CASE NO. 21-925

IN THE SUPREME COURT OF THE UNITED STATES

Adolfo S. Montero,
Petitioner

v.

United States,
Respondent

On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

Petition for Writ of Certiorari

Proceeding Pro Se
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QUESTIONS FOR REVIEW

1. Whether the US government can **circumvent constitutional limitations**[1] and **defraud** ~320 million American citizens **through hidden legal provisos**, specifically the **26 CFR §31.3401(a)-3** authority ***"deeming"*** clauses operating through W-4 contractual agreements, which effectively waive[2] constitutional protections?

2. Whether the Court of Appeals erred in completely **denying access to the court** as part of a concerted effort to protect the government's fraud scheme by blocking any discussion/analysis of the *"deeming"* authority in **26 CFR §31.3401(a)-3**, and whether the denial of court review violated **constitutional due process protections** as well as Supreme Court authority in 418 U.S. 539[3] and 518 U.S. 343[4]? Additionally, whether the District Court can similarly also violate the foregoing Supreme Court authorities and due process rights in **preemptively denying any future access to the court**?

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[1] Namely Art I §2 & Art I § 9.

[2] Johnson v. Ohio, 419 U.S. 924, 95 S.Ct. 200, 42 L.Ed.2d 158 (1974) *Waiver of such rights as these can be accomplished only by 'an intentional relinquishment or abandonment of a known right or privilege,'*

[3] Wolff v. Donnell 8212 679, 418 U.S. 539, 94 S.Ct. 2963, 41 L.Ed.2d 935 (1974) ***The right of access to the courts,*** *upon which Avery was premised, is* ***founded in the Due Process Clause*** *and assures that no person will be denied the opportunity to present to the judiciary allegations concerning violations of fundamental constitutional rights.*

[4] Lewis v. Casey, 518 U.S. 343, 116 S.Ct. 2174, 135 L.Ed.2d 606 (1996) *we felt compelled to justify even this slight extension of the* ***right of access to the courts***

3. Whether the District Court also colluded with the foregoing fraudulent *"deeming"* scheme through **misrepresentations** and intentional evasion of any discussion/analysis of the *"deeming"* authority in **26 CFR §31.3401(a)-3**, and whether the court acted fraudulently to **block** any **remedy**[5] through crafted misrepresentations calculated to bypass the statutory authority of 26 USC §7422, §7433, as well as Supreme Court Bivens[6] authority.

4. What is the constitutional remedy and disciplinary action for ANY court making **false allegations** of frivolity based on carefully crafted **misrepresentations** of the facts with a clear objective **to deny due process** under the frivolity doctrine?

5. Whether ANY court Justices can be effectively ***"above the law"***[7,8,9] by colluding to protect the fraudulent scheme allowed via the **26 CFR §31.3401(a)-3** *"deeming"* **proviso**?

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[5] Both equitable and statutory.

[6] 403 U.S. 388, 91 S.Ct. 1999, 29 L.Ed.2d 619 (1971)

[7] Trump v. Vance, 140 S. Ct. 2412, 207 L.Ed.2d 907 (2020) *In our system of government, as this Court has often stated,* ***no one is above the law.***

[8] Johnson v. Powell, 393 U.S. 920, 89 S.Ct. 250, 21 L.Ed.2d 255 (1968) *It is, after all, the Constitution that creates in our people the faith that no one—****not even the Department of Justice*** *nor the military—****is above the law.***

[9] Cheney v. United States Dist. Court for D.C., 542 U.S. 367 (2004) *As* ***United States v. Nixon*** *explained, these principles do not mean that the "President is* ***above the law.***"

6. Whether there is a **conflict of law** between the long-standing Supreme Court **jurisprudence** regarding **cases of Fraud** and the statutory **2-year statute of limitations** imposed by IRC §7422 and IRC §7433?

7. Whether this court can review *"De Novo"* government agency malfeasance when the courts below in their own **nonfeasance**[10] and **malfeasance**[11] refuse to do so? More specifically, can the IRS **blatantly ignore** the regulatory authority in **section (b)** of **26 CFR § 31.6051-1** despite being put on notice multiple times of their violation? If the Supreme Court **quietly refuses to review lower court malfeasance**, will that indicate on the public record that SCOTUS is also colluding with the lower courts to avoid any judicial legal analysis of the aforementioned CFR regulations?

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[10] Nonfeasance on the part of the Court of Appeals by refusing to review (or even comment) on the merits of the case.

[11] Malfeasance on the part of the District Court based on carefully crafted misrepresentations to invoke the frivolity doctrine and additional misrepresentations to evade the statutory relief provided by IRC §7422 and IRC §7433.

LIST OF PARTIES AND RULE 29.6 STATEMENT

Corporate Statement

Petitioner Adolfo S. Montero is a **natural person** not representing any corporation or any other legal fiction. No corporations or subsidiaries are involved in this case.

List of Parties

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The 5th Circuit Court of Appeals **did not offer any commentary or opinion whatsoever** in the two court orders it provided. The final order denying the Motion for Reconsideration is shown at page A-1. The previous order granting the Motion to Dismiss Appeal is shown at page A-2. Both have a *"de-minimis"* approach in their wording[12]. The District Court orders are shown at pages A-4, A-7, A-8. Note that the 5th Circuit failed to address the **misrepresentations**[13] made by Judge Robert Pitman, which Petitioner had raised.

JURISDICTION

Timing Prerequisites

On 9/16/2021 the 5th Circuit Court of Appeals denied Petitioner's Motion for Reconsideration without any comments. As per Rule 13, timely filing within 90 days from 9/16/2021 yields 12/15/2021 which does not land on a Sunday or Federal Holiday, thus Rule 30 dictates the timely filing deadline to be 12/15/2021.

Statutory jurisdiction is provided by 28 U.S.C. §1254(1), conferring jurisdiction upon this Court to

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[12] This was surprising given the magnitude of the proven criminal offense of mail fraud being much more sanctionable than the alleged dormant sanction upon which the case was dismissed.

[13] The opinion at A-5 in bad-faith falsely claims *"Montero's motion [,,,] does not argue that the Court made any manifest errors of law or fact"* when the Motion on its face has ample dedicated sections to cover those two topics.

decide this appeal on Certiorari. Analogous cases granting Certiorari, with comparable grounds for review include:

a) The myriad of SCOTUS cases dealing with violations of fundamental Due Process rights, however none of them touch on Due Process violations via Fraud and misrepresentations by the lower courts.

b) There are multiple SCOTUS cases dealing with Fraud in general, but none dealing with contractual Fraud allowed via the statutory construction of Federal Regulations. More specifically the lack of disclosure when making contractual agreements for withholding.

c) There are several SCOTUS cases dealing with the tolling of the statute of limitations until discovery of the Fraud. However those cases don't clearly confirm if they can overrule the statutory limitations in IRC §7422 and §7433.

STATUTES AND CONSTITUTIONAL PROVISIONS INVOLVED

Constitution of the United States, Article I, cl. 2:
*Representatives and **direct taxes shall be apportioned among the several states** which may be included within this union, according to their respective numbers...*

Constitution of the United States, Article I, cl. 9:
***No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration** hereinbefore directed to be taken.*

16th Amendment to the Constitution[14]:
The congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration.

