IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Case No. 07-1510

PETER E. HENDRICKSON; DOREEN M. HENDRICKSON
Defendant-Appellants,

v.

UNITED STATES OF AMERICA
Plaintiff-Appellee

RESPONSE TO PLAINTIFF-APPELLEE'S MOTION TO STRIKE THE TWO MEMORANDA OF LAW FILED WITH OUR REPLY BRIEF

STATEMENT AND DISCUSSION

We strongly object to this effort by Plaintiff-Appellee (hereinafter "Plaintiff" or "IRS") to exclude the highly substantive, relevant and responsive content of our two memorandums, the inclusion of which serves the interest of justice in this case. Contrary to Plaintiff's customarily mendacious assertion in its motion that the content of those memoranda is not responsive to its brief, they are explicitly responsive, and are made necessary thereby.

For instance, on page 27 of its brief, Plaintiff declares that, *"In this regard, I.R.C. § 3121(a) broadly defines "wages" for purposes of FICA taxes as "all remuneration for employment...." The term "employment" is defined in I.R.C. § 3121(b) as "any service, of whatever nature, performed...by an employee for the*

person employing him."" THIS IS, TO PUT IT BLUNTLY, A HORRENDOUS AND DELIBERATE LIE, WHICH OUGHT TO RESULT IN THE IMMEDIATE DISBARRING OF THOSE RESPONSIBLE FOR PLAINTIFF'S BRIEF.

Here is what the law ACTUALLY says (with emphasis added throughout):

Sec. 3101. - Rate of tax
(a) Old-age, survivors, and disability insurance
In addition to other taxes, there is hereby imposed ***on the income*** *of every individual a tax equal to the following percentages of the* ***wages*** *(as defined in section 3121(a)) received by him with respect to* ***employment*** *(as defined in section 3121(b))...*

Sec. 3121. - Definitions
(a) ***Wages***
For purposes of this chapter, the term "wages" means all remuneration for ***employment****, including the cash value of all remuneration (including benefits) paid in any medium other than cash;* ***except that such term shall not include - …*** [2,041 words of exceptions follow]
(b) ***Employment***
For purposes of this chapter, the term "employment" means any ***service****, of whatever nature, performed*
(A) by an employee for the person employing him, irrespective of the citizenship or residence of either,
(i) ***within the United States****, or*
(ii) on or in connection with an American vessel or American aircraft… or
(B) outside the United States by a ***citizen or resident of the United States*** *as an employee for an* ***American employer*** *(as defined in subsection (h)),…*
(e) State, United States, and [Puerto Rican] *citizen*
For purposes of this chapter -
(1) State
The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.
(2) United States
The term "United States" ***when used in a geographical sense*** *includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.*
...

*h) **American employer***
For purposes of this chapter, the term "American employer" means an employer which is -
(1) the United States or any instrumentality thereof,
*(2) an individual who is a **resident** of the United States,*
*(3) a partnership, if two-thirds or more of the partners are **residents** of the United States,*
*(4) a trust, if all of the trustees are **residents** of the United States, or*
(5) a corporation organized under the laws of the United States or of any State.

So, though more complicated than the withholding provisions in 3401, when read carefully it is clear that FICA is an “income” tax on "wages" paid for "employment", which is “service” performed within the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa; or outside of those places if by a citizen or resident thereof, and for the United States, a U.S. possession government, or a company either owned by residents of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, or incorporated under their laws or those of the District of Columbia. (Bear in mind that *"within"* and *"resident of"* are terms *"used in a geographical sense"*.)

PLAINTIFF’S DELIBERATE, CALCULATED AND FRAUDULENT MISREPRESENTATION OF THIS STATUTE IS MERELY ONE OF THE ENDLESS DISSEMBLINGS OF WHICH ITS BRIEF TO THIS COURT, ALL ITS FILINGS IN DISTRICT COURT, AND, INDEED, THE ENTIRE ENTERPRISE OF THIS BOGUS, FRIVOLOUS AND VEXATIOUS “LAWSUIT” ARE CONSTRUCTED.

