UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	)
	) Case No. 1:07-CV-0352 TJM/RFT
Plaintiff	)
	)
	)
v.	)
	)
ROBERT L. SCHULZ;	)
WE THE PEOPLE FOUNDATION FOR	) Date: October 8, 2007
CONSTITUTIONAL EDUCATION, INC.;	) Time: 10:00 A.M.
WE THE PEOPLE CONGRESS, INC.	) Ctrm:
	)
Defendants	)

DEFENDANTS' MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR RECONSIDERATION

Dated: August 19, 2007

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Pursuant to Local Rule 7.19(g), defendants ("Schulz") submit this Memorandum in support of defendants' motion for reconsideration of the Court's Decision and Order granting Plaintiff's ("Government's") motion for summary judgment and denying Schulz's motion to dismiss.

STANDARD OF REVIEW

"The District Court abuses its discretion if it 'applies the wrong legal standard, misapplies the correct legal standard, or relies on clearly erroneous findings of fact.'"[1]

With respect to the facts, a decision on a motion for summary judgment under Rule 56 requires the evidence be construed in the light most favorable to the non-moving party;[2] Rule 56 authorizes summary judgments only if there is no genuine issue as to **any** material fact and if judgment is appropriate as a matter of law. Fed. R. Civ. P. 56 c. (Def. Emphasis). A party opposing a properly supported motion for summary judgment may not rest upon "mere allegations or denials"[3] or on conclusory allegations or unsubstantiated speculation.[4]

SUMMARY OF THE ARGUMENT

The Court committed clear error in granting the Government's motion for summary judgment, enjoining Schulz from publicly distributing his March 15, 2003 letter to the Government with its Blue Folder (the "Educational Program"). There are genuine issues as to material facts presented by the Government, and there are material facts favoring Schulz that are not in dispute. Proof by a preponderance of the evidence, of conduct subject to penalty under 6700, has not been made by the Government for it to obtain an injunction.

The Court relied on, but mis-applied, *U.S. v Raymond*, 228 F.3d 804 (7th Cir. 2000).

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[1] U.S. v Szoka, 260 F.3d at 521 (6th Cir. 2001)(quoting Waste Mgmt. v Nashville, 130 F.3d at 735 (6th Cir.).
[2] Tenenbaum v. Williams, 193 F.3d 581, 593 (2d Cir. 1999).
[3] Rexnord v Bidermann, 21 F.3d at 525-26 (2d Cir. 1994).
[4] Scotto v Almenas, 143 F.3d at 114 (2nd Cir. 1998).

In addition, the Court abused its discretion by failing to address, much less develop and apply a legal standard for constitutionally protected Petitions for Redress of constitutional torts under the First Amendment. That is, in violation of Schulz's Due Process interests, the Court failed to give any consideration, much less the required strict scrutiny, to Schulz's First Amendment Right to Petition claim and **affirmative defense**. The Court failed to consider whether the Educational Program falls within the zone of interests protected by the Petition Clause of the First Amendment. The Court failed to consider this first impression, First Amendment question notwithstanding the extensive, factual, documentary evidence in the record proving: (a) that Schulz has been intelligently and rationally attempting to hold the government accountable to the Constitution's war powers, privacy, money and tax clauses by claiming and exercising his Rights under the First Amendment by Petitioning the Government for Redress of those constitutional torts; (b) that the Government is obligated but has refused to respond to those Petitions for Redress; (c) that Schulz has the Right to withdraw his allegiance/financial support from the Government until his Grievances are Redressed; (d) that there is nothing in American history or jurisprudence that contradicts Schulz's interpretation of the historical record, purpose and true meaning of the fundamental Right to Petition; (e) that the subject Educational Program is inextricably linked to said Petition process (individuals are prevented from enforcing their Rights by withdrawing their financial support from the Government if the Government is forcing companies to withhold money from the paychecks of their workers and divert that money to the Government), and is, itself, a Petition for Redress of Grievances; (f) that the instant civil injunction lawsuit is part and parcel of an overall program of IRS retaliation ("WTP 6700) that is designed to silence Schulz and shut down the said Petition process to avoid the constitutional precedent of an individual's successful use of the First Amendment's Petition

Clause for Redress of *constitutional torts*; and (g), very importantly, that the Government has failed to deny any of these six material facts, as well as many others.

