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The Honorable Chief Justice John G. Roberts, Jr.
Supreme Court of the United States
One First Street N.E.
Washington, DC 20543

RE: Case No. 08-1399, *Hendrickson v. United States*

THIS LETTER CONSTITUTES CONSTRUCTIVE LEGAL NOTICE OF AN IMPERATIVE LEGAL (CONSTITUTIONAL) DUTY ON THE PART OF THE UNITED STATES SUPREME COURT QUA JUDICIAL BODY

“[T]he Rule of Law, it is argued, is preferable to that of any individual...For he who bids the law rule may be deemed to bid God and *Reason* alone to rule, but he who bids man rule adds an element of the beast; for *desire* is a wild beast, and passion perverts the minds of rulers, even when they are the best of men. The law is *reason* unaffected by *desire*.”

–Aristotle, *Politics* (circa 350 B.C.)

“There is no more cruel *tyranny* than that which is exercised under *cover* of law, and with the *colors* of justice.”

–Montesquieu, *The Spirit of the Laws* (1748)

THOMAS MORE: The law is not a “light” for you or any man to see by; the law is not an instrument of any kind. The law is a *causeway* upon which, so long as he keeps to it, a citizen may walk safely.

–Robert Bolt, *A Man For All Seasons*

“*Justice* is the end of government. It is the end of civil society. It ever has been and will be pursued until it be obtained, or until *liberty* be lost in the pursuit.”

–James Madison

“[T]here are more instances of the abridgement of the freedom of the people by *gradual and silent encroachments of those in power* than by violent and sudden usurpation.”

–James Madison

Debates on the Adoption of the Constitution

“In the United States, *Sovereignty* resides in the *people*, who act through the organs established by the Constitution.” *Chisholm v. State of Georgia*, 2 U.S. 419 (DALL.), 471 (1793)

“In the United States the *people* are *sovereign*...” *Afroyim v. Rusk*, 387 U.S. 253 (1967)

“It is not the function of our government to keep the citizen from falling into error; it is the function of the *citizen* to keep the *government* from falling into error.”

–Supreme Court Justice Robert H. Jackson

“The only thing necessary for the triumph of evil is for good men to *do nothing*.”

–Edmund Burke

“A central tenet of our republic—a characteristic that separates us from totalitarian regimes throughout the world—is that the government and private citizens resolve disputes on an equal playing field in the courts. When citizens face the government in the federal courts, the job of the judge is to apply the law, not to bolster the government’s case.” *Beaty v. United States*, 937 F.2d 288 (6th Cir., 1991)

“The fact of the matter is that the judge's conduct here caused real harm. Worse, it harmed public confidence in the fair administration of justice in the courts of this circuit. * * * [R]ules of procedure, principles of law—all of these are *not trinkets that judges may discard whenever they become a nuisance*. Rather, *they are the mainstays of our judicial system*, our guarantee to every litigant that we will administer *justice*, as our oath requires, ‘without respect to person’ . . .” *U.S. v. Murphy*, 768 F.2d 1518, 1531 (7th Cir., 1985)

“...[a] governing standard [of] * * * what might be called the unfettered wisdom of a majority of th[e] Court, revealed to an obedient people on a case-by-case basis * * * is not only *not* the government of laws that the Constitution established; it is not a government of laws *at all*.” *Morrison v. Olson*, 487 U.S. 654, 712 (1988) (Scalia, J., dissenting) (Emphases added.)

Dear Chief Justice Roberts:

I write you and the rest of your peers and colleagues on the Court as a fellow-*jurist* AND as a citizen-sovereign. It has recently come to my attention that this Honorable Court has rather shamefully shirked a clear constitutional responsibility and, indeed, duty, in failing to grant *Certiorari* and declining to hear the petition filed for its review of a blatantly *unlawful* (and, indeed, clearly *malfeasant*) series of acts by both a District and an Circuit-Appellate court as described in detail in Peter E. Hendrickson’s filings with *this* Honorable Court, and which behavior itself clearly constitutes extremely atrocious, egregious, and indeed utterly outrageous and rapacious, judicial misconduct and malfeasance.

The case involves one of *the* most fundamental aspects—a core, *sine qua non* component—of the very *concepts* of DUE PROCESS and the RULE OF LAW. I remind you that this Court grants a petition for certiorari—which is to say, has a clear Constitutional responsibility and duty *to* so grant—for “compelling reasons”, as explicitly specified in this Court’s *own* Rule 10; such reasons include (among a few others):

- to **correct** an *egregious departure* from the accepted and usual course of judicial proceedings
- to resolve an important question of federal law, or to **expressly review** a decision [and/or action(s)] *of a lower court that conflicts directly with a previous decision of the Court*.