5th Amendment to the Constitution:
*No person shall be [...] **deprived of life, liberty, or property, without due process of law**; nor shall private property be taken for public use, without just compensation.*

26 U.S.C. §3401 Definitions
(a) Wages – [long definition, omitted for brevity]

26 U.S.C. §3121 Definitions
(a) Wages - [long definition, omitted for brevity]

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[14] It is of critical importance to note that **the correct interpretation for the 16th amendment** is the still **valid opinion in Brushaber** (240 U.S. 1)

26 U.S.C. §7422 Civil actions for refund
[long definition, omitted for brevity]

26 U.S.C. §7433 Civil damages for certain unauthorized collection actions
[long definition, omitted for brevity]

26 CFR §31.6051-1
[Key authority to the case, see page A-12]

26 CFR §31.3401(a)-2
[Key authority to the case, see page A-13]

26 CFR §31.3401(a)-3
[Key authority to the case, see page A-13]

26 CFR §31.3402(p)-1
[Key authority to the case, see page A-14]

26 CFR §31.3402(n)-1
[Key authority to the case, see page A-14]

CONCISE STATEMENT OF THE CASE

The extremely abbreviated summary of the case is one of rampant Fraud perpetrated on Petitioner by multiple government agents and **rooted** in the fraudulent scheme enabled via the **26 CFR §31.3401(a)-3** *"deeming"* **proviso** clandestinely allowing the *"deeming"* of *"remuneration for services"* which legally and factually do NOT *"constitute wages under section 3401(a)"* to be **deemed** as statutory taxable IRC §3401(a) *"wages"* under **undisclosed**

contractual terms in the **W-4 agreement**. Spreading from this **root proviso** in the CFR are the multiple additional acts of Fraud that Petitioner had to endure with perseverance as he attempted to exert his **due process rights** through the judicial system in order to obtain **equitable and statutory remedies** to recover his stolen property as well as to obtain monetary damages and sanctions for the irreversible loss of enjoyment of quality time with his family. With Petitioner having been completely exempt from withholding since 2010, the *"deeming"* proviso has been legally nullified, yet the entire journey through the administrative venue as well as the court system has been mired with desperate attempts by the government to keep **containment** on the *"deeming"* fraudulent scheme, **such that it can never make it into any public court rulings**. Remedy was never provided and Petitioner strongly suspects that the **containment policy** will be forced upon even the Supreme Court justices regardless of their personal opinions or objections.

Because it is hard to grasp the gravity of the situation and Constitutional violations with such a terse summary of the case as provided in the foregoing paragraph, Petitioner will use part of the word limit to provide a more detailed history of relevant events and authorities for this complex case, not only to paint a clearer picture, but also to become part of the permanent public court records of the Supreme Court. This will be balanced in turn by a shorter discussion in the subsequent section.

On 10/22/2019 Petitioner timely filed a 94 page complaint with the District Court containing **eleven**

counts of Fraud committed against Petitioner. The Fraud was instrumental in enabling a *deprivation of property without [meaningful] due process of law* in direct violation of the 5th Amendment. The eleven counts of Fraud listed in the complaint are enumerated below:

1. Fraud in W-2 reporting requirements
2. Fraud in W-4 agreement/contract
3. Fraud in IRS substitutes for return
4. Fraud in IRS abuse of IRC §6702 and other penalties
5. Fraud in IRS false propaganda regarding 16th amendment
6. Fraud in IRC use of the term *"includes"*
7. IRS collusion with the courts to obtain fraudulent rulings
8. Fraud in IRS collection through garnishment
9. Fraud in IRS denial of administrative request for appeal
10. Prepayment fraud via Flora ruling
11. [IRS] fraud in applying credits during levy

The core root of the Fraud throughout the District Court complaint **turns on** the CFR *"deeming"* authority in **26 CFR §31.3401(a)-3,** already summarized in the first paragraph of this section. This was covered in Count 2 of the complaint. Furthermore, IRS adamantly refused to acknowledge the legal authority in **section (b)** of **26 CFR § 31.6051-1**, which demands different W-2 reporting requirements for individuals **NOT subject to** §3401(a) **withholding** under the W-4 contractual agreement.

It is of utmost importance to point out the **material fact** that Petitioner has been **fully exempt from Federal withholding**[15] under the authority of **26 CFR §31.3402(n)-1(a)(1 & 2)** starting with tax year 2010 through 12/10/21. Thus, the CFR *"deeming"* **proviso** of **CFR §31.3401(a)-3** is not in force, which translates to Petitioner's *"remuneration for services"* cannot be legally *"deemed"* to be IRC §3401(a) statutory *"wages"* for **the time period starting with tax year 2010**. Because the **essential element** of withholding status is **material** to all tax cases under the IRC, this also means that all of **Petitioner's cases** covering tax years **prior to 2010 are distinguishable** from cases after 2010 due to the essential **material difference in Petitioner's exempt status** as a **key element** of the case.

Petitioner was subject to several instances of **mail fraud** along the way of this legal proceeding[16] as well as in the administrative venue. The court records show through Petitioner's *"Motion for Extension of Time to Reply to Report from Magistrate Judge due to Mail Fraud"* (filed on 6/29/2020) that

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[15] Evidence in payor's paycheck stubs will reveal no Federal withholding since 2010. Additionally, evidence in payor's W-4 company records show Petitioner's exempt status for every tax year since 2010 to the present. Finally, the record shows the very first *"lock-in"* letter from the IRS was received by Petitioner on 12/10/21 at the time of writing this Petition. Thus for more than 11½ years the IRS failed to refute Petitioner's W-4 exempt status. The W-4 *"deeming"*, by law, has to be *"voluntary"*, which is not the case for a W-4 from a *"lock-in"*.

[16] Petitioner has experienced **Mail Fraud** in various forms, not only in the instant case in dealing with the District Court and Court of Appeals, but also in dealing with the Tax Court and IRS in general.

the **time sensitive** certified mail correspondence from the court was intentionally held hostage at the local post office without any notification to Petitioner. A timely reply to the **Magistrate Report** would have been completely missed if Petitioner had not **discovered the mail fraud** by calling the clerk of the court for a status update. The mail fraud happened again at the Court of Appeals level when the Court's notice of pending dismissal due to lack of paying court sanctions to the IRS was also **never delivered to Petitioner**. This again was discovered when Petitioner called the clerk of the court for a status update.

After overcoming the initial mail fraud issue, Petitioner timely filed objections to the Magistrate Report compiled by Magistrate Judge Mark Lane. It is essential for this court to note that an electronic search of the entire Magistrate Report for *"frivo"* results in only a **single match** regarding a warning about the court's power to *"not consider frivolous, conclusive, or general objections"*. Thus, in the **~4.5 months** that the Magistrate Judge used to make a **detailed analysis** of the complaint, **absolutely no issues with frivolity were raised**. This is of essential **material** importance towards the **merits of the complaint** since frivolity was later raised via misrepresentations by both opposing counsel and Judge[17] Robert Pitman acting in bad faith.