In addition, the Court erred in determining that the Educational Program and associated acts of Defendants constitute false commercial speech rather than fully protected political speech designed to change the way Government operates. The Court has clearly misapplied *U.S. v. Freeman*, 761 F.2d 549 (9th Cir. 1985).

DISCUSSION

I. THERE ARE MATERIAL FACTS GENUINELY IN DISPUTE AND MATERIAL FACTS NOT IN DISPUTE ALL ARGUING AGAINST SUMMARY JUDGEMENT

Schulz, in their "RESPONSE TO STATEMENT OF MATERIAL FACTS AND ADDITIONAL MATERIAL FACTS THAT ARE IN DISPUTE" (the "Statement") have supported their opposition to the Rule 56 motion by substantively and legally denying each of the Government's material facts.[5] The Record shows Schulz's potent opposition, provided under penalty of perjury, rests on evidentiary documentation with probative value, not conclusory allegations, unsubstantiated denials or speculation. Schulz has supported his Motion to Dismiss and opposition to the Rule 56 motion by providing the Court with substantiated Material Facts that the Government has not denied.

A. Material Facts In Genuine Dispute That Argue Against Summary Judgment

FACT IN DISPUTE. Nowhere does the Educational Program use the words, "Tax Termination Program." (Order at 2). Whether the Program is a "Tax Termination Program" is a material fact in dispute. The Program does not counsel individual tax payers to do anything but

[5] Docket # 21 through # 24.

ask the companies they work for to submit certain written material to a "rigorous review" by their "tax professionals (attorneys, CPAs and accountants) to determine if it is appropriate for the company to legally stop **withholding, filing and paying** to the IRS certain monies taken from the paychecks of their workers.

The Court relied heavily on the legal principles set forth in *U.S. v Raymond*, 228 F.3d 804, and likened the Educational Program to Raymond's "De-Taxing America Program." However, unlike the "De-Taxing America Program" which was the subject of *Raymond*, Schulz's Educational Program does not include forms and instructions to guide anyone "through a process of 'de-taxing.'" *Raymond* at 807. Nor does the Educational Program inform anyone "that if they complete the materials and directions in the Program they will be 'withdrawn' from the jurisdiction of the federal government's taxing authorities and the social security system and will no longer be required to pay federal taxes." *Raymond* at 807. Nor does the Educational Program provide materials that are "pre-printed with the purchaser's name and various personal information" to be sent to "various government agencies, including the Internal Revenue Service ('IRS')." *Raymond* at 807. Nor does the Educational Program suggest, much less instruct anyone to "file W-4 forms with their employers asserting that they are exempt from federal taxation." *Raymond* at 807. Nor does the Educational Program suggest, much less instruct anyone to "request a refund of taxes paid in prior years." *Raymond* at 807. Nor does the Educational Program suggest, much less provide instructions to individual tax payers "on how to complete future tax returns to reflect that the purchaser has not incurred any tax liability in the previous year and consequently does not owe any federal income or social security taxes." *Raymond* at 807. Nor does the Educational Program suggest or instruct individual tax payers to "cease paying federal taxes after completing the instructions provided in the Program materials." *Raymond* at

807. The Court erred in saying, "The obvious claimed benefit from participating in Defendants' plan is that individual income taxes need not be paid." (Order at 10). This is unsubstantiated and false. The Educational Program provides no such tax benefit. The only claimed benefit to an individual participating in the plan could be the (legal) cessation of *withholding* of pay by his company, no more, no less. Indeed, the Forms that provide the legal basis for executing such request are the key elements of Speech the government complains of. The Educational Program in no way counsels the individual regarding the use of his money nor how to handle his (alleged) ultimate liability for filing and payment of income taxes. **Whether that individual does or does not use his money to intercede for Redress of constitutional torts and reestablishment of individual Rights is a personal choice, not counseled in the subject Educational Program, and no personal assistance has ever been given to effect such.**

FACT IN DISPUTE. Defendants are not a "tax protestor group." (Order at 5). Unlike the Defendants in *Raymond*, none of Schulz's activities are about taxes, per se. Schulz is not against taxes. Schulz is squarely for the Constitution and holding government accountable to the Constitution. The record proves Schulz's activities, including the Education Program, are about the privilege of giving and withholding our moneys from the Government as intercession for redress of constitutional torts and reestablishment of rights.[6] This case is certainly less about protesting taxes than about finding ways for people to maintain the balance of powers delegated by the People to its servant government by rationally and non-violently retaining their money until their Grievances are Redressed.[7] See for instance Schulz Decls 2, 3, 4 and 9.