The instant case *clearly* falls within the purview contemplated in these two criteria—even (or, indeed, especially) if this Court takes the position (as it ultimately should, and, indeed, *must*) that the lower courts’ actions are inherently *void* under the “void judgment or action” doctrine (about which more in a few moments, *infra*). An agency of the executive branch of the federal government (specifically, the U.S. Attorney’s Office, on behalf of and at the behest of the IRS,

the collection arm of the U.S. Treasury) is seeking open-ended, unlimited as to time and place, judicial authorization to **compel** Hendrickson (and, by generalization and extension, anyone else in future cases and/or proceedings) to *change* his sworn testimony, and then to **dictate** and **compel** substitute testimony to be nonetheless *sworn to under penalty of perjury*, even though it will *diametrically contradict* Hendrickson's *own original, voluntary, genuinely-known-and-believed-by-him testimony*. Jurisprudentially-speaking, this is so utterly and completely cognitively-dissonant, so utterly ridiculous and absurd, as to be *literally incredible*—non-credible, more than unbelievable, virtually unimaginable, within the general, fundamental doctrines and universe-of-discourse of not only Anglospheric-American jurisprudence, but indeed of Continental (European) jurisprudential tradition as well. That this could even be *sought*, much less *sanctioned*, is light-years beyond the pale!

If this is allowed to stand, it is tantamount to *the subversion of the entire American legal system*:

- The very *concepts* of perjury and, in terms of government-action, *subornation of perjury* would be, not merely undermined, but *obliterated*
- Dictated and compelled sworn testimony would inherently relieve the government-as-plaintiff of the burden of substantiating the sufficiency of any pleading, and/or the evidentiary sufficiency of any averment, thus precipitating a horrific return to Star Chamber-like proceedings of centuries past
- Dictated and compelled sworn testimony at the behest of the federal government would virtually absolutely preclude the government or any of its agencies from being a defendant-respondent in *any* proceeding
- Dictated and compelled sworn testimony would (obviously) completely destroy the ability of the People to at all challenge, much less controvert or rebut, the government's actions and/or assertions in any legally meaningful way, much less to prove same false or erroneous
- Dictated and compelled sworn testimony would (again, obviously) completely destroy the First Amendment RIGHT of the People to directly Petition the federal government for redress of grievances

Furthermore, if this is allowed to stand, the federal judiciary, and the federal government generally, will undoubtedly proceed systematically to *eviscerate* and make a mockery of the Bill of Rights—undermining if not destroying at least seven out of the ten Amendments adopted to protect and secure the *meta-Constitutional* RIGHTS and LIBERTIES of the People, and simultaneously granting a power and authority *never ever* ceded to government by the People. Sworn testimony that is dictated and compelled will necessarily:

- *Annihilate* the First Amendment's protection of the Right of free speech, freedom of the press and journalistic freedom and integrity, and, as already mentioned, *supra*, the RIGHT of the People to directly Petition the federal government for redress of grievances
- Severely undermine, if not eventually obliterate, the Fourth Amendment's protection of the Right to be secure in our persons, houses, papers, and effects, against unreasonable searches and seizures, and make a mockery of even a scintilla of semblance of objectivity in determining *probable cause*
- Destroy all but a Kangaroo Court's pretense of the Fifth Amendment's protection of the Right to due process
- Obliterate the Sixth Amendment's protection of the Right to trial by jury with *witnesses*
- Undermine, if not destroy, the Seventh Amendment's protection of the Right to a Civil trial by jury

- Render utterly impotent the Ninth Amendment's protection of unenumerated, *meta*-Constitutional Rights and Liberties along with the correlative Right to *restrict* government power and would-be encroachments on fundamental, *meta*-Constitutional Rights and Liberties
- Annihilate the Tenth Amendment's recognition, acknowledgement, and protection of the Right(s) of *sovereignty* inherently residing ultimately in We the People

When an agency of government can *dictate* and *compel* a defendant's sworn testimony, the outcome of any legal action or proceeding becomes *preordained*. In short, as alluded to, *supra*, the result is that any "legal" proceeding of any sort is reduced to a mere Kangaroo Court: "...a sham legal proceeding in which a person's rights are totally disregarded and in which the result is a forgone conclusion because of the bias of the court..." *Black's Law Dictionary*, 5th Edition. This is something out of Orwell or Kafka's most feverish nightmares, and precipitates a hellish descent into a totalitarian tyranny the likes of which make Nazi Germany, Soviet Russia, or Maoist China seem like a veritable jurisprudential *Elysium* in comparison! This would be, needless to say, the total destruction of the legal system, of Due Process and the Rule of Law. The bottom line is clear: NO ONE can lawfully *dictate* or *compel* a person's sworn testimony—PERIOD!

