over here.

12 MRS. HENDRICKSON: Me?

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

14 THE COURT: So Carol presented that to Judge Edmunds and she  
15 actually signed it, so I guess that as good as it gets, right? At what point do you want  
16 this read into the record.

17 MRS. HENDRICKSON: After my testimony.

18 MR. WISE: I would suggest after your testimony.

19 THE COURT: All right. Thank you.

20 **(END OF SIDEBAR CONFERENCE)**

21 Q. (By Ms. Hendrickson continuing) Okay. Hal, the copy of the book the  
22 Government has in evidence at the moment is in that binder. Do you see it? Can you  
23 pull that out please?

24 A. Ah-hum. I see it.

25 Q. On page 76 underneath the quote of the employee or employer stuff?

1 A. American employer, H?

2 Q. On D underneath that. Page 76.

3 A. I'm sorry. I'm on the wrong page. Just a second. Yes, okay.

4 Q. Underneath the definition of employer, it states -- well, I'll let you read it -- the  
5 first sentence please.

6 A. After D, employer. For purposes of this chapter, the term employer which is in  
7 quotes --

8 Q. (Interjecting) Let's see. I think we're not on the same part. Are you on page  
9 76?

10 A. I'm looking at the second paragraph.

11 Q. I didn't mean definition of employer, just the sentence that's underneath that  
12 definition.

13 A. So actually withholding only applies to the pay of Federal Government workers  
14 exactly as it always has, parenthesis, plus State Governments workers since 1939  
15 and those of the District of Columbia since 1921, close parenthesis.

16 Q. So on this when they're talking about withholding, if we go back to the previous  
17 page -- I think it's the previous page. Oh, let's see. I don't have highlighted stuff here,  
18 so one moment. That's on page 75 at the top.

19 A. Ah-hum.

20 Q. Part A?

21 A. Right. Requirement of withholding?

22 Q. Requirement of withholding, could you read that please?

23 A. One. In general except as otherwise provided by in this section, every  
24 employer making payment of wages shall deduct and withhold upon such wages a tax  
25 determined in accordance with tables or computational procedures prescribed by the

1 secretary. Any tables or procedures proscribed under this paragraph shall and then it  
2 moves on.

3 Q. So in this section of the book, pages 75 and 76, is the author talking about --

4 MR. McLELLAN: (Interjecting) Objection, Your Honor.

5 Q. (By Ms. Hendrickson continuing) Okay. Is the book referencing withholding or  
6 who's liable for the income tax?

7 A. Well, clearly --

8 MR. McLELLAN:) (Interjecting) Objection, Your Honor.

9 THE COURT: What's your objection?

10 MR. McLELLAN: Calls for a conclusion.

11 THE WITNESS: I can just read the heading that says requirement of  
12 withholding.

13 THE COURT: Excuse me, Mr. O'Boyle. There's an objection and until  
14 the Court rules on it, you should suspend your testimony. The Court is going to  
15 sustain the objection. Mr. O'Boyle's interpretation of what this book says or means is  
16 not relevant to what the Jury has to decide.

17 Q. (By Ms. Hendrickson continuing) Okay. So the -- all right. The quote that was  
18 on page 76 though.

19 A. Ah-hum.

20 Q. Is the word withholding in that quote?

21 A. Yes, it is.

22 Q. So that the quote that Mr. Metcalfe used in filing his Complaint against me  
23 appears to be referring to withholding or --?

24 A. (Interjecting) Clearly.

25 MR. McLELLAN: Objection, Your Honor.

1 THE COURT: Your objection is?

2 MR. McLELLAN: This is a reference to something other than the  
3 evidence that's in front of this witness about someone else's testimony and asking for  
4 a comparison between the two sources of information. It's a conclusory -- or it calls  
5 for a conclusion.

6 THE COURT: Sustained.

7 MRS. HENDRICKSON: May I address that?

8 THE COURT: No.

9 Q. (By Mrs. Hendrickson continuing) Okay. Hal, would you please open that  
10 book to page 88?

11 A. Okay.

12 Q. And start reading from -- let me see if I can put this on the screen. If you start  
13 reading at the top and through the italicized quotes on page 89.

14 A. Starting with the Constitution, that paragraph?

15 Q. Starting with consequently and then through the italicized quote.

16 A. Okay. Consequently, the only lawful objects of the income tax are activities for  
17 which one is paid by the Federal Government or a Federal agency or instrumentality.  
18 Activities effectively connected with the performance of the functions of a public office,  
19 activities as a Federal, Federal instrumentality or Federally-chartered State worker or  
20 activities as a paid officer of a Federal corporation such as those on this not  
21 necessarily comprehensive list -- and there follows a list of many, many Federal  
22 agencies. Would you care for me to read them? The Central Bank for Cooperatives,  
23 The Federal Deposit Insurance Corporation, Federal Home Loan Banks. This group  
24 of entities of course are all Federal corporations.

25 Q. Okay. And down to -- and let's see. Through the italicized quotes on this

1 page, on page 89 the next page.

2 A. Page 89.

3 Q. You can start with as we've learned?

4 A. As we've learned, it is only upon these activities that Congress has actually laid  
5 the tax. We also have seen that the amount of taxable activity engaged in is  
6 measured by the receipts it produces which are themselves misleadingly referred to  
7 as income and are treated, for all practical purposes, as things being taxed. The  
8 convention is meaningless as far as how much tax is paid, but it contributes to the  
9 scheme by producing the appearance that the law always lays a tax on the receipt of  
10 money. Thus, another way of summarizing what is taxed would be remuneration or  
11 benefits, either immediate or deferred, paid by the Federal Government, its agencies,  
12 instrumentalities and State Governments. And further, proceeds of and from Federal  
13 corporations and instrumentalities such as those listed above, as well as national  
14 banks, railroads, et cetera and the proceeds of, from -- and from the conduct of a  
15 trade or business.

16 Q. Okay. The next section is on page 126, and I don't have this one highlighted,  
17 but I can tell you. This goes back to the section that you read earlier on withholding.

18 A. Ah-hum.

19 Q. Would you read the section starting with now here is and through the first set of  
20 italics?

21 A. Okay. Now here is the definition of a withholding agent and the titles of the  
22 sections to which that definition refers. Title 26, Section 7701, paragraph 16.  
23 Withholding agent. The term withholding agent means any person required to deduct  
24 and withhold any tax under the provisions of Sections 1441, 42, 1443 and 1461.  
25 Section 1441, withholding of tax on nonresident aliens. Section 1442, withholding of

1 tax on foreign corporations. Section 1443, foreign tax exempt organizations. Section  
2 1461, liability for withheld tax.

3 Q. Okay. Did the information such as this found throughout the book inform your  
4 conclusion about withholding and how the income tax is to be applied?

5 MR. McLELLAN: Objection, Your Honor.

6 THE COURT: What's your objection?

7 MR. McLELLAN: She's specifically asking about something that formed  
8 his conclusion that calls for a conclusion.

9 THE COURT: Thank you. Mrs. Hendrickson, this witness -- the  
10 objection is sustained and this witness is not going to be able to testify about his  
11 interpretation of anything in that book. So if you've got questions along those lines,  
12 you cannot ask those questions. The book is in evidence. The Jury will have it. They  
13 are the ones who have to decide what that book means, if they believe it is pertinent  
14 to what they have to do. So it's the evidence and they have to interpret it, not this  
15 witness and none of your other witnesses.

16 MRS. HENDRICKSON: Okay. All right. Thank you, Hal.

17 THE WITNESS: No questions? Nothing else?

18 MRS. HENDRICKSON: No, that's it. Thanks.

19 THE COURT: Do you have a Cross-examination of this witness?

20 **CROSS-EXAMINATION**

21 **BY MR. McLELLAN:**

22 Q. Briefly, Your Honor. Good morning, Mr. O'Boyle?

23 A. Good morning.

24 Q. My name is Jeff McLellan and I'm an attorney for the United States in this  
25 matter?

1 A. Ah-hum.

2 Q. Mr. O'Boyle, would it be correct to say that you have written or at least used to  
3 write a newspaper column under the name *The Extremist*?

4 A. Yes, that would be correct.

5 Q. And you've also written books under the name Hal O'Boyle, correct sir?

6 A. That's my name.

7 Q. Have you written books under that name, sir?

8 A. Yes, I have.

9 Q. And you've published them?

10 A. Yes, I have published.

11 THE COURT: Mr. O'Boyle, can you keep your voice up please?

12 THE WITNESS: Okay.

13 THE COURT: Thank you.

14 Q. (By Mr. McLellan continuing) Mr. O'Boyle, is one of those books entitled  
15 *Democracy, the Painted Whore, an Extremist Explains War, Drugs, Guns, God, Gold*  
16 *and Santa Claus*?

17 A. I believe that was the title very unfortunately chosen unfortunately, but that was  
18 the title, yes.

19 Q. Now does the promotional material for that book say: Get a copy before it's  
20 banned or confiscated by the Department of Homeland Security? Carry a copy on a  
21 commercial airliner your own risk?

22 A. Yes, it does.

23 Q. Mr. O'Boyle, you don't always use your real name when you write books,  
24 correct sir?

25 A. That's correct.

- 1 Q. Sometimes you use the name Lysander Venable? (Phonetic)
- 2 A. That is also correct.
- 3 Q. And in fact, you published a book under that name called *On Your Own In Tax*
- 4 *Court?*
- 5 A. Yes, I did.
- 6 Q. And you also run a website under that name?
- 7 A. It's similar to that name, yes.
- 8 Q. But it's a website to the effect of on your own in tax court?
- 9 A. Taxcourthelp.net.
- 10 Q. So you're supplying information to customers in that area, is that correct, sir?
- 11 A. I give the book away.
- 12 Q. Are you putting up on the web information for people to try to do something in
- 13 tax court, is that accurate sir?
- 14 A. I would say it would be accurate. The information is gathered from public
- 15 sources.
- 16 Q. And you've also got a book available for that purpose?
- 17 A. Yes.
- 18 Q. And that's the *On Your Own In Tax Court?*
- 19 A. Right.
- 20 Q. And you advertize on the Internet as part of something called The Tax Relief
- 21 Team?
- 22 A. I don't, no.
- 23 Q. Isn't it true sir, that your services are available at an online store for coaching
- 24 and consulting that includes the services of one Lysander Venable (phonetic), author
- 25 of the book *On Your Own In Tax Court?*



1 A. I consult with people about tax matters, yes.

2 Q. But are you advertising on the Internet as a consultant under that name, sir?

3 A. Yes I do.

4 Q. And on that same website there's a gentleman named Barry Smith and another  
5 gentleman named Dan Pilla (phonetic)?

6 A. Yeah, I guess so.

7 Q. So this is the website that says: Facts the tax are rats won't believe, is that  
8 correct sir? (Sic)

9 A. I don't know. It's not my website.

10 Q. Would it be fair to say you have a bone to pick with the IRS, sir?

11 A. I don't think that would be the way I'd put it, no.

12 Q. That's all for this witness, Your Honor.

13 THE COURT: Thank you. Do you have a Redirect, Mrs. Hendrickson.

14 MRS. HENDRICKSON: A couple things.

15 **REDIRECT-EXAMINATION**

16 **BY MRS. HENDRICKSON:**

17 Q. Hal, did any of the activities on your end on helping people find their way  
18 through tax court have any impression on your feelings about *Cracking the Code*?

19 A. I'm not quite sure I understand the question, Doreen.

20 MR. McLELLAN: Objection, Your Honor. Beyond the scope, Your  
21 Honor.

22 THE COURT: I'll allow it.

23 MRS. HENDRICKSON: If you can -- I didn't understand. He didn't  
24 understand.

25 MRS. HENDRICKSON: I'll try to rephrase it.

1 Q. (By Mrs. Hendrickson continuing) You tried to help people find their way  
2 through tax court, which is --

3 A. (Interjecting) Right. I help them with the rules and so forth, right.

4 Q. Yes. And would the work that you do helping other people find their way  
5 through tax court have colored any of your conclusions about *Cracking the Code*?

6 THE COURT: His conclusions about *Cracking the Code* are not.

7 MRS. HENDRICKSON: That's right. I'm sorry. Okay, that's all.

8 Thanks.

9 THE WITNESS: Okay.

10 THE COURT: Any Recross?

11 MR. McLELLAN: Nothing further, Your Honor.

12 THE COURT: Mr. O'Boyle, you're done. Thank you very much.

13 THE WITNESS: Thank you.

14 MRS. HENDRICKSON: Your Honor?

15 THE COURT: Yes.

16 MRS. HENDRICKSON: Apparently my daughter didn't manage to make  
17 it here on time, so I'm going to call Greg Belcher next.

18 THE COURT: That's fine.

19 MRS. HENDRICKSON: It's not surprising; she's late for everything.

20 THE COURT: We will take Mr. Belcher.

21 **GREG BELCHER, A DEFENSE WITNESS, SWORN AT ABOUT 9:50 A.M.**

22 THE COURT: Good morning, Mr. Belcher.

23 THE WITNESS: Good morning, Your Honor:

24 **DIRECT-EXAMINATION**

25 **BY MRS. HENDRICKSON:**

1 Q. Hi, Greg.

2 A. HI, Doreen.

3 Q. Thanks for coming. Can you tell the Jury how long we've known each other?

4 A. Face-to-face, two years.

5 Q. Ah-hum. Other than that, do you know?

6 A. Well, I've certainly known of you for quite some time. My knowledge of the  
7 book that perhaps is central to this trial goes back to 2004.

8 Q. Okay. So you have read the book *Cracking the Code, The Fascinating Truth*  
9 *About Taxation in America*? You already said you went back to 2004.

10 MS. SISKIND: Objection, relevance.

11 THE WITNESS: Yes, I have.

12 MS. SISKIND: Your Honor, there was an objection to the relevance of  
13 that question.

14 THE COURT: I'll allow the question.

15 MRS. HENDRICKSON: Well, he had already answered it in his first  
16 part.

17 THE COURT: Your next question is fine.

18 Q. (By Mrs. Hendrickson continuing) Have you read it more than once?

19 MS. SISKIND: Objection, Your Honor, relevance; whether this witness  
20 has read the book.

21 THE COURT: All right. I'll allow it.

22 MRS. HENDRICKSON: Yes, I have read it more than once.

23 Q. (By Mrs. Hendrickson continuing) I might have to reword something because  
24 of what you said earlier about what I can't ask. Wait a second. Are you a Federal,  
25 State or local Government worker, Dr. Belcher?

1 MS. SISKIND: Objection; relevance.

2 THE COURT: Sustained.

3 Q. (By Mrs. Hendrickson continuing) Have you acted on your own behalf based  
4 on or consistent with what you have read in *Cracking the Code*?

5 MS. SISKIND: Objection; relevance.

6 THE COURT: Sustained.

7 MRS. HENDRICKSON: Goes to my state of mind, Your Honor.

8 THE COURT: Goes to your state of mind.

9 MRS. HENDRICKSON: Yes, because seeing what other people have  
10 done and not been prosecuted for goes to my state of mind.

11 THE COURT: Sustained.

12 MRS. HENDRICKSON: Okay.

13 THE COURT: Whether anyone else has been prosecuted for the crime  
14 that you have been indicted for is not relevant, or should have been. It's not relevant  
15 to what the Jury has to decide.

16 MRS. HENDRICKSON: I would think that anything that goes to my  
17 state of mind is relevant because that's part of the charge, willfulness.

18 THE COURT: The objection has been sustained. Ask your next  
19 question.

20 MRS. HENDRICKSON: I'd like to recall Dr. Belcher at a later time  
21 please. I need to reformulate some questions.

22 THE COURT: Okay. You can stand down, Mr. Belcher. Thank you.

23 THE WITNESS: Thank you.

24 THE COURT: Who is your next witness?

25 MRS. HENDRICKSON: He's going to see if Katie's here yet and if not,

1 it will be Tony Wright.

2 **TONY WRIGHT, A DEFENSE WITNESS, SWORN AT ABOUT 9:52 A.M.**

3 THE COURT: Good morning. You are who?

4 THE WITNESS: Dale Anthony Wright. Tony Wright.

5 THE COURT: Good morning.

6 **DIRECT-EXAMINATION**

7 **BY MRS. HENDRICKSON:**

8 Q. Hi, Tone.

9 A. Good morning.

10 Q. Thanks for coming. How long have we known each other?

11 A. Since the early '70s.

12 Q. And how do we know each other?

13 A. We were married at one time.

14 Q. For how long?

15 A. About 20 years; 18 years.

16 Q. Well, thank you. You're being generous. It was actually 14?

17 A. Okay.

18 Q. Did you and I have occasion to discuss the Orders that are the subject of this  
19 case?

20 A. We did.

21 Q. Did we talk about these Orders on the telephone?

22 A. Yes.

23 Q. And face-to-face?

24 A. I still don't recall if it was face-to-face, but I know we talked on the phone.

25 Q. Did we talk about them on more than one occasion?

1 A. Yes.

2 Q. Did I describe to you what I think these Orders were intended to make me do?

3 A. Yes.

4 Q. Okay. And what did I think they were intended to make me do as I described it  
5 to you?

6 A. Basically perjure yourself is what I think that -- we didn't get into it completely,  
7 but it sounded like you were being told to do something that was illegal and wrong to  
8 do.

9 Q. When we did have occasion to talk about these Orders, do you recall my  
10 general emotional state whenever the topic arose concerning what these Orders were  
11 telling me to do?

12 A. Extremely upset.

13 Q. Did I ever express to you my opinion of this Order in general or of whether I  
14 thought it was illegal or unconstitutional or anything like that?

15 A. You were confused about what to do because it seemed to be illegal and  
16 wrong.

17 Q. Did I have any concerns about First Amendment issues?

18 A. I think that was part of it.

19 Q. Can you elaborate a little bit? We've spoken about this quite a bit actually, so  
20 just in general -- I mean the impression that yes, you said that I thought I needed -- I  
21 was being ordered to perjure myself and I was extremely upset about it.

22 A. Right.

23 Q. Do you have anything else that you recall about it?

24 A. Not a whole lot. I mean it was just you thought that you were being railroaded  
25 to do something that you shouldn't be doing or compelled to do.

1 Q. Okay. I did ask you once before if I expressed any confusion about what I was  
2 being ordered to do and you responded some confusion, yes, but still thought it was  
3 wrong. Did I explain to you at all what I thought was wrong? Yes or no?

4 A. I don't recall.

5 Q. I'm just refreshing my memory. And did I ever indicate to you what I thought  
6 the consequences would be of me either perjuring myself or not perjuring myself  
7 whichever way I went? I had to go one of the two.

8 A. I don't recall if we ever discussed consequences.

9 Q. Okay. Did I ever express to you that I felt I had an actual duty to comply with  
10 this Order?

11 A. No. That was the confusion. You weren't sure that you could comply with it. I  
12 think that was the issue for you.