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[17] Judge Robert Pitman, in contrast to Magistrate Judge Mark Lane, had a much shorter time to review the court record *(not as exhaustive as the Magistrate Judge)*, and thus **wrongly embraced distinguishable prior cases** not having the **material element** of a complete **exemption from withholding**.

All prior **distinguishable** cases pertaining to Petitioner and considered to be *"frivolous"* by the various courts mentioned in Judge Robert Pitman's opinion, operationally can only legally be considered *"frivolous"* based on the foregoing ***"deeming"*** **proviso** in **26 CFR §31.3401(a)-3** on which **this instant case turns**. This is because **unbeknownst** to Petitioner, his prior litigation[18] disputing tax years prior to 2010 attempted to allege that *"remuneration for services"* during those tax years did NOT constitute taxable IRC §3401(a) statutory *"wages"*, which went in **direct contradiction** to the contractual W-4 *"agreement"* subjecting those payments to be *"deemed"* to be IRC §3401(a) statutory *"wages"* under the authority of **26 CFR §31.3401(a)-3**. As the public record shows, courts were **less than forthcoming**[19] with their undisclosed reasoning being squarely based on the authority of **26 CFR §31.3401(a)-3**, in fact, Petitioner has **never alleged** the ludicrous notion that *"wages are not income"*, knowing full well that §3401(a) statutory *"wages"* constitute Federally taxable *"income"*.

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[18] As cited by Judge Robert Pitman.

[19] Morganroth & Morganroth v. Norris, Mclaughlin, 331 F.3d 406 (3rd Cir. 2003) *defendants themselves* ***committed fraud*** *through their knowing* ***material misrepresentations,*** *fraudulent* ***concealment,*** *and wrongful* ***withholding of information,*** *and that these acts and* ***omissions proximately caused*** *plaintiffs* ***actual and consequential damages.*** *[...] In this case, the Morganroths* ***have alleged many facts*** *which, if proven, would* ***amply satisfy*** *this [fraud] test. Thus, the District Court's* ***dismissal of*** *the Morganroths'* ***fraud claim*** *in Count III* ***must be vacated.***

Petitioner then timely filed a motion to amend the District Court judgment under **FRCP Rule 59(e)**. The motion contained multiple material ***"questions of law"*** and ***"questions of fact"***, as well as ***"matters of discretion"***, all based on **sound legal principles** and jurisprudence, such that any impartial, just, and unprejudiced court[20] would have found sufficient grounds to correct the errors made by the court. The **motion was denied** under a very broad/generic blanket doctrine of alleged frivolity **in direct contradiction to** the lack of any frivolity **findings by Magistrate Judge Mark Lane**. Judge Robert Pitman intentionally declined to address any of the multiple specific issues and court errors raised in Petitioner's motion. **Most telling** at this juncture *(which was very far and deep into the legal proceedings)*, is that both judges *(Mark Lane and Robert Pitman)* as well as opposing counsel had **managed to completely avoid** any legal analysis or rebuttal of the *"deeming"* authority under **26 CFR §31.3401(a)-3 on which the case turns**.

Petitioner then timely filed the notice of appeal within the 60-day window from the final order dated 1/26/2021 denying the Motion to Amend the District Court decision. As described in the 5th Circuit court records[21] within Petitioner's *"Response to Opposed Motion to Dismiss and Suspend Briefing"*, Petitioner again was subjected to another instance of **intentional Mail Fraud**. This time the 5th Circuit court had issued a **time-sensitive** *"notice by regular*

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[20] The District Court was certainly NOT impartial / just / unprejudiced.

[21] Also previously described in the foregoing section discussing the mail fraud experienced at the District Court level.

*mail on **4/5/2021** that was never received by Petitioner".* Due to Petitioner missing the deadline for serving a timely reply *(as the planned outcome of the Mail Fraud)*, the court initially dismissed the appeal. **After a discussion with the court clerk** describing the mail fraud situation as well as a general objection to the court acting as a collections enforcement agency for Respondent, the clerk **reinstated the appeal** as shown in the appeals docket entry dated 6/1/2021. Having documented multiple cases of Mail Fraud in the court records was apparently **not enough of a deterrent**. Another instance of Mail Fraud swiftly took place with the handling of the **Briefing Notice**. Documented in the same motion, Petitioner also pointed out the **repeated Mail Fraud issue** with the Briefing Notice being sent out on **6/17/2021** as per the court clerk, yet Petitioner never received that correspondence either. **Multiple other instances** of **Mail Fraud** were raised in the same motion at paragraph 6. The best **exemplary case of Mail Fraud**[22] is supported by evidence attached to the same motion. The evidence shows the green certified mail receipt, as well as the payment receipt, both **clearly** indicating that the Tax Court petition had been **addressed to the Tax Court** in Washington DC *(at Exhibit B of the motion)*, yet the USPS tracking receipt *(Exhibit C)* shows that same certified mail number **being delivered to the IRS office** in Austin Texas instead of being properly delivered to the Tax Court. This was more than enough convincing[23] evidence to show the court some

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[22] Covered in paragraph 3 of the motion.

[23] Convincing rather than contrived.

level of **collusion** between Respondent and the Post Office to **illegally tamper** with Petitioner's mail.

The next **telling** set of events started with the 5th Circuit Court acting **against its own jurisprudence** in Richards[24] establishing:

> *As we have stated before, "it is **not bad faith** that establishes **frivolity** of appeal, but that an **unreasonable legal position is advanced without a good faith belief that it is justified,**" Coghlan v. Starkey, 852 F.2d 806, 814 (5th Cir. 1988) (internal quotation marks and citation omitted), **that merits Rule 38 relief.***

This is evident from the court dismissing the appeal without any comments whatsoever on the merits of the case. The court was clearly **completely silent** on **the various material issues and authorities raised** by Petitioner in his Response objecting to the Motion to Dismiss. The court also summarily *"took no action"* on Petitioner's *"Motion to **correct misleading statements** in Defendant's reply"*. Finally, the court again went against its own jurisprudence in denying Petitioner's motion for reconsideration which raised the Farquhar[25] authority ***"to prevent manifest injustice"***, as well as **Constitutional due process violations** by intentionally blocking a *"meaningful opportunity to be heard[26]"*, and even *"A fair trial in a fair tribunal is a basic requirement of due process [...] justice must*

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[24] Richards v. Louisiana Citizens Property, 09-31070 (5th Cir. 10-6-2010)

[25] Farquhar v. Steen (5th Cir. 2015)