On a comparatively ever so slightly more banal note, we should also nonetheless emphasize that the lower courts in Hendrickson's case have:

- ***Erred***, in the District court, in issuing a summary judgment based upon improperly construing the record *unfavorably* against the *nonmoving* party (the Hendricksons, Petitioners in the instant case), and *in favor* of the *moving* party, in blatant contradiction to clearly-specified and ***well-settled*** law (see, of course, this Honorable Court's own rulings, e.g., *Anderson v. Liberty Lobby, INC.*, 477 U.S. 242 [1986], and *Hunt v. Cromartie*, 526 U.S. 541 [1999]). The 6th Circuit Appellate Court clearly ***erred*** in *not* catching (or, more likely, unlawfully and malfeasantly *deliberately ignoring*) this and remanding the case back to the District court for proper adjudication. **No court can accept the movant's allegations as fact and disregard the non-movant's rebuttals in issuing summary judgment. PERIOD. It doesn't—and cannot—matter what the case is about.**
- (a) issued federal-income-*excise*-tax-related injunctions based on *unilateral*, *unsubstantiated*, and *already-rebutted* determinations, despite clear provisions in the Declaratory Act, codified at 28 USC §2201, *barring* the making of such determinations in the context of federal tax litigation; (b) permitted litigation clearly barred by the principles of both *res judicata* and collateral estoppel to nonetheless go forward, despite clear provisions to the contrary codified at Rule 41 of the Federal Rules of Civil Procedure; and (c), severely punitively *sanctioned* Petitioner Hendrickson *merely* for appealing outrageous judicial decisions and actions purporting to (and purporting to *have the lawful authority* to) do all of the above-discussed utterly *lawless* improprieties!

It's important to note, as this Court will see if it will only review the actual pleadings and evidence in the case, that Hendrickson has done NOTHING—ABSOLUTELY NOTHING—but *follow* and/or *invoke* the LAW—straightforward, crystal-clear, **black letter LAW**. The federal government (U.S. Attorney) completely lacked authority and jurisdiction to even initiate the action against Hendrickson, and the District court's first error was in not dismissing the suit immediately upon Hendrickson's Motion to Dismiss for lack of jurisdiction! The rest of the

history of this case is nothing less than a pathetic, ridiculous downward spiral of judicial corruption, malfeasance, and venality.

Taken as a whole, this entire pattern, or ensemble, if you will, of behavior on the part of the lower courts in this case clearly evinces—indeed, constitutes—not merely reversible error, nor even censurable misconduct, but *impeachable malfeasance* of the most outrageous and egregious sort. And yet this Court has—so far—shamefully shirked its responsibility and duty under the Constitution to *act to maintain Justice and the Rule of Law*. The actions and judgments and/or orders issuing from these lower courts are indeed clearly *void ab initio*, as any judgment is **void**:

- that violates due process, *Johnson v. Zerbst*, 304 U.S. 458, 58 S.Ct. 1019 (1938); *Pure Oil Co. v. City of Northlake*, 10 Ill.2d 241, 245, 140 N.E.2d 289 (1956); *Hallberg v. Goldblatt Bros.*, 363 Ill.25 (1936)
- if the judge failed to act impartially, *Bracey v. Warden*, U.S. Supreme Court No. 96-6133 (June 9, 1997)
- when the judge does not follow statutory prescriptions and/or procedure, *Armstrong v. Obucino*, 300 Ill 140, 143 (1921)
- where the complaint states no cognizable cause of action against the opposing party, for whatever reason, including, but not limited to, lack of jurisdiction, *Charles v. Gore*, 248 Ill App. 3d 441, 618 N.E. 2d 554 (1st. Dist. 1993)
- where no justiciable issue is presented to the court through *proper* pleadings and with proper standing to sue, *Ligon v. Williams*, 264 Ill. App 3d 701, 637 N.E. 2d 633 (1st Dist. 1994)

Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A.; U.S.C.A. Const Amend. 5. *Klugh v. U.S.*, 620 F.Supp. 892 (D.S.C. 1985), *Millken v. Meyer*, 311 U.S. 457, 61 S. CT. 339, 85 L. Ed. 2d 278 (1940).

