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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES LESLIE READING, CLARE LOUISE
READING, FOX GROUP TRUST
MIDFIRST BANK, CHASE, FINANCIAL
LEGAL SERVICES, and STATE OF ARIZONA,

Defendants.

Civil Number: 2:11-CV-00698-FJM

**MOTION FOR
RECONSIDERATION OF UNITED
STATES' MOTION TO ENTER A
JUDGMENT**

**(Expedited Oral Argument
Requested)**

Defendants observe their right of expression protected and guaranteed by the Constitution for the united States of America.

Defendants James Leslie Reading and Clare Louise Reading request this Court reconsider the Motion by the United States to Enter A Judgment [Doc. 98 filed 9/28/12].

This great nation was founded upon the Rule of Law. The constitution for the United States of America just celebrated its 225th anniversary and it is the longest enduring written constitution in the history of the world. This honorable Judge, Frederick J. Martone, attorney, Charles M Duffy, and IRS Revenue Agent, Elizabeth Marriaga, all raised their right hand and swore aloud to uphold and defend the Constitution and then subscribed same, which is in their personnel files.

The Constitution provides that no American shall be deprived of property or liberty without Due Process of Law.

Black's Law Dictionary, Sixth Edition at page 500 defines "Due process clause":

1
2 “Two such clauses are found in the U.S. constitution, one in the 5th amendment pertaining
3 to the federal government, the other in the 14th Amendment, which protects persons
4 from state actions. There are two aspects: procedural, in which a person is guaranteed
5 fair procedures and substantive which protects a person’s property from unfair
6 governmental interference or taking. . . .”

7
8 Black’s Law Dictionary goes on to define “Due process of law”:

9 “. . . Due process of law in each particular case means such an exercise of the powers of
10 the government as the settled maxims of law permit and sanction, and under such
11 safeguards for the protection of individual rights as those maxims prescribe for the class
12 of cases to which the one in question belongs. A course of legal proceedings according
13 to those rules and principles which have been established in our systems of jurisprudence
14 for the enforcement and protection of private rights. To give such proceedings any
15 validity, there must be a tribunal competent by its constitution – that is, by the law of its
16 creation – to pass upon the subject-matter of the suit; and, if that involves merely a
17 determination of the personal liability of the defendant, he must be brought within its
18 jurisdiction by service of process within the state, or his voluntary appearance.
19 *Pennoyer v. Neff*, 95 U.S. 733, 24 L.Ed. 565. Due process of law implies the right of the
20 person affected to be present before the tribunal which pronounces judgment upon the
21 question of life, liberty, or property, in its most comprehensive sense; to be heard, by
22 testimony or otherwise, and to have the right of controverting, by proof, every material
23 fact which bears on the question if right in the matter involved. **If any question of fact
24 or liability be conclusively presumed against him, this is not due process of law.**”

25 “. . . Phrase means that no person shall be deprived of life, liberty, or property or of any
26 right granted him by statute, unless matter involved first shall have been adjudicated
27 against him upon trial conducted according to established rules regulating judicial
28 proceedings, and it forbids condemnation without a hearing. *Petit v. Penn*, La.App., 180
So.2d 55, 69.”

“The concept of ‘due process of law’ as it is embodied in the 5th Amendment demands
that a law shall not be unreasonable, arbitrary, or capricious and that the means selected
shall have a reasonable and substantial relation to the object sought. *U.S. v. Smith*,
D.C,Iowa, 249 F.Supp. 515, 516. Fundamental requisite of ‘due process’ is the
opportunity to be heard, . . . and to assert before the appropriate decision-making body
the reasons for such choice. *Trinity Episcopal Corp. v. Romney*, D.C.N.Y., 387 F.Supp.
1044, 1084. Aside from all else, ‘due process’ means fundamental fairness and
substantial justice. *Vaughn v. State*, 3 Tenn.Crim.app. 54, 456 S.W..2d 879. 883.”