[26] LaChance v. Erickson, 522 U.S. 262, 118 S.Ct. 753, 139 L.Ed.2d 695 (1998)

satisfy the appearance of justice[27]*"*, presumably **in bad faith** to again **block any judicial review** of the *"deeming"* proviso in **26 CFR §31.3401(a)-3.** Despite all of the **valid authorities** provided by Petitioner, **again** in their final order denying Petitioner's Motion for Reconsideration, the court was **completely silent** on **the various material issues and authorities raised** by Petitioner. As per the foregoing Richards authority, no ***"unreasonable legal positions were advanced"*** to support the necessary element needed to justify dismissal of the appeal based on the grounds of *"Frivolity"*. The foundation for Respondent's motion to dismiss, on which the 5th Circuit Court acted on, was squarely based on **continued misrepresentations** that Petitioner's legal proceedings are nothing but a variation of the *"wages are not income"* threadbare **fallacy** and attempting to fraudulently misrepresent Petitioner as a typical *"tax-defier"* advancing *"frivolous"* theories. Additionally, Respondent heavily relied on a 5th Circuit Court awarded sanction of $8K that **Respondent has failed to collect**[28] **in over 10 years**. In well-established American court jurisprudence, it is the job of the **prevailing party** in a lawsuit to collect court judgments, it is not the job of the court to act as a debt collector. No payment was due to the court other than the court fees for the appeal which were timely/fully paid. The $8K penalty judgment is payable to Respondent rather

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[27] Murchison, 349 U.S. 133, 75 S.Ct. 623, 99 L.Ed. 942 (1955)

[28] The failure to collect is either through Respondent's own negligence, or more likely as a strategic intent to maintain a perpetual bar of access to the court of Appeals until the disputed penalty is voluntarily paid.

than the 5th Circuit Court. In the case where the court-awarded judgment becomes *"dormant*[29]*"*, the prevailing party must *"revive the judgment"*. More importantly, the **original judgment was awarded based on Fraud** by the 5th Circuit Court's intentional **concealment** of the **26 CFR §31.3401(a)-3** authority, creating a legal **conflict** between (a) the W-4 contractual obligations *(prior to 2010)* enabling the hidden *"deeming"* **proviso**, and (b) Petitioner's repeated assertions that his *"remuneration for services"* during those tax years did NOT constitute taxable IRC §3401(a) statutory *"wages"*. The existence of the contradiction between Petitioner's assertions and the *"deeming"* proviso provided the court with the surreptitious grounds needed to label Petitioner's assertions as *"frivolous"*. The Supreme Court long-standing doctrine regarding a **2-year statute of limitations from discovery of the fraud**[30] should **equitably override** the one-year limit imposed by FRCP Rule 60(b)[31], especially in cases where the Fraud is not discovered or discoverable **in good faith**[32] until many years after the original ruling.

Another point completely overlooked and ignored in

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[29] Northern Pacific Railway Company v. Joseph Boyd, 228 U.S. 482, 33 S.Ct. 554, 57 L.Ed. 931 (1913)

[30] Rotkiske v. Klemm, 140 S. Ct. 355, 205 L.Ed.2d 291 (2019) *the bar of the statute [of limitations] does not begin to run until the fraud is discovered*

[31] Gonzalez v. Crosby, 125 S.Ct. 2641, 162 L.Ed.2d 480, 545 U.S. 524 (2005) *Rule 60(b) allows a party to seek* ***relief from a final judgment****, and request reopening of his case, under a limited set of circumstances* ***including fraud****, mistake, and newly discovered evidence*

[32] To avoid abuses whereby petitioners can pretend they did not discover the fraud until much later on.

bad faith by the 5th Circuit Court was the issue Petitioner raised about the absurdity of enforcing a 10 year old sanction for Frivolity very strenuously while at the same time turning a blind eye to the Mail Fraud issue. Despite Petitioner's request for sanctions on the Mail Fraud issues to offset the 10 year old sanction as justice would demand, the 5th Circuit Court purposely failed to award and enforce any sanctions whatsoever for **documented cases of criminal Mail Fraud and collusion** between Respondent and the Postal Service.

At this juncture in the timeline, Petitioner has been denied any relief or remedy to the multiple acts of Fraud stated in the complaint, resulting in a deprivation of his property ***without any meaningful due process of law***. There was no *"meaningful due process"* since it was **subverted** by multiple **further acts of Fraud**[33]. This clear 1st degree murder/violation of the 5th Amendment raises a unique **Constitutional crisis** wherein the courts can act in collusion to block litigants from asserting their Constitutional rights through the judicial system. It is **extremely telling** that at this juncture in the legal process, despite the very extensive court record of court filings *(starting with Petitioner's complaint)* there is still a palpable vacuum in the complete absence of any discussion by opposing counsel, or the Judges at all court levels, about the **26 CFR §31.3401(a)-3** authority, on which this instant **case turns**. This is unquestionably evident from the 5th Circuit Court decisions being completely

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[33] Even going as far as multiple instances of blatant **Mail Fraud** in addition to the **multiple misrepresentations** by both Respondent and the courts below.

void of any commentary on the merits of the case or the reasoning for both of their decisions, despite plenty of **material challenges** being provided by Petitioner in the motions submitted to the court.

It now remains to be seen whether the Supreme Court will **abdicate its Constitutional Protection duties**[34] and fall into collusion with the courts below[35] by denying Certiorari without any meaningful discussion or comments in this *"you can't handle the truth*[36]*"* case.

REASONS FOR GRANTING THE WRIT

As per Rule 10, the focus on the granting of certiorari is on **important federal questions** that call for this court's supervisory power. Certiorari is most commonly granted for cases where lower courts have **conflicting decisions** on the same matter, or conflicting decisions with relevant decisions of this Court. Cases of **national importance** impacting the nation rather than just an individual are also given priority. Resolving **conflicts of law** relevant to prior decisions of this court are also afforded extra merit.

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[34] This would not be the first time for the Supreme Court to do so: https://blogs.berkeley.edu/2019/06/28/the-supreme-court-just-abdicated-its-most-important-role-enforcing-the-constitution/

[35] This in and of itself should have a Constitutional Remedy to prevent corruption at the highest levels of government from dismantling the Constitution that government servants swore to protect under oath.

[36] Quote from the well-known movie *"A few good men"* (1992). The truth being the authority of **26 CFR §31.3401(a)-3** and the many years that the government has relied on it to bypass Constitutional limitations.

What could be more important than correcting a pervasive and egregious act of Fraud perpetuated on the entirety of the American Nation? What if the heinous Fraud is rooted in a direct **circumvention of Constitutional limitations** making the case squarely one of Constitutional violations through Fraud? To add insult to injury, what if the courts below committed additional acts of Fraud intentionally **violating due process** in order to assert **exposure containment** on the ***"deeming"*** fraudulent scheme allowed via **26 CFR §31.3401(a)-3**?

There is definitely an intentional VOID of judicial coverage[37] of **26 CFR §31.3401(a)-3**. Rather than lower courts having conflicting decisions on that authority, the problematic situation here is the absolute **nonexistence** of any judicial authority/guidance on **26 CFR §31.3401(a)-3**, apparently based on the lower courts colluding to keep that well-kept secret **proviso** completely out of public view. The lower courts seem to be following a clandestine policy/agreement to **avoid any meaningful discussion of that proviso at all costs**. Furthermore, the IRS intentionally does not print any publications providing guidance on the proper application of **section (b)** of **26 CFR §**

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[37] A legal search for **"31.3401(a)"** over **all jurisdictions** came up with 92 matches, most pertaining to 31.3401(a)-1, no matches for **26 CFR §31.3402(a)-3**. Search of **"31.3401(a)-3"** resulted in cases covering §31.3401(a)(3)-1(c). An even broader search for **<"treas" /3 "reg" /20 "deem">** came up with 3 matches, none of which addressed **26 CFR §31.3402(a)-3**.

