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CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
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1 James Leslie Reading, *Pro Se*  
 2 Clare L. Reading, *Pro Se*  
 2425 East Fox Street  
 3 Mesa, Arizona 85213

4 **IN THE UNITED STATES DISTRICT COURT**  
 5 **FOR THE DISTRICT OF ARIZONA**

6 UNITED STATES OF AMERICA,

7 Plaintiff,

8 vs.

9 JAMES LESLIE READING, CLARE L.  
 10 READING, FOX GROUP TRUST, MIDFIRST  
 11 BANK, CHASE, FINANCIAL LEGAL  
 SERVICES, STATE OF ARIZONA,

12 Defendants.

No. CV 11-00698-FJM

**DEFENDANTS' MOTION FOR  
 RECONSIDERATION of ORDER  
 GRANTING SUMMARY  
 JUDGMENT  
 (oral argument requested)**

13 Defendants James Leslie Reading and Clare L. Reading (the "Reading Defendants"),  
 14 appearing in propria persona, hereby bring their **DEFENDANTS' MOTION FOR**  
 15 **RECONSIDERATION of ORDER GRANTING SUMMARY JUDGMENT** to this  
 16 honorable Court regarding the Court's **Minute Entry Order filed September 19, 2012, United**  
 17 **States' Motion to Enter a Judgment, and Memorandum in Support of the United States'**  
**Motion to Enter Judgment** for the following reasons:

18 **I**

19 Plaintiff has convinced this court to only look at the form of the liens it filed with the Maricopa  
 20 County Recorder, but it has not proven with evidence or testimony that there is lawful substance  
 21 supporting those recordings. These are facts that must be determined by a jury of Defendants'  
 22 peers.

23 Plaintiff deliberately confuses "compensation" to mean "compensation for services" instead of  
 24 compensation for labor" or "Non-employee compensation". These terms are not synonymous.  
 25 This is a fact that must be determined by a jury of Defendants' peers.  
 26

1 The United States supreme Court has declared many times that "labor is capital" and that  
2 "income is severed from the capital"; that "income is not everything that comes in" and that  
3 income must be "derived from capital".

4  
5 In *Doyle v. Mitchell Bros.*, 247 U.S. 179 (1918), what "comes in" is not "income", but rather  
6 "gross proceeds", and that before any income can be said to have been received one must first  
7 determine whether the transaction produced a gain. Many other declarations of the U.S.  
8 supreme Court have already been presented in Defendants' Pleadings, Affidavits and  
9 Memoranda. These should be examined by a jury of Defendants' peers to determine if these  
10 facts apply in this instant case.

11 There is no legal basis for the IRS's "zero basis" rule, by which the IRS treats pay and salaries  
12 paid in exchange for one's labor as 100% profit, received for nothing. Even an examination of  
13 the IRS's official list of frivolous arguments, however, reveals that the IRS does not consider  
14 that argument frivolous.

15 Neither the Secretary of the Treasury, nor the Plaintiff is able

16 "to change the language of the revenue statutes because he thinks Congress may have  
17 overlooked something."? *Water Quality Ass'n v. United States*, 795 F.2d 1303 (7th Cir.  
18 1986) See also, *U. S. v. Calamaro*, 354 U.S. 351 (1957).

19 The imposition by Congress is on the "taxable income" not on "all" income, as the Plaintiff  
20 erroneously misleads this Court. This, too, is a fact that must be determined by a jury of  
21 Defendants' peers.

22 The Plaintiff and this Court are ignoring the fundamental right guaranteed and protected by the  
23 Constitution of their right to contract as declared in Article I, Section 10, "No State shall impair  
24 the right to contract." This is a fact that must be determined by a jury of Defendants' peers.

## 25 II

26 A jury of Defendants' peers must determine the facts: Since Plaintiff admitted that its figures  
and calculations were wrong the jury should determine whether or not there were any valid liens  
recorded against Defendants. When the jury sees the evidence from the Defendant and that the

1 Plaintiff has not proven its case with testimony but mere presumptions of facts not in evidence,  
2 the jury can then decide whether or not the transfer of Defendants' property was lawful. These  
3 are facts for the jury to decide.

### 4 III

5 "Although Summary Judgment is appropriate if there is no genuine dispute to any material facts  
6 and the movant is entitled to judgment as a matter of law", Defendants demand that at jury of  
7 their peers determine which, if any, of the 104 genuine material facts they presented are not in  
8 dispute.

9 The calculations of Elizabeth Marriaga are still incorrect, as Defendants have never experienced  
10 a "capital gain". This is a fact for a jury of Defendants' peers to determine.

