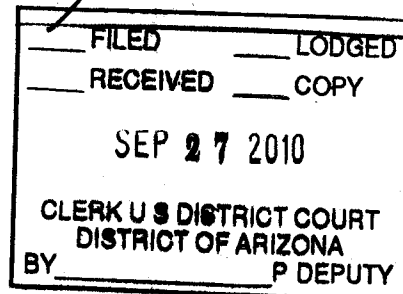


1 Thomasita E. Taylor  
2 2516 W. Washington Street  
3 Phoenix, AZ 85009-5104

4 Defendant *Pro Se*



5  
6  
7 **IN THE UNITED STATES DISTRICT COURT FOR THE**  
8 **DISTRICT OF ARIZONA**

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 vs.

12 THOMASITA E. TAYLOR,

13 Defendant.  
14  
15

Civil No. 2:09-cv-00341-ROS

**MOTION TO SET ASIDE  
DEFAULT JUDGMENT ENTERED  
SEPTEMBER 3, 2010**

(Oral Argument Requested)

16 Defendant Thomasita E. Taylor ("Defendant") hereby moves this Court to set aside the  
17 Default Judgment entered against her on September 3, 2010. Default Judgment was entered  
18 against Defendant allegedly for her failure to plead or otherwise defend against the complaint  
19 served on April 12, 2009. That is simply not true. Defendant filed the Declaration of  
20 Thomasita E. Taylor dated October 8, 2009 to the best of her ability. Plaintiff in fact  
21 responded by filing its Reply in Support of United States' Motion for Entry of Default  
22 Judgment [dated May 22, 2009] Against Thomasita E. Taylor on October 28, 2009

23 1. Defendant denies that she received competent advice from her attorney, Gregory  
24 Robinson. The only reason for the advice given Defendant by Mr. Robinson was due to the  
25 fact that Defendant had no money to hire Mr. Robinson to prepare an answer on her behalf. In  
26 fact, had Defendant had sufficient funds to hire Mr. Robinson to prepare the answer, he would  
27 have prepared an answer to file on her behalf. As a lay person, Defendant knew no better than  
28

1 to trust what her so-called professional, for-hire attorney advised her at the time. The advice  
2 given Defendant by Mr. Robinson not to file an answer in this matter is obviously incompetent  
3 and was extremely prejudicial and detrimental to this Defendant.

4 2. Defendant denies that this Court has jurisdiction over Defendant in accordance  
5 with Title 26 of the Federal Tax Code or any of its governing regulations, and specifically  
6 Section 861, "Determination of Sources of Income." In fact, Defendant could find no express  
7 Act of Congress, nor any Executive Order, giving the Internal Revenue Service lawful  
8 jurisdiction to operate within *any* of the 50 States of the Union, and Plaintiff has provided no  
9 proof for same.

10 3. Defendant denies, and has always denied, owing any money to the Internal  
11 Revenue Service. Through fear and intimidation by agents of the Internal Revenue Service  
12 and the United States of America corporations, Defendant did enter into an installment  
13 agreement to attempt to forestall the seizure of her home. However, the Internal Revenue  
14 Service is merely a debt collector. The Internal Revenue Service has never to this date  
15 provided Defendant with validation of the debt showing the amount of the debt or the name  
16 and address of the original creditor and real party in interest to whom the debt is owed as  
17 required in Title 15 of the U. S. Code under Debt Collection Practices, § 1692g. Plaintiff  
18 clearly engaged in the unlawful use of abusive, deceptive, and unfair debt collection practices  
19 and invaded Defendant's individual privacy to obtain this Default Judgment.

20 4. The IRS has unlawfully and fraudulently used its Form 4340, Certificate of  
21 Assessments, Payments, and Other Specified Matters, as "evidence" that Defendant owes  
22 taxes. A proper assessment certificate must be signed by a duly authorized certifying officer  
23 "under penalty of perjury," pursuant to IRC 6065 and *Brafman v. U. S.*, 384 F.2d 863 (1967).  
24 In this case, Certifying Officer Enid L. Stanger certified as follows:

25  
26 I certify that the foregoing transcript of the taxpayer named above in respect to  
27 the taxes specified *is a true and complete transcript* for the period stated and all  
28 assessments, abatements, credits, refunds, and advance or unidentified payments,  
and the assessed balance relating thereto, as disclosed by the records of this  
office as of the account status date are shown therein. I further certify that the

1 other specified matters set forth in this transcript *appear in the official records of*  
2 *the Internal Revenue Service.* (emphasis added)

3 Certifying Officer Enid L. Stanger merely certifies that it is a "complete transcript" that  
4 appears in the official records of the Internal Revenue Service. She does not certify "under  
5 penalty of perjury" that there is a specific liability for income taxes imposed upon Defendant,  
6 which she must do. The alleged Certificate of Assessments, Payments, and Other Specified  
7 Matters filed herein is nothing more than unsworn hearsay, despite Mr. Reynolds' Declaration,  
8 and cannot be used to assess any amount of deficiency of taxes against this Defendant.  
9 Without a proper assessment, there can be no deficiency, by statutory definitions.