31.6051-1, presumably because it perfectly harmonizes with the authority in the **26 CFR §31.3401(a)-3 *"deeming"* proviso**, which is being intentionally and fraudulently kept **concealed** from American citizens.

In a *"normal"* situation[38], the Supreme Court would see an obvious dire need to fill that confirmable void with some authoritative judicial guidance, especially given that **the lower courts are going through concerted efforts to avoid any judicial guidance** in this topic and blocking the citizenry from creating any jurisprudence on the topic through the courts. However, if the illicit **exposure containment** policy is so widespread as to extend even to the majority of the SCOTUS justices, it would be much too easy to ignore this petition without any comments to continue *"business as usual"*, and thus becoming themselves accomplices to the fraud.

SCOTUS has run into similar difficult rulings in the past, however the justices of that court were not afraid of commenting on the issue based on irrational fears of the potential ramifications and/or what the potential fallout might be when writing opinions related to taxation. In that trusted court, Justice **White** squarely confronted the issue and aptly wrote

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[38] *"Normal"* situation meaning a Supreme Court prioritizing protection of the Constitution over everything else, as was done in the 1916 SCOTUS holding in the Brushaber decision (240 U.S. 1). *"Normal"* also implying a properly functioning court without any external political influences.

a dissenting opinion[39] in Pollock[40] foreshadowing the majority rule in the Brushaber decision. Justice White's opinion in Pollock:

> *The **injustice and harm** which must always result from overthrowing a long and settled practice sanctioned by the decisions of this court could not be better illustrated than by the example which this case affords. Under the income-tax laws which prevailed in the past for many years, and which covered every conceivable source of income,—rentals from real estate,—and everything else, vast sums were collected from the people of the United States. **The decision here rendered announces that those sums were wrongfully taken**, and thereby, it seems to me, **creates a claim, in equity and good conscience, against the government** for an enormous amount of money. Thus, form the change of view by this court, it happens that an act of congress, passed for the purpose of raising revenue, in strict conformity with the practice of the government from the earliest time, and in accordance with the oft-repeated decisions of this court, furnishes the occasion for creating a claim against the government for hundreds of millions of dollars. I say, **creating a claim, because, if the government be in good conscience bound to refund that which has been taken from the citizen in violation of the constitution,** although the technical right may have disappeared by lapse of time, or because the*

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[39] Judge White reversed Pollock with a Majority opinion in Brushaber

[40] Pollock v. Farmers Loan Trust Co, 157 U.S. 429, 15 S.Ct. 673, 39 L.Ed. 759 (1895)

> *decisions of this court have* ***misled the citizen to his grievous injury, the equity endures, and will present itself to the conscience of the government.*** *This consequence shows how necessary it is that the court should not overthrow its past decisions. [...] The construction which* ***confined the word 'direct' to capitation and land taxes was not changed by these amendments,*** *and it should not now be reversed by what seems to me to be a* ***judicial amendment*** *of the constitution.*

Next we come to the issue of **due process violations**. It is interesting to note that searching for *"due process"* in a legal search engine resulted in 5,163 decisions of the Supreme Court, thus there is certainly no shortage of precedent regarding SCOTUS commentary on the **importance of *"due process"*** in the body of American jurisprudence. However, Petitioner's search for *"due process"* SCOTUS cases dealing with **lower courts using** *"fraud"* to forcefully block *"due process"* as an **obstruction of justice** resulted in no matches[41]. This new issue should be a **novel legal breach** deserving of SCOTUS commentary to eradicate further similar unconstitutional malfeasance in the future by any of the courts serving the Nation.

To put it plainly, Petitioner had to timely object in his court filings to the Fraud committed by District

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[41] Out of 104 SCOTUS cases matching <*"fraud"* within 100 words of *"due process"*>, none of them dealt with Fraud perpetrated by the courts below in order to block due process. This intentional obstruction of justice is repugnant to the Constitution.

Court Judge Robert Pitman when he started fabricating **misrepresentations** such as patently false pretenses that Petitioner was basing his dispute on the threadbare *"wages are not income"* absurdity. This was with the bad faith objective of discrediting the complaint[42] as being of the same ilk as the staggering volume of *"wages are not income"* cases, presumably in collusion with Mr. Cutler Smith making the very same misrepresentations in his court filings. This was in direct contradiction to the extensive/detailed complaint review and analysis performed by Magistrate Judge Mark Lane, **who found no single issue of frivolity**[43]. Additionally, a simple electronic search through the complaint itself and all of Petitioner's court filings[44] for *"wages are not income"* results in only passages clearly refuting that absurdity. The Fraud had to be intentional because Judge Robert Pitman failed to rebut with supporting authorities Petitioner's objections, which clearly indicated the instant case was **distinguishable** and certainly not on point with any of the cited authorities relied on by the court and/or respondent. Despite Petitioner's heavy reliance on the pivotal material authority of **26 CFR §31.3401(a)-3, not a single word was dedicated in any of the court's filings on the record to the *"deeming"* proviso so heavily relied on by**

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[42] Petitioner's complaint throughout the court record is shown to be NOT ON POINT with the droves of *"wages are not income"* (and similar cases) due to the **pivotal material element** of Petitioner having a complete exemption from withholding, thus disabling the **"deeming" proviso**. His *"remuneration for services"* **cannot be *"deemed"*** to be statutory *"wages"*.

[43] More extensive detail in last paragraph on page 8.

[44] Inclusive of much older court filings over 10 years ago.

Petitioner. Same held true for Respondent in all his filings. Additional acts of Fraud were perpetrated during the District Court proceedings in the form of **Mail Fraud**, through bad faith attempts to **obstruct justice** via **collusion with the post office** to intentionally block Petitioner from receiving court notices having critical time limits for the reply[45].

After Petitioner experienced overt malfeasance in the District Court, he then experienced additional **due process violations** from the 5th Circuit Court of Appeals, which through their intentional **block of judicial review**[46], thwarted Petitioner's attempts to remedy the due process violations from the lower court. The 5th Circuit's reliance on previous sanctions was wholly based on Fraud by concealing from Petitioner the **material** authority of **CFR §31.3401(a)-3** which they relied on[47], itself being an act of **voidable W-4 contractual terms** from lack of disclosure. The pattern of mail Fraud from the court below continued at the Court of Appeals starting with the USPS hijacking of the **court notice to pay the sanctions** or else risk having the appeal dismissed. After discovery of the mail Fraud and **reinstatement of the appeal**, another instance of mail Fraud took place with the USPS hijacking of the briefing notice. The **fact** that Petitioner was being subjected to intentional **mail Fraud is**

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[45] More details in first paragraph on page 8.

[46] Constituted an **obstruction of justice** based on fraudulent pretenses of frivolity.

[47] For non-exempt withholding payments to be *"deemed"* to be statutory *"wages"* under IRC §3401(a) in contradiction to Petitioner's statements.

irrefutable based on evidence entered into the court records[48] clearly indicating a case of certified mail being intentionally re-routed, more explicitly having a Tax Court petition blocked by re-routing it to the IRS. A more detailed account of the mail Fraud issue was already provided on the second half of page 11.

