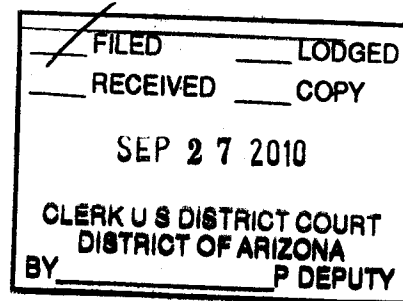


1 Thomasita E. Taylor
2 2516 W. Washington Street
3 Phoenix, AZ 85009-5104

4 Defendant *Pro Se*



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.

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

**MOTION TO DISMISS WITH
PREJUDICE COMPLAINT TO
REDUCE FEDERAL TAX
ASSESSMENTS TO JUDGMENT
DATED FEBRUARY 19, 2009**

(Oral Argument Requested)

16
17 Defendant Thomasita E. Taylor (“Defendant”) hereby moves this Court to dismiss with
18 prejudice the Complaint to Reduce Federal Tax Assessments to Judgment filed on February
19 19, 2009, as follows:

20 1. This Court has no jurisdiction over Defendant in accordance with Title 26 of the
21 Federal Tax Code or any of its governing regulations, and specifically Section 861,
22 “Determination of Sources of Income.” Plaintiff has provided no proof that pursuant to an
23 express Act of Congress or any Executive Order, the Internal Revenue Service or the United
24 States of America has lawful jurisdiction to operate within *any* of the 50 States of the Union

25 2. Defendant does not owe the Internal Revenue Service or the United States of
26 America any sum of money whatsoever and Plaintiff has not proved differently. The Internal
27 Revenue Service and/or the United States of America are merely debt collectors. Neither the
28 Internal Revenue Service nor the United States of America has to date provided Defendant

1 with validation of the debt showing the amount of the debt or the name and address of the
2 original creditor and real party in interest to whom the debt is owed as required in Title 15 of
3 the U. S. Code under Debt Collection Practices, § 1692g. Plaintiff has clearly engaged in the
4 unlawful use of abusive, deceptive, and unfair debt collection practices and invaded
5 Defendant's individual privacy to obtain this Default Judgment.

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

11 I certify that the foregoing transcript of the taxpayer named above in respect to
12 the taxes specified *is a true and complete transcript* for the period stated and all
13 assessments, abatement, credits, refunds, and advance or unidentified payments,
14 and the assessed balance relating thereto, as disclosed by the records of this
15 office as of the account status date are shown therein. I further certify that the
16 other specified matters set forth in this transcript *appear in the official records of*
17 *the Internal Revenue Service.* (emphasis added)

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

25 4. Providing Defendant with federal tax assessments does not comply with Title 15
26 § 1692g to provide Defendant with validation of the debt amount or the name of the creditor
27 and real party in interest. In fact, it is the purpose of Title 15 § 1692g to eliminate such
28 abusive debt collection practices by debt collectors, to insure that those debt collectors who
refrain from using abusive debt collection practices are not competitively disadvantaged, and

1 to promote consistent State action to protect consumers against debt collection abuses.

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

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

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

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

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

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

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

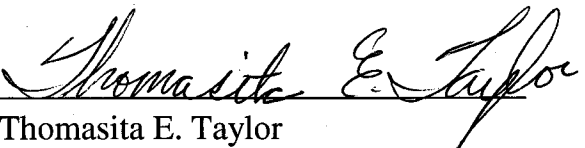
23 *Anastasoff v. United States*, 223 F.3d 898 (8th Cir. 2000); *In re Anastasoff*: litigants'
24 constitutional (guaranteed) rights are violated when courts depart from precedent where
25 parties are similarly situated.

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

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

8 For all of the foregoing reasons, Defendant moves this Court to dismiss with prejudice
9 post haste the Complaint to Reduce Federal Tax Assessments to Judgment filed against
10 Defendant.

11 DATED this 27th day of September, 2010.

12
13 By: 
14 Thomasita E. Taylor
15 2516 W. Washington Street
16 Phoenix, AZ 85009-5104
17 Defendant *Pro Se*

18 **ORIGINAL AND COPY** of the foregoing
19 filed with the Clerk of the Court, and **COPIES**
20 mailed this 27th day of September, 2010, to:

21 Dennis K. Burke, Esq.
22 United States Attorney
23 District of Arizona
24 Two Renaissance Square
25 40 N. Central Avenue, Suite 1200
26 Phoenix, AZ 85004-4408

27 Andy R. Camacho, Esq.
28 Trial Attorney, Tax Division
U. S. Department of Justice
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Ben Franklin Station
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