13 Q. Okay. Thanks, Tone.

14 A. You're welcome.

15 **CROSS-EXAMINATION**

16 **BY MS. SISKIND:**

17 Q. You just testified that Mrs. Hendrickson expressed she wasn't sure whether  
18 she could comply with Judge Edmunds' Order, is that correct?

19 A. Yes.

20 Q. Was there -- was Mrs. Hendrickson incapacitated at that time that she couldn't  
21 sign her name on a tax return to your knowledge?

22 A. Not to my knowledge.

23 Q. And you testified that she was extremely upset about the Order.

24 A. Yes.

25 Q. She was extremely upset that a Federal Judge was ordering her to file

1 amended tax returns?

2 A. No; compelling her to sign a document that she didn't agree with.

3 Q. So Mrs. Hendrickson did not agree with what Judge Edmunds was ordering her  
4 to do?

5 A. She was being ordered to sign something against her will, that's correct.

6 Q. Which she did not agree with Judge Edmunds' Order?

7 A. She couldn't sign something under the law of Perjury, and that was the issue.  
8 She was going to perjure herself if she signed something that she didn't believe.

9 Q. My question, Mr. Wright, is did Mrs. Hendrickson express to you that she  
10 disagreed with what Judge Edmunds was ordering her to do?

11 A. Yes.

12 Q. No further questions.

13 THE COURT: Do you have any?

14 **RECROSS-EXAMINATION**

15 **BY MRS. HENDRICKSON:**

16 Q. Miss Siskind made some type of statement about was I physically  
17 incapacitated. Yes?

18 A. She did.

19 Q. Okay. But inability to comply with an Order isn't necessarily that you have to  
20 be physically incapacitated. Could it be that it's an impossibility?

21 MS. SISKIND: Objection, Your Honor. It calls for a legal conclusion.

22 THE COURT: Sustained.

23 Q. (By Mrs. Hendrickson continuing) Well, you yourself, Tone, mentioned that I  
24 didn't feel like I could comply with it and so was that -- was my feeling about that that I  
25 had a broken arm or what was the foundation for me being not able to comply with it



1 as I spoke to you?

2 A. A philosophical and legal issue.

3 Q. Thank you.

4 THE COURT: Anything more, Miss Siskind?

5 MS. SISKIND: No, Your Honor.

6 THE COURT: Mr. Wright, thank you.

7 THE WITNESS: Thank you.

8 THE COURT: Your name, sir?

9 THE WITNESS: Brian Wright.

10 THE COURT: Would you raise your right hand please?

11 **BRIAN WRIGHT, A DEFENSE WITNESS, SWORN AT ABOUT 10:00 A.M.**

12 THE COURT: You may take the witness stand. Thank you.

13 MRS. HENDRICKSON: Just one second please.

14 **DIRECT-EXAMINATION**

15 **BY MRS. HENDRICKSON:**

16 Q. Hi, Brian.

17 A. Hi, Doreen.

18 Q. Thanks for coming.

19 A. Okay.

20 Q. Can you tell the Jury how long we've known each other?

21 A. Twenty to 25 years.

22 Q. Did you and I have occasion over some period of time to discuss either or both  
23 of the Orders that are the subject of this case?

24 A. Yes.

25 Q. Did we talk about the Orders on more than one occasion?

1 A. At least the effect of the Orders on a couple of occasions.

2 Q. Judge Edmunds issued two Orders. Did I describe to you at any point what I  
3 thought the Orders were intended to make me do?

4 A. Yes.

5 MS. SISKIND: Objection, Your Honor, assumes facts not in evidence  
6 regarding two Orders.

7 THE COURT: What's the question? I'm sorry.

8 MRS. HENDRICKSON: I said Judge Edmunds issued two distinct  
9 Orders. Did I describe to you what I thought the Orders were intended to make me  
10 do?

11 THE COURT: The question is objected to and the Court sustains the  
12 objections -- the objection.

13 MRS. HENDRICKSON: Apparently the -- Miss Siskind is objecting to  
14 the term Orders so --

15 THE COURT: (Interjecting) Excuse me.

16 MRS. HENDRICKSON: I was just going to rephrase it.

17 THE COURT: Excuse me. I've asked you not to comment please. Don't  
18 comment on witnesses.

19 MRS. HENDRICKSON: Oh, yes.

20 THE COURT: Excuse me, Mrs. Hendrickson, and don't speak over me.  
21 Do not comment on testimony from the witnesses. Do not comment on anything that  
22 the attorneys for the Government say. The objection was sustained. Rephrase the  
23 question or ask another question.

24 MRS. HENDRICKSON: I was going to rephrase it.

25 THE COURT: I don't care what you do.

1 Q. (By Mrs. Hendrickson continuing) Oh, okay. Judge Edmunds -- did I describe  
2 to you what I thought the Order was intended to make me do?

3 A. Yes.

4 Q. And could you tell me what I indicated about that?

5 A. You indicated that the Order was to fill out a form that you regarded as  
6 untruthful.

7 Q. And it was a two-part thing; that that was one part of it and what was the other,  
8 do you recall?

9 A. I'm not familiar with the both Orders, just what their effect was; that you were  
10 ordered to fill out a form in a manner that you would regard as untruthful.

11 Q. Okay. At the time of our discussion or discussions, do you recall my general  
12 emotional state concerning what I was told to do?

13 A. Yes.

14 Q. And would you describe that please?

15 A. I think you were anxious and frightened and concerned and --

16 Q. Okay. Did I ever express to you whether I thought the Orders were legal or  
17 unconstitutional or lawful?

18 A. Yes.

19 Q. And what did I express about that?

20 A. That they were unlawful.

21 Q. Did I ever indicate to you that I didn't understand how I could comply with  
22 Orders commanding me to make valid tax returns, which are sworn affidavits, but  
23 contain someone else's words that I do not believe to be true?

24 A. Yes.

25 Q. And what do you recall of our conversation regarding what I thought I was

1 being ordered to do?

2 A. That you were in a real quandary that you were very anxious about how to  
3 conform to this order.

4 Q. Did I indicate to you that I couldn't understand how I could legally comply with  
5 an Order commanding me to perjure myself?

6 A. Yes.

7 Q. Okay. Brian, have you ever read the book *Cracking the Code, The Fascinating*  
8 *Truth About Taxation in America*?

9 A. Yes.

10 Q. And thoroughly?

11 A. I've read it lightly once and more thoroughly the second time.

12 Q. I'm going to put this one up here. Unfortunately I don't know where my  
13 highlighted copy went that -- I was given a copy of theirs, but I'll have to indicate to  
14 you. Oh, good. That will work. That will be easier. I'm juggling between two different  
15 things here. I know you don't have highlighting in that book, but I do have highlighting  
16 in exactly the same fashion that that would be. Would you open it to page 12 please?

17 A. Okay.

18 Q. And would you read what's highlighted please?

19 MS. SISKIND: Your Honor, I'll object. This is now the third witness Mrs.  
20 Hendrickson is having read provisions from the book. She did it with Mr. Metcalfe and  
21 then also with Mr. O'Boyle.

22 THE COURT: Mr. Metcalfe did read what you have highlighted here.  
23 You want this witness to read the same thing.

24 MRS. HENDRICKSON: He read this part?

25 THE COURT: Yes, he did.

1 MRS. HENDRICKSON: Oh, my mistake. I think that's all for now,  
2 Brian. You can stay outside though in case --

3 THE COURT: Miss Siskind, do you have a Cross-examination?

4 MS. SISKIND: I do, Your Honor.

5 **CROSS-EXAMINATION**

6 **BY MS. SISKIND:**

7 Q. Good morning, Mr. Wright.

8 A. Good morning.

9 Q. My name is Melissa Siskind. I'm one of the trial attorneys representing the  
10 United States. Do you maintain a website called Brianwright.com?

11 A. Yes.

12 Q. And this week on Tuesday, July 22nd, did you write a post on that site called  
13 Special Column, still time to stand up for Doreen Hendrickson?

14 A. Yes, I did.

15 Q. And in that post, did you write that this is -- this is a quote "Kangaroo Court with  
16 a capital K before a control freak Judge and a Prosecution with the moral conscience  
17 of the Israeli Army at a Gaza daycare center?"

18 A. Yes, I did.

19 Q. I have no further questions.

20 THE COURT: Do you have anymore Direct Examination?

21 **REDIRECT-EXAMINATION**

22 **BY MRS. HENDRICKSON:**

23 Q. Yes, Brian. I understand that you've been trying to rally the troops to support  
24 me emotionally.

25 MS. SISKIND: Objection, Your Honor.

1 THE COURT: I don't know what the question is.

2 MS. SISKIND: Go head.

3 Q. (By Mrs. Hendrickson continuing) I'll restate that part. I understand that you've  
4 been trying to rally people around me for emotional support.

5 A. That's correct.

6 MS. SISKIND: Objection; relevance. Beyond the scope of  
7 Cross-examination.

8 THE COURT: Does this question have to do with the post that you just  
9 asked about.

10 MRS. HENDRICKSON: Yes.

11 Q. (By Mrs. Hendrickson continuing) Brian, you maintain a website and a  
12 mailing list for some of your writings and such?

13 A. Yes.

14 Q. And is that -- was that really -- I know you've been over the past couple of  
15 months sending emails to your mailing list trying to garner support for me and this was  
16 kind of a last ditch effort because you thought you weren't getting enough support.

17 MS. SISKIND: Objection, Your Honor.

18 THE COURT: Mrs. Hendrickson, what is your question? Get to it  
19 please.

20 MRS. HENDRICKSON: Finished it. Was this kind of a last ditch effort  
21 last week or was it early this week to get people to support me a little better?

22 A. Yes.

23 Q. Thank you.

24 THE COURT: Anymore Cross-examination?

25 MS. SISKIND: No, Your Honor.

1 THE COURT: Thank you. Mr. Wright, you're done. Thank you. You  
2 just need to take a photo here. Who's your next witness, Mrs. Hendrickson.

3 MRS. HENDRICKSON: I think Andrew is looking for Katie.

4 **KATHRYN HENDRICKSON, A DEFENSE WITNESS, SWORN AT ABOUT 10:14**  
5 **A.M.**

6 **DIRECT-EXAMINATION**

7 **BY MRS. HENDRICKSON:**

8 Q. Good morning, Kates.

9 A. Morning.

10 THE COURT: Can you give your full name please?

11 THE WITNESS: Yes. Kathryn, K-a-t-h-r-y-n, Elizabeth Wright  
12 Hendrickson.

13 Q. (By Mrs. Hendrickson continuing) Thanks for coming yesterday and today.  
14 Katie, have you and I ever discussed the Order that's the subject of this case?

15 A. We have.

16 Q. Did we -- I may make a mistake here now and then, but it kind of was a  
17 two-part Order, so I kind of think of them in a two-part --

18 MS. SISKIND: Objection, Your Honor.

19 THE COURT: Mrs. Hendrickson, it is one Order. It is one Order. Ask  
20 your question.

21 Q. (By Mrs. Hendrickson continuing) Okay. Did we ever discuss the situation  
22 that are the subject of the case?

23 A. Yes.

24 Q. Did we talk face-to-face?

25 A. Yes.

1 Q. And since you got your own apartment this Spring, more likely on the phone?

2 A. Yes.

3 Q. How about by emails?

4 A. Yes.

5 Q. Has this been discussed between us a lot like more than one occasion or a lot  
6 more or is this a frequent topic of conversation?

7 A. Yes.

8 Q. Thanks. At the times that we had our discussions, do you recall my general  
9 emotional state concerning what these Orders were telling me to do?

10 A. Yes. You were frustrated, upset.

11 Q. Frustrated about what?

12 A. Well, you had two choices essentially. You could either sign the documents as  
13 dictated and commit Perjury, or you could be held in Contempt of Court, which is also  
14 a crime, so that would be frustrating for anyone I would think.

15 Q. Okay. Do you recall at some point me filing or being upset about filing  
16 amended Orders way back in June of 2010?

17 A. When you were able to also file an affidavit saying that you didn't believe them,  
18 that was fine, but when you weren't able to exercise your right to free speech, that  
19 was when it was a problem.

20 Q. Did I express to you my opinion of whether or not I thought the Order was  
21 unconstitutional?

22 A. Absolutely. It's a violation of the First Amendment.

23 Q. Did I --was I -- did I express any confusion about what Judge Edmunds was  
24 commanding me to do?

25 A. No, the Order was clear. It was how to carry it out without committing a crime.



1 Q. Okay. Did most of our conversations follow similar paths?

2 A. Yes.

3 Q. So going -- in a short summary, going to my state of mind about this whole  
4 sordid affair, can you summarize the gist of those many, many conversations?

5 A. Essentially what I said before. It was either -- you were going to be committing  
6 a crime no matter what you did according to the Court. You could either commit  
7 Perjury or be in Contempt. It was -- I mean how could you do that?

8 Q. Okay. Thanks, Sweetie.

9 A. Ah-hum.

10 **CROSS-EXAMINATION**

11 **BY MS. SISKIND:**

12 Q. Good morning, Miss Hendrickson.

13 A. Good morning.

14 Q. Over the July 4th weekend you gave a talk at a Cracking the Code  
15 Symposium, correct?

16 A. I did.

17 Q. The topic of that was How To Use Social Media To Promote Your Cause?

18 A. Yes.

19 Q. You actually use social media quite a bit?

20 A. I do.

21 Q. You have a Facebook page?

22 A. Yes.

23 Q. You use Twitter?

24 A. Ah-hum.

25 Q. And you have a Blog?

1 A. I do.

2 Q. That Blog is Sunshine Smoothie?

3 A. I made it in high school, yeah.

4 Q. And you've been posting about this trial on that Blog, correct?

5 A. I have.

6 Q. And you've been using that Blog to try to interfere with the outcome of this  
7 case.

8 A. No, that was not the intention.

9 Q. Well, on Monday you posted an entry on your Blog suggesting that prospective  
10 jurors should lie to this Court and conceal any biases they might have in favor of the  
11 Government -- or against the Government?

12 A. That was not the intention of that post.

13 Q. Do you recall posting about what jurors should or should not say during jury  
14 selection?

15 A. I remember the general topic.

16 Q. Do you recall saying: If you are a potential juror in a Federal case and you  
17 really don't like the Government or one of its extensions, don't say you don't like them  
18 when you're being interviewed during selection, as some would be jurors did today  
19 and for which they were promptly eliminated by the Prosecution. That's just silly.

20 A. Yeah, I do remember that, but I wasn't attempting to influence per se. What I  
21 say does not mean that somebody should do it necessarily.

22 Q. And Thursday, July 17th, you posted on the Facebook page of the Detroit  
23 Chapter of the Fully Informed Jury Association.

24 A. Ah-hum.

25 Q. The Fully Informed Jury Association is an organization that tries to get jurors

1 not to follow the instructions of law given by the Court.

2 A. It is an organization that informs jurors of their right to nullify an order or a law  
3 that is unjust and unconstitutional.

4 Q. So basically they say that if a juror disagrees with the law as given by the  
5 Court, they don't have to follow it?

6 A. I don't know all -- I mean I haven't looked deeply into their organization and  
7 what they say, but I know that juries are perfectly within their rights to determine the  
8 constitutionality of an order or a law and make their decision based on the  
9 constitutionality rather than instruction.

10 Q. Well, you wanted to have representatives from that organization standing  
11 outside of the courthouse for this trial.

12 A. Yes, informing the jury of their rights.

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

14 THE COURT: Thank you.

15 THE COURT: Do you have Redirect, Mrs. Hendrickson?

16 MRS. HENDRICKSON: Well, no. I don't have too much to say. Katie, I  
17 understand that you've been doing your best to try to help me and --

18 MS. SISKIND: (Interjecting) Objection, Your Honor. Leading.

19 THE COURT: Sustained.

20 **REDIRECT-EXAMINATION**

21 **BY MRS. HENDRICKSON:**

22 Q. (By Mrs. Hendrickson continuing) Okay. And would you deliberately do  
23 something illegal or unlawful in your efforts to help me out?

24 A. Of course not.

25 Q. Were you looking for a just outcome of this trial?

1 A. Well, yes. My goal is truth and justice; that's what I've been raised with.

2 Q. And would you lie about something on your Blog or your Facebook or any other  
3 social networking thing?

4 A. No, I would not.

5 Q. Okay. You speak your mind?

6 A. I do.

7 MS. SISKIND: Objection; leading.

8 THE COURT: Sustained.

9 Q. (By Mrs. Hendrickson continuing) Do you speak your mind on your Blog and  
10 your Facebook pages?

11 A. I can be somewhat opinionated at times and even rash. I think we all can  
12 relate to that. We're human. As you can imagine, this is very frustrating for everyone  
13 in our family. But yes, I do speak my mind. Sometimes I perhaps should not, but  
14 that's what I do. I meant no harm.

15 Q. Thank you, Sweetheart.

16 THE COURT: Anymore, Miss Siskind?

17 MS. SISKIND: No, Your Honor.

18 THE COURT: Miss Hendrickson you can stand down. Thank you.

19 THE WITNESS: Thank you.

20 THE COURT: Who is your next witness.

21 MRS. HENDRICKSON: Well, that would be the Ebys, so if we could  
22 take our short 10-minute break and see if they show up?

23 THE COURT: You're not ready to bring Mr. Belcher back.

24 MRS. HENDRICKSON: Not quite. I haven't had a chance to try to  
25 reformulate questions and I could use minutes to do that.

1 THE COURT: We'll take a short break. All rise for this Jury.

2 **(Jury exited courtroom at 10:25 a.m.)**

3 THE COURT: We will resume in about 10 minutes. Thank you.

4 **(Court recessed at 10:25 a.m.)**

5 (At about 10:40 a.m.)

6 (Court, Counsel, Jury, and parties present)

7 THE COURT: Thank you. You can take your seats. Mrs. Hendrickson,  
8 your next witness.

9 MRS. HENDRICKSON: Unfortunately, Mr. & Mrs. Eby are still not done  
10 with their appointment, so that would be me.

11 THE COURT: All right. Come forward.

12 MS. SISKIND: Your Honor, we need to have a side bar to discuss --

13 THE COURT: You're right. Please, side bar.

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

15 THE COURT: So Mrs. Hendrickson -- can you hear me, Janice? Mrs.  
16 Hendrickson, you understand that you don't have an obligation to testify.

17 MRS. HENDRICKSON: Yes.

18 THE COURT: In fact, the Constitution as I told to the jurors during  
19 opening statement makes clear that the Government has the burden of proof and  
20 there's no obligation on you to present any proofs whatsoever.

21 MRS. HENDRICKSON: Yes, ma'am.

22 THE COURT: And do you understand that by testifying, you could be  
23 incriminating yourself.

24 MRS. HENDRICKSON: Yes, I do.

25 THE COURT: And you've discussed this with Mr. Wise.

1 MRS. HENDRICKSON: Yes, we have.

2 THE COURT: And after discussing with Mr. Wise, it's still your decision  
3 to take the witness stand.

4 MRS. HENDRICKSON: Yes.

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

6 MS. SISKIND: No, Your Honor.

7 THE COURT: Mr. McLellan?

8 MR. McLELLAN: No.

9 THE COURT: Do you have anything more?

10 MR. WISE: No, Your Honor.

11 THE COURT: All right. Thank you.

12 **(END OF SIDEBAR CONFERENCE)**

13 MR. WISE: I don't know if some explanation to the Jury for the change  
14 in procedure is necessary at this point or not, Your Honor.