11 That Plaintiff continues to depend on inferior court decisions to support its positions instead of  
12 declarations by the U.S. supreme Court that do not support the Plaintiff's position and would  
13 not be convincing to a jury of Defendants' peers. Defendants' fundamental right to Due Process  
14 for a jury to decide which ruling carries the most weight is prevented by this Court if it grants  
15 Plaintiff's Motion for Summary Judgment.

16 Defendants proved via factual evidence and sworn testimony that the Plaintiff fabricated  
17 documents. The "Notice of Deficiency" for 1993, 1994 and 1995 could not possibly be the  
18 same document that went along with the "certified" mailing stating it had been for 1993, 1994,  
19 1995 and 1996. But, it is the Defendants' fundamental, Constitutionally protected right to show  
20 the evidence to a jury of their peers and let the jury decide.

21 Plaintiff has not provided factual evidence to prove its case, presenting mere presumption.  
22 Defendants demand that a jury determine the facts in this case.

23 Defendants' "position" on whether the pay received for work in the Private Sector is with merit  
24 because it is based upon rulings and declarations made by the U.S. supreme Court. The  
25 statements made by the Plaintiff have no basis in law. Defendants have begged to see this law  
26 for 2 decades and the Plaintiff has consistently refused. A jury of Defendants' peers should  
determine whether or not the U.S. supreme Court justices know more about the difference

1 between pay in the Private Sector and remuneration for services after gaining employment upon  
2 passing the Civil Service Exam.

3 Plaintiff states that Defendants' returns were frivolous because they showed "no liability";  
4 however, the only basis for Plaintiff stating that Defendants *have* a "liability" is just because  
5 they said so. Defendants demand that a jury of their peers scrutinize the Plaintiff's statute of  
6 liability that they say applies to Defendants. This is crucial to observing Defendants'  
7 fundamental right to Due Process.

8 V

9 Plaintiff asks for what it calls the Defendants' fraudulent conveyance of property but refuses to  
10 show any validity to support the liens recorded other than presumption. Plaintiff states their  
11 action was pursuant to 26 U.S.C. § 6321m "if any person liable to pay taxes neglects or refuses  
12 to pay after demand, ..." but Plaintiff has never been able to provide evidence that Defendants  
13 ever had any such liability. Defendants have stacks of correspondence stating that they would  
14 be glad to pay any tax owed, as long as the statute of liability was provided, along with its date  
15 of publication in the *Federal Register* and any evidence that what they were paid for work in the  
16 Private sector could be construed as "income", as defined by the U.S. supreme Court. Plaintiff  
17 has been unable to do this for 20 years. Letting the Plaintiff get away with this by granting  
18 Summary Judgment prevents Defendants' right to due Process and is an abuse of discretion and  
19 clear error by this Honorable Court.

20 The Plaintiff speaks from both sides of its mouth when in the first place it says that the federal  
21 government can override state law in impairing Defendants' right to contract, a Constitutional  
22 guarantee, and then finds case law that says "state law determines what rights the taxpayer has".  
23 Defendants believe that even if the Court cannot see how the Plaintiff picks and chooses its way  
24 around Defendants' right to Due Process that a jury of their peer will.

25 Defendants have never tried to hinder, delay or defraud the Plaintiff. A jury of Defendants'  
26 peers will see that it is actually the other way around: there is no statute of liability and the  
transfer via contract of Defendants' property was not fraudulent. It is up to the jury to decide  
these facts that are genuine, material and remain in dispute.

1 The Plaintiff attempts to convince this court that the transfer of their property to the Fox Group  
2 Trust was fraudulent because there was no "consideration". The transfer was not meant to be a  
3 sale and was never described or implied as such. After the bank and attorney destroyed  
4 Defendants' inheritance by refusing to comply with the terms of a statutory trust, defendants  
5 deliberately entered into a private contract to preserve the property for their heir. American  
6 citizens have the Constitutionally guaranteed right to contract privately without an attorney and  
7 without anyone's terms but the parties involved. A jury of Defendants' peers must determine if  
8 these facts apply in this case.

## 9 VI

10 In conclusion,

11 Despite the fact that there are in fact **no** genuine "agreements" of the parties as to any material  
12 fact in this case, not to mention evidence provided by the United States as required in a Court of  
13 law, Frederick J. Martone, setting aside his hat as impartial judge and acting as juror, has  
14 decided that there are no genuine disputes as to any material fact. The Defendants are entitled  
15 to Due Process of law, which means they are entitled to have a jury of their peers decide  
16 whether there are genuine "disputes," not a biased judge who gets his paycheck from the very  
17 same source as the United States prosecutor. Defendants have further been denied Due Process  
18 of law by being effectively denied the discovery process and instead ambushed by the United  
19 States' motion to dismiss.