[Bold and underline emphasis added]

Black’s Law Dictionary, Sixth Edition also defines “Procedural due process” on p. 1203 as

“ . . . Procedures which due process requires beyond that minimum (the right to receive

1 Notice) must be determined by a balancing analysis based on the specific factual context.
2 *Goldberg v. Kelly*, 397 U.S. 254, 90 S.Ct. 1011, 25 L.Ed.2d. 287.

3 Black's Law Dictionary, Sixth Edition also defines "Substantive due process" on p. 1429
4 as:

5 "Doctrine that due process clauses of the Fifth and Fourteenth Amendments to the United
6 States Constitution require legislation to be fair and reasonable in content as well as
7 application. Such may be broadly defined as the constitutional guarantee that no person
8 shall be arbitrarily deprived of his life, liberty or property. The essence of substantial due
9 process is protection from arbitrary and unreasonable action. *Jeffries n. Turkey Run*
10 *Consolidated School Dist., C.A.Ind.*, 492 F.2d 1, 3.

11 In the over 700 pages submitted to this court since April, 2011, Defendants have requested
12 and even demanded to see and observe for themselves the actual statute promulgated by Congress
13 that requires a tax to be paid on the labor receipts of those in the Private Sector, as Defendants are.

14 This court can review the over 700 pages of evidence cited by Defendants and submitted
15 to this court the first time, with no need to re-submit that sworn documentation here.

16 For over twenty (20) years, Defendants have requested in a myriad of ways and via
17 Affidavits, Declarations and other sworn statements to at least see with their own eyes any statute
18 promulgated by Congress that requires that they pay a tax to the federal government on their
19 Private Sector labor receipts.

20 For a Court of competent jurisdiction to grant a Motion for Summary Judgment, there
21 must not be one material fact in dispute. Defendants have submitted 104 facts in genuine material
22 dispute.

23 The Plaintiff may have convinced the Court to focus only on the process of liens and their
24 reduction to judgment; however, the truth that Defendants have brought before the Court is that the
25 liens are corrupt. Even though the Plaintiff presumably convinced the Court that the lien process
26 was timely and structurally sound, the Plaintiff has shown no law upon which the liens are based.
27 This is a fact that must be determined by the Defendants' jury.
28

1 For over 20 years, Defendants have received non-replies from Plaintiff to sincere
2 questions. Defendants' right to Due Process demands that their questions be presented in court so
3 that a jury of Defendants' peers can decide the 104 facts in genuine material dispute.

4 In this instant matter, Defendants have provided evidence supported by government
5 documents and sworn Affidavits that out of over 9,000 pages in Title 26, the Internal Revenue
6 Code, neither the Internal Revenue Service nor anyone in the federal government can provide
7 Defendants with any statute promulgated by Congress that requires them to pay a tax on their
8 receipts for labor.

9 This court just saw above regarding "due process of law" that:

10 If any question of fact or liability be conclusively presumed against him, this is not due
11 process of law."

12 yet, the Plaintiff relies upon this court ruling only on presumption. IF there is such a law, the
13 Defendants demand to see it. Defendants have proven it is not "gross income" or "compensation
14 for service" in section 61 of Title 26 [See: Exhibits X-1, X-2, X-3 and X-4].
15

16 Defendants have always determined to follow the law and "let the cards fall where they
17 may". If there exists a statute that Congress has written requiring a tax to be paid on their labor
18 receipts while living and working in the Private Sector of this free nation, Defendants demand to
19 see it and to let the jury scrutinize it, as well as it's date as of publication in The Federal Register,
20 which is the formal notice to all Americans of any of their lawful obligations.
21

22 In this case, however, for over 20 years, Plaintiff has refused to provide Defendant with
23 any definitive proof of, as above, regarding any obligation they may have to pay a tax on their work
24 in the Private Sector. Due process demands evidence, not presumption.

25 This is shameful on the part of the Plaintiff, for this nation was founded upon the tenets of
26 Judeo-Christianity and the Rule of Law. Plaintiff has deliberately misled this Honorable Court.
27
28

1 Plaintiff deliberately confuses “compensation for services”, as in section 61 of Title 26
2 which describes the remuneration for anyone who has taken the civil Service Examination as a
3 requisite for employment in some connection with the federal government and “compensation for
4 labor” called “Non-employee compensation”. Plaintiff is aware that the two terms are not the same.