15 THE CLERK OF THE COURT: Will you raise your right hand please?

16 **DOREEN HENDRICKSON, A DEFENSE WITNESS, SWORN AT ABOUT 10:41**

17 **A.M.**

18 THE COURT: So, ladies and gentlemen, Mrs. Hendrickson is taking the  
19 witness stand. During the voir dire I told you that the Defendant does not have an  
20 obligation to take the witness stand, that the Government has the burden of proof to  
21 prove all the elements of the crime charged and to prove them beyond a reasonable  
22 doubt. Defendant has no obligation to put any testimony into the record whatsoever,  
23 including her own. Mrs. Hendrickson has opted to take the witness stand and so you  
24 will consider her evidence, her testimony as you will any other testimony in this case.  
25 The instruction that the Court gives you regarding witnesses will apply to her as well.

1 Because she's representing herself and she can't ask the questions and answer the  
2 questions, her standby counsel, Mr. Wise is going to question Mrs. Hendrickson.  
3 Thank you, Mr. Wise.

4 **DIRECT-EXAMINATION**

5 **BY MR. WISE:**

6 Q. Thank you, Your Honor. Mrs. Hendrickson, how old are you?

7 A. Fifty-nine.

8 Q. And what's your educational background?

9 A. I have a Bachelor of Science in Chemistry with a minor in Physics and I have a  
10 Secondary Education Certificate.

11 Q. And --

12 A. Some graduate work.

13 Q. What is your marital status?

14 A. I'm married for 23, 24 years, something -- maybe 22. I don't know. Who's  
15 counting?

16 Q. And who are you married to?

17 A. Peter Hendrickson.

18 Q. And do you have children?

19 A. I do. I have two kids. I have a son who's 18, just graduated high school, and  
20 you're familiar with my daughter, she's 23. She graduated from Lawrence Tech last  
21 year.

22 Q. And that's Katie who just testified?

23 A. Yes.

24 Q. Now turning to the facts of this case, do you believe that your original 2002 and  
25 2003 tax return documents are true, correct and fully in accordance with the law?

1 A. Yes, I do.

2 Q. And are the -- in part do you form the basis of that belief on the book *Cracking*  
3 *the Code*?

4 A. Yes, I did.

5 Q. And in addition to *Cracking the Code*, have you also reviewed statutes and  
6 court cases that are referenced in *Cracking the Code*?

7 A. Yes I have. There's a supplemental document that I've used for doing them.

8 Q. And you've -- it may have been assumed in my last question, but you've read  
9 the book *Cracking the Code* and seen those statutes and cases?

10 A. Yes, I have.

11 Q. As you understand the book *Cracking the Code*, does it argue or assert that  
12 only Federal, State or local Government workers are liable for the payment of Federal  
13 income tax or subject to withholding of Federal income tax, Social Security and  
14 Medicare taxes from their wages under the Internal Revenue laws?

15 A. Actually *Cracking the Code* says just the opposite. It never says that anywhere  
16 in the book.

17 Q. Does the fact that Judge Edmunds signed an Order indicating that that's what  
18 the book says change your feeling about that in any way?

19 A. No, it doesn't. No, I don't base my conclusions on -- when I read something, I  
20 don't base my conclusions on whether someone in a position of authority as it were  
21 has a different opinion. I'm a bright woman, fully capable of making my own  
22 conclusions.

23 Q. Let me ask you about your 2008 tax return. When you filed that Return, was  
24 the information you placed on that Return based on the notion that only Federal, State  
25 or local Government workers are liable for the payment of Federal income tax or



1 subject to the withholding of Federal income tax, Social Security and Medicare taxes  
2 from their wages under the Internal Revenue laws?

3 A. No, it wasn't.

4 Q. Now do you recall yesterday Mr. Metcalfe read some portions of *Cracking the*  
5 *Code* during his testimony, is that right?

6 A. Yes, he did.

7 Q. And that is the book described in Judge Edmunds' Order that is at issue in this  
8 case, correct?

9 A. Yes, it is.

10 Q. And the Indictment describes the book the same way in this case?

11 A. As I recall, yes.

12 Q. Now also you had Mr. Metcalfe read portions of his Complaint filed before  
13 Judge Edmunds that described the book in that fashion as well, is that correct?

14 A. Yes, it is.

15 Q. And that Complaint also alleges that the book says wages are not income?

16 A. Yes, I believe it does say wages are not income, but that's incorrect. Wages  
17 and income are specially defined terms in the law and the book does not say that  
18 wages are not income.

19 Q. And Mr. Metcalfe also testified that he had read the book himself, correct?

20 A. He did testify to that, yes.

21 Q. And that book was introduced as a Government Exhibit in this matter, correct?

22 A. Yes it was. I think it's the -- I don't know which edition it is; third or fifth or  
23 something like that.

24 Q. Is that the same edition of the book that was out when you filed your 2008 tax  
25 return?

1 A. No. The book is currently in it's 14th printing and I think five or six printings had  
2 gone by from the time the lawsuit was filed before I filed my 2008 tax returns. In the  
3 interim, additional information had been added. There was an appendix and such and  
4 so I continue over time, I just keep taking in information as it becomes available. I  
5 read a lot.

6 Q. I'm going to show you what's been marked as Defendant's Exhibit 548.

7 A. Okay.

8 Q. Do you recognize that?

9 A. I sure do.

10 Q. Could you tell us what it is?

11 A. This is the current printing of *Cracking the Code*. It's the 14th printing.

12 Q. And could you tell me what the copyright date on that book is?

13 A. It's April of 2014. You've got the one that was current when I filed. That's all  
14 right. They're virtually the same. After a period of time when -- each time we'd go to  
15 a new printing, we go through the book looking for any errors and by the time we got  
16 to this one and really probably the past five or six printings, mainly what we would be  
17 doing is catching typos or punctuation errors or something for example, and that cost  
18 us a little bit more to have to have the publisher make new pages for the book, but I  
19 think one printing we had redone on one page there was colons instead of  
20 semicolons, so we had a new page made just changing that. So in the past five or six  
21 printings, the book is virtually unchanged. Word-wise it is unchanged. If there was a  
22 spelling error or a punctuation error, that would be the only changes in the last several  
23 years.

24 Q. So you're indicating that other than minor editing errors, Defendant's Exhibit  
25 548 is essentially the same content-wise as it was in 2008 when you filed or when you

1 filed your 2008 tax return?

2 A. Yeah. To my knowledge no words have changed in it.

3 Q. Move for the admission of Defendant's 548.

4 MS. SISKIND: Objection, Your Honor. The copy of the book that was  
5 around at the time Judge Edmunds issued her Order is the one that's relevant in this  
6 case and that's already in evidence.

7 THE COURT: Didn't you say that the content of this has not changed  
8 since that one? I'm asking, Mr. Wise.

9 MR. WISE: No, Your Honor. My question was regarding what was in  
10 the book when Mrs. Hendrickson filed her 2008 tax return.

11 THE COURT: But Defendant's 548, I thought the testimony was that that  
12 as well as past five or six editions was not different from the version relied upon by the  
13 Government, or am I not understanding the testimony?

14 MS. SISKIND: Go head, Mr. Wise.

15 MR. WISE: I think you're not understanding, Your Honor.

16 THE COURT: All right. So why is this edition relevant?

17 MR. WISE: Essentially this edition is relevant because at the time Ms.  
18 -- Mrs. Hendrickson filed her 2008 income tax return, the book had been edited to  
19 clarify specifically that it was not putting forth the theory that only Federal Government  
20 workers were liable for the income tax. That is an issue with respect to Miss  
21 Hendrickson's compliance with Judge Edmunds' Order that she not file any income  
22 tax returns based on a notion that essentially was not in the book at the time she filed  
23 that income tax return.

24 THE COURT: So why wouldn't this be relevant to her 2008 taxes?

25 MS. SISKIND: The 2008 tax return is alleged as a violation of the Order,

1 and therefore what was -- what Judge Edmunds was referring to when she quotes  
2 *Cracking the Code* in her Order is what's relevant and that's the copy that's in  
3 evidence.

4 THE COURT: I need a side bar.

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

6 THE COURT: Mrs. Hendrickson was ordered not to file anymore  
7 fraudulent returns.

8 MS. SISKIND: She was ordered not to file any returns using a certain  
9 theory set forth in the book.

10 THE COURT: All right. And she's saying now that when she filed the  
11 2008 taxes, this new version of the book was out and it didn't set forth that theory and  
12 taxes weren't based on that theory. Is that essentially what you're saying?

13 MR. WISE: Right. Her contention is all along her taxes weren't based  
14 on that theory.

15 THE COURT: But this testimony goes particularly to that part of Judge  
16 Edmunds' Order with respect --

17 MR. WISE: (Interjecting) Right, and with respect -- I'm sorry to cut you  
18 off -- with respect to her state of mind.

19 MS. SISKIND: Well then that's the version that should go in. This is  
20 April, 2014 printing of the book.

21 MRS. HENDRICKSON: Except as I said, it's virtually identical and if I  
22 had extra copies of the 10th printing, I would use them. Was that the 10th?

23 MR. WISE: We can use the 10th.

24 MRS. HENDRICKSON: These are marked too and so if I need to read  
25 from it or something, it's identical word-for-word. The only difference is punctuation.

1 THE COURT: You have here the version that was out when she filed the  
2 2008.

3 MRS. HENDRICKSON: Yes.

4 MR. WISE: Yes. This is the 10th printing from September of 2008.

5 THE COURT: And that hasn't been marked as an exhibit?

6 MR. WISE: It has not been marked as an exhibit. We can mark it as  
7 Defendant's 548-E or --

8 MS. SISKIND: Nothing further.

9 THE COURT: We'll come out on the record and do it. Do you have an  
10 objection to the version that was around when she filed 2008?

11 MS. SISKIND: Same objection, Your Honor, as previously.

12 THE COURT: I'll allow it.

13 MRS. HENDRICKSON: You probably have the 13th one from the last  
14 trial. We dug this one out of Peter's filing --

15 **(END OF SIDEBAR CONFERENCE)**

16 THE COURT: The Court will allow into evidence the version of *Cracking*  
17 *the Code* that was in print when Mrs. Hendrickson filed her 2008 taxes and that's not  
18 the one that you've been discussing, correct?

19 MR. WISE: That's correct, Your Honor. I have a copy and I've  
20 tentatively marked it as Defendant's 548-B. So I'd like to move for its admission.

21 THE COURT: Okay, and this is coming in over the Government's  
22 objection. What's the print date of that, Mr. Wise?

23 MR. WISE: It's -- on the copyright page it indicates this is the 10th  
24 printing, September, 2008.

25 THE COURT: Thank you.

1 Q. (By Mr. Wise continuing) Now Mrs. Hendrickson, is the contents of the 10th  
2 printing exactly the same as the contents of the earlier edition of the book that Mr.  
3 Metcalfe read from?

4 A. No. I had to think about that for a second.

5 Q. Could you tell us what the difference between the editions are?

6 A. Like the very first edition, some things weren't as clear as they could be.  
7 Although the statutes and such that were quoted in the book remain the same, it  
8 wasn't always as clear as it could have been. So each edition -- early on, probably  
9 the first, second, third, fourth, maybe even fifth, my husband mainly but -- would  
10 clarify some of the topics so that for example, the quote that was used in the original  
11 Complaint, I think page 76. In the original Complaint the -- used the quote: So  
12 actually -- this was -- so actually withholding only applies to the pay of Federal  
13 Government workers, da da da da, and then that was not as clear as it could be and  
14 that follows several paragraphs, but that was a conclusory sort of statement. And so  
15 we put in so actually this kind of withholding because it was -- so people would  
16 possibly be thinking that all withholding, the way it was originally worded and we didn't  
17 want to have people mistake that, so all of the new ones -- I don't remember what  
18 edition that got changed on, but it was very early on. It was changed from so actually  
19 withholding only applies to actually this kind of withholding only applies and that kind  
20 of clarified things for people. We would get feedback from readers occasionally  
21 saying this doesn't make sense or that doesn't make sense and so some things would  
22 be slightly reworded and we were just trying to make it as clear as it could be.

23 Q. I'm going to put up on the screen page 76 from Government's Exhibit 34.

24 A. Okay.

25 Q. And it's this sentence that begins so actually withholding.

1 A. Right.

2 Q. Which is in the earlier edition, correct?

3 A. Correct.

4 Q. And from the same page 76 in Defendant's 548-B, the later edition, would you  
5 read the highlighted portion?

6 A. It's so actually this kind of withholding only applies to the pay of Federal  
7 Government workers exactly as it always has, plus State Government workers since  
8 1939 and those of the District of Columbia since 1921.

9 Q. So that's the adage that you were talking about?

10 A. That's the sort of thing, yeah. That we're always to clear things up.

11 Q. So when you filed your 2008 tax return --

12 A. Yes.

13 Q. Did you believe that *Cracking the Code* set forth the notion that only Federal,  
14 State and local employees were required to pay income taxes?

15 A. No, I did not ever believe that to be true.

16 Q. And it's your view that Judge Edmunds' Order only prohibited you from filing  
17 returns based on that notion that only Federal, State, local Government workers are  
18 subject to the income tax, is that correct?

19 A. Yes, that's correct. I mean she didn't order anything except that. Do not file  
20 returns ever based on that notion and I don't hold that notion, never have. She didn't  
21 say anything else, so I thought well, as long as I file according to what I perceive to be  
22 the truth, then I'm good to go.

23 Q. So considering your view of those express terms in Judge Edmunds' Order,  
24 your knowledge of the contents of *Cracking the Code*, did you understand what was  
25 being ordered when it instructed you not to file a return based on false or frivolous

1 notions found in *Cracking the Code*, et cetera?

2 A. Can you -- I'm sorry -- do that again? That's okay.

3 Q. As you understand the terms of Judge Edmunds' Order and the contents of  
4 *Cracking the Code*, do you believe that you violated the terms of Judge Edmunds'  
5 Orders when you filed your 2008 income tax return?

6 A. No, I did not. It's not just *Cracking the Code*. There are lots of other things  
7 that we mentioned earlier about this other document that I have, and there's a ruling  
8 here, in here that --

9 Q. I'll get to those questions, Miss Hendrickson. I'm going to ask you if there are  
10 particular statutes and cases --

11 A. Sorry. I'm jumping ahead.

12 Q. -- That you might use to illustrate the core of how you formed your belief with  
13 respect to the tax statutes.

14 A. There's a ton of other things that I've read and took in.

15 Q. Do you have in front of you Defendant's Exhibit 549?

16 A. I do.

17 Q. Could you tell me what that is?

18 A. It's a research paper entitled The Fascinating Truth About The 16th  
19 Amendment. Most people have an erroneous understanding of the 16th Amendment  
20 and so this is a research paper about that.

21 Q. And is that one of the many materials that you reviewed to form your beliefs  
22 about the tax laws, statutes, cases?

23 A. Yes, it is.

24 Q. Move for the admission of Defendant's 549.

25 MS. SISKIND: Your Honor, we think we need additional foundation



1 when this was written to see if it's relevant.

2 THE COURT: Okay.

3 Q. (By Mr. Wise continuing) Do you know when that document was prepared?

4 A. I'm not sure. I've had it for quite some time.

5 Q. Was it in existence at the time of the filing of your 2002 and 2003 tax returns?

6 A. I couldn't swear to that. Certainly I would have been aware of it in 2009, but I  
7 don't think 2002/2003.

8 MR. WISE: Your Honor, I move for its admission at least to her state of  
9 mind in 2008.

10 MS. SISKIND: No objection.

11 THE COURT: Comes in for that limited purposes, ladies and gentlemen.

12 Q. (By Mr. Wise continuing) Could you turn to the second page of Attachment  
13 Four --

14 A. Yes.

15 Q. -- To that document. Do you have an extra copy of that?

16 A. I do. I can read it from here.

17 Q. I'm going to ask you to read the highlighted pages from this Attachment Four.

18 A. Here it is. It says: Although the Legislature may declare as privileges and tax  
19 as such for State revenue purposes, those pursuits and occupations that are not  
20 matters of common right. The Legislature has no power to declare as a privilege and  
21 tax for revenue purposes occupations that are of common right. The right to engage  
22 in an employment, to carry on a business, or pursue an occupation or profession not  
23 in itself hurtful or conducted in a manner injurious to the public is a common right,  
24 which under our Constitution as construed by all our former decisions can neither be  
25 prohibited nor hampered by laying a tax for state revenue on the occupation,

1 employment, business or profession. Thousands of individuals in this state carry on  
2 their occupations as above defined who derive no income whatever therefrom, but  
3 where an income is derived from any occupation, business, profession or  
4 employment, then the Legislature may thereon -- may lay thereon a tax and this is a --

5 MS. SISKIND: (Interjecting) Your Honor, I'm sorry. It appears the  
6 version on the screen is different from the version of 549 that I was given by the  
7 Defense.

8 THE COURT: Are you reading from 548-B?

9 MRS. HENDRICKSON: No.

10 MR. WISE: This is 549, Your Honor.

11 THE COURT: Oh, this is 549. This is the research paper. This is the  
12 research paper?

13 THE WITNESS: Yes.

14 THE COURT: And you have something that is different?

15 MS. SISKIND: Yes.

16 MR. WISE: Can we take a moment?

17 MRS. HENDRICKSON: Yeah.

18 THE COURT: Ah-hum.

19 MS. SISKIND: If the Government could have the version of the Exhibit  
20 that the Defense is using, that would be helpful.

21 THE WITNESS: I don't have another copy of this one.

22 THE COURT: You have one there, Mr. Wise?

23 MR. WISE: I don't, Your Honor.

24 THE COURT: So Mrs. Hendrickson is the only one with one and I have  
25 one? All right. What page are you? What page was on the screen?

1 MRS. HENDRICKSON: It was the Sims v. Aarons (phonetic) decision.

2 MR. WISE: The second page of the Attachment Four.

3 THE COURT: You can use this, Miss Siskind.

4 MS. SISKIND: Thank you, Your Honor.

5 THE COURT: I don't know if it's -- it's different also. Let's see what you  
6 have there.

7 MRS. HENDRICKSON: He just took it. Should I come down?

8 MR. WISE: I have it here, Your Honor.

9 **(Sidebar conference out of the hearing of the Jury)**

10 THE COURT: Are you going to be reading from more than just this  
11 page.

12 MRS. HENDRICKSON: I don't believe so. I think this is it. I just wanted  
13 the Sims v. Aarons (phonetic) decision.

14 THE COURT: So it shouldn't take long to try to figure out whether this  
15 is right or wrong and maybe only this page goes into evidence.