[6] "The privilege of giving or withholding our moneys is an important barrier against the undue exertion of prerogative which if left altogether without control may be exercised to our great oppression; and all history shows how efficacious its intercession for redress of grievances and reestablishment of rights, and how improvident would be the surrender of so powerful a mediator." Thomas Jefferson: Reply to Lord North, 1775. Papers 1:225.

[7] "If money is wanted by Rulers who have in any manner oppressed the People, they may retain it until their grievances are redressed, and thus peaceably procure relief, without trusting to despised petitions or without

FACT IN DISPUTE. The Educational Program has not harmed anyone. The Court claims the Educational Program has the potential of putting individuals in harm's way, but has actually harmed the Government. (Order at 15,16). The Gravity of the Harm, if any, is a material fact in dispute. There may be evidence before the Court that some workers may have submitted material from the Educational Program to their companies, but there is **no** evidence before the Court that the Program has actually caused any company to stop withholding, much less evidence that a company stopped withholding after the recommended "rigorous review by legal counsel and tax professionals (attorneys, CPAs and accountants). There is no factual evidence before the Court that the Program is causing "insufficient payments to the Treasury" or "significantly increased efforts at collecting taxes" (Order at 15), the declaration by Agent Gordon notwithstanding.

The Government (particularly IRS Agent Gordon) has misled the Court into believing that 997 participants in the Educational Program "have not filed federal tax returns for a period of three years, which represents more than 2,991 unfiled tax returns" and that the estimated cost to the Government "attributable to filing substitutes for returns for the 2991 unfiled returns is $4,806,537. (Order at 15).

In denying these unsubstantiated facts, Schulz argued, "The time and expense the IRS devoted to assessing and collecting taxes due the United States from individuals or corporations is an irrelevant fact having nothing to do with the subject of this case (withholding)."[8] Schulz has argued that Agent Gordon was "mixing apples with oranges."[9]

The record shows the defendants in this case (We The People Foundation for Constitutional Education, Inc., the We The People Congress, Inc., and Robert Schulz) are the lead Plaintiffs in

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disturbing the public tranquility." Continental Congress To The Inhabitants of Quebec. Passed unanimously. Journals of the Continental Congress. Journals 1:105-118.

[8] Statement at 28.

[9] Statement at 25

We The People v. U.S., which case has over 1400 named Plaintiffs.[10] The record also shows that by the end of 2002, most of the over 1400 named Plaintiffs in *We The People v. U.S.* signed all four of the Petitions for Redress of constitutional torts relating to the Government's violation of the war powers, privacy, money and tax clauses of the Constitution, and signed an Affidavit in 2004, saying that because the Government has not responded to any of those four Petitions for Redress they stopped filing tax returns until their Grievances were redressed.[11]

Paragraphs 63-70 from a Declaration by Schulz filed with the DC Court on 10/3/06 in *We The People v U.S.* are instructive and repeated below.