5 Defendants have proven unequivocally that Plaintiff has fabricated documents, committing
6 perjury while doing so, that Notices of Deficiency were mailed to Defendants when they were not –
7 the documents “certifying” the mailing were for 1993, 1994, 1995 and 1996, when the documents
8 they produce for this Honorable Court as proof omitted the year 1996. The Plaintiff did not redact
9 original documents – they fabricated new ones!

10 Defendants have shown to this court that there is no way the figures the Plaintiff presents
11 are true and correct. The figures Elizabeth Marriaga submits are not correct and she commits
12 perjury a second time by declaring that she had “first hand knowledge” when she did not. Due
13 Process requires that she explain this to a jury of Defendants’ peers.

14 Defendants have provided this court with sworn Affidavits supported by documentation
15 that the Defendants actually suffered a total net loss in 1994 and 1994;

16 Defendants have also unequivocally proven to this court that IRS employee, Debra Vahe,
17 wrote in her Integrated Collection System History Log (ICHS) that on December 16, 2009, she
18 calculated the very same total net loss for 1993: \$2,171, that Defendants had been pleading with
19 the Plaintiff to acknowledge and correct for over a decade. Debra Vahe proceeded to instigate this
20 present suit and then omitted this proof in her own declaration to this Court. [See: Exhibits II and
21 JJ].
22

23 If Defendants have offended any law promulgated by the Congress of the united States of
24 America (who is named as the Plaintiff in this instant matter), then Defendants pray that they will
25 be shown unequivocally what ever law promulgated by Congress it is that they have broken.
26
27
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1 In Defendants' Exhibit I, Defendants listed in their Affidavit the REAL ISSUES IN
2 THIS CASE declaring that instead of providing evidence, Plaintiff presumes facts not in evidence,
3 which Defendants have proven through documentation. Defendants demand their right to Due
4 Process in providing their evidence to a jury of their peers.

5 Defendants have shown that there cannot possibly have been a valid "federal tax
6 assessment" because the "assessment date" signed by the "assessment officer" was several days
7 after the printing of the RACS 006 summary Record of Assessment [See: Exhibit R-1, R-2, R-3 and
8 R-4].

9
10 The only returns in evidence for the years 1993, 1994 and 1995 and the returns filed by
11 Defendants under penalty of perjury. There is no evidence or testimony provided by Plaintiff –
12 only mere presumption.

13 Plaintiff has not proven that they have complied with the essential elements that must be
14 present to support any assessments, per sections 6212, 6211 and 60209b) in Title 26. Defendants
15 demand their right to Due Process to present these facts to a jury.

16
17 Plaintiff depends upon mere presumption but has been unable to provide evidence or
18 testimony to show that payment for exchange for labor in the Private Sector amounts to "income"
19 which the U.S. supreme court has declared means a "profit" or a "gain". Defendants demand that
20 this be demonstrated to their jury.

21 Plaintiff has not been able to provide evidence or testimony that Congress has promulgated
22 any statute of liability regarding the pay Defendants receive for their work.

23
24 Defendants have proven through evidence and testimony that there is no authority, through
25 an unbroken chain of Delegated Authority or in any statute, for Plaintiff to create a 1040 Substitute
26 for Return for the Defendants. Defendants demand that Plaintiff demonstrate the authority they
27 claim in front of the jury.
28

1 Defendants have shown that the returns they filed under penalty of perjury do not meet the
2 legal definition of “frivolous” per section 6702(a) of Title 26. Defendants demand that a jury
3 should determine this fact.

4
5 Defendants have demonstrated, using the Plaintiff’s own documentation and manuals that
6 the civil penalties Plaintiff claims against Defendants were, in fact, “user fees” and not related to
7 anything “frivolous” at all. Defendants demand the right to demonstrate these facts to a jury.