16 MS. SISKIND: The issue, Your Honor, is if this has been edited, it's not  
17 the one that was in effect at the time she filed her 2008 Return and there's a  
18 foundational issue. If there have been changes made to this research paper over the  
19 years, we need to ascertain which version would have been relevant in this case.

20 THE COURT: That's a fair point. How can you do that? How do we  
21 know what was in effect in 2008? How is it that we got copies different from the one  
22 you're using.

23 MRS. HENDRICKSON: I don't know. I don't know. I had a blue one  
24 before, but then I lost it, so I found this one around the house. I seem to have lost two  
25 copies of the blue ones.

1 THE COURT: So I don't know how this can be reconciled now, Mr.  
2 Wise, do you?

3 MR. WISE: I'm thinking very hard about it. I think maybe we need to  
4 take a break and review some of these Exhibits and figure out what's going on and  
5 where the breakdown here is because I don't know.

6 THE COURT: You want to review more than just this Exhibit?

7 MR. WISE: Well, I think we need to review the entire Exhibit. I don't  
8 know that they're and/or, whether or not which page goes in and what the  
9 foundational issue is. I think that the principle from the case that we're citing here will  
10 be the same regardless and Mrs. Hendrickson can testify that she was aware of that  
11 holding at the time she filed her tax returns, but that may be a problem with the  
12 document. I don't know what to say.

13 MRS. HENDRICKSON: I have a suggestion. Can I just admit that page  
14 as evidence instead of the whole book?

15 THE COURT: It is that page that differs.

16 MRS. HENDRICKSON: No, but I mean if we make copies of this page,  
17 can I just use that page for -- then we'd all have the same page?

18 THE COURT: It still is not clear what was in effect in 2008 when you  
19 filed your taxes and that's the issue.

20 MRS. HENDRICKSON: This ruling was from 1925, so that was in effect  
21 when I filed the taxes and that's the ruling that I wanted to get in. That's the only  
22 reason I brought the book.

23 MS. SISKIND: Your Honor, the only way that legal material should be  
24 coming in here is if the Defendant relied upon them in forming her views about the tax  
25 laws, so it is a very important issue which version of this research paper existed in

1 2008.

2 THE COURT: But if the Court was only going to admit this portion  
3 because right now her testimony I think we need to clarify that, if this is all that you  
4 want to -- if you're suggesting that we only admit this page, then I think the testimony  
5 has to be made clear that this is the only part of this research paper that you are  
6 relying upon. If we did that, would that take care of it?

7 MS. SISKIND: Yes, Your Honor.

8 THE COURT: So.

9 MRS. HENDRICKSON: So we will just do the one page then? Make  
10 copies or something? Just the one --

11 THE COURT: (Interjecting) Probably.

12 MRS. HENDRICKSON: I'm sorry. I'm so sorry.

13 THE COURT: You let me know when you're done talking.

14 MRS. HENDRICKSON: I'm done.

15 THE COURT: We will admit only this paragraph that is up on the screen  
16 and that you are reading, right.

17 MRS. HENDRICKSON: Yes, that would be fine. Thank you.

18 THE COURT: Thank you.

19 MRS. HENDRICKSON: Should we re-label this as 549 or something or  
20 just what?

21 THE COURT: Why don't we just withdraw this and we will put a new  
22 sticker on.

23 MR. WISE: We'll call this 549-B.

24 (END OF SIDEBAR CONFERENCE)

25 THE COURT: Ladies and gentlemen, this Exhibit 549 is being withdrawn

1 and despite the testimony that Mrs. Hendrickson has given thus far with respect to her  
2 reliance on this entire research paper, we are withdrawing this entire research paper  
3 and admitted into evidence will only be this one paragraph that she is going to -- that  
4 she's started to read and that we will pick back up with on the screen and for our  
5 purposes now, this is the only part of the research paper that she is testifying that she  
6 relied upon to prepare her 2008 taxes.

7 MR. WISE: Can I ask if the Court staff has any exhibit stickers?

8 THE COURT: Yeah.

9 Q. (By Mr. Wise continuing) So I'm going to place on the screen what's been  
10 marked as Defendant's Exhibit 549-B and ask you, Miss Hendrickson, again would  
11 you read the text that's highlighted there?

12 MS. SISKIND: Objection, Your Honor.

13 THE COURT: Excuse me. It's only the paragraph beginning with the  
14 right to engage, correct?

15 MS. SISKIND: I think she had read both paragraphs previously, but  
16 they've already been read. I don't think there's a need to read them a second time.

17 THE COURT: All right. So both paragraphs are on the exhibit that you  
18 have.

19 MS. SISKIND: No, they're not; only the second one is.

20 THE COURT: Only the second one is, so it's only the paragraph  
21 beginning the right to engage that is coming into evidence.

22 MR. WISE: Okay.

23 THE COURT: So the paragraph above it, although the Legislature is  
24 stricken, ladies and gentlemen, and you're not to consider it. And she did complete  
25 reading it?

1 MR. WISE: She did complete reading it? You did complete reading it?

2 MRS. HENDRICKSON: I think I did.

3 THE COURT: Okay.

4 MRS. HENDRICKSON: I think maybe I didn't quite get to the -- oh, I  
5 was in the middle of just saying that it was -- the quote is from a Supreme Court case  
6 in Arkansas -- I think it was a Supreme Court case -- Sims v. Aarons.

7 Q. (By Mr. Wise continuing) And does the fact that that case comes from a State  
8 Supreme Court rather than a Federal Court have any significance to you in terms of  
9 its applicability to the Federal income tax?

10 A. No, I don't think so.

11 Q. Why not?

12 A. Well, I think that's a good question. I think if I think about that if it was -- if it  
13 had been challenged or something like that, but apparently it was not because it's still  
14 standing, so -- and the states rely on the Federal income tax like when you file your  
15 Federal returns, and you use those same numbers on your State returns. So I would  
16 say they're pretty similar if the State accepts the Federal return as your basis for filing  
17 with the State, then the State Court says one thing and it should be okay.

18 Q. And you've testified that you were aware of this ruling in Sims versus Aaron at  
19 the time you filed your 2008 tax return?

20 A. Yes.

21 Q. Were you aware of it at the time you filed your 2002/2003 income tax returns?

22 A. Probably. I couldn't say with any specificity.

23 Q. Now yesterday you asked the attorneys from the Government about the  
24 characteristics of an affidavit, both Mr. Applegate and Mr. Metcalfe, is that correct?

25 A. I did.

1 Q. Could you tell us what you believe to be the characteristics of an affidavit?

2 A. Well, yes. I've read the statutes applicable to what an affidavit is and its use  
3 and the affidavit has to be a sworn document. You swear to something that you  
4 believe and that makes it an affidavit and Courts rely on sworn testimony and they  
5 assume that you're telling the truth if you put your name to something.

6 Q. Can I ask you to take a look at Defendant's Exhibit 558?

7 A. Yes.

8 Q. And --

9 A. Sorry. Okay.

10 Q. Can you tell us what that is?

11 A. It's a sheet that gives definitions of affidavits, functions, definitions from Black's  
12 Law Dictionary and it's got a copy of a -- looks like a tax return or something from --  
13 yeah, it is. It's a tax return from 1863 and another one from 19-something. I can't  
14 make out what the actual date is; 1910 or 13 or something like that. It's got a series  
15 of tax returns and each one of them has an affidavit at the bottom of them. I think that  
16 was the idea here is all the way back to 1863 it would say sworn and subscribed  
17 before me this day of, and that's what this is.

18 Q. And were you aware of this document and its contents at the time that Judge  
19 Edmunds entered her Order directing you to file amended tax returns?

20 A. Yes, I was.

21 Q. Move for the admission of Defendant's 558.

22 MS. SISKIND: Your Honor, objection. The copyright on the bottom of  
23 the second page is 2008. Judge Edmunds' Order was 2007.

24 THE WITNESS: On what page?

25 MS. SISKIND: The second page.



1 THE COURT: The bottom of the second page of 558, is that what you  
2 said?

3 MS. SISKIND: Yes, Your Honor.

4 THE COURT: I don't have a copyright on mine. Oh, I see it. Copyright  
5 2008. All right.

6 MS. HENDRICKSON: Your Honor, may I say something?

7 THE COURT: No, Mrs. Hendrickson. Do you have a response?

8 MR. WISE: Your Honor, could we take a recess?

9 THE COURT: Okay. We'll recess until 11:30. All rise please.

10 **(Jury exited courtroom at 11:20 a.m.)**

11 MR. WISE: And, Your Honor, I know it's generally not appropriate to  
12 talk to a witness once they're on the witness stand, but I need to discuss matters with  
13 Miss Hendrickson.

14 THE COURT: I understand.

15 **(At about 11:20 a.m. court recessed)**

16 **(At about 11:35 a.m.)**

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

18 THE COURT: Thank you. Continue please.

19 MR. WISE: Your Honor, I'm going to withdraw my request to admit  
20 Defendant's 558.

21 THE COURT: Okay.

22 MR. WISE: I am going to ask Miss Hendrickson to review it.

23 Q. Mrs. Hendrickson, you testified that this document contains various things,  
24 including various definitions of an affidavit, is that correct?

25 A. Yes, it does.

1 Q. And at one of those definitions is written statement of facts voluntarily made by  
2 an affiant under oath or affirmation administered by a person authorized to do so by  
3 law.

4 A. That's correct.

5 Q. So that's your understanding of what an affidavit was when you filed your 2002  
6 and 2003 tax returns?

7 A. Yes, it was.

8 Q. And isn't that still your understanding of what an affidavit --

9 A. Yes. My understanding -- I'm 59 years old. My understanding of affidavits  
10 goes further back than that.

11 Q. And can you tell us if you believe that a Court can force a person to make an  
12 affidavit?

13 A. Well, according to what I've read, the Court cannot force a person to make an  
14 affidavit.

15 Q. Why is that?

16 A. It's a voluntary statement. We talked about this a little bit ago. If you're not  
17 doing it voluntarily and your testimony is being coerced, it's not an affidavit.

18 Q. And that understanding of yours as to what an affidavit is is consistent with the  
19 materials that you have reviewed prior to filing your 2002/2003 tax returns?

20 A. I'm not sure how long before that I've known that, but it's been a long time.

21 Q. So is it your opinion that an affirmation on a tax return made under penalty of  
22 perjury is an affidavit under the definition of affidavit?

23 A. Well, I'm under the opinion anytime you swear under penalty of perjury, that is  
24 an affidavit and I suppose an affidavit could not have that phrase, but I wouldn't take it  
25 as seriously. If someone just signs a statement, I assume they're signing it correctly.

1 Maybe if it's notarized I would take it seriously.

2 Q. And do you believe an affidavit can be valid if it's not fully voluntarily signed  
3 and not directed to be -- or compelled to be signed by somebody against somebody's  
4 will?

5 A. I don't see how you can possibly sign something that you don't believe and still  
6 swear it to be true. It's inconsistent. It makes no sense at all.

7 Q. Mrs. Hendrickson have you in the past seen returns similar to those filed by  
8 you and your husband for 2002/2003 and by yourself for 2008 filed by other people?

9 MS. SISKIND: Objection, Your Honor.

10 MRS. HENDRICKSON: Thousands.

11 THE COURT: Excuse me. What's your objection?

12 MS. SISKIND: Relevance, Your Honor, to other people's taxes.

13 THE COURT: Sustained.

14 MR. WISE: Can I respond or at least make a record?

15 THE COURT: You can make a record.

16 MS. SISKIND: Your Honor, can we do it at side bar then so the Jury isn't  
17 exposed to any facts Mr. Wise may put on the record?

18 THE COURT: All right.

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

20 MRS. HENDRICKSON: I'm getting exercise going up and down those  
21 stairs.

22 MR. WISE: Yes. The point of this testimony again goes to Mrs.  
23 Hendrickson's belief as to the validity of her original filings in this case in 2002 and  
24 2003. Mr. Metcalfe testified with respect to a website that the Hendricksons maintain.  
25 As part of that website, people who have followed the *Cracking the Code* theories

1 submit information about their returns that they filed, the fact that they have received  
2 refunds, the fact that the IRS has accepted the returns for filing and issued refunds  
3 and it is part of the general overall *Cracking the Code* theory and the theory that the  
4 Hendricksons have that that is an acknowledgment by the Government as to the  
5 correctness of those returns and the correctness of those positions and that goes  
6 directly to Mrs. Hendrickson's state of mind as to whether her returns are false and  
7 frivolous or incorrectly filed.

8 MS. SISKIND: The issue of whether other taxpayers reported that they  
9 received refunds is problematic because it's going to be an incomplete version of  
10 events and it raises a serious 403 issue 'cause if the Defense puts in evidence that  
11 people received refunds for following *Cracking the Code*, the Government would then  
12 be entitled to put on evidence of the many, many, many people who have been  
13 prosecuted for this kind of conduct and it's going to become a trial about that and not  
14 about whether the Defendant intentionally violated the Injunction.

15 THE COURT: The ruling on the objection stands. The Court is not going  
16 to allow testimony about what thousands of other taxpayers of have done because we  
17 don't know all of the facts of those tax returns and whether the Government should or  
18 should not have prosecuted anyone else is not relevant to this case.

19 **(END OF SIDEBAR CONFERENCE)**

20 Q. (By Mr. Wise continuing) Yesterday as part of his testimony, Mr. Applegate  
21 read into the record some of Judge Edmunds' Findings of Fact from her May, 2007  
22 Order and I'd like to ask you some questions about those Findings of Fact. On page  
23 five of the Order, paragraph 16 --

24 A. Do we have that? I don't have their book.

25 MS. SISKIND: Would you like the book back?

1 MRS. HENDRICKSON: Yeah.

2 MS. SISKIND: May I approach?

3 THE COURT: Yes.

4 MRS. HENDRICKSON: That's what number? Do you have it?

5 MR. WISE: Government's Exhibit 15.

6 MRS. HENDRICKSON: I have it.

7 Q. That first line of paragraph 16 of that Order reads: Because Defendants  
8 reported they had no income, the IRS unaware that Defendants' report was false,  
9 treated the withheld Federal taxes as tax overpayments. Is that right?

10 A. Yes.

11 Q. Do you believe that the IRS was actually unaware of anything in your returns?

12 A. I have some certainty. I do not believe that they were unaware. They were not  
13 unaware of those returns at all.

14 Q. Why do you say that?

15 A. They underwent significant scrutiny on the way between us filing the returns  
16 and us getting the refunds, months of scrutiny. We would get notices, we're holding it  
17 up for this reason and now we have to check that and I don't remember all of them  
18 specifically. This was back in the early 2000's, but we would get notices of why there  
19 was a delay in issuing our refunds and after some period of time, three or four notices  
20 maybe and then we would get the refund. Or in the case of the 2002 we didn't get the  
21 refund, but they sent us a statement of how they were applying our refund.

22 Q. I would like you to take a look at Defendant's Exhibit 559 and 560.

23 A. Yes.

24 Q. Could you tell me what those are?

25 A. These are some of the Notices that we received. The first one is -- this is

1 relevant to the tax year ending 2002, and this Notice is dated September 29th, 2003.

2 Q. What about 560?

3 A. Well, I have a few Notices here in 559. Do you want me to just do the top  
4 ones?

5 Q. Just tell me what 559 and 560 are.

6 A. Okay. These are a collection of the various notices that we received. So  
7 apparently for 2002 I have four Notices before finally having the return processed. So  
8 they seem to have settled any problems that they had with our return. And then this  
9 one is on -- date of notice, the first date of notice was May 24th, 2004 and I have here  
10 another four pages, so four Notices at various times saying we're checking this, we're  
11 checking that. And then eventually the last page on page 560 is the refund check that  
12 we were issued.

13 Q. So these are Notices that the IRS sent to you regarding your 2002/2003  
14 income tax returns?

15 A. Yes, it was.

16 Q. And based on -- these Notices caused you to form your belief that the IRS was  
17 fully aware of what was on the income tax returns?

18 A. Yes, I believe they were. These Notices, for example the 2002, September  
19 29th, 2003, November, 2003 --

20 THE COURT: Mrs. Hendrickson, it was just a yes or no question. I think  
21 your answer is yes. What's your next question or are you moving these into  
22 evidence?

23 MR. WISE: I'll move for the admission of 559 and 560.

24 MS. SISKIND: No objection.

25 THE COURT: 559 and 560 are in.

1 Q. (By Mr. Wise continuing) I'll put 559 on the screen and could you tell me what  
2 the date of that correspondence is?

3 A. September 29th, 2003.

4 MS. SISKIND: Your Honor, I'm sorry. I don't know if they're aware  
5 there's personal identifying information on this document. I'm pointing it out to the  
6 Court.

7 MRS. HENDRICKSON: I'm not worried about it.

8 MR. WISE: Appreciate that.

9 MS. HENDRICKSON: I don't think I have too many enemies.

10 Q. (By Mr. Wise continuing) And could you read the text of the Notice?

11 A. This says: We received your Form 1040 income tax return for the year 2002  
12 which shows a refund of \$10,152.96. According to our records, you haven't filed your  
13 tax returns for the tax years 2000/2001. We have reason to believe you will owe  
14 taxes for the unfiled years. Therefore, we are holding your tax refund until you file  
15 your return or explain why you haven't filed. If you have filed the returns or if you  
16 aren't required to file them, please contact us. If you are required to file, please send  
17 the returns to this office at the address shown. You must respond within 30 dates. If  
18 we don't receive your returns or an acceptable explanation for not filing by October  
19 the 29th, we may prepare the returns for you based on the information we have which  
20 may not be to your advantage. If you are already working with an IRS employee to  
21 resolve this matter, you should let that person know that your refund is being held.  
22 Otherwise, if you have any questions about this letter, please call our representative  
23 at the number shown above or write to us at the address shown above.

24 Q. And what did that cause you to believe about the validity of your 2002 income  
25 tax return?

1 A. Well, it appears that they accepted the return and it was just being delayed  
2 because they were alleging that we didn't file returns for 2000/2001.

3 Q. Turning to page two of that document. Could you tell us what the date of that  
4 is?

5 A. That's November 3rd, 2003. About a month later.

6 Q. And could you read the text of that letter?

7 A. It says: Overpaid tax applied to other Federal taxes owed on secondary Social  
8 Security number. Our records show that you owed other Federal taxes under Social  
9 Security number and da da da. Therefore, \$1699.86 of the overpayment on your tax  
10 return for the above year has been applied to the unpaid amount. The figures below  
11 show the amount of any refund due you. If so, a check will be sent to you for the total  
12 amount due if it is less than -- oh -- if it is more than a dollar and you owe no other  
13 obligations. However, if the amount due you is less than one dollar, it will be sent to  
14 you only if you ask for it, and then it shows the tax statement, the numbers. Your  
15 overpaid tax on return was the amount that we had requested, \$10,152.96. Amount  
16 of overpaid tax applied and then they subtracted that and came out with amount to be  
17 applied to other obligations refunded or applied to your estimated tax, \$8452.10.  
18 And if you are due a refund, your check will be mailed in six to eight weeks. Any  
19 interest due you will be added, and then it shows how they applied it.