Not having the law on its side in any fashion whatsoever, indeed, being engaged in a purposeful attempt to evade the law in this action, Plaintiff has been "highly creative" in both its "arguments" and its citations. That is, its "arguments" range from irrelevant or ridiculous sophistries to carefully fabricated lies based on fraudulent reference to, and/or deliberately incomplete or out-of-context citations of statutes such as is revealed above. We, to whom every single word we find ourselves obliged to write in regard to this utterly outrageous and criminal "lawsuit" represents another moment stolen from us and our children, and which are hardly tendered to this Honorable Court with promiscuous enthusiasm, are obliged perforce to respond comprehensively, and in some cases, expansively.

For instance, as noted earlier, Plaintiff deliberately misrepresented 26 USC § 3121 in it brief, obliging us to provide a great deal of the statutory language in one of the memoranda Plaintiff seeks to conceal from this Court. The construction of 3121 deploys-- and its meaning relies upon-- the custom-defined term "includes". Furthermore, on page 30 of its brief, Plaintiff cites the frankly meaningless language of a plainly unreasoned (and certainly unexplained) declaration by the 7th Circuit in US v. Latham, which also involves the same term. (Plaintiff's citation of the Latham language omits the following:

> *"It is obvious that within the context of both statutes the word "includes" is a term of enlargement not of limitation, and the reference to certain entities or categories is not intended to exclude all others."*

Since the court DOES NOT identify any “others” it meant to suggest are “not excluded”, this declaration is empty of content, the court’s prior remark about “privately employed wage-earners”-- a sentence itself deploying one outright custom-defined word-of-art: “wage[s]”; and another implicit word-of-art: “employed”-- notwithstanding.)

Consequently, we are obliged to point out in our memorandum that:

> *"Inclusio unius est exclusio alterius. The inclusion of one is the exclusion of another. The certain designation of one person is an absolute exclusion of all others. ... This doctrine decrees that where law expressly describes [a] particular situation to which it shall apply, an irrefutable inference must be drawn that what is omitted or excluded was intended to be omitted or excluded."* Black's Law Dictionary, 6th edition.

> *"The [state supreme] court also considered that the word ‘including’ was used as a word of enlargement, the learned court being of the opinion that such was its ordinary sense. With this we cannot concur.”*
> U.S. Supreme Court, Montello Salt Co. v. Utah, 221 U.S. 452 (1911)

Certain terms specially-defined for use in the “income” tax laws are further modified in their special meanings by the use of the term “includes”-- itself a custom-defined legal term, under the language reflected at 26 USC 7701(c):

> *“Includes and including: The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.”*

The effect of this term is to provide for a narrowly limited expansion of the custom meaning of the term in which it is deployed.

Properly understood, 7701(c) declares that, *"Includes and including: The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term **as** defined."* Indeed, the Treasury Department has written a regulatory clarification of the 7701(c) definition of "includes" which clearly embraced this construction which appeared for a number of years in 26 CFR:

> *26 CFR 170.59- Meaning of Terms: The terms "includes and including" do not exclude things not enumerated which are in the same general class.*

Further, as the Supreme Court reminds us:

> *" '[W]here Congress includes particular language in one section of a statute but omits it in another ..., it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.' "* Russello v. United States, 464 US 16, 23, 78 L Ed 2d 17, 104 S Ct. 296 (1983) (Quoting United States v. Wong Kim Bo, 472 F. 2d 720, 722 (CA 1972)).

Looking at some of the statutory language relevant to this discussion and the instant case:

> *3401(c) Employee*
> *For purposes of this chapter, the term "employee" includes an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.*

> *3401(d) Employer*
> *For purposes of this chapter, the term "employer" means the person for whom an individual performs or performed any service, of whatever nature, as the employee* [as defined above] *of such person...*

and:

> *3121(e)(2) United States*
> *The term "United States" when used in a geographical sense includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.*

and keeping in mind the declaration by the Supreme Court in Russello, the following examples of other definitions in the U.S code-- which reveal that Congress fully understands the nuances of statutory construction discussed above and when it means to legislate broadly, it plainly says so-- are instructive:

> *Title 26, Subtitle D, Chapter 38, Subchapter A, Sec. 4612.* [Petroleum Tax]
> *For purposes of this subchapter-*
> *(4) United States*
> *In general*
> *The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.*
>
> *Title 20, Chapter 69, Section 6103* (Education)
> *As used in this chapter:*
> *(8) Employer- The term "employer" includes both public and private employers.*