8 Chase has been a named Defendant from the inception of this instant matter. The
9 Plaintiff’s proposed Entry of Judgment fails to address the rights of Chase.

10
11 As Defendants have pointed out, it was declared in *Gorman v. City of Phoenix*, 152 Ariz.
12 179, 731.P.2d 74 Citing, *City of Phoenix v. Geyley*, 144 Ariz. 323, 328-29, 697 P.2d 1073, 1078-
13 79 (1985):

14 We consistently have refused to “set out any specific set of circumstances that ... qualify as
15 ‘extraordinary,’ ‘unique’ or ‘compelling’”. *Park v. Strick*, 137 Ariz. 100, 105, 669 P.2d 78,
16 83 (1983); accord *Davis*, 143 Ariz. at 59, 691 P.2d at 1087. We have left this
17 determination to the sound discretion of our trial courts to be resolved on a case-by-case
18 basis. *Davis*, 143 Ariz. at 59, 691 P.2d at 1087; *Bickerstaff*, 141 Ariz. at 633, 688 P.2d at
19 641. Trial court discretion, however, is not unlimited. **The trial court may not “misapply
20 law or legal principle[s],” act “arbitrarily or inequitably, nor ... make decisions
21 unsupported by facts or sound legal policy.** [Bold and underline emphasis added].

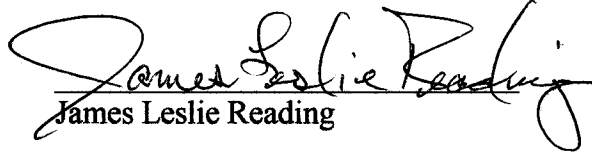
22 Defendants beseech this Court that until definitive proof can be displayed disproving each
23 one of the facts in genuine material dispute that Defendants have shown for all to see in Open
24 Court, as is Defendants’ right to Due Process, Summary Judgment must not be granted or this
25 Honorable Court must dismiss this case for lack of evidence as Plaintiff has not proved their case
26 with facts, evidence and testimony – but only mere presumption of facts not in evidence.

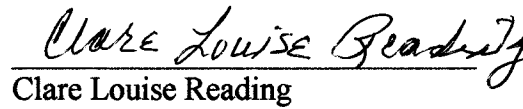
27 Granting Summary Judgment based on the presumptions Plaintiff presents would be clear
28 error and abuse of discretion by this Court

29 Defendants are not oblivious to the fact that courts are inundated with civil and criminal
30 cases and that calendar management techniques are an important mechanism in the controlling of

1 court cases. However, no court calendaring system can possibly be more important than seeing to
2 it that the rights of Defendants are protected.

3 RESPECTFULLY SUBMITTED this 14th day of October, 2012.

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6 James Leslie Reading

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9 Clare Louise Reading

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Jurat

I declare under penalty of perjury, under the laws of the United States of America, that the foregoing is true and correct, 28 USC § 1746(1).

Reserving ALL Natural God-Given unalienable birthrights, waiving none,

/s/ Clare Louise Reading

Clare Louise Reading

/s/ James Leslie Reading
James Leslie Reading

Arizona State)
) ss
Maricopa County)

The above named person, appeared before me, a Notary, subscribed, sworn under oath

this 1st day of October, 2012.

Brittany Valone

My Commission expires: 02/16/2016

Notary Public



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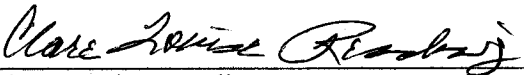
CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing, **DEFENDANTS' MOTION FOR RECONSIDERATION OF UNITED STATES' MOTION TO ENTER A JUDGMENT**, with attachments, has been made this ____ day of October, 2012, by depositing a copy thereof in the United States Mail in a postage prepaid envelope addressed to:

ANN BIRMINGHAM SCHEEL
United States Attorney
District of Arizona
40 North Central Avenue Ste 1200
Phoenix, Arizona 85004-4408
(602) 514-7500

CHARLES M. DUFFY
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Terry I. Major, Trustee, in *Pro Per*
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