20 Q. And page three of that document. What did -- again, did this document cause  
21 you to have any concern about the validity of your 2002 tax return?

22 A. No it didn't. It confirmed that the return had been accepted as filed.

23 Q. I'll show you page three and ask if you can tell us what the date on that  
24 document is?

25 A. It's just about a month later again, December 22nd.



1 Q. And could you read the text of that document?

2 A. This one I imagine was a copy that was sent to both me and then a copy to my  
3 husband 'cause it's only got my name on it, but it was for the account of Peter E. and  
4 Doreen M. Hendrickson, overpaid tax applied to other taxes you owe. We applied  
5 \$6,521.11 of the overpaid tax on your 2002 tax return to the unpaid balance of other  
6 Federal taxes which our records show you owe. You may still be due a refund if we  
7 applied only part of over payment to other taxes. You also may be due a refund if you  
8 have recently made a payment against the other taxes that we have not -- that we had  
9 not credited when we applied your overpayment. In either case, you will receive a  
10 check for any refund due you as long as the amount is greater than one dollar. You  
11 must request a refund of less than one dollar. If you have questions, please call us at  
12 the number listed above, and then they're showing their calculations, the figures  
13 below. How we applied your overpayment. Amount of overpaid tax on your return,  
14 \$8,453.10. Amount due you, \$8,453.10. Total amount applied, \$6,521.11. Amount  
15 you will you receive as a refund, any interest due you will be added \$1,931.99. Then  
16 it shows where we applied your overpayment for tax period Forms 1040, tax period  
17 ending in December 31st, 2001. Amount applied, \$6,521.11

18 Q. You can stop there. Was there anything about this correspondence that  
19 caused you to question the validity of your 2002 tax return?

20 A. No. It confirmed once again that my return had been accepted as filed.

21 Q. And turning to the last page of that document. Could you tell us the date of this  
22 Notice?

23 A. Notice is January 5th, 2004. Again about a month later, so I assume it's  
24 winding its way through the system.

25 Q. And could you read at least the first couple paragraphs of this text?

1 A. Again for the account of Peter E. and Doreen M. Hendrickson, overpaid tax  
2 applied to other taxes you owe. We applied \$1,931.99 of the overpaid tax on your  
3 2002 tax return to the unpaid balance of other Federal taxes which our records show  
4 you owe, and it's got the same stuff about getting a refund. And then they show the  
5 calculations, that the amount of over paid tax was \$1,931.99 and that was the amount  
6 due us and they applied that total amount to other taxes. It says they applied to the  
7 1040A for the tax period ending in December 31st, 2000 and then it shows that a  
8 balance remaining for that year was \$5,435.91.

9 Q. Anything about this correspondence that caused you to question the validity of  
10 the 2002 tax return?

11 A. Nothing at all. Again confirmed that they had accepted the return.

12 Q. And it says that your over payment of taxes will be applied to other tax years,  
13 therefore you would not be getting a refund?

14 A. Yes, I believe it says that. Each copy contains the same -- I don't know where  
15 it is on there. They do tell you that they're applying it, but yeah, it's the standard  
16 statement about they're going to apply the refund to other taxes.

17 Q. Now turning your attention to Defendant's Exhibit 560, the first page. Could  
18 you tell us what the date of that Notice is?

19 A. This Notice is dated May 24th, 2004.

20 Q. And could you tell us what tax period this Notice is concerning?

21 A. This is for the following year, the year ending December 31st, 2003.

22 Q. And could you read the text of this Notice?

23 A. This Notice was sent to my husband apparently. I don't know where mine is  
24 but delay in processing your refund. We are sorry, but there's a delay in processing  
25 your overpayment for the above tax period because we must check to make sure you

1 do not owe other Federal taxes. This will take about six to eight weeks. Your  
2 overpaid tax shown on return, \$4,676.56. If you owe other Federal taxes, all or part of  
3 your overpaid taxes may be applied. If you requested a refund and don't owe other  
4 Federal taxes, a check will be sent to you for the amount you overpaid. Any interest  
5 due you will be included in the check. No further action is required of you.

6 Q. Anything about this notice cause you to question the validity of your 2003 tax  
7 return?

8 A. No.

9 Q. Turning to page two. Could you tell us what the date of this Notice was?

10 A. This is the same date, May 24th, 2004 for the same tax period. This was an  
11 explanation I see.

12 Q. Could you tell us what the text of the Notice says? Read the text of the Notice  
13 please.

14 A. Yes. We applied \$5,551.44 of the overpaid tax on your 2003 tax return to the  
15 unpaid balance of other Federal taxes which our records show you owe. You may still  
16 be due a refund if we applied only part of your overpayment to other taxes. You also  
17 may be due a refund if you recently made a payment against the other taxes that we  
18 had not credited when we applied your overpayment. In either case, you will receive  
19 a check for any refund due you as long as the amount is greater than one dollar, and  
20 the same stuff. The figures below show our calculation.

21 Q. We can probably skip the figures at this point.

22 A. Okay.

23 Q. It's similar notice to the one you received for 2002, correct?

24 A. Yes, it is.

25 Q. Did it cause you to have any concern about the validity your 2003 income tax

1 return?

2 A. No, it did not. It confirmed that they were processing it.

3 Q. Turning to page three. I'll ask you to tell us what the date on that Notice is?

4 A. June 30th, 2004, about a month after the first Notice.

5 Q. And could you tell us what the text of this Notice is?

6 A. Dear taxpayer: This is to let you know that you have an overpayment of  
7 \$4,676.56 on your Form 1040 for the tax period shown at the top of this letter. We  
8 applied part of your overpayment to the civil penalties we charged you as shown at  
9 the end of this letter. If you have any questions, please call us toll free at  
10 1-800-829-0922. If you prefer, you may write to us at the address shown at the top of  
11 the first page of this letter. Whenever you write, please include this letter and in the  
12 spaces below give us your telephone number with the hours we can reach you. Keep  
13 a copy of this letter for your records and it's Deborah K. Hurst, Operations Manager  
14 Collection. It's from the Treasury IRS.

15 Q. Then turning to the next page. That essentially -- can you -- that essentially  
16 explains how they're applying overpayment and civil penalties?

17 A. Yes, it does. It shows which year, which form and how they're applying it.

18 Q. Then turning to the last page, can you tell us what that is?

19 A. This was our refund check after they took what they wanted for the civil  
20 penalties and for the money they said that we still owed on the previous years, so this  
21 is what remained, a check for \$3,172.30.

22 Q. Now what did these Notices that you were getting from the IRS with regard to  
23 your 2002/2003 tax years lead you to believe about the validity of those returns?

24 A. I believed that they were perfectly all right. They had been thoroughly vetted  
25 and been looked at all the way along and then we did not get anything back for 2002,

1 but we got something back for 2003.

2 Q. And did you form a belief about the level of attention that the IRS was paying to  
3 those returns?

4 A. I was pretty amazed every like once a month going to the mailbox and getting a  
5 letter from the IRS, but it confirmed that it was -- to my knowledge it's confirmation  
6 that they had been thoroughly looked over.

7 Q. Did you ever receive from the IRS a Notice of Deficiency suggesting that you  
8 owed more tax than what was calculated on your original 2002/2003 returns before  
9 you were served with a civil lawsuit in front of Judge Edmunds?

10 A. No, we did not. We never received a Notice of Deficiency in an effort to try to  
11 reclaim that money from us.

12 Q. Prior to filing the lawsuit, did the IRS ever send anything to you stating your  
13 returns for 2002 or 2003 were false?

14 A. Never once.

15 Q. What does all that mean to you?

16 A. Means my returns were okay.

17 Q. Did it give you any impression about the validity of the lawsuit that the  
18 Government had brought against you?

19 A. I was pretty shocked to be sued civilly in 2006 over these returns that we filed  
20 for 2002 and 2003, and the usual method would be for the IRS to send you a Notice  
21 of Deficiency if they take exception to the returns that you filed and having never  
22 received any Notice of Deficiency and all of a sudden you have a lawsuit that's being  
23 served on you, it didn't make any sense to me. I couldn't understand where this was  
24 coming from.

25 Q. Did you form an opinion as to why they decided to file a civil lawsuit against

1 you rather than give you Notices of Deficiency or take some other process to try to  
2 collect the taxes due?

3 A. The Department of Justice had been -- had undertaken efforts almost  
4 immediately after my husband's book was made available to the public and those  
5 efforts failed. They withdrew their Complaints. They filed them in four areas of the  
6 country, I suppose so that he wouldn't be able to easily defend himself all over the  
7 country, but those Complaints were withdrawn. They were trying to get him to stop  
8 making that book available, and I believe that filing a civil lawsuit against us rather  
9 than going through the usual channels, they could make a bigger splash. If you got a  
10 Notice of Deficiency in the mail, they can't make that public, but filing a lawsuit and as  
11 they did to people around the country that were filing in conformance with *Cracking*  
12 *the Code*, they could make a big splash three days before tax day in April of 2006 and  
13 that's exactly what they did trying to deter people from reading the book.

14 Q. Mrs. Hendrickson, I'll ask you to take a look at Defendant's Exhibit 562 and just  
15 tell me if you recognize it.

16 A. Yes, I do.

17 Q. Is that a pleading from one of these lawsuits that you mentioned trying to enjoin  
18 the publication of *Cracking the Code*?

19 A. It is.

20 Q. And based on that document, did that document form the basis of any of your  
21 opinions with respect to the validity of the income tax returns for 2002/2003 and the  
22 validity of the IRS's actions in this case?

23 A. Yes. Do you want to read the --

24 Q. I just want you to answer that question.

25 A. Yes.

1 Q. I would move for the admission of Defendant's Exhibit 562.

2 THE COURT: Is there an objection?

3 MS. SISKIND: Your Honor, yes. We object. We think there's some  
4 additional foundation is needed how this particular exhibit bears on her formulation of  
5 her views about the income tax.

6 THE COURT: Bears on formulation of her views about the income tax  
7 rather than Government motivation?

8 MS. SISKIND: I believe Mr. Wise's question is whether this document  
9 was part of her formulating her views about the income tax.

10 THE COURT: All right. If that's the case, more foundation.

11 Q. (By Mr. Wise continuing) Well, Mrs. Hendrickson, taking this document in  
12 connection with the actions of the IRS -- let me rephrase the question, the  
13 foundational question. Did this document contribute to your belief in the validity of the  
14 theories that are set forth in *Cracking the Code*?

15 A. Yes.

16 Q. Move its admission, Your Honor.

17 MS. SISKIND: Your Honor, we'd raise the same objection. It's unclear  
18 how this particular document has any connection or could have any connection to the  
19 Defendant's views about the income tax. It's not even clear that these are tax related.

20 THE COURT: You can make a record here, Mr. Wise.

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

22 MR. WISE: Your Honor, Defendant's Exhibit 562 are documents  
23 concerned with the voluntary dismissal of a lawsuit enjoining the publication of  
24 *Cracking the Code*, attempting to enjoin the publication of *Cracking the Code*. I  
25 believe Mrs. Hendrickson will testify that based on the fact that the Government

1 brought these lawsuits in an attempt to stop the publication of *Cracking the Code* and  
2 then voluntarily dismissed them contributed to her belief that the Government could  
3 not show that the theories in *Cracking the Code* were invalid.

4 MS. SISKIND: First, the second and third documents actually relate to  
5 summons enforcement actions, not attempts to enjoin the publication of the book, at  
6 least on their face. They both relate to summons that would have been served on Mr.  
7 Hendrickson and --

8 THE COURT: And then dismissed?

9 MS. SISKIND: Yes, not to an Injunction suit regarding the book.  
10 Certainly Mrs. Hendrickson has testified to these facts and on their face there's no  
11 mention of an Injunction. There's no mention of Government efforts to stop  
12 publication of the book. These documents would be confusing to the Jury and should  
13 not be admitted.

14 THE COURT: I will admit them and testimony can explain further.

15 **(END OF SIDEBAR CONFERENCE)**

16 THE COURT: So 562 is admitted.

17 Q. (By Mr. Wise continuing) Mrs. Hendrickson, could you tell us what documents  
18 are contained in 562?

19 A. The front page is an Order of Voluntary Dismissal from this Court Without  
20 Prejudice Of Petition To Enforce An Order Dismissing Order To Show Cause. That's  
21 kind of convoluted, but basically the Petitioner was the United States of America and  
22 they filed a Notice of Voluntary Dismissal Without Prejudice in their suit that they  
23 brought to stop publication of *Cracking the Code*.

24 Q. And the following documents -- I didn't finish my question -- the following  
25 documents are Stipulations by the Government and the parties involved with respect



1 to having the case dismissed?

2 A. That's correct.

3 Q. And these are related to one of those actions you said that the Government  
4 brought prior to filing the lawsuit with Judge Edmunds against your husband, correct?

5 A. That is correct.

6 Q. And what opinion did you form based on these dismissals about the validity of  
7 *Cracking the Code*?

8 A. Well, they were trying to enjoin my husband from making the book available to  
9 people who want it and they were -- I think in their original Complaint they were saying  
10 that it was some scheme or something like that, the terms -- that's one of the terms  
11 they like to use -- and when they had to voluntarily withdraw their motions to stop  
12 publication of *Cracking the Code*, then it seemed to me that they really couldn't find  
13 anything wrong with it. Otherwise, I think they would have gone to court and pressed  
14 the issue and they opted not to do that. They filed those papers I think around as I  
15 said around the country to make it difficult for him to defend it and then when it  
16 became apparent that they couldn't really even argue against the law that's in this  
17 book, they withdrew their complaints.

18 Q. And does -- do those actions have -- did they influence your beliefs about  
19 whether the lawsuit against you and Peter Hendrickson in front of Judge Edmunds are  
20 really sincere disputes with your conclusions that your earnings are not taxable?

21 A. It sure did. I mean this document is dated July 8th, 2004, and then in April of  
22 2006 I get served with a civil lawsuit along with other people around the country  
23 again. It probably took them a couple years to put to -- or cobble together some kind  
24 of a lawsuit against us and that's really what I felt it was. They were just cobbling  
25 things together taking inaccurate representations of the book just to file a lawsuit and

1 try to make a splash again.

2 Q. Okay. Yesterday through the Government witnesses you tried to establish  
3 whether or not there was a program within the IRS to catch actual false and fraudulent  
4 returns before refunds are issued. Do you recall that?

5 A. Yes, I do.

6 Q. And the Government attorneys claimed that they weren't particularly aware of  
7 the particular details of those programs. Do you recall that?

8 A. They did say that, yes.

9 Q. Do you have any knowledge about such programs?

10 A. I've read about these programs. They have several programs in place to try  
11 and make sure that refunds don't just like slip through the cracks and obviously it's  
12 easier for them to not issue the refund initially than to try to get it back. So they have  
13 a number of programs in place, and while I don't recall all their names and such, I am  
14 not an IRS agent. I've read about them and I'm well aware of the various programs in  
15 place.

16 Q. Could you turn to Defendant's Exhibit 547 please? And without describing in  
17 detail what this document is, could you tell us generally what it is?

18 A. It's just some printouts that we made to prepare for this case that -- just  
19 verifying because as I said, I don't necessarily keep all of the -- when they use letters  
20 like Q-R-P or A-T-M or something like that.

21 Q. Mrs. Hendrickson, could you tell us specifically what that -- not going into great  
22 detail, but specifically what these documents are?

23 A. It gives kind of a summary of some of the programs that the IRS has in place to  
24 catch returns that are -- in some cases it might just be that somebody put a wrong  
25 number down or something or there's something inconsistent or they're trying to catch

1 fraud or whatever reason, but they have programs in place to do that.

2 Q. And you are aware of these programs?

3 A. Absolutely.

4 Q. Were you aware of these programs in -- when you filed your 2002/2003 tax  
5 returns?

6 A. I was aware of them long before that. My ex-husband and I got audited one  
7 year.

8 Q. And did your awareness of these programs contribute to your belief with regard  
9 to the correctness of your 2002 and 2003 income tax returns as they were originally  
10 filed?

11 A. Yes, they did. I figured when the other things we were talking about when it  
12 was month after month getting the notices, I assumed they were going through like  
13 each of these programs step by step by step.

14 Q. I'd move for admission of Defendant's 547.

15 MS. SISKIND: Your Honor, we'd object. Mrs. Hendrickson testified a  
16 moment ago these are just some printouts we made in preparing for this case. She  
17 can use it to refresh her recollection about certain programs, but this document should  
18 not come into evidence.

19 THE COURT: Objection is sustained.

20 MR. WISE: Your Honor, for the record could I just indicate that page  
21 one at least is -- appears to be a Government publication which again I think is  
22 authentic and at least page one should be admitted.

23 MS. SISKIND: The Government would still object. The witness can  
24 testify as to her understanding of various programs and use this to refresh her  
25 recollection as needed.

1 THE COURT: Objection -- I mean the ruling stands.

2 Q. (By Mr. Wise continuing) Doreen, are you familiar with the IRS's Questionable  
3 Refund Program?

4 A. Yes, I am.

5 Q. Could you tell us what that is?

6 A. It is a nationwide, multi-functional program established in January, 1977. The  
7 QRP --

8 MS. SISKIND: We object. The witness is reading off of the document.

9 THE COURT: Mrs. Hendrickson, can you talk about that program  
10 without reading from the document.

11 MRS. HENDRICKSON: Sure. It's as I said before. Its purpose is to  
12 identify fraudulent returns, stop refunds from issuing where they're not supposed to be  
13 issuing and they will -- if they think there's actual fraud involved, they refer it to their  
14 Criminal Investigation Unit from there.

15 Q. (By Mr. Wise continuing) And did your knowledge of the existence of that  
16 program contribute to your belief in the validity of your 2002/2003 tax returns?

17 A. Yes, it did.

18 Q. How so?

19 A. I figured that -- I had read before a long time ago and you read through -- all  
20 through -- I guess you read stuff about things on a continuing basis, but what I had  
21 read was that virtually all requests for refunds go through some kind of electronic  
22 detection system. The information is fed in and then there's a computer analysis  
23 done that will shoot up a red flag or something, which is I believe what caused the  
24 audit that my ex and I got many, many years back. Fortunately that turned out fine for  
25 us. We didn't owe anything, so -- but something on that return I think because he has

1 his own business and something shot up a red flag and he ran it out of our house too.  
2 So I know that these things exist and my 2002 and 2003 returns apparently didn't  
3 shoot up any red flags.

4 Q. Are you also familiar with the IRS's Electronic Fraud Detection System?

5 A. Yeah, that's the one that I'm talking about where it goes through automatically  
6 and it's got the -- as they put it in here -- its reliable indicators of where there might be  
7 a problem and that's this thing. It's probably -- I'm not familiar with computer  
8 programming, but I know that you can create programs to specifically look for patterns  
9 or look for certain things along that nature, but I'm not really familiar with programming  
10 at all.