63. On December 7, 2005, I received a letter from IRS agent David Gordon notifying me that the IRS's investigation of me as a promoter of "abusive tax shelters" has been transferred from agent Roundtree to him. See Exhibit V.[12]
64. Gordon is sending letters to Plaintiffs in the present case asking the Plaintiffs to cooperate with the IRS who is conducting a "6700" investigation of me and the We The People organization regarding "abusive activities as a promoter of tax products and services." Gordon is telling the Plaintiffs that his contact with the Plaintiff will be kept a secret if the Plaintiff wants it that way. This is having an adverse consequence on the continued funding of the Petition process. For instance, see the Affidavits filed in support of the instant motion by Plaintiffs Stephen Albright, Kathleen Little, Kimberly Owen, David Sharp, Clyde Shaulis and Richard McFarland.[13]
65. Gordon is sending a *second letter* to the Plaintiffs who have not complied with Gordon's request, saying that the IRS will be initiating an investigation of that Plaintiff's tax returns by serving summonses on "other parties," suggesting this is punishment for not complying. For instance, see the Affidavit filed in support of the instant motion by Plaintiff John Q. Little.[14]
66. Plaintiffs, after receiving Gordon's first and second letter, are having their wages, bank accounts, retirement and social security payments taken by the IRS, liens placed on their homes and third party summonses issued to other parties. According to the Plaintiffs, this is being done by the IRS administratively without a court order and without following the appropriate procedures spelled out in the Internal Revenue Code. This is having an adverse consequence on the continued funding of the Petition process. For instance, see the Affidavit filed in support of the instant motion by Plaintiff Douglas Allsup.[15]
67. Gordon has also been sending his letters to people who are not Plaintiffs in this matter but who have donated money to the Foundation. See Exhibit W for copies of Gordon's letters to Robert Helveston and Sharon Harper.[16]
68. Other Plaintiffs, without receiving any letter from Gordon, are also having their wages, bank accounts, retirement and social security payments taken by the IRS, liens placed on their homes

[10] See Complaint with caption attached to Schulz Declaration #11.
[11] See the 1400+ Affidavits attached to Schulz Declaration #11.
[12] Also included in Schulz Decl #3 in the instant case as Exhibit V.
[13] Affidavits are attached to Schulz Declaration #11 accompanying this Memorandum.
[14] Affidavit is attached to Schulz Declaration #11 accompanying this Memorandum.
[15] Affidavit is attached to Schulz Declaration #11 accompanying this Memorandum.
[16] Also included in Schulz Decl #3 in the instant case as Exhibit W.

and third party summonses issued to other parties. According to the Plaintiffs, this is being done by the IRS administratively without a court order and without following the appropriate procedures spelled out in the Internal Revenue Code. This is having an adverse consequence on the continued funding of the Petition process. For instance, see the Affidavits filed in support of the instant motion by Plaintiffs Charles and Catherine Cartier, Frank Grieser, C. Gene Johnson, Scot Johnson, John Korman, Dan Hanna and Julie Daube.[17]

68. Word about IRS's investigation of me and the We The People Foundation regarding my "*potentially* abusive activities as a promoter of tax products and services" is being passed around among the Foundation's supporters and donors and other People via the Internet. Exhibit X is a copy of one such e-mail.[18]
69. Following the mailing of Gordon's letters to Plaintiffs and non-plaintiffs alike, the enforcement actions being initiated against Plaintiffs and the general publicity about the IRS's ongoing "6700" investigation, Plaintiffs have asked to be removed from the lawsuit and from our e-mail list. Exhibit Y is a copy of one such letter.[19] In addition, correspondence with and Donations to the Foundation have dropped significantly in 2006 as follows:

	Donations	
2001	375,731	
2002	427,129	
2003	360,475	
2004	392,919	
2005	322,613	
2006	75,000	(1st 9 months)

In sum, Agent Gordon has been scheming to work substantive harm on the Plaintiffs in *We The People v U.S.* who have openly claimed and are exercising their constitutional Right to Petition for Redress of constitutional torts. The Government is doing this without responding to the People's four Petitions to the Government for Redress, and without honoring and respecting the People's Rights as Plaintiffs to the fair and equitable administration of justice, and very importantly**, without waiting for the Courts to declare the full contours of the People's Rights and the Government's Obligations under the Petition Clause.**

While the Government may be proud of Gordon's efforts thus far in oppressing the plaintiffs in *We The People v U.S.*, and in shutting down the Petition for Redress process and the Foundation, the Court should not condone any infringement of Schulz's Due Process rights or any obstruction of Justice in the instant case. It is a fraud on the Court for the Government to

[17] Affidavits are attached to Schulz Declaration #11 accompanying this Memorandum
[18] Also included in Schulz Decl #3 in the instant case as Exhibit X.
[19] Also included in Schulz Decl #3 in the instant case as Exhibit Y.