The fact that respondent failed to collect on the sanctions over a period of 10 years was intentionally **neglected** by the court **without comment**. The court also **ignored without comment** Petitioner's request to sanction Respondent for the criminal acts of mail Fraud as an **obstruction of justice blocking due process** and raising the issue that these criminal acts were **several orders of magnitude** more sanctionable than the dormant frivolous sanction, itself wholly based on **voidable W-4 contractual terms** due to fraudulent lack of disclosure.

It is clear from the record that the 5th Circuit Court **denied access to the court** in direct **contradiction** to SCOTUS authority[49] regarding ***"the right of access to the courts"*** is ***"founded in the Due Process Clause"*** ensuring that ***"no person will be denied the opportunity to present to the judiciary allegations concerning violations of***

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[48] Evidence was shown in exhibits clearly showing the certified mail tracking confirmation that recipient's address was the Tax Court in Washington, yet the petition was delivered to the IRS in Austin.

[49] Wolff v. Donnell 8212 679, 418 U.S. 539, 94 S.Ct. 2963, 41 L.Ed.2d 935 (1974)

fundamental constitutional rights." The Lewis[50] SCOTUS authority also reconfirms *"the* ***right of access to the courts"****.*

Petitioner is well aware of the ample SCOTUS commentary on why **frivolous litigation** must be **curtailed** in order to **avoid court stagnation** from an overload in case load. **However,** the frivolity doctrine, as currently practiced, relies on the precept that issues being raised only need to be alleged to be frivolous rather than being **verified** to be **frivolous.** There needs to be[51] a **heightened standard of review** for frivolity allegations such that any claim of frivolity must be **substantiated by direct evidence** and also **overcome any challenges** by the aggrieved party. Without a heightened standard of review, allegations of frivolity by the lower courts **are routinely abused** as an easy path to avoid any *"difficult"* or *"controversial"* cases. Note that for the instant case, the 5th Circuit is contradicting its own precedent in Richards[52], in which the standard for frivolity determination must include ***"an unreasonable legal position is advanced without a good faith belief that it is justified".*** Petitioner's reliance and focus on **CFR §31.3401(a)-3** authority has been consistently and fraudulently portrayed to be a *"wages are not income"* dispute in order to sustain a patently false claim of frivolity by

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[50] Lewis v. Casey, 518 U.S. 343, 116 S.Ct. 2174, 135 L.Ed.2d 606 (1996)

[51] A legal search for < *"heightened standard of review"* within 10 words of *"frivo"* > over all jurisdictions **resulted in no matches.**

[52] Longer cite provided on page 12 [Fn24].

the lower courts. The **factual**[53] ***"legal position advanced"*** was the foregoing CFR authority, which in no rational way can be labeled to be ***"an unreasonable legal position"***.

As the lengthy court records show, Petitioner **has belabored the point** *"over a thousand times*[54]*"* that his **factual dispute** is rooted in the statutory authority provided by **the *"deeming"* proviso**, yet the opposition keeps making misrepresentations[55] in bad faith as a desperate concerted effort to ***"shoehorn"*** the instant case **into** a ***"wages are not income"*** case, which automatically both **(1) discredits** the **merits** of the case, and **(2) casts it** into the **frivolous** bucket. Thus, in order to **legally sustain** a **frivolity** claim against petitioner **in good faith**, both Respondent and the courts below would be **tasked with proving** *(via legal analysis or via valid cited authorities)*, that the clear language in the CFR authorities relied on by Petitioner **do not really mean what Petitioner claims them to mean**. To **belabor the point yet again**, Petitioner reiterates the CFR authority language in Appendix A-12 following Rule 14(f). The highlighted portions emphasize the key sections on which Petitioner relies upon to **dispute IRS fraudulent claims** of tax liability in complete and direct disregard for the authority in **section (b)** of **26 CFR §31.6051-1**, despite being put on notice of it repeatedly. Furthermore the courts below are recalcitrant in

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[53] **Verifiable** by a review of Petitioner's actual court filings.
[54] Not literally, but definitely need that level of emphasis.
[55] There is a plethora of falsehoods asserted by both opposing counsel and the judiciary below misrepresenting Petitioner's factual statements.

refusing to fulfill their ***"judicial duty [...] to apply the law to the facts of the case"*** as most recently reiterated in Gamble[56]. The Law is **§31.6051-1** and the fact is that Petitioner's payments are not subject to Federal withholding.

To wit #1, section **(b)** of **§31.6051-1** is titled *"Requirement if wages are **NOT subject** to **withholding** of income tax"*, whereas **section (a)** is titled *"Requirement if wages **ARE subject** to **withholding** of income tax"*. Thus for all tax years that Petitioner has held a complete exemption from withholding, **section (b) applies rather than section (a)**. Express references to the *"Form W-2"* in the statutory construction indisputably confirms that **W-2 Forms must follow this authority**. In comparing the mandatory itemized list of items to be listed in the Form W-2 *{ items (A) through (H) in **section (a)**, and items (i) through (vi) in **section (b)** }*, a **key material difference** between the two sections is the **lack of listing any IRC §3401(a)** statutory ***"wages"*** in **section (b)**, while they are expressly listed in **section (a)** under **subsection (C)**. Furthermore, the authority in **section (c)(2)** titled *"Income tax withholding"* clearly provides mandatory authority to *"show the correct amount of wages, as defined in section 3401(a) [...] if the amount of such wages entered on a statement [...] is*

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[56] Gamble v. United States, 139 S. Ct. 1960 (2019) *I would apply the **same stare decisis principles to matters of statutory interpretation**. I am not aware of any legal (as opposed to practical) basis for applying a heightened version of stare decisis **to statutory-interpretation decisions**. Statutes are easier to amend than the **Constitution**, but **our judicial duty is to apply the law to the facts of the case**, regardless of how easy it is for the law to change*

incorrect" via a *"corrected statement"*.

To wit #2, §31.3401(a)-3 is titled *"Amounts **deemed wages** under voluntary **withholding Agreements**"*. Based on the title alone, it is clear that some *"amounts"* not truly fitting the statutory definition of *"wages"* can be **contractually** *"deemed"* to be statutory *"wages"*. Note that the *"agreement"*, thus the *"contract"*, must be *"voluntary"*. The *"deeming"* language *(and the whole section)* would be completely **superfluous** if all payments always legally constituted statutory *"wages"* under **§3401(a). Section (a)** expands the term *"wages"* to include any amounts in paragraph **(b)(1)** which is titled ***"Remuneration for services"***, but only if a withholding agreement is *"in effect under section **3402(p)**"*. **Section (a)** also allows for the **clandestine**[57] expansion of the amounts covered by **§3401(a)** to include *"amounts deemed wages"* by linking via the language ***"References in this chapter** to the definition of wages contained in section **3401(a)** shall be **deemed to refer also** to this section **(§ 31.3401(a)–3)**"*. **Section (b)(1)** then **expressly allows** *"remuneration for services"* which *"does NOT constitute wages under section 3401(a)"* to be ***"deemed"*** to be **§3401(a) *"wages"*** under the preceding language in section (a). Again, Petitioner must **belabor the point** that the entire section would be **entirely and wholly superfluous if all *"remuneration for services"*** always constituted

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[57] This is the **Fraudulent lack of disclosure issue**. A very small minority of impacted citizens would check the authority of **26 USC §3401(a)**, but **no ordinary citizen** would have any inkling whatsoever to also check the authority under **26 CFR §31.3401(a)-3**.

taxable §3401(a) *"wages"* AND the foregoing authority in **section (b)** of **§31.6051-1 would be equally superfluous** if all *"remuneration for services"* must always be listed as *"wages"* under box 1 of the **W-2** form. It is the fraudulent **complete lack of disclosure** of this **legal proviso** that **voids any contractual obligations** formed by previous W-4 agreements[58], when Petitioner was unaware of the aforementioned **explicit details** in the CFR *"deeming"* language.