11 Q. So does the existence of these programs and other programs like them that  
12 may have exist with the IRS have any effect on your belief whether the IRS or the  
13 Department of Justice attorneys were sincere when they told Judge Edmunds that  
14 your returns were false and that erroneous refunds just slipped through the cracks?  
15 Did your knowledge of programs like these have an effect on your beliefs about  
16 whether the IRS or the Department of Justice attorneys were sincere when they told  
17 Judge Edmunds that your returns were false and that erroneous refunds were issued  
18 time and time again despite the existence of these programs?

19 A. Well, yeah. It casts some doubt on whether that was a sincere loss, let's put it  
20 that way. I don't believe that refunds just slip through the crack. I think that's very  
21 seldom. I just can't imagine that this happens too often and for it to have happened  
22 with us two consecutive years, that's not realistic.

23 Q. And did that also contribute to any doubts you may have had about the  
24 correctness and sincerity of the basis for Judge Edmunds' ruling in your case?

25 A. Yes, it did.

1 Q. Why is that?

2 A. Repeat the first part.

3 Q. I said why?

4 A. Oh, the first part of that question.

5 Q. Was whether or not your doubts about the correctness and sincerity -- did the  
6 existence of these programs, the fact that refunds were issued to you, that you  
7 received no Notice of Deficiency or any indication that there was a problem with your  
8 2002/2003 tax returns cause you to have any doubts about the correctness and  
9 sincerity of the grounds upon which Judge Edmunds issued her Order?

10 A. Absolutely. I don't think there were valid grounds for having that ruling at all. I  
11 don't think there were valid grounds for filing the lawsuit.

12 Q. And I'm going to ask you to take a look at Defendant's Exhibit 552 please.

13 A. I have it.

14 Q. And again without telling us the contents, could you describe what that is?

15 A. It's a tax code statute.

16 Q. And it's Section 6020 of Title 26.

17 A. It is.

18 Q. And you were familiar with this statute?

19 A. I'm very familiar with it.

20 Q. And you were familiar with it prior to 2007 when Judge Edmunds entered her  
21 Order?

22 A. Yes, I was.

23 Q. Your Honor, I move for the admission of Defendant's 552.

24 MS. SISKIND: Your Honor, I think additional foundation is needed about  
25 how this Order -- how this statute bears on this case.

1 THE COURT: More foundation, Mr. Wise, please.

2 Q. (By Mr. Wise continuing) At any time did the IRS prepare a tax return on its  
3 own for you and Mr. Hendrickson in this case?

4 A. It did not.

5 Q. And in fact, this statute, at least as you read it, provides that the Secretary of  
6 the Internal Revenue shall make such a return if he believes your return is false, is  
7 that correct?

8 A. That is correct.

9 Q. Move its admission, Your Honor.

10 MS. SISKIND: I believe Mrs. Hendrickson has now testified to what it  
11 says. I don't see the need to be cumulative to put the actual document -- the statute  
12 into evidence.

13 THE COURT: I'll allow it in; 552 is in.

14 Q. (By Mr. Wise continuing) Could you read the highlighted portion?

15 A. Yes. The statute is 26 U.S.C. Section 6020: Returns prepared for or executed  
16 by Secretary. That's the Secretary of Treasury. B, execution of return by Secretary.  
17 One, authority of Secretary to execute return. If any person fails to make any return  
18 required by any Internal Revenue law or regulation made thereunder at the time  
19 prescribed therefore, or makes willfully or otherwise a false or fraudulent return, the  
20 Secretary shall make such return from his own knowledge and from such information  
21 as he can obtain through testimony or otherwise. And the shall make is kind of  
22 important because it's my understanding that during -- when they're crafting  
23 legislation, shall make isn't an option. When it says shall make, they're to do it. Two,  
24 status of returns: Any returns so made and subscribed by the Secretary shall be  
25 prima facie good and sufficient for all legal purposes.

1 Q. So you already answered the question while you were reading this, but you  
2 found the use of the term shall in that statute significant?

3 A. I did, because if there was a problem with my return, if it was false or fraudulent  
4 in any way, then it's incumbent upon the Secretary to prepare a return based on his  
5 own knowledge and file it. I may dispute that in some kind of court or hearing or  
6 whatever, but that's what he shall do. It's not an option. That's the method of dealing  
7 with first off, the first way to deal with false or fraudulent returns or if someone just  
8 didn't bother filing one and they were supposed to.

9 Q. To the best of your knowledge, has the IRS or the Secretary of the Treasury or  
10 anyone ever created a return of its own under this statute?

11 A. Not for my husband and I and not for me individually.

12 Q. And that's true for tax year 2002?

13 A. Correct.

14 Q. Tax year 2003?

15 A. Correct.

16 Q. Tax year 2008?

17 A. Yes.

18 Q. Does the failure or does the fact that the Government has not made such a  
19 return considering this statute, cause you to come to any conclusions about how it  
20 really views your original 2002/2003, 2008 income tax returns?

21 A. It would appear that my income tax returns for those three years are fine. I  
22 have never had them prepare a return for me, so they didn't slip through the cracks  
23 and they didn't prepare a return for me.

24 Q. Now when the Government brought the lawsuit before Judge Edmunds  
25 seeking injunction in this case against you and your husband, Peter in 2006, were



1 there other people around the country who were sued at the same time for essentially  
2 identical returns?

3 MS. SISKIND: Objection, Your Honor.

4 THE COURT: Objection is sustained.

5 Q. (By Mr. Wise continuing) Moving ahead to May, 2007 when Judge Edmunds  
6 entered her amended Judgment final ruling, could you tell us what your reaction was?

7 A. Pretty shocked. I couldn't imagine that the ruling went that way. There was no  
8 reason for it to have -- we never even had a hearing. We requested a hearing, but it  
9 was denied. I kind of thought here in our system that when you have a legal dispute  
10 and one party or both parties want a hearing, then you go before a Judge and you  
11 argue it out and then that Judge makes a ruling.

12 THE COURT: Well, that's not an accurate statement of what the law  
13 requires Mrs. Hendrickson.

14 MRS. HENDRICKSON: Anyhow there was no hearing or anything.  
15 There was lot of paperwork back and forth, motions filing and stuff like that, but we  
16 wanted to have an actual hearing and we were not granted that.

17 Q. (By Mr. Wise continuing) And how did you feel about the portion of Judge  
18 Edmunds' Order directing you to file amended returns?

19 A. Well, kind of puzzling actually because our returns had been accepted and  
20 thoroughly vetted by the Internal Revenue Service, so why would I file amended  
21 returns repudiating my previously sworn testimony on those documents? That didn't  
22 make an awful lot of sense to me. I was being told at that point replace your freely  
23 sworn testimony with testimony I'm telling you what to put on your return, and that's  
24 just not the way it's supposed to be.

25 Q. One of the -- one part of the Order from Judge Edmunds again directed you to

1 file amended returns. What did you understand from this that you were being  
2 commanded to change about your original return?

3 A. I was being told to change the amounts on the top line of the form to what Mr.  
4 Metcalfe had determined belonged there and then sign it as if it was my own  
5 testimony. And again, you can't file an affidavit that you don't believe, so here I am. I  
6 don't believe what I'm being told to write down and put my name on it and I used to --  
7 when I complained to people about it, all these people that I've talked to about this  
8 over the years, I said if Mr. Metcalfe wants to say that that's what my -- that those  
9 earnings are actually income as defined in the law, let him sign his name to it. It  
10 wasn't my testimony.

11 Q. And you're talking about -- you just mentioned the figures that Mr. Metcalfe  
12 proposed you sign your name under. Do you have an understanding where the  
13 Government got those figures as opposed to the figures you originally submitted?

14 A. Yeah. There was this supposed IRS examiner, Terry Grant, who threw  
15 together some numbers I suppose, but it wasn't a formal audit or exam as was  
16 supposed to be and then I'm thinking that if you -- for example, if you were going to  
17 sue somebody --

18 THE COURT: (Interjecting) Mrs. Hendrickson, I think the question was  
19 do you know where the Government got those figures.

20 MRS. HENDRICKSON: I suppose it was from this Terry Grant person  
21 who put together an exam that she said wasn't a formal exam.

22 Q. (By Mr. Wise continuing) And at least according to the Declaration of Miss  
23 Grant that she had reviewed W-2's and 1099's from various people in putting together  
24 those numbers?

25 A. Correct.

1 Q. Is that correct?

2 A. That's what I assumed.

3 Q. What was your reaction, if any, to the fact that the Court presumed that those  
4 numbers were correct without a hearing or taking evidence from you?

5 A. Well, it doesn't seem fair quite frankly. If I say one thing and someone else  
6 says another thing, why is that person's testimony of anymore significance than my  
7 testimony without some kind of proof? It just doesn't seem right.

8 Q. And when you first read Judge Edmunds' amended Judgment and Order, was  
9 it clear to you whether or not you were allowed to state what you believed to be the  
10 truth on your amended return?

11 A. Initially no, that was not part of her Order.

12 Q. It was not part of her Order that you state the truth on your amended return?

13 A. Oh. She said to state the truth, but the truth is -- you're going to tell me what  
14 the truth is. It's like telling some person that your religion is the only one and you  
15 must --

16 THE COURT: (Interjecting) I'm sorry. What is your question? What is  
17 the question?

18 Q. (By Mr. Wise continuing) The question was when you first read this Order, was  
19 it clear to you whether or not you were allowed to state the truth on your amended  
20 return?

21 A. I was not allowed to state the truth as I believe it.

22 Q. So when you saw that you were being commanded to use somebody else's  
23 version of the facts with respect to your taxable income in these amended returns, did  
24 you believe that you could comply with that Order?

25 A. No. You could not comply with it, and I don't --

- 1 THE COURT: (Interjecting) I think you have answered the question.
- 2 Q. (By Mr. Wise continuing) Why could you not comply with it?
- 3 Q. You can't comply with it because it's telling you to state a version of someone
- 4 else's facts and declare it to be your own and sign it whether you agree with it or not,
- 5 and that's -- you can't do it. That's not what an affidavit is. You can't, and morally you
- 6 can't. That's just lying.
- 7 Q. Later did you have a hearing in June in front of Judge Edmunds regarding that
- 8 Order? That's June, 2010?
- 9 A. Yes, we finally got a hearing in June of 2010, four years after the lawsuit was
- 10 filed.
- 11 Q. And at that hearing did you perceive or do you believe that Judge Edmunds
- 12 made modifications to what she was ordering you to do?
- 13 A. She did make some modifications.
- 14 Q. I'm going to ask you to look at Defense Exhibit 563.
- 15 A. Yes, I have it.
- 16 Q. We're using Exhibit 563 for identification, but this has already been admitted as
- 17 Government's Exhibit 20. That is the transcript of that June 10th, 2010 motion,
- 18 correct?
- 19 A. Correct.
- 20 Q. I'd like you to take a look at page six and take a look at -- see the highlighted
- 21 portions in there?
- 22 A. Yes.
- 23 Q. Could you read the part that is highlighted there that's the statements by the
- 24 Court?
- 25 A. Yes. Judge Edmunds said that you can affix something to it that says you

1 know filed under protest or anything you want that says that you know. I disagree  
2 with the statement that this is taxable income. I don't care what you affix to it.

3 Q. Going on to the next page.

4 A. She continued at some length.

5 Q. Could you read the highlighted portions from there?

6 A. File something along with your return that states you disagree with having to  
7 file it and that you disagree that they're wages and you disagree that there are tax  
8 owed on it. Append whatever you want to your return.

9 Q. Moving on to page eight.

10 A. I'm giving you the option of filing those amended returns with an explanatory  
11 statement that you disagree with it.

12 Q. And page nine.

13 A. And she says one more time just verifying: I'm giving you the option of filing an  
14 affidavit or anything you want with your tax return.

15 Q. Based on that, what did you and your husband -- or first, did that make you feel  
16 more able to comply with the Order?

17 A. Yes, it did.

18 Q. And how so?

19 A. Well, I could comply with the Order to fill in someone else's numbers on my tax  
20 return, but I felt I could assuage my conscience by at least being able to say these are  
21 not really my numbers, but I'm being told to do this or go to jail and so given that  
22 choice, I opted to not go to jail and put the numbers they wanted on the return and file  
23 something with that return saying this was coerced, I don't agree with it, but I'm doing  
24 it because it's in the best interest of my family.

25 Q. And after this you filed the amended 2002/2003 tax returns that the

1 Government admitted yesterday?

2 A. Yes, we did.

3 Q. And when you filed those returns with under duress on them and appended  
4 that disclaimer, did you intend to break the law or in any way obstruct the  
5 administration of justice?

6 A. I did not. I was following the Orders.

7 Q. And then there was another hearing in December of 2010 before Judge  
8 Edmunds, correct?

9 A. Yes, there was.

10 Q. And at that hearing did Judge Edmunds acknowledge that you had filed the  
11 amended returns with the appendixes?

12 A. Yes.

13 Q. At that point did you believe you had complied with what she asked you to do?

14 A. I thought so. She acknowledged that I filed them.

15 Q. Okay, but at that point did it appear to you that Judge Edmunds had changed  
16 her mind about what you were supposed to do or what you should do or was again  
17 modifying her Order?

18 A. She did modify it again.

19 Q. And how so?

20 A. This time she said that -- first at one point she denied that she ever said I could  
21 append something to the return, but I showed her where she actually did say that, and  
22 then she said -- she changed her mind on it and said that I couldn't attach anything or  
23 append or affix, but I could file an affidavit with the Court, this Court. I could file an  
24 affidavit expressing my views that I was having testimony coerced from me and I  
25 guess that was the best she was willing to do. I had to file the return with the

1 numbers they wanted on it and sign it and not attach anything to it this time. So I did  
2 just that. I made a new amended return and filed it with the Court or actually I sent it  
3 to Daniel Applegate. I sent it to him. So I made a new amended return and filed an  
4 affidavit with the Court. I did attach that return to the affidavit that I filed with the  
5 Court, but I didn't attach it to the one for Mr. Applegate to submit because she said  
6 you can't attach anything to it, and I attached the return to the affidavit that I filed  
7 because generally if you going to file an affidavit with -- for some case that you're  
8 involved with, you usually file supporting documents or something with it. You have to  
9 have a reason for filing an affidavit. You can't just go willy-nilly go filing papers with  
10 the Court for no reason, so I referenced the amended return in the affidavit and  
11 attached it to the affidavit and brought it down to the -- or up to the Clerk's Office here  
12 and filed it.

13 Q. That was the two amended returns that you filed on your own?

14 A. Yes, it was.

15 Q. And we heard Mr. Applegate testify that by filing that return on your own and  
16 changing your filings status, that the IRS could not process that return, is that right?

17 A. That's what he said, yes.

18 Q. How did you come to decide to file an amended return changing your filing  
19 status?

20 A. I couldn't get my husband to sign an amended return with me, so in an effort to  
21 comply with Judge Edmunds, I told Judge Edmunds that I couldn't get Peter's  
22 signature on the forms and she said something to the effect of -- I don't remember the  
23 exact conversation -- I was pretty upset, but she said she'd deal with him later and to  
24 -- something to the words of do whatever you have to do, but you must file these  
25 returns and so I did change the filing status. I didn't -- I didn't notice on there that it

1 said you can't change the filing status. I just -- I had this idea plan in my head. When  
2 she said do whatever you have to do, that gave me idea in my head oh, I can comply.  
3 If I file on my own married separate, I can comply and so that's what I did. It never  
4 even occurred to me that the return couldn't be processed by changing the filing  
5 status.

6 Q. So when you filed that return did you believe you were in compliance with  
7 Judge Edmunds's Orders?

8 A. I thought I was.

9 Q. I want to take you back to the hearing that preceded the filing of that return and  
10 ask you to take a look at what is marked for identification as Defendant's Exhibit 561,  
11 which is already in evidence. That's Government's 20. The last page of  
12 Government's Exhibit 25 and this is the conclusion of that hearing. Could you read  
13 the highlighted portions?

14 A. At -- this is at the end of the hearing before we had the conversation in her  
15 chambers where she was telling me she would deal with Peter at some later date. So  
16 at the end of the hearing she said -- I said but I'm being coerced to say something and  
17 she said I don't care, and I said but you're asking me to perjure and she cut me off  
18 and said done and I said -- myself, I was continuing asking me to perjure myself. That  
19 doesn't matter? And she said this hearing is done. You may leave. I said that's a  
20 felony you know? And she said you may leave and then she walked out back to her  
21 chambers and that's when I went around the corner to her chambers to try to pursue  
22 the conversation.

23 Q. And what did you understand Judge Edmunds to be telling you at that point?

24 A. She didn't care whether I committed perjury.

25 Q. Now is there anything in the Order directing you to file amended returns that



1 you're charged with having violated here that commands you to file a return that's  
2 processable by the IRS?

3 A. That's not in the Order.

4 Q. Did you feel Judge Edmunds had given your arguments respectful attention in  
5 proceedings before issuing her rulings in the case?

6 A. I don't believe she did, but I suppose any loser in a case would say that.

7 Q. I'll ask you to take a look at Defendant's Exhibit 503.

8 THE COURT: For the record, Mr. Wise, 561 is not going in with the Jury,  
9 correct? You said it's the same as Government's 20?

10 MR. WISE: Correct.

11 A. I have 503.

12 Q. (By Mr. Wise continuing) I'm asking you to take a look at Defendant's Exhibit  
13 525?

14 A. And 525 you said?

15 Q. Yes, please.

16 A. Okay.

17 Q. And getting back to your last answer to the question about did you feel that  
18 your case had received respectful attention, do these documents have any  
19 significance as to your belief that the Court didn't?

20 A. Yes.

21 Q. And these are -- 503 is a pleading that you filed with Judge Edmunds in this  
22 lawsuit or in the lawsuit seeking the Injunction?

23 A. Yes. The 503 was -- it was assigned to Nancy Edmunds, but it was the  
24 Magistrate's report.

25 Q. And 503 is actually your objection to that report, correct?

1 A. Yes.

2 Q. Move for the admission of 503.

3 MS. SISKIND: No objection, Your Honor.

4 THE COURT: Then 503 is in.

5 Q. (By Mr. Wise continuing) And can you tell us what Defendant's exhibit -- what  
6 Defendant's Exhibit 503 is?

7 A. It's our response to the Magistrate's Report and Recommendation regarding  
8 Plaintiff's Motion for Summary Judgment.

9 Q. And do you know what date that was filed?

10 A. It says it was filed February 23rd, 2007.

11 Q. And do you recall what date Judge Edmunds issued her initial Judgment in this  
12 case?

13 A. I think what we're getting at here -- this was -- yeah, this was filed on a Friday  
14 afternoon and it is a --

15 Q. And Doreen, if you need to refresh your recollection as to the dates, it may be  
16 helpful to look at Government's Exhibit 31 which is the docket sheet.

17 A. Yeah.

18 A. It's a 14-page document that was filed late on a Friday afternoon and it was  
19 ruled against on Monday, so I'm not sure that that was given due consideration.