lead the Court into believing that somehow, as a consequence of their participation in the Educational Program, 997 people have gotten their companies to stop withholding and those 997 people then stopped filing and paying their taxes for three years. It is fraudulent for the Government to lead the Court to believe that it has cost the IRS over $4 million to assess and collect **those** taxes from **those** 997 people. It is a fraud on the Court for the Government to do all this knowing full well that the 2991 unfiled tax returns being pursued by the IRS are not from 997 people participating in the Educational Program but are in fact, largely from 997 Plaintiffs in *We The People*, who are actively claiming and exercising their Right to Petition and trying to reconcile the differences between the Iraq Resolution and the war powers clauses of the Constitution, between the USA Patriot Act and the privacy clauses, between the Federal Reserve System and the money clauses and between the direct, un-apportioned tax on labor being enforced by the IRS and the tax clauses.

FACT IN DISPUTE. Schulz's statements regarding the 16th Amendment and Liability have not been rejected by the Courts and are not false. (Order at 10,16).[20]

FACT IN DISPUTE. Schulz relied on knowledgeable professionals. (Order at 11).[21]

FACT IN DISPUTE. Schulz has not been litigating similar tax-related issues for a long time. (Order at 11). Among the one hundred or more cases Schulz has litigated is two or three that dealt with local property taxes and misuse of state tax revenues. Schulz Decl, Exh A, B.

FACT IN DISPUTE. The Educational Program does far more than "encourage" people to have the material reviewed by "qualified legal counsel." (Order at 12).[22]

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20 Regarding the 16th Amendment, see Defendants' denials in the Statement at 5, 6, 17, 41, 47 and 63. Regarding the so-called "861" issue, see Defendants' denials in the Statement at 5, 14, 33, 41, 47 and 63.

21 Statement at 4 and 6.

22 Statement at 6,7,8,9,12,16 and 19. See especially #12.

FACT IN DISPUTE. Schulz did not expect or want people to buy the Educational Program. (Order at 16). In fact, MANY thousands of paper copies of the materials were distributed for free, which is what Schulz initially told the Government would be the case.[23]

FACT IN DISPUTE. Schulz never said the tax laws are unconstitutional. (Order at 17).[24]

FACT IN DISPUTE. Schulz's "main purpose" is not "to continue to disseminate the Educational Program and encourage employees and employers alike to participate." (Order at 17). The subject Program is an insignificant part of Defendants' overall plans and activities.[25]

FACT IN DISPUTE. Schulz does not counsel "violations of the tax laws" or "improper filing of returns." (Order at 18).[26]

FACT IN DISPUTE. Schulz's speech was never an integral part or a vehicle of any crime and never incited a crime. Immanency was never a factor. (Order at 19).[27] Schulz has never assisted in the filing of tax returns. (Order at 18).[28] Schulz never urged the preparation of presentation of any false IRS forms. (Order at 19).[29] Schulz did not knowingly make any false statements as part of any scheme to defraud. Beyond the Government's and the Court's allegations that Defendant's positions are "frivolous" is in error. The statements the Court is referring to derive from the questions included in Defendants' Petitions for Redress of Constitutional torts. Defendants have bluntly, frankly and correctly asserted that those questions have never been answered by any court of law, any government agency or any academician.[30] In addition, no substantive rebuttal has ever been made to Defendant's specific assertions that

[23] Statement at 2,3,4,22,23,25,26,27,48,58 and 59.
[24] Statement at 31,39
[25] Statement at 1, 19 and 44. See also Schulz Declaration #3, Exhibit E.
[26] Statement at 3,5,8,10,20,23,24,30,34,35,36,37,38,40,42,43,45,46,50,51,55,56 and 62.
[27] Id
[28] Id
[29] Id, plus Statement at 15,54 and 61.
[30] Regarding the 16th Amendment, see Defendants' denials in the Statement at 5, 6, 17, 41, 47 and 63. Regarding the so-called "861" issue, see Defendants' denials in the Statement at 5, 14, 33, 41, 47 and 63.

withholding is voluntary for most American workers and that most American companies are not, by law, "withholding agents." (Order at 19).