To wit #3, §31.3401(a)-2 is titled ***"Exclusions from wages"***. **Section (a)(4)** links **§§31.3401(a)–3** and **31.3402(p)–1** as pertinent for *"provisions relating to **payments** with respect to which a **voluntary withholding agreement** is in effect, which are **not defined as wages** in section **3401(a)** but which are **nevertheless deemed to be wages**"*. This authority summarizes the longer statutory construction in **§31.3401(a)-3** and links it to **§31.3402(p)–1**.

To wit #4, §31.3402(p)-1 is titled ***"Voluntary withholding agreements"***. **Section (b)** makes an express reference to ***"Form W-4"***, thus it establishes that any *"deeming"* contractual obligation must be through the **W-4 *"voluntary agreement"***. Most telling is the language in **section (a)** being specifically linked to *"remuneration for services"* not otherwise constituting §3401(a) *"wages"* but nevertheless being *"deemed"* §3401(a) *"wages"* as

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[58] W-4 contractual agreements prior to 2010 allowing Federal withholding by not filing *"exempt"*. Thus applicable to prior court rulings during that time period when Petitioner was unaware of the extension to 26 USC §3401(a) via the undisclosed CFR language.

"described in ***paragraph (b)(1) of §31.3401(a)–3."*** **Section (b)** titled *"Form and duration of agreement"* expressly calls out **Form W-4** as the voluntary agreement, and that ***"The furnishing of such Form W–4 shall constitute a request for withholding."***

To wit #5, §31.3402(n)-1 is titled ***"Employees incurring no income tax liability".*** The provisions under **§31.3402(n)-1 harmonize** with the foregoing authority in **section (b)** of **§31.6051-1** since the statutory **intentional exclusion** of **§3401** ***"wages"*** in the W-2 form is well **aligned** with the language in **§31.3402(n)-1** relative to the *"incurred no liability"* clause in relation to providing *"a withholding exemption certificate"* ***(exempting the signatory from withholding)*** since the tax liability applied to *"remuneration for services"* stems directly from the earning of statutory §3401(a) *"wages". (e.g. in the 1040 return, the primary payee tax liability is determined through the payor provided W-2 reporting §3401(a) "wages" in box 1 of form W-2).* Thus if payee decides NOT to accept the *"deeming"* proviso of **§31.3401(a)-3** under a voluntary agreement for withholding, such payee **must furnish to his payor** a ***"withholding exemption certificate"*** **expressly** indicating he/she **does not agree to the *"deeming"* proviso** via *"voluntary withholding".* By operation of **§31.6051-1(b)** the **§31.3402(n)-1(a)(1,2)** provisions will be ***"self-executing"*** since payee will not earn taxable *"wages"* if the ***"remuneration for services"*** cannot be contractually ***"deemed"*** to be **§3401(a)** ***"wages"*** under **§31.3401(a)-3.**

For all of the foregoing CFR authorities, it is well

known that **Congress** is **not allowed** to use **superfluous language** in the **statutes**[59]. Similarly, the same rule extends to the CFR via the CRA[60] since Congress is tasked with approving the statutory constructions in the CFR. Thus, if the extra language is there, rules of statutory construction demand that it is there for a specific purpose and intent. **Why then is it necessary for the Treasury Regulations to include all of the foregoing provisions in the code?** This goes back to the **still valid**[61] SCOTUS holding in Brushaber that the **16th amendment did NOT work to overturn** the well-established **Constitutional limitations** clearly enshrined in Article I-§2 *(rule of apportionment)* and Article I-§9 *(rule against capitations)*. Ergo, in order to come up with a clever **circumvention** to this most dire limitation to direct taxation by the Federal government, Congress came up with the ***"deeming"* proviso** as a concealed way to contractually **waive** Constitutional protections. If the *"donations"* to the Federal government by the citizens are *"voluntary"* and *"contractual"* in nature, it underhandedly provides color of law to circumventing the Constitution, while the **ruse** can pretend for the **public view façade** that Art I-§2

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[59] Senate Legislative Drafting Manual, §105(b) ***SURPLUSAGE.***—*In interpreting a statute, a court presumes that* ***every word is there for a reason.*** *If a provision would have the same meaning if a word were deleted, delete the word.*

[60] CRA = Congressional Review Act: *a tool that Congress may use to overturn rules issued by federal agencies*

[61] Brushaber has never been overturned by SCOTUS. Additionally, the ruling has been re-affirmed in the SCOTUS Baker ruling as recently as 1988. South Carolina v. Baker, Iii, 485 U.S. 505, 108 S.Ct. 1355, 99 L.Ed.2d 592 (1988)

and Art I-§9 were **magically overturned** by the **16th amendment** to squash any objections. Regardless of **whether** the Constitution is violated **directly or through artifice**, it is still the SCOTUS sworn responsibility by their oath of office **to protect and uphold the Constitution** as intended by the founding fathers. That original intent cannot and **shall not be undermined.**

In case that the inordinate number of foregoing Respondent actions **repugnant to the Constitution** are not considered sufficient to grant Certiorari in order to cure wily and grievous Constitutional violations, **there is also a serious conflict of law that needs to be resolved by SCOTUS.** The conflict of law stems from the long-standing SCOTUS precedent[62,63,64] on the statute of limitations **in cases of Fraud** being tolled until *"discovery of the fraud"* and the statute of limitations under 26 USC §7422 *{via 26 USC §6532(a)(1)}* and 26 USC §7433 having a **strict 2-year limit.** More specifically, **section (a)(1)** of **§6532** states *"No suit*

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[62] Exploration CO. v. United States, 247 U.S. 435 (1918) *the **rule**, now almost **universal**, that **statutes of limitations** upon suits **to set aside fraudulent transactions** shall **not begin to run until the discovery of the fraud**, should not apply in favor of the Government **as well as a private individual.***

[63] Badaracco v. Commissioner, 464 U.S. 386 (1984) *the **period of limitations** simply did **not begin to run until the fraud was discovered, or** at least **discoverable.***