20 Further, Defendants do not understand, and it is unconscionable, that this Court denied  
21 Defendants adequate time to retain an attorney after the sudden and unexpected death of their  
22 attorney, Tommy K. Cryer, effectively forcing them to represent themselves and file an  
23 inadequate response to the United States' Motion for Summary Judgment. At the same time,  
24 Defendant Fox Group Trust was not allowed to represent itself without an attorney, effectively  
25 coming between the parties' and their contract, as protected by the constitutions for the united  
26 States of America and Arizona.

1 Further, Defendants do not understand how the United States can be granted summary judgment  
2 against Defendants when it has never proved Defendants are liable for the taxes that are the  
3 subject of this lawsuit, nor has the Court required it to do so.

4  
5 Further, Defendants do not understand how this Court can grant summary judgment against  
6 these Defendants when, as Arizona Citizens, as that term is defined with respect to the United  
7 States Code, they are not subject to the jurisdiction of the United States and are not liable for  
8 taxes which are the subject of this lawsuit:

9 "The power of the United States to tax is limited to persons, property, and  
10 business **within their jurisdiction**, as much as that of a state is limited to the  
11 same subjects within its jurisdiction." - United States Supreme Court Justice  
Fields [*United States v. Erie Ry. Co.*, 106 U.S. 327, 333, 1 S.Ct. 223 (1882)]  
[Bold emphasis added]

12  
13 One may be a citizen of a State and yet not a citizen of the United States. *Thomasson v.*  
14 *State*, 15 Ind. 449; *Cory v. Carter*, 48 Ind. 327 (17 Am. R. 738); *McCarthy v. Froelke*,  
63 Ind. 507; *In Re Wehlitz*, 16 Wis. 443. [*McDonel v. State*, 90 Ind. 320, 323 (1883)]

15  
16 A person who is a citizen of the United States is necessarily a citizen of the particular  
17 state in which he resides. But **a person may be a citizen of a particular state and not**  
18 **a citizen of the United States\*\***. To hold otherwise would be to deny to the state the  
**highest exercise of its sovereignty, -- the right to declare who are its citizens.**  
[*State v. Fowler*, 41 La. Ann. 380, 6 S. 602 (1889)] [Emphasis added]

19  
20 **There are, then, under our republican form of government, two classes of citizens,**  
**one of the United States and one of the state. One class of citizenship may exist in a**  
21 **person, without the other, as in the case of a resident of the District of Columbia; but**  
22 **both classes usually exist in the same person.**  
[*Gardina v. Board of Registrars*, 160 Ala. 155, 48 S. 788, 791 (1909)]  
[Emphasis added]

23  
24 There is a **distinction between citizenship of the United States and citizenship of a**  
25 **particular state**, and a person may be the former without being the latter.  
[*Alla v. Kornfeld*, 84 F.Supp. 823 (1949) headnote 5] [Emphasis added]

1 A person may be a **citizen of the United States** and yet be not identified or  
2 **identifiable as a citizen of any particular state.**

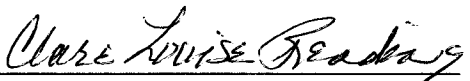
[*Du Vernay v. Ledbetter*, [61 So.2d 573] [Emphasis added]

3 “... **citizens of the District of Columbia** were not granted the privilege of litigating in  
4 the federal courts on the ground of diversity of citizenship. Possibly no better reason for  
5 this fact exists than **such citizens were not thought of when the judiciary article [III]  
6 of the federal Constitution was drafted. ... citizens of the United States ... were also  
7 not thought of; but in any event a citizen of the United States, who is not a citizen of  
8 any state, is not within the language of the [federal] Constitution.**

[*Pannill v. Roanoke*, 252 F. 910, 914] [Emphasis added]

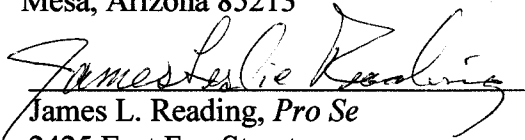
9 Based on the foregoing facts as submitted, Defendants pray this Court reconsider its Order and  
10 rule against the Plaintiff’s Motion For Summary Judgment allowing Defendants’ right to due  
11 Process with a trial with a jury of their peers.

12 Executed on this 2<sup>nd</sup> day of October, 2012, in Phoenix, Arizona.

13 

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14 

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**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that service of the foregoing **DEFENDANTS' MOTION FOR RECONSIDERATION of ORDER GRANTING SUMMARY JUDGMENT**, with Attachments, Declarations and exhibits has been made this 2<sup>nd</sup> day of October, 2012, by depositing a copy thereof in the United States Mail in a postage prepaid envelope addressed to:

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