Clearly, even the limited-expansion effect of 7701(c) (also helpfully clarified until just recently, by the way, at 27 CFR 72.11):

> *Meaning of Terms: The terms "includes and including" do not exclude things not enumerated which are in the same general class,*

does not bring non-federal persons and places into the ambit of the terms we are discussing. Instead, the most that could be said in that regard is that in addition to

the listed varieties, “employee” in Section 3401 also refers to other federally-connected workers whose descriptions are not specifically listed (and “employer” the agencies for which they work); and that “United States”-- as used in 3121-- can be similarly understood to include other federal territories and possessions left off the enumerated list.

In fact, this is the only construction consistent with the relevant doctrines expressed by the United States Supreme Court as:

> *“[W]here general words follow specific words in a statutory enumeration, the general words are construed to embrace only objects similar in nature to those objects enumerated by the preceding specific words”* Circuit City Stores v. Adams, 532 US 105, 114-115 (2001),
>
> *“Under the principle of ejusdem generis, when a general term follows a specific one, the general term should be understood as a reference to subjects akin to the one with specific enumeration.”* Norfolk & Western R. Co. v. Train Dispatchers, 499 US 117 (1991),

and

> *"…a word is known by the company it keeps (the doctrine of noscitur a sociis). This rule we rely upon to avoid ascribing to one word a meaning so broad that it is inconsistent with its accompanying words, thus giving “unintended breadth to the Acts of Congress.” Jarecki v. G. D. Searle & Co., 367 US 303, 307 (1961)”* Gustafson v. Alloyd Co. (93-404), 513 US 561 (1995).

Applying these principles, we see that the language of 26 USC 7701(c) providing for the inclusion of “things otherwise within the meaning of the term defined” effectively constitutes the “general words”, or “general terms” which are

accompanied by the specifically enumerated things listed in the given definition. Look again the definition of "employee" at 26 USC 3401(c):

> *For purposes of this chapter, the term "employee" includes an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes a [paid] officer of a corporation.*

It is clear that the common characteristic of those in the enumerated list of "employees" in this special definition is that of being someone paid by the federal government (or an entity created and/or controlled by the federal government) for services rendered. When we proceed to incorporate the provisions of 7701(c) (as properly illuminated by the doctrines outlined above) we get:

> *For purposes of this chapter, the term "employee" includes an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation. The term "employee" also includes "things not enumerated which are in this same general class" (that is, "other things otherwise within the meaning of the term as defined").*

No further expansion can be admitted:

> *"It is axiomatic that the statutory definition of the term excludes unstated meanings of that term."* U.S. Supreme Court, Meese v. Keene, 481 U.S. 465 (1987).

Further, a declaration that SOME thing(s) shall not be deemed to be *excluded* does not mean that any particular thing must or should be deemed to be *included*-- especially something which could easily have been explicitly provided

for. After all, what 7701(c) DOESN'T say is, *"Includes and including: The terms "includes" and "including" when used in a definition contained in this title shall be construed as expanding the class represented by the common meaning of the word defined with the addition of the explicitly listed items."*-- language by which Congress could have avoided a lot of confusion if this is what it actually meant.

For that matter, Congress could have simply defined "includes" and "including" in the tax law as expressly non-limiting, as it has done elsewhere:

> *28 USC 3003- Rules of Construction*
> *(a) For purposes of this chapter*
> *(1) the terms "includes" and "including" are not limiting;*

and,

> *11 USC 102- Rules of Construction*
> *In this title-*
> *...*
> *(3) "includes" and "including" are not limiting.*

That it did not must be given proper significance. As the United States Supreme Court observes,

> *"The construction of a statute by those charged with its execution should be followed unless there are compelling indications that it is wrong, especially when Congress has refused to alter the administrative construction, and such deference is particularly appropriate where an agency's interpretation involves issues of considerable public controversy and Congress has not acted to correct any misperception of its statutory objectives."* CBS, INC. v FCC, 453 US 367 (1981)

The existing language has been on the books unchanged for decades during which Congress has revised other parts of the law, the code, and the related regulations many, many times.