FACT IN DISPUTE. The Educational Program is not commercial speech much less false commercial speech. (Order at 20). As demonstrated in the pleadings, the We The People Congress is a membership program that has a single focus and program – to institutionalize citizen vigilance, county-by-county. The membership fee is help the WTP Congress develop and execute its program. The program is an outgrowth of a program started by Schulz in 1990 in NY State and is entirely separate from the Educational Program distributed by the We The People Foundation for Constitutional Education. The WTP Congress is a separate membership organization. The fact that someone joins the WTP Congress and pays a membership fee does not, in any way at all cause the Educational Program to become commercial speech. That's a stretch than can't be made. In fact, the Government Plaintiffs have identified NO activity attributable to the Congress that it has taken in support of the alleged 6700 violations. Likewise, the overwhelming list of activities engaged in by the Foundation have no connection whatsoever to the subject Educational Program: seminars on the state of the Constitution, freedom drives (with car flags), conferences, Liberty Hour webcasts, research leading to Petitions for Redress, demonstrations in Washington, DC, the hugely important declaratory judgment action on the Right to Petition in the DC court, press conferences at the National Press Club, bumper stickers that advertise the website, newspaper ads, and so forth. As fully explained in the pleadings, we try to provide copies of everything we do for general educational purposes. Its only when an item can't be put on the website for free download do we offer to mail copies, in which case we request a nominal donation to partially cover our costs but always waived if the person tells us he can't afford to send the donation.

FACT IN DISPUTE. The Court wrote, "Although Defendant may sometimes give their materials away for free, they do solicit a donation for $20 for each packet of materials they provide." (Order at 20). **This is so offensive it hurts**, given the extensive documentary evidence in the record. The record clearly shows the situation to be the complete reverse of what the Court claims. Many thousands of copies The Educational Program have been given away completely for free, both in printed form and downloaded from the WTP website. A few times, People have asked that the Program be copied and mailed to them and a $20 donation was requested to partially cover the cost of doing so. In addition, the policy has always been that if the person who could not download the Program for free said he did not have the $20 the Program was always mailed to them anyway. If Schulz did not have the time to copy the material the $20 donation was returned and the person was then notified of the fact. Defendants have not denied the evidence included in Schulz Declaration #5. This is a significant material fact that remains in question.

FACT IN DISPUTE. As clearly shown in the Educational Program itself and argued in the pleadings, Defendants most certainly do not "offer to sell a customized legal opinion letter from an attorney or CPA." (Order at 20). An online link to the Educational Program states, word for word, "Click Here to request information about ordering a **customized legal opinion letter from an attorney or CPA** to be sent to your company or their tax and/or legal advisors. (Note: WTP is not involved with the creation or solicitation of these letters. WTP receives NO portion of their cost. Special discounts are available for WTP Congress members.)" The "Click Here" link brings up the email form and address of Preferred Services, the organization that prepared and copyrighted the forms. The party interested in having an attorney or CPA provide an opinion on the contents of the Educational Program deals directly with Preferred Services. The message says

Preferred Services offers a discount from its normal fee for such opinion letters to the person requesting a letter. This means whatever money travels from the person requesting the letter to Preferred Services is reduced by some amount. Schulz and the WTP organizations are not, and have never been, involved in any manner in the transaction. The offer by Preferred Services and any follow up transaction between Preferred Services and the person requesting a legal opinion letter does not turn the Educational Program into commercial speech.

Upon information and belief, the licensed attorneys that prepare(d) such letters for Preferred Services, including Paul Chappell, an attorney who retired from the IRS's Office of the Chief Counsel, also reviewed, and formally approved the detailed content of the Educational Program forms distributed by Defendants.

FACT IN DISPUTE. Immanency is not a factor in the Educational Program. (Order at 20). This is obvious from the content of the Program.[31]

B. Material Facts Not In Dispute That Argue Against Summary Judgment

FACT NOT IN DISPUTE. The Journals of the Continental Congress explicitly provided for the People to withhold their money to peacefully secure Redress for their Petitions of Grievances of constitutional torts: "When money is wanted…". This is perhaps the most critical issue of Material Fact because the words of the First Congress purport to encourage, as a matter of Fundamental Right, the very Speech the Government complains of in this action. Specifically, these words clearly support the broad assertion that even if taxes are properly due and owing under Law, the People retain a Fundamental Right to withhold those monies to secure Redress. [32]

[31] In addition, the fact that someone may have sent material from the Program to the IRS as justification that he does not have to pay taxes is certainly an unintended consequence of the Program. People send all kinds of materials to the IRS.