[64] Rotkiske v. Klemm, 140 S. Ct. 355, 205 L.Ed.2d 291 (2019) *this Court long ago "adopted as its own the old chancery rule that where a plaintiff has been **injured by fraud** and remains in ignorance of it without any fault or want of diligence or care on his part, **the bar of the statute [of limitations] does not begin to run until the fraud is discovered."***

or proceeding under section 7422(a) for the recovery of any internal revenue tax, penalty, or other sum, shall be begun [...] nor ***after the expiration of 2 years*** *[...] of a notice of the disallowance."* **Section (d)(3)** of **§7433** states *"an action to enforce liability created under this section [...] may be brought* ***only within 2 years*** *after the date the right of action accrues."* The District Court held fast to these 2-year limits for all tax years in dispute and even went as far as to **fraudulently claim** that the §7422 and §7433 requirements **had not been met** by tax years **within the 2-year** statutory **limit**. The 5th Circuit Court then refused to provide judicial review of that clear misrepresentation of the facts despite Petitioner's preservation of his objections in the court below. The 5th Circuit also refused to provide any judicial commentary on the application of SCOTUS long-standing **fraud-discovery rule** for tax years falling outside the 2-year statutory limit despite Petitioner's inclusion of the SCOTUS *"discovery"* rule within the complaint, and also in subsequent court filings to preserve his objection.

To address the issue of irrational and unsubstantiated **fears** by members of this court, Petitioner contends the following:
(A) The **fear** of providing a favorable opinion on this case somehow resulting in the complete **demise of** the US Federal **government**, is **completely unfounded**. A verifiable fact is that the US Federal government operated without the *"deeming"* proviso *(and more importantly, without Federal income from individual tax returns)* since the founding of the country on **July 4th 1776** all the way until the

1940s[65].

(B) The **fear** of having a **barrage of lawsuits** amassing a debilitating liability for the Federal government **can be mitigated**. The court can rule that only individuals **similarly situated to Petitioner** *(i.e. having a pre-existing exemption from withholding on or prior to 2021)* will be able to use the ruling as **precedential** for obtaining full refunds plus damages. Currently Petitioner expects that the number of individuals in the entire country having an active full exemption from withholding while earning *"remuneration for services"* **can be counted in one hand**. Congress can then quickly pass sovereign immunity statutory language *"to protect the country against a financial breakdown of the dollar due to thousands of trillions in potential government liability based on the deeming proviso"*. However on the positive side, to the Constitutional benefit of all citizens, Congress would be forced to **stop direct taxation** of *"remuneration for services"* and fall back to the primary source of Constitutional Federal income, which was **mostly based on Tariffs** for years prior to the 1940s. The founding fathers found it abhorrent to have an oversized socialist Federal government micromanaging the citizens, which led to the intentional Constitutional limitations that forcibly keep the Federal budget in check.

(C) The **fear** of the judicial budget being drastically

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[65] *only a small proportion of the population of the United States is covered by the income tax. For 1936, taxable income tax returns filed represented* ***only 3.9% of the population***. Staff memo titled ' Collection at Source of the Individual Normal Income Tax', Division of Tax Research, Treasury Department, 9 January, 1941

cut and thus losing many jobs across the various Federal court systems should not be a concern. Congress would be in direct violation of **Article Three of the Constitution** if they failed to provide proper funding for the Federal judicial system while giving budget preference to government programs not Constitutionally required. **For general government operation**, SCOTUS has the **power to re-instate the Constitutional requirement** in Article I section 8 *"to coin money"* in order to save the US government from being **beholden to pay interest**[66] to a **private banking cartel**[67,68] running the Federal Reserve bank.

(D) The **fear** of **retaliation** from the *"deep state*[69]*"*

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[66] Abraham Lincoln (Created the Greenbacks in 1862 Legal Tender Act): *Government, **possessing power to create and issue currency and credit as money**, and enjoying the right to withdraw both currency and credit from circulation by **taxation** and otherwise, need not and **should not, borrow capital at interest** as the means of financing Government work and public enterprise. The **privilege of creating and issuing money is not only the prerogative of Government** but it is the Government's greatest creative opportunity. Thus money will cease to be master and become the servant of humanity.*

[67] American Bank Trust Co v. Federal Reserve Bank of Atlanta, Ga, 256 U.S. 350, 41 S.Ct. 499, 65 L.Ed. 983, 25 A.L.R. 971 (1921) *against the **Federal Reserve Bank of Atlanta, incorporated under the laws of the United States**, and its officers [...] The plaintiffs are not **members of the Federal Reserve System** and many of them have **too small a capital to permit their joining it.***

[68] Having the power to **bribe all public officials** regardless of their stature or position.

[69] *"Deep State"* in this case is not a *"conspiracy theory"*, it is a conspiracy fact as proven by the Edward Snowden revelations that the US government is certainly not operating in full transparency to the citizens while they clandestinely avoid any

should not control SCOTUS Justices. Justices receiving any threats, bribes, or blackmail from any beneficiaries of the *"deeming"* fraud scheme, are better off having those individuals prosecuted and publicly ridiculed rather than living in continuous fear of being **enslaved to their demands**. A more **concerning threat** to Justices should be the recent open announcement by the Democratic party that they would ***"pack the Supreme Court"*** by adding more Democrat-favored Justices to SCOTUS. It is worth noting that the number of Justices in SCOTUS has remained 9 since 1869.

CONCLUSION

(1) The question before this court is certainly **Not** about *"wages are not income" (as fraudulently portrayed by the courts below as well as Respondent),* instead **it is pivotally founded** on the legal questions and **Constitutional ramifications** concerning **application of the 26 CFR §31.3401(a)-3 *"deeming"* contractual proviso** to allow *"remuneration for services"* to be *"voluntarily"* deemed to be §3401(a) *"wages"*, as a concealed scheme to circumvent Constitutional limitations for taxation.

(2) There is a need for **corrective action** to **remedy** the **Fraud** being perpetrated by the Federal government at a **National level**, impacting every citizen of this country via the foregoing devious bypass of Constitutional limitations via fraudulent

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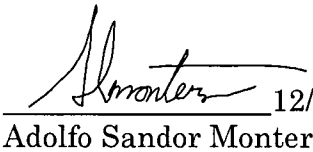
judicial review of the unconstitutionality of their acts.

contractual terms.
(3) There is a proven **lack of SCOTUS precedent** on the issue of Constitutional **Due Process violations** for cases **when lower courts** are involved in **collusion to obstruct justice** through **Fraud**.
(4) There is a need for a **heightened standard of review** around any **allegations of frivolity** such that they **must be substantiated by direct evidence**.
(5) SCOTUS needs to **comment on** whether **the conflict** between the ***"date-of-discovery"*** tolling precedent, and the IRC limitations, will **result in an override** of the **strict 2-year limit** imposed for IRC **§7422** and **§7433** claims when **Fraud on the citizen** has been demonstrably proven.

If this Court decides that remanding the case to the lower courts is the most appropriate, strict guidance should be provided to avoid any further acts of malfeasance. Alternately, this Court could provide an opinion styled after an original jurisdiction review of the original complaint following the De-Novo standard. For all of the foregoing reasons, Writ of Certiorari should be granted.

Respectfully Submitted,



12/14/2021

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