Finally, the legislative history of 3401(c) is highly instructive. Although originally introduced in section 86 of the Revenue Act of 1862, the "wage" withholding specified in that section was abandoned early in the 20th century. The practice was re-introduced by way of the Current Tax Payment Act of 1943 on June 9, 1943. The definition of "employee" reflected at 3401(c) is taken from that act, which provided for an addition to chapter 9 of the IRC of 1939 code of what later became codified as subchapter 24 of the current IRC, with the "employee" definition denominated as subparagraph (c) of section 1641.

Material related to the new act was promptly published in the Federal Register, as is the case with all such enactments. Here is how the "employee" definition is described in the register edition of Tuesday, September 7, 1943 (page 12267):

> *SUBCHAPTER D-- COLLECTION OF INCOME TAX AT SOURCE OF WAGES*
> *SEC. 1621. DEFINITIONS*
> *As used in this subchapter--*
>
> * * * * *
>
> *(c) Employee. The term "employee includes an officer, employee, or elected official of the United States, a State, Territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.*

*   *   *   *   *

> *§ 404.104 Employee. The term "employee" includes every individual performing services if the relationship between him and the person for whom he performs such services is the legal relationship of employer and employee. The term specifically includes officers and employees whether elected or appointed, of the United States, a State, Territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing.*

Plainly, this definition has always covered federal workers as discussed above, and only such workers. Plainly, not only is "includes" NOT deployed in this definition in order to ADD federal workers to anything, but there WAS no previously operating definition or withholding protocol of this kind to which they could be added.

The foregoing is, of course, a truncated and revised rendering of the more comprehensive discussion of "includes" in the memorandum Plaintiff seeks to conceal. However, it should be sufficient to make clear the necessity of its presentation and consideration in this matter. Similarly, Plaintiff's creative and mendacious efforts throughout its brief to suggest that Congress has presumed to tax all economic activity, or otherwise to expand the legal meaning of "income" as the term is used and meant in the internal revenue law makes necessary our discussion of that subject in our memorandum regarding the meaning of "income" and "includes", and the particulars of "wage" withholding and FICA taxes.

Our memorandum concerning procedural errors and abuses is similarly necessitated by the sheer volume and egregious character of those errors which are

reflected and relied upon in Plaintiff's brief to this Court. For instance, Plaintiff complains about the documents furnished to this Court with our Opening Brief in an elaborate footnote on page 34 of its brief, arguing that one of these documents "is not in the record..." [of the District Court proceedings]. Indeed. There effectively WERE no such proceedings in which to introduce or make use of them, AND THIS IS THE SORT OF THING OUR MEMORANDUM ADDRESSES. (As an aside, the Court may have an interest in the fact that the document in question-- indeed, all the documents attached to our Opening Brief, WERE in Plaintiff's possession from on or about April 25, 2006.)

Here are some other (but not all) key District Court abuses analyzed in our memorandum which Plaintiff wants this Court to disregard:

1) In context of *summary judgment motion*, ignoring numerous genuine disputes of material fact.

2) Issuing injunctive order so invasive as to constitute criminal Witness Tampering, requiring us to perjure ourselves each year for life, violating 1st, 4th and 5th Amendment rights.

3) Failing to sanction per se violations of the Taxpayer Bill of Rights. *(attempting to deflect related EO#12988*)

4) Denying our <u>inviolate</u> jury trial right.

5) Failing to establish that the Attorney General authorized this IRS suit, without which IRS could not bring this case.

6) Summarily ruling against us, ***without any "undisputed" factual finding*** that our state of mind was fraudulent. Be assured, we did not aver this.

Most egregiously

7) Denying and sabotaging our right to depose witnesses, discover facts, or even to file an Answer.