[32] This single Material Fact alone is justification for the Court to reconsider its decision in granting summary judgment and its Order enjoining the Speech of the Defendants.

FACT NOT IN DISPUTE. The Constitution of the United States of America contains, by design, a carefully crafted balance of power between the People, the States and the federal Government, including the penultimate provision that was intended to provide the sovereign People with the constitutional means to (peacefully) hold their servant government in check and accountable to the Constitution – that is, the First Amendment's guarantee of the individuals' natural Right to Petition the Government for Redress of constitutional torts, which includes the Government's obligation to respond, and the individuals' Right to enforce their Rights if the Government refuses to respond, by withholding their financial support from the Government (by retaining their money), until their grievances are redressed, and to do so without retaliation or harassment by the Government. This Material Fact was exhaustively supported by Schulz in his pleadings and replete with factual documentary evidence.[33] Critically, this crucial Material Fact has not been denied by the Government in its pleadings and is critical in determining the constitutional nature of Defendant's Speech. Disturbingly, this Material Fact was passed over without any comment, consideration or analysis by the Court.

FACT NOT IN DISPUTE. As the Record clearly shows (Decl 2,4) Schulz and thousands of other individuals have properly and repeatedly Petitioned the Government for Redress of constitutional torts related to the Iraq Resolution, the USA Patriot Act, the Federal Reserve System and the direct, un-apportioned taxes being enforced against the fruits of their labor. This Fact was not denied by the Government and was passed over without consideration by the Court.

[33] See, for instance, Defendants' Memorandum of Law in support of the motion to dismiss, pages 18-20 (Docket 12) and Schulz's Declaration #2, Exhibits UUU, VVV, XXX and YYY (Docket 12); See also, Defendants' Memorandum of Law in opposition to motion for summary judgment and in support of motion to dismiss, page 5-7 (Docket 21) and Schulz Declaration #9, Exhibits A and B (Dkt 21).

FACT NOT IN DISPUTE. The Government has refused to respond to the proper and repeated Petitions for Redress of constitutional torts regarding the war powers, "privacy," money and tax clauses of the Constitution of the United States of America. This Material Fact was fully supported in the pleadings by Schulz, with factual evidence. See for instance, Decl 2, 4 and 9. This Fact was not denied by the Government and was not given any consideration by the Court.

FACT NOT IN DISPUTE. In 2002, Schulz and thousands of other individuals who signed one or more of the Petitions for Redress of these constitutional torts decided to exercise their Right to enforce their Rights by refusing to file federal tax returns until the Government responded to their Petitions for Redress of constitutional torts. This Material Fact was supported in the pleadings by Schulz, with factual evidence. See for instance Decl 2,4 and 9. This Fact was not denied by the Government and was passed over without consideration by the Court.

FACT NOT IN DISPUTE. Individuals are effectively usurped and denied their natural Rights under the Petition Clause to hold the Government accountable to the Constitution if they lack the ability to withhold their financial support from the Government because their employer has already withheld their money from their paychecks and diverted it to the Government; it is common knowledge that any Right that is not enforceable is not a Right. This Material Fact was supported in the pleadings by Schulz, with factual evidence. See for instance Decl 9. This Fact was not denied by the Government and was passed over without consideration by the Court.

FACT NOT IN DISPUTE. The target of the Government's injunction request (Schulz's March 15, 2003 letter to the Government, with its attachment, the Blue Folder) were designed to *legally* stop withholding, no more, no less; the letter and Blue Folder are inextricably intertwined with and part and parcel of the claim and exercise by Schulz and his associates of their Right to Petition the Government for Redress of constitutional torts relating to violations by the United

States of the war, tax, money and privacy clauses of the Constitution and, as such, the letter and Blue Folder are protected by the last ten words of the First Amendment. See Schulz Decl. #1 (par 3-17, Exhs.A-I), and Schulz Decl. #2 (par 3-92, Exhs. A-ZZZ, particularly par 75-75, Exhs. EEE-GGG. See also Statement #2. This Fact was not denied by the Government and was passed over without consideration by the Court.

THE GOVERNMENT IS NOT ENTITLED