20 Q. Then after Judge Edmunds issued her final Order in this case, you and your  
21 husband appealed her decision to the Court of Appeals, is that correct?

22 A. We did.

23 Q. Do you believe that the Appellate Court gave thoughtful and due consideration  
24 to the briefs you and your husband filed before issuing their Opinion?

25 A. Well, it's not likely because they didn't answer most of the arguments that we

1 made. They completely dodged most of the arguments that we made and made  
2 almost, without being disrespectful when I say nonsensical, I mean you couldn't make  
3 sense of it, a ruling that was incomprehensible. It didn't make any sense to me  
4 anyhow. I kind of expected them to at least address the issues we had --

5 THE COURT: (Interjecting) Mrs. Hendrickson, wait for a question  
6 please.

7 Q. (By Mr. Wise continuing) Now as part of that appeal, were you given oral  
8 argument or an ability to directly address the Court to present the issues that you  
9 raised on your appeal?

10 A. We requested that, but it was denied.

11 Q. Do you believe that the Court of Appeals gave due consideration to all the  
12 arguments and authorities that you presented to it ?

13 A. The ruling makes it obvious that they did not. If I may continue on that?

14 Q. Let's wait a second. I'm going to ask you to take a look at Defendant's Exhibit  
15 513 and ask you what that is?

16 A. It's a Memorandum of Law Regarding the Meaning of Income and Includes in  
17 the Income Tax Statutes and the Particulars of Wage, Withholding and FICA taxes.  
18 That's the title of it.

19 Q. Okay, and who prepared that document?

20 A. I believe my husband did this one.

21 Q. And was it submitted as part of your appeal of Judge Edmunds' Order?

22 A. It was.

23 Q. Move for the admission of Defendant's 513.

24 MS. SISKIND: Your Honor, this document was stricken by the 6th Circuit  
25 and was not permitted to be filed in that case.

1 THE COURT: Is that true, Mrs. Hendrickson?

2 MR. WISE: That is true. That's part of our point.

3 THE COURT: It's not admitted. Excuse me. Wait for a question.

4 Q. (By Mr. Wise continuing) And could you tell us what Defendant's Exhibit 514  
5 is?

6 THE COURT: Five what?

7 MR. WISE: Five-14.

8 A. This is another Memorandum of Law that Mr. Metcalfe moved to have the  
9 Appeals Court not consider, but this is on procedural errors in the District Court.

10 Q. For the record, I'll move for admission of 514, but I think it's subject to the same  
11 objection.

12 MS. SISKIND: That's correct, Your Honor.

13 THE COURT: Was it stricken?

14 MS. SISKIND: Yes, Your Honor.

15 THE COURT: Okay, it's not in.

16 Q. (By Mr. Wise continuing) But those are essentially documents that you filed  
17 with the Court of Appeals asking them to consider certain points of which you believed  
18 to be law and procedure, correct?

19 A. Yes, that's true, and when we filed them it was to supplement their  
20 understanding of the issues that we were raising, but as I said, Mr. Metcalfe moved to  
21 have them taken out of consideration so that the Court would not be fully informed.

22 Q. And did as Miss Siskind just indicated, the Court of Appeals strike those from  
23 the record and not consider those documents?

24 A. Correct. We still had a fully informed brief, appeals brief filed, but these were  
25 supplemental to it for additional information that I would think that if you're making a

1 major decision --

2 THE COURT: (Interjecting) Mrs. Hendrickson, Mrs. Hendrickson, you  
3 have answered the question.

4 Q. (By Mr. Wise continuing) Could I have you take a look at Defendant's 517?

5 A. Yes, I have it.

6 Q. Could you tell us what that is?

7 A. It's an Order from the United States Court of Appeals for the 6th Circuit and it  
8 says upon -- sorry. I probably shouldn't read it yet.

9 Q. This is the Order striking those two pleadings from -- that consideration by the  
10 Court of Appeals?

11 A. Yes. Upon consideration of appellee's motion to strike portions of the  
12 appellant's reply --

13 MS. SISKIND: Your Honor --

14 THE COURT: It's not necessary to --

15 MR. WISE: I'll move its admission, Your Honor.

16 MS. SISKIND: Object on relevance grounds, Your Honor.

17 THE COURT: Sustained.

18 Q. (By Mr. Wise continuing) And ultimately the Court of Appeals issued an  
19 Opinion in your case upholding Judge Edmunds's Order, is that correct?

20 A. Yes; I think a poorly informed Opinion.

21 Q. And was that Opinion to be published or unpublished?

22 A. It was an unpublished Opinion.

23 Q. And what's your understanding of the significance of an unpublished Opinion?

24 A. Normally if you want something published or whatever, it's because I'm  
25 embarrassed about it, but I don't know what their reasoning was.

1 Q. At some point did the Government seek to have that Opinion published?

2 A. They did.

3 Q. And I'm going to ask you to take a look at Defendant's Exhibit 518.

4 A. I have it.

5 Q. And ask if you recognize it?

6 A. I do.

7 Q. And again, without going into detail about what it contains, can you tell us what  
8 it is?

9 A. Well, you asked if the Government had wanted --

10 THE COURT: (Interjecting) Mrs. Hendrickson, this has a title. What is it.

11 MRS. HENDRICKSON: Oh, I'm sorry. I was looking at the wrong page.

12 Appellee's Motion to Publish Opinion, the Appellee being the Government.

13 Q. (By Mr. Wise continuing) And there's a cover letter that goes along with that,  
14 correct?

15 A. That's the one I was looking at, yes. Sorry.

16 Q. I'd move for admission of Defendant's Exhibit 518.

17 MS. SISKIND: Objection; relevance.

18 THE COURT: Sustained.

19 Q. (By Mr. Wise continuing) To your knowledge the Government in this case did  
20 or in the Judge Edmunds case did ask the Court of Appeals to publish its Opinion?

21 A. They did request that the 6th Circuit Court publish this Opinion against my  
22 husband and I.

23 Q. And the Court of Appeals ultimately denied that request, correct?

24 A. That's correct. They did not want the Opinion published.

25 MS. SISKIND: Objection, Your Honor.

1 THE COURT: Ladies and gentlemen of the Jury, just please disregard  
2 the last portion of Mrs. Hendrickson's testimony.

3 Mrs. Hendrickson, you are unduly prolonging this examination because of your  
4 editorial comments and because you are adding much more to the answer than is  
5 required by the question, and the Court has been quite patient with you and I've run  
6 out of patience.

7 Q. (By Mr. Wise continuing) Then after the Court of Appeals issued its Opinion,  
8 you and your husband sought what's called a Writ of Certiorari from the United States  
9 Supreme Court asking them to agree to review your case?

10 A. We did.

11 Q. And the Supreme Court declined to review the case, is that correct?

12 A. They did.

13 Q. So would it be fair to say that in your mind the failure of the Supreme Court to  
14 review the case on the merits -- what's your opinion of the significance of the failure of  
15 the Supreme Court to review the case on the merits?

16 A. Having read some other information, I don't think that having the Supreme  
17 Court decline to hear a case says too much about the merits of the case.

18 Q. Mrs. Hendrickson, do you believe the Government has authority to control or  
19 dictate your speech even through an Order by the Court?

20 A. No, I do not.

21 Q. Why do you believe that?

22 A. Because we have a First Amendment in this country.

23 Q. And do you believe that that position is supported by cases from the Supreme  
24 Court and other Courts of the United States?

25 A. I know that it is.

1 Q. One moment, Your Honor. I think that concludes my Direct Examination.

2 THE COURT: Thank you. Do you have a Cross-examination?

3 MS. SISKIND: I do and can I request a brief side bar before  
4 Cross-examination?

5 THE COURT: Yes.

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

7 MS. SISKIND: Your Honor, given Mrs. Hendrickson's testimony that she  
8 relied on Peter Hendrickson's book and his views about the tax laws in forming her  
9 beliefs, the Government would ask the Court to reconsider its ruling regarding the  
10 redaction of those two exhibits about Mr. Hendrickson's prior conviction. Your  
11 Honor's Order indicated that if the Defense opened the door by claiming reliance on  
12 Peter Hendrickson, that it might be proper to admit those unredacted exhibits.

13 THE COURT: Response?

14 MR. WISE: I don't think we opened the door to Mr. Hendrickson's prior  
15 convictions and even if we did, I still think it's going to be more prejudicial than  
16 probative to Mrs. Hendrickson that Mr. Hendrickson was convicted. However, if that  
17 is coming in, I may have some -- I suppose I can do this on Redirect. I said if it is  
18 going to come in, I suppose I can save my additional questions for Redirect, but I was  
19 pretty scrupulous to avoid the fact that he was in prison when Mrs. Hendrickson filed  
20 her amended return filing separately in response to -- and her answer was I couldn't  
21 get my husband's signature and I that was -- I mean I don't think she could have  
22 gotten it even had he not been in prison, but he was in prison at the time.

23 MS. SISKIND: Your Honor, if I could just respond briefly. The issue is  
24 whether it was appropriate for Mrs. Hendrickson to rely on her husband's teachings  
25 about the tax laws. Mr. Hendrickson has two prior convictions. The first relates to



1 among other things, failure to file an income tax return, so it's a tax case. There was  
2 also the bombing part of it, but it's also a tax case. The second conviction related to  
3 filing false tax returns, the very returns that are at issue in this case. So Mrs.  
4 Hendrickson's knowledge of Government criminal actions against her husband on the  
5 issue of taxation bears on whether she could rely in good faith on his teachings about  
6 the tax laws.

7 MRS. HENDRICKSON: May I respond? I'm not relying on his  
8 teachings so much as the statutes and various court rulings that are in his book. It's  
9 not a question of him being a teacher about it. He wrote a book compiling all kinds of  
10 statutes and precedents and that's what I read. Peter and I disagree on an awful lot  
11 of stuff and if I didn't think these were right, him saying it was right wouldn't make it so  
12 in my head.

13 THE COURT: So, Miss Siskind, so that I understand your argument,  
14 you're basically making the argument that he is not a credible person for her to have  
15 placed any reliance on because of his criminal convictions?

16 MS. SISKIND: Because of criminal convictions relating to income taxes.

17 THE COURT: I'm not going to let it in. I think that it is more prejudicial  
18 than probative. He's not being called as a witness. I mean I understand your  
19 argument, but typically proof of convictions is reserved for the impeachment of  
20 witnesses called for the -- called to the witness stand.

21 MS. SISKIND: Your Honor, I would ask the Court to separate the issue  
22 of the bombing conviction from the tax conviction or not even conviction; the fact that  
23 he was criminally charged with filing these false returns, Mrs. Hendrickson was  
24 present at a jury trial where members of a jury convicted Peter Hendrickson of filing  
25 false tax returns, essentially finding that the returns which claim zeros for income are

1 not in accordance with the law. That bears on her good faith belief that it was  
2 appropriate to place zeros on her tax returns and not report wages as income, and  
3 they are the same returns that are in this case.

4 THE COURT: So his conviction was related to the same returns that are  
5 here now with zeros all over them?

6 MS. SISKIND: The second conviction was.

7 THE COURT: Ah-hum.

8 MRS. HENDRICKSON: He was not charged with filing false returns,  
9 false or fraudulent returns. The charge was related more to -- and I don't remember  
10 the exact statute -- but it was more related to he didn't believe what he filed on his  
11 returns and somehow or other the Government was able to convince a jury that he  
12 didn't believe what he wrote on his own returns.

13 MS. SISKIND: Your Honor, it was a charge of 26 U.S.C. Section  
14 7206(1), filing a false tax return. That was the case. I have copy of the Indictment if  
15 the Court wants to see it.

16 THE COURT: Miss Siskind, this sort of feels like -- without him being  
17 called to the witness stand and generally when a witness's credibility is being  
18 challenged because of a conviction, it's just the fact of the conviction. It's not so much  
19 the details of the conviction, right? So now you want not only the fact of his  
20 conviction, but you want the details of it to come in as well and that may necessitate  
21 getting into some facts and information pertinent to that trial. I'm not prepared to do  
22 that.

23 MS. SISKIND: Your Honor, I just would point out that the Court did allow  
24 this testimony at the last trial and to the extent it is the law of the case, we would ask it  
25 be permitted again.

1 MRS. HENDRICKSON: I object.

2 THE COURT: I'm not sure. I understand what you're saying, law of the  
3 case. I've thought more about it and I'm not so sure it was the right ruling for me to  
4 make because it does require getting into some detail about that case and I don't  
5 know that I should do that.

6 MS. SISKIND: It would be permitted to get into because it's an aspect of  
7 the history of this case that Mrs. Hendrickson is aware of. She knows, the evidence  
8 will show that she knows her husband was charged, convicted and went to jail  
9 because a jury found that returns that show zeros are not in accordance with the law.  
10 And here she comes into court testifying that to this day she believes that she's  
11 complying with the law when she files returns in that manner.

12 THE COURT: I don't know what all the proofs were at his trial. I don't  
13 know what compelled that jury to find him guilty. I don't know what compelled the jury  
14 to hang on the first trial of Mrs. Hendrickson. I just don't know what the  
15 considerations were.

16 MS. SISKIND: I still think, Your Honor, the fact of the Indictment in that  
17 case, just like Judge Edmunds' Order bears on her state of mind, we don't know why  
18 the Judge decided that, but the Order, the existence of the Order itself is relevant.  
19 We don't know why the 6th Circuit decided as it did, but the text of their Order is  
20 relevant. We don't know why that jury decided as they did, but the fact that they  
21 convicted the defendant and that Mrs. Hendrickson knows about it is relevant. It's  
22 notice evidence to her that she has a duty to report her income on returns just like  
23 Judge Edmunds said, just like the 6th Circuit said.

24 MR. WISE: If I could respond, I think there's also a danger given Miss  
25 Siskind's statement that that jury found that these returns were fraudulent is that this

1 jury is going to rely on the finding of another jury with respect to the ultimate issue in  
2 this case. It's the same reason we're not talking about the mistrial here.

3 THE COURT: I stand by this ruling. I think that it's -- while it may have  
4 some probative value -- more prejudicial than probative, would cause this Court to  
5 necessarily get into some of the facts of that trial and I'm not prepared to do that now.

6 MS. SISKIND: Thank you, Your Honor..

7 THE COURT: Can you tell me how long your examination is going to  
8 take? We're supposed to adjourn at 1:30. It may be best to let them go.

9 MS. SISKIND: I don't know. I don't think it's particularly long. I can't  
10 give Your Honor an exact estimate of time. Could be half hour or could be longer.

11 THE COURT: They haven't had lunch. I don't want to keep them. So  
12 Mrs. Hendrickson, do you have witnesses after yourself.

13 MRS. HENDRICKSON: Only if the Ebys show up.

14 MRS. HENDRICKSON: Actually they had an appointment today, so I  
15 could probably get them here tomorrow.

16 THE COURT: Okay. Just trying to think about tomorrow. I think I'll just  
17 bring the jury back out and tell them we're adjourning for the day. I would like to  
18 however, go over jury instructions before you leave today and just tell them that they  
19 will probably be deliberating tomorrow and should plan on being here all day. All  
20 right? Thank you.

21 **(END OF SIDEBAR CONFERENCE)**

22 THE COURT: Ladies and gentlemen, the Government has a  
23 Cross-examination of Miss Hendrickson which is going to take us beyond 1:30, so  
24 we're going to stop for the day. Let me just tell you about tomorrow.

25 The presentation of evidence should conclude tomorrow morning and then the

1 parties will be prepared to deliver their closing arguments. After closing arguments,  
2 the Court will give you jury instructions and so you will be deliberating tomorrow and I  
3 would ask that you make arrangements to be here beyond 1:30 and to be here  
4 tomorrow all day in case your deliberations take you beyond that time. All right? Is  
5 everybody able to do that? All right.

6 So listen, have a great afternoon. Enjoy this weather. Please don't talk about  
7 the case or do anything outside of the purview of your discussions in the jury room  
8 which will begin tomorrow. All rise for this Jury.

9 **(Jury exited courtroom at about 1:25 p.m.)**

10 THE COURT: You can take your seats. Counsel, Miss Hendrickson,  
11 we'll go over jury instructions if you have them please.

12 MR. WISE: We have both sets as well, Your Honor.

13 MS. SISKIND: I have both sets.

14 THE COURT: So, Mrs. Hendrickson, the instructions -- well, both parties  
15 provided essentially a duplicative set of instructions with just a couple of variations, so  
16 I'm going to plan on using the submission by the Government. I'm going to go  
17 through the instructions proposed by Mrs. Hendrickson and will make a ruling with  
18 respect to one or two of them.

19 On Mrs. Hendrickson's Proposed Number One, it is the same as the  
20 Government's Proposed Instruction Number One.

21 Hendrickson Proposed Two is the same as the Government Instruction Two.

22 Hendrickson Proposed Three is the same as the Government's Proposed  
23 Three.

24 MS. SISKIND: Your Honor, I think we need a modification on four. I  
25 think I had taken out the reference to stipulations, but now we will have stipulations. I

1 believe that's where it goes. In the pattern I think there's a bracketed language to edit  
2 for stipulations.

3 THE COURT: Yeah. So you are going to add stipulation language to  
4 your number four?

5 MS. SISKIND: I think the Court can add what's in the -- four is from the  
6 pattern and I think I don't have the pattern in front of me, but I believe in saying what  
7 the evidence in the case is includes the testimony of documents and the stipulations.

8 THE COURT: One moment. Hendrickson Proposed Number Five is the  
9 same as the Government Proposed Five.

10 Hendrickson Proposed Six is the same as Government Proposed Six.

11 The Government instruction on credibility of witness, that's your page 11, is  
12 that it? No, that's Government employees and you have another one on -- so the  
13 Proposed Instructions Number Seven I think are the same.

14 The Government has added a Proposed Number Eight with respect to the  
15 credibility of Government witnesses and the Court is going to give that one as well.

16 MS. SISKIND: Just for the record, I believe the Defendant proposed that  
17 one as well.

18 MRS. HENDRICKSON: Yes.

19 MS. SISKIND: We're in agreement on that one.

20 THE COURT: So that one is being given.

21 MR. WISE: I think One through 11 are all the same, correct?

22 MS. SISKIND: Yes.

23 THE COURT: The Instructions proposed on Nine and 10 and 11 are the  
24 same. The Court will give those.

25 On Proposed Instruction Number 12, the Government -- the Court plans on

1 giving the proposed instruction submitted by the Government on elements of the  
2 offense. I think one of the differences is the definition of willful. The Court plans to  
3 use the shortened version of what willfulness means as set forth in Government  
4 Proposed 12, paragraph 3(c) and for that reason, the Court declines to give the  
5 Hendrickson Proposed Instruction Number 13 on willfulness.

6 I don't believe that -- unless I missed it, Mrs. Hendrickson, is there -- the  
7 Government next instruction is good faith belief of the accused, Number 13. Is there  
8 a parallel one from --.