The Justice System's purpose is, well, we think, to <u>do justice</u>. We count on this Court:

a) To let us defend ourselves and

b) To ignore IRS procedural chicanery and rule on all issues of substance

***"[a]ll** pleadings shall be so construed as to do substantial justice." We frequently have stated that pro se pleadings are to be given a liberal construction. Eg,* <u>Haines v. Kerner</u>*, 404 US 519 (1972). If these pronouncements have any meaning, they must protect the pro se litigant..."* <u>Baldwin County Welcome Center v Brown</u> *466 US 147 (1984)*:

Further:

*"Federal Rules reject the approach that pleading is a game of skill in which one misstep…may be decisive to the outcome and accept the principle that **the purpose of pleading is to facilitate a proper decision on the merits**."* <u>Conley v. Gibson</u> 355 US 41, 45-46 (1957), Cf. <u>Maty v. Grasselli Chemical Co</u> 303 US 197 "

Would someone remind IRS/DoJ sharpies of this? IRS repeatedly mangles word definitions and attacks the Rule of Law, even when universally condemned--that's the behavior of a rogue agency. Let's recall what this Court recently said about IRS in the Telephone Excise Tax case:

> ***"When a party (IRS) presents the question whether "and" means "or," it is tempting to be dismissive of the claim or, worse, to make a crack about the demise of the rule of law."*** Office Max v United States 428 F3d 583 (2005 6thCir)

IRS paid no price for squandering the "Public Fisc", defending the indefensible in numerous Phone Tax cases. Yet its motion denounces our memoranda for raising issues "not responsive to [the IRS] brief". They want this Court to forget that:

> *"Appellate courts will consider new issues when the proponent of the new issue can show that manifest injustice would otherwise result."* Freeman v Ramada Inn Inc 805 F.2d 1034 paragraph22, in pro se case quoting Kline v Johns-Manville 745 F.2d 1217, 1221 (9thCir 1984).

Manifest trial court injustices are precisely what our memoranda expose.

IRS recklessly and frivolously ties up this Court's time. Its motion will take *far longer* to review and properly rule on, than to simply read our memoranda. IRS's bloated staff of scrivening sharpies knows this, but prefers to strew costly, wasteful procedural roadblocks across the path of this Court's search for truth.

Consider its ongoing scorched-earth Phone Tax retreat (see In re Long-Distance Refund Litigation v United States No.07-mc-0014 (DDC 08/10/2007)

where Judge Urbina rules *"none of these [IRS] arguments withstands inspection"* (paragraph 11). Judge Urbina then cites this Court's Office Max decision (Id paragraph 45), denouncing IRS for continuing right through last month to clog courts, peppering opponents with garbage arguments and self-serving word-manglings… attempting to evade even its responsibilities

> *"established by multiple appellate courts and the[self-]admission of [IRS]… akin to comparing the zebra to the unicorn – concluding the former must not exist because, like the latter, it too is a horse."* Id, para 45

That's what IRS does. What about our nation's courts?

> *"A court's dignity derives from the respect accorded its judgments. That respect is eroded, not enhanced, by **excessive recourse to rules foreclosing consideration of claims on the merits**."* Degen v United States #95-173 (Supreme Court 1996)

We are pro se litigants. Our filings *could have been 100% handwritten.* As noted in the "PRO SE APPELLANT'S BRIEF" instruction packet provided to us be the clerk of the Court: "*Please print or write legibly, or type…"* IRS chooses nonetheless to nitpick our typefonts. It is obvious less time is needed for our neat, typewritten reply brief + 2 memos, for 100% accuracy, than to stumble thru 7,000 handwritten words of *anyone*.

> *"An appeal must not be dismissed for informality of form…"* FRAP 3(c)(4)

> *"A local rule imposing a requirement of form must not be enforced in a manner that causes a party to lose rights because of a nonwillful failure to comply with the requirement..."* FRAP 47(a)(2)

When preparing our Reply Brief we diligently checked with our case manager on the issue of attachments such as our memoranda. He assured us that including such attachments was perfectly acceptable. Indeed, this good faith Brief plus memoranda proffer clearly conforms to any reasonable understanding of FRAP32 (which governs form/length of Briefs AND Other Papers). We quote:

> FRAP 32(a) Form of a Brief-- (*laying out numerous requirements and limitations*)
> ***(7)*** *Length.*
> ***(A)*** *Page limitation. A principal* ***brief*** *may not exceed 30 pages, or a reply* ***brief*** *15 pages, unless it complies with Rule 32 (a)(7)(B) and (C).*
> ***(B)*** *Type-volume limitation.*
> ***(i)*** *A principal* ***brief*** *is acceptable if: it contains no more than 14,000 words….*
> ***(ii)*** *A reply* ***brief*** *is acceptable if it contains no more than half of the type volume specified in Rule 32 (a)(7)(B)(i). …*
> ...
> *(c) Form of Other Papers. …*
> ***(2) Other Papers****. Any other paper, including a petition for panel rehearing and a petition for hearing or rehearing en banc, and any response to such a petition, must be reproduced in the manner prescribed by Rule 32 (a), with the following exceptions:*
> ***(A)*** *A cover is not necessary if the caption and signature page of the paper together contain the information required by Rule 32 (a)(2).*
> *(B)* ***Rule 32 (a)(7)*** *(limitations on length, for instance)* ***does not apply****.*
> *….*
> ***(e)*** *Local Variation. Every court of appeals* ***must*** *accept documents that comply with the form requirements of this rule…a court of appeals* ***may accept*** *documents that do not meet all form requirements of this rule.*

We, then, relied and acted on plain statements of our case manager, and on FRAP32 read *in its entirety* (note: IRS's Motion, as usual, fails *even to mention* FRAP32(c)). If our reply brief and other papers were to be somehow deemed

non-conformant, a result for which we had no reasonable expectation or notification, we deserve reasonable opportunity to consolidate our entire reply work into whatever format is clearly/explicitly required.

Furthermore, our tightly written, invariably and critically relevant Reply Brief and memoranda combination pale in comparison to the actual burden placed upon the attention of the Court by IRS's superficially length-compliant filings:

- IRS filed hundreds of pages of "documents" in District Court, 99% of the content of which is irrelevant fog and deliberate mendacity;
- As previously noted, IRS brief p27 quotes ONLY *4 self-serving words* from 26 USC 3121(a). These words, *purportedly* defining "wages", suggest a key pro-IRS outcome. But this Court must also read (to see what IRS deceptively fails to mention) through to the "***except***" 17 words later in the same sentence, plus the massive follow-on exception list which is the rest of 3121(a), a stupefying total of 2,041 words, which BY THEMSELVES, and even without regard to the limitations of this section previously observed, are sufficient to eviscerate IRS-proffered 'meanings' of those 4 words (remember! don't look further-- not to that "except"…). This IRS brief-writing 'economy' thus really intends to *defraud the Court.*.
- Again, on p27, IRS quotes 14 carefully snipped words from 26 USC 3121(b), leaving very pro-IRS impressions about the definition of

"employment". But they deliberately stop short of the phrase ***"except that such term shall not include--"*** and all <u>3,628</u> other words of this subsection, again detailing exceptions conflicting with, and BY THEMSELVES, substantially trashing those 14 'economical' words.

- The above comprise just two of IRS's 29 statutory cites. We're sure the other 27 will make fun reading, *from beginning to end*. This Court should perform the same research we have diligently followed, following the definitional trail WHEREVER IT LEADS. The law IS plain here. And IRS itself says it's of <u>utmost importance</u>!
- This Court should also read all 63 cases cited by IRS in its brief, *front to back*. Total verbiage of these easily exceeds 250,000 words. This Court will find some *70% of holdings inapposite*, and worse, another 10-15% will *hold directly against the IRS* that insolently cites them.
- Need we mention IRS inflicts some 10 million words of byzantine regulations and Revenue Rulings on the weary public? *Yes, IRS certainly is in fine position to critique our word count.*

Our briefs and memoranda, forced to extensively quote many IRS statute <u>deletions</u> noted above, could of course become <u>far shorter</u> if IRS (which cites, yet snips them!) would only ***fully print them in its own brief***, as equity requires. **Indeed, if IRS would only FOLLOW those statutes, our word count would**

drop to zero, because this frivolous and vexatious "lawsuit" would never have begun.

Compared to IRS's 10,000-word-deliberately-omitted-statutory-exceptions, plus its quarter-million word avalanche of 'Potemkin citations', we ask-- how horrifying is our word-count, representing exhaustive research by Defendants who, after all, merely defend their reputations, their property and the integrity of ESTABLISHED law?

CONCLUSION

For the foregoing reasons, Plaintiff-Appellee's Motion to Strike should be denied.

Dated this the 8th day of October, 2007.

Respectfully submitted,

____
Peter Eric Hendrickson

____
Doreen M. Hendrickson

Proceeding Pro Se