10 5. Providing Defendant with federal tax assessments does not comply with Title 15  
11 § 1692g in providing Defendant with validation of the debt amount or name of the creditor and  
12 real party in interest. In fact, it is the purpose of Title 15 § 1692g to eliminate such abusive  
13 debt collection practices by debt collectors, to insure that those debt collectors who refrain  
14 from using abusive debt collection practices are not competitively disadvantaged, and to  
15 promote consistent State action to protect consumers against debt collection abuses.

16 6. Under Title 15 § 1692g, "The failure of a consumer to dispute the validity of a  
17 debt under this section may not be construed by any court as an admission of liability by the  
18 consumer."

19 7. If the Plaintiff cannot "verify the debt" and inform the Defendant and this Court  
20 specifically who the creditor and real party in interest is pursuant to Title 15, § 1692g, it cannot  
21 enforce collection pursuant to the Default Judgment dated September 3, 2010.

22 8. According to Title 15, § 15, "An action must be prosecuted in the name of the  
23 real party in interest. . . ." Plaintiff United States of America is neither the creditor nor real  
24 party in interest and, therefore, has no standing to bring a lawsuit against an alleged debtor,  
25 including this Defendant.

26 9. Defendant Thomasita Taylor is a lay person who, by law and precedent, may not  
27 be held to the same standard as any lawyer, and whose motions, pleadings and all papers may  
28 only be judged by their function and never form.

1 See: *Haines v. Kerner*; *Platsky v. CIA*; *Anastasoff v. United States*; Litigants are to be  
2 held to less stringent pleading standards;

3 *Haines v. Kerner*, 404 U.S. 519-421; *In re Haines*: pro se litigants are held to less  
4 stringent pleading standards than admitted or licensed bar attorneys. Regardless of the  
5 deficiencies in their pleadings, *pro se* litigants are entitled to the opportunity to submit  
6 evidence in support of their claims.

7 *Platsky v. C.I.A.*, 953 f.2d. 25; *In re Platsky*: court errs if court dismisses the *pro se*  
8 litigant without instruction of how pleadings are deficient and how to repair pleadings.

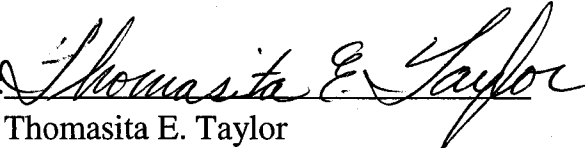
9 *Anastasoff v. United States*, 223 F.3d 898 (8th Cir. 2000); *In re Anastasoff*: litigants'  
10 constitutional (guaranteed) rights are violated when courts depart from precedent where  
11 parties are similarly situated.

12 Accordingly, Defendant moves this Court to advise Defendant of any defects in  
13 pleadings and procedures before any action is taken to allow her sufficient time to correct said  
14 defects before ruling in this matter.

15 Defendant is offended by, and resents the implication of, statements made by the  
16 attorney for the United States of America, Andy R. Camacho, in his Reply in Support of  
17 United States' Motion for Entry of Default Judgment against Thomasita E. Taylor, that she is a  
18 "frivolous, tax-protestor-type" defendant, instead of himself following the Federal Tax Code  
19 and proving to the Defendant and this Court the debt amount claimed owed by this Defendant  
20 and providing the name of the creditor along with the creditor's address as required by Title 15  
21 of the U. S. Code under Debt Collection Practices, § 1692g.

22 For all of the foregoing reasons, Defendant moves this Court to set aside the Default  
23 Judgment entered against her on September 3, 2010, and grant Defendant's Motion to Dismiss  
24 filed concurrently herewith.

25 DATED this 27<sup>th</sup> day of September, 2010.

26 By:   
27 Thomasita E. Taylor  
28 2516 W. Washington Street  
Phoenix, AZ 85009-5104  
Defendant Pro Se

1 **ORIGINAL AND COPY** of the foregoing  
2 filed with the Clerk of the Court, and **COPIES**  
3 mailed this 27<sup>th</sup> day of September, 2010, to:

4 Dennis K. Burke, Esq.  
5 United States Attorney  
6 District of Arizona  
7 Two Renaissance Square  
8 40 N. Central Avenue, Suite 1200  
9 Phoenix, AZ 85004-4408

10 Andy R. Camacho, Esq.  
11 Trial Attorney, Tax Division  
12 U. S. Department of Justice  
13 P. O. Box 683  
14 Ben Franklin Station  
15 Washington, DC 20044-0683

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