And the **proper remedy** for a void judgment is *certiorari*: *Lake Shore & Michigan Southern Railway Co. v. Hunt*, 39 Mich 469.

“EQUAL JUSTICE UNDER LAW” are the words carved above the main entrance of the Supreme Court Building. “The republic endures and this is the symbol of its faith,” intoned Chief Justice Charles Evans Hughes during his Cornerstone Address for the current Supreme Court Building. We are—I can assure you I was—brought up to understand and appreciate the Supreme Court, as an enduring institution transcending any given panel of Justices, the very *bastion* and *embodiment* of fundamental DUE PROCESS and the RULE OF LAW, the ultimate *Servant-Guardian*, *Servant-Protector* of the Constitution and its ultimate Sovereigns, We The People—against ANY encroachment upon, or abrogation or infringement of, our fundamental, *meta*-Constitutional RIGHTS and LIBERTIES. Lady Justice is blindfolded precisely to symbolize and emphasize impartiality, fairness, and strict adherence to Law and the Rule of Law, irrespective of persons. This necessarily—and rather obviously—implies a strict Constitutionally-mandated DUTY and RESPONSIBILITY on the part of any particular panel of Justices embodying the Court at any given moment in history to be fiercely on-guard against, and fiercely intolerant of, *any* misconduct and/or malfeasance on the part of the lower courts.

This is a pivotal case in the history of this Republic, the greatest, most magnificent nation on Earth, the nation of the Enlightenment. Future, even near-future, historians will record how *this* Court ultimately conducts itself in regard to the instant case. History will record, as it cannot but

do, that *so far* you have shamefully shirked your Constitutional *responsibility* and *duty* with regard to the instant case. History, and the historians who report it and try to explain it, will also carefully note ***what this Court does next***. Will this Court continue to shamefully—and, indeed, with all due respect, *impeachably*—shirk its clearly-mandated responsibility and duty, and be smeared—and justifiably smeared—with the *infamy* that will inevitably attach to this shameful shirking-away and dereliction of duty, to be branded the Court that skulked, that slouched away, that turned not merely a blind eye to corruption and malfeasance, but a *jaundiced* one... **OR** will this Court rise to the occasion, live up to its heritage and Constitutional mandate, live up to its predecessors on this Court, such as John Jay, William Cushing, James Wilson, John Marshall, Roger Taney, Edward White, William H. Taft, Oliver W. Holmes, Louis Brandeis, George Sutherland, Harlan F. Stone, Ben Cardozo, Felix Frankfurter, William O. Douglas, Robert H. Jackson, John M. Harlan, William J. Brennan, Potter Stewart, Byron R. White, Arthur J. Goldberg, Abe Fortas, Thurgood Marshall, Harry A. Blackmun, and last, but certainly not least, Sandra Day O'Connor—and do the only thing it can *lawfully*—as distinguished from merely *pseudo-lawfully*, under the mere *color* of High Office—do, *viz.*, declare in no uncertain terms that the conduct of the lower courts in the instant case is clearly UNLAWFUL as well as MALFEASANT, and that, as such, its actions are *void ab initio*, and yet once more reaffirm that this is indeed a Constitutional Republic, as distinguished from a totalitarian *pseudo*-republic, wherein the People are the ultimate Sovereigns, wherein Due Process and the Rule of Law are part of the very marrow, bone and sinew of the Republic, and wherein NO ONE, least of all the Sovereigns' servant-government and its agents, is above the Law? *That* is the question of the day, Lady and Gentlemen, and, perhaps of this century. And you know—you *know*—where Louis Brandeis, Harry Blackmun and Sandra Day O'Connor would stand... will you continue to dishonor them and yourselves by doing any less?

In sum, this Honorable Court has, so far, acted in shameful and reprehensible dereliction and dishonor of its ultimate DUTY and RESPONSIBILITY in the case of Peter Hendrickson, Case # 08-1399. With all due respect, paraphrasing a fellow citizen-sovereign, Charles Barton of Florida, the 170th signer of Tim Whitney's Petition-Letter to you (of which I'm the 26th signer): as one of your many sovereigns, I respectfully ***demand*** that you honor and obey your oath of office and "administer justice without respect to persons, and do equal right to the poor and to the rich, and...faithfully and impartially discharge and perform all the duties incumbent upon [you] as Justice of the Supreme Court under the Constitution and laws of the United States of America."

In the name of the best within us, and for Liberty, Justice, and the Rule of Law, I am

Sincerely yours,

Mark Clayton Phillips