9 MRS. HENDRICKSON: Yes, one second.

10 THE COURT: I think now.

11 MRS. HENDRICKSON: I think I somehow left that one out so I guess  
12 we'll take their's. I meant to put it in.

13 THE COURT: So good faith belief proposed instruction by the  
14 Government Number 13 will be given.

15 There are two instructions on lawfulness that differ. I'll hear what the parties  
16 have to say on this.

17 MS. SISKIND: Your Honor, the Government first would note that  
18 Government's Proposed Instruction 14 was the instruction the Court gave previously  
19 in this case. It is a more simplified version, more straightforward and tracks the  
20 holding in ***United Mine Workers of America***.

21 THE COURT: You, Mrs. Hendrickson.

22 MRS. HENDRICKSON: Yes. I have some stuff written out for me. It's  
23 argument for preventing my Jury from considering the lawfulness element explicitly  
24 included as such by Congress in its Statute 4013.

25 The Government quotes from United States v. Mine Workers -- ***United Mine***

1       **Workers** in hopes of putting the Court in mind of the Collateral Bar Doctrine against  
2 the lawfulness of the underlying order being considered in a contempt proceeding, but  
3 that doctrine does not apply here. As the 5th Circuit observed in analyzing that  
4 doctrine in **United States v. Dickinson**. It's obvious that if the -- this is what they  
5 wrote -- if the Order requires an irrevocable and permanent surrender of a  
6 constitutional right, it cannot be enforced by the contempt power. For example, a  
7 witness cannot be punished for Contempt of Court for refusing a Court Order to testify  
8 if the underlying Order violates Fifth, Fourth or perhaps First Amendment rights, and  
9 then it lists some cases. In each of these cases, the unconstitutionality of the Courts  
10 Order served as a valid defense to a charge of Contempt. The rationale of these  
11 cases is that once the witness has complied with an Order to testify, he cannot  
12 thereafter retrieve the information involuntarily revealed, even if it subsequently  
13 develops that compelling the testimony violated constitutional rights. In such a  
14 predicament, the damage is irreparable. No remedies are available which can entirely  
15 or can effectively cure the constitutional deprivation after the order has been  
16 unwillingly obeyed.

17           The testimony dictated to me by the Orders involved in this case is designed to  
18 irremediably compromise my own freely made contrary testimony and to put me on  
19 record as having sworn to certain Government-favored beliefs. I would have no  
20 practical effective means of reversing the legal effects of making these coerced  
21 declarations, nor any way of restoring my reputation for veracity, the reliability of my  
22 sworn signature or my dignity. All would be forever compromised.

23           What's more, all this -- all of this would have been done for a patently frivolous  
24 reason. If the Government has legitimate grounds for asserting what it seeks to force  
25 me to say, it is fully equipped by law to satisfy all its relevant interests without one



1 word from me. As the Supreme Court makes clear in ***Walker v City of Birmingham***,  
2 the Collateral Bar Doctrine does not apply to Orders that are "transparently invalid or  
3 have only a frivolous pretense to validity ". The Orders in this case are made for a  
4 frivolous purposes and they are transparently invalid. What might be the most well  
5 settled law in American jurisprudence unequivocally prohibits any official, Judges not  
6 accepted, from dictating speech and expressions of belief to a woman. This is from  
7 ***Agency for International Development v. Alliance For Open Society***  
8 ***international, Inc.***

9 Even ***United Mine Workers*** itself illustrates this limitation. The mere plurality  
10 Opinion in that ruling hinged entirely on the question of the validity of the Norris  
11 Laguardia Act which prohibited Injunctions in some specified instances. The plurality  
12 held that the Act was not valid under the circumstances of the case. The minority  
13 held otherwise and that therefore the Injunction was void. It is merely the validity of  
14 the Act under which the Injunction was issued that is being referred to when the Court  
15 says in the out of context quote offered by the Government. It is for the Court of first  
16 instance to determine the question of the validity of the law.

17 Here, the act at issue is the First Amendment of the United States Constitution.  
18 I hardly think the validity of the First Amendment is up for challenge and if any  
19 question were entertained as to its applicability to Orders dictating speech and  
20 declarations of belief, the Supreme Court and the 6th Circuit have unequivocally  
21 declared that the Amendment does so apply and specifically prohibits any Injunction  
22 dictating the speech of anyone as noted and supported above.

23 The lawfulness of the Orders I'm accused of criminally violating is very much  
24 an element of the charge, as the supporting authority provided with my proposed  
25 instruction on this issue makes clear. That element is not barred from relevance and

1 it should be decided de novo in the course of these proceedings by my Jury. The  
2 Jury should be so instructed.

3 THE COURT: Thank you, Mrs. Hendrickson.

4 MRS. HENDRICKSON: You're welcome.

5 THE COURT: The Court is going to give the instruction proposed by the  
6 Government. The Court disagrees with you that it is this Court's authority to say  
7 anything about the lawfulness of the underlying Order that you are charged with  
8 having violated. The proofs in this case are that that Order was challenged. It was  
9 challenged. It's a final Order. It stands right now as good law. I think all of the  
10 authority that you give to the Court on pages 20 and 21 of your Proposed Instruction  
11 do talk about the lawfulness that Plaintiff -- or that the Defendant has to be -- **U.S.**  
12 **versus Koblitz** for instance. A Contempt Order can only be upheld if it is supported  
13 by clear and convincing evidence that the underlying order allegedly violated was  
14 valid and lawful, and that Order has been litigated to conclusion.

15 Also there's simply no authority for the second paragraph of your Proposed  
16 Instruction that this Court must instruct this Jury that it has to presume that the Order  
17 of Judge Edmunds was unlawful unless proven by the Government to be otherwise.  
18 So the Court believes that -- and finds that the instruction proposed by the  
19 Government Instruction Number 14 is a proper statement of the law and that's the one  
20 that the Court is going to give.

21 Proposed Instruction Number 15 is the same from both parties.

22 MS. SISKIND: Your Honor, it's not the same.

23 THE COURT: I'm sorry. It's not?

24 MS. SISKIND: No. The title is the same. The Government's is one  
25 sentence, the Defenses' is longer.

1 THE COURT: All right. Let me just -- is this from a pattern?

2 MS. SISKIND: No, Your Honor. This was an instruction that the  
3 Defense has proposed last time. The Government objected to it, but ultimately Your  
4 Honor gave just the one sentence in the Government's proposed instruction. Given  
5 that the Court gave it last time, we are -- we included it in these Proposed Instructions  
6 again, but would object to a longer version of the instruction proposed by the Defense.

7 THE COURT: Okay. Do you have anything to say, Mrs. Hendrickson.

8 MRS. HENDRICKSON: I do. During the last time when we were  
9 discussing jury instructions, you made very clear when Miss Siskind or Mr. McLellan  
10 I'm not sure which, suggested that inability to comply and said something about it's  
11 not as if she was in the hospital or something and you said that was up to -- I'm not  
12 sure if that was the exact thing -- you said you didn't think that United States v. Brian  
13 was considering whether it was simply a physical inability or not and wasn't it for the  
14 jury to decide whether inability to comply could be based on someone's principles or  
15 beliefs. And then during closing arguments, first Mr. McLellan and then Miss Siskind  
16 made direct defiance of your suggestion during jury -- or during our discussions and  
17 one of them said it's not as if she was in a submarine and couldn't comply and the  
18 other one made a statement similar to that and I have my transcript here. I can  
19 actually flip to the pages if you'd like to know exactly what they said, but they seem to  
20 be taking a lot of latitude and even on cross-examining my ex-husband, Miss Siskind  
21 asked him well, it's not as if she was physically unable to comply. So she's planting  
22 the seeds in their mind already about inability to comply, and I don't think that's right.  
23 That's inappropriate.

24 THE COURT: The Court declines to give the Hendrickson proposed  
25 instruction. I'll give what I gave the last time.

1 MRS. HENDRICKSON: I just reprimanded her. Could I ask then that  
2 they be prevented from using similar statements in their closing arguments as they did  
3 last time?

4 THE COURT: I don't know what all the statements are that you're talking  
5 about.

6 MRS. HENDRICKSON: I've got them marked here.

7 MRS. HENDRICKSON: This is in direct defiance to your suggestion  
8 during our jury instructions last time. I believe it was Mr. McLellan talking first and  
9 stated in his closing argument --

10 THE COURT: (Interjecting) First of all, Mrs. Hendrickson, have you had  
11 any discussion with the Government about what you are asking or going to ask the  
12 Court now to prohibit them from saying.

13 MRS. HENDRICKSON: No.

14 THE COURT: No. Do you know what it is that she wants to prohibit you  
15 from saying?

16 MS. SISKIND: I don't remember the exact quotes, but I remember  
17 generally that both Mr. McLellan and I made arguments regarding what it means to be  
18 unable to comply with an Order.

19 MRS. HENDRICKSON: Can I read off what that was?

20 THE COURT: Okay.

21 MRS. HENDRICKSON: Mr. McLellan said: It was clearly possible for  
22 the Defendant to comply with the Court Order. She wasn't in the hospital. She was  
23 certainly able to generate lots and lots of paper having to do with the Court's Order.  
24 That was not the problem.

25 And then I did my closing statement and Miss Siskind followed up with during

1 her second one: The Defendant claims somehow she's actually unable to comply  
2 with this Order. The Government would submit that's just not accurate. She was  
3 unwilling to comply and unwilling is not the same as inability. She was not in a  
4 submarine at the bottom of the ocean where she couldn't file a tax return. She was in  
5 her house in Commerce Township, Michigan. She was fully capable of complying  
6 with that Order if she wanted to.

7 THE COURT: All right. I'm not going to prohibit the Government from  
8 making an argument about what inability means. I suppose you can make an  
9 argument as well, but I am declining to say what you have in here, again which is a  
10 challenge to the validity of the Order and I don't know about evidence that the Order --  
11 that there's anything self-contradictory about the Order either, so I'm giving the  
12 proposed instruction from the Government on inability to comply.

13 Proposed Instruction Number 16 is the same.

14 I think Proposed Instruction 17 is the same, same with 18.

15 Hendrickson's Proposed Number 19 is the subject -- was the subject of the  
16 Court's Order on motions in limine and that will not be given.

17 Hendrickson's Proposed 20 is covered by the Government's Proposed 20.

18 MS. SISKIND: Your Honor, there's also Government's Proposed 19.

19 THE COURT: So it's covered in both of them?

20 MS. SISKIND: No, Your Honor. I didn't know if Your Honor had skipped  
21 over 19.

22 THE COURT: No. I was looking at her Number 20 and it is in your  
23 number 20. All right. And Hendrickson does not have a Defendant's testimony  
24 instruction, so the Court will give the Government's number 19.

25 Proposed Instructions 21 are the same.

1 Hendrickson's Proposed Instruction 22 is covered. The Court will give that  
2 already in Instruction Number Three.

3 There is disagreement on unanimous verdict which is the Government's  
4 proposed 22 and Hendrickson's proposed 25. The Court is going to give the  
5 Government's proposed 22. Do you want to make any argument on this, Mrs.  
6 Hendrickson.

7 MRS. HENDRICKSON: I'm just seeing. You said their 22 and my 25;  
8 22 and 25 are the same. Their 22 and my 25 are the same.

9 THE COURT: Then you're right, those are the same.

10 Proposed Instruction your number 26 is the one that I have a question about,  
11 the unanimity. Government says it is not required in its Proposed Number 23 and in  
12 your Proposed Number 26 you say unanimity is required as to both alleged acts of  
13 violation.

14 MRS. HENDRICKSON: Me first I guess. From the construction of this  
15 Indictment which can be seen on the third page of my Proposed Instruction Number  
16 26, it can only be concluded that the Grand Jury meant to charge me with a unique  
17 crime consisting of two separate alleged contempts joined together as one big  
18 offending act consisting of both failing to file the Ordered amended returns, and filing  
19 a return based on the false notion that only Federal workers are subject to the tax.  
20 This is clear from the use of the conjunctive and linking the two alleged acts together  
21 into one alleged violation and the failure to use the disjunctive or, as well as by the  
22 use of the singular in violation in designating the two acts rather than the plural  
23 violations. If this unique charge is not dismissed for failure to state an actual Federal  
24 offense, even though labeling itself as one, the Jury should be instructed according to  
25 its plain terms that it must unanimously find both contempts to have been committed

1 in order to convict and that it must otherwise acquit.

2 Further, unanimity of verdict is required as to each alleged act even if they are  
3 deemed not conjoined into one. The Government itself deems the acts alleged in the  
4 Indictment to be elements of the offense charged. In its Proposed Instruction Number  
5 12, contempt elements of offense, the Government specifically identifies the alleged  
6 violating acts as elements of the offense charged.

7 The Government declares that my alleged failure to file amending returns as  
8 ordered and that my allegedly filing false returns in disobedience of an Order are  
9 either a combined element or individually elements, but elements in any event. As it  
10 says, contempt elements of offense.

11 C, third that the Defendant willfully disobeyed the Court's Order in one of the  
12 ways set forth in the Indictment. The Court agreed with this assertion instructing the  
13 jury in the previous trial to exactly that effect as seen on page 97 of Volume Three of  
14 the trial transcript. The 6th Circuit Pattern Instruction Committee on unanimity  
15 explicitly declares that the unanimity not required instruction cannot be given in regard  
16 to an element, but only in regard to alleged means by which an element is allegedly  
17 satisfied. This is quote from them, is from the Pattern Instruction Committee: "If a  
18 fact is an element, a jury in a Federal criminal case cannot convict unless it  
19 unanimously finds that the Government has proved it". And from that same  
20 Committee: "This instruction, unanimity not required - means" -- they're speaking  
21 about the means -- "covers situations where the crime charged includes an element  
22 that can be committed by multiple means. So jury unanimity on a particular means is  
23 not required." The use note indicates that the instruction should only be given if the  
24 Indictment alleges that the Defendant committed a single element through more than  
25 one means. Since the acts I'm alleged to have committed in violation of Judge

1 Edmunds Orders are agreed by everyone to at least -- to be at least elements,  
2 unanimity by the jury or of the jury as to my having willfully disobeyed a lawful order to  
3 file amended returns as specified by Judge Edmunds, or unanimity of the jury as to  
4 my having willfully filed returns in disobedience to a lawful order of Judge Edmunds  
5 per the specifics of that order, or unanimity of the jury as to my having done both of  
6 these things together is required for a guilty verdict. The Jury should be so instructed.

7 THE COURT: Thank you. Miss Siskind.

8 MS. SISKIND: Your Honor, the Government's Proposed Instruction is  
9 consistent with the principle that Indictments charged in a conjunctive but proved in  
10 the disjunctive and the Indictment charges that the Defendant committed the crime of  
11 contempt by violating the Order in one of two ways, and there are two different  
12 alleged violations set forth in the Indictment. Violation being the element, two different  
13 means being alleged, which is why it would be appropriate to give the unanimity not  
14 required as to means instruction which the 6th Circuit pattern instruction set forth at  
15 Government's Proposed Number 23. And for the record, this was given at the last  
16 trial.

17 THE COURT: Thank you. The Court will give the instruction as  
18 proposed by the Government and as given at the last trial. The Court does agree with  
19 Mrs. Hendrickson that this instruction should not be given with regard to elements of  
20 an offense, but the elements of this offense are the presence of a clear and definite  
21 Order, that the Defendant knew of the Order, and that there was willful disobedience  
22 and the Court finds that the two provisions that are in the Judge's Order and that are  
23 set forth in the Indictment that Miss Hendrickson allegedly committed that caused her  
24 to commit the criminal contempt are her failure to file amended tax returns for 2002  
25 and 2003, as well as for filing a 2008 return which falsely reported that she earned



1 zero wages in 2008. The Court finds that both of those are means by which the  
2 criminal contempt could be committed and for that reason the instruction that the  
3 Government proposes will be given.

4 Am I on Hendrickson's Number 23.

5 MRS. HENDRICKSON: Yes, ma'am.

6 THE COURT: The Court believes that this is part and parcel of the  
7 reasonable doubt instruction and will not give Hendrickson's Proposed 23.

8 Hendrickson's Proposed 24 is one that the Court declines to give as well.  
9 There is going to be an instruction to the Jury on what the elements of the offense  
10 are. The Jury is also going to be told in the Government's Proposed Number 27,  
11 paragraph one that the Jury can only convict for the crime that is charged in the  
12 Indictment and so there isn't a need for that instruction.

13 Hendrickson's Proposed 27 is the same as the Government Proposed 24 I  
14 believe on the duty to deliberate.

15 The verdict form is -- the Government has Proposed Instruction Number 25.  
16 The Court will give that.

17 Verdict form, those instructions are the same. Government's Proposed 26,  
18 Hendrickson number 29 and I've already talked about number 27 of the  
19 Government's. We will give that.

20 Hendrickson has a Proposed Number 30 which is the same as the  
21 Government's 29 on juror notes, and the Court has no opinion, Proposed Number 28  
22 by the Government only, the Court will give that instruction.

23 Did I cover all the instructions?

24 MS. SISKIND: You covered all the Government's proposed instructions.

25 THE COURT: Did I cover yours, Mrs. Hendrickson.

1 MRS. HENDRICKSON: Yes, you did.

2 THE COURT: So the only revision being made is to add something  
3 about Stipulations in number four, is that correct?

4 MS. SISKIND: Yes, Your Honor.

5 THE COURT: You agree, Mrs. Hendrickson? I know you may not  
6 agree, but that's the only.

7 MRS. HENDRICKSON: About what?

8 THE COURT: About adding something in the Proposed Instruction  
9 Number Four that there are Stipulations that the Jury will be able to consider.

10 MRS. HENDRICKSON: Oh no, that's fine.

11 THE COURT: Okay.

12 MRS. HENDRICKSON: I have --

13 THE COURT: Anything more before we close the record for today?

14 MS. SISKIND: No, Your Honor. Did you need the Government to  
15 prepare the final set of instructions or is that being taken care of?

16 THE COURT: No, I think we're fine. We'll add that one to number four.

17 MS. SISKIND: Thank you, Your Honor.

18 THE COURT: Thank you. See you at 9:00 tomorrow. We're adjourned.

19 (Proceedings adjourned at about 2:05 p.m.)

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21  
22 COURT REPORTER'S CERTIFICATION

23  
24  
25 STATE OF MICHIGAN)

1 ) SS.

2 COUNTY OF WAYNE )

3

4 I, Janice Coleman, Federal Official Court Reporter, in and  
5 for the United States District Court for the Eastern District  
6 of Michigan, do hereby certify that pursuant to Section 753,  
7 Title 28, United States Code, that the foregoing is a true and  
8 correct transcript of the stenographically reported proceedings  
9 held in this matter and that the transcript page format is in  
10 conformance with the regulations of the Judicial Conference of  
11 the United States.

12

13 /S/ JANICE COLEMAN

14 JANICE COLEMAN, CSR NO. 1095, RPR

15 FEDERAL OFFICIAL COURT REPORTER

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17 DATED: August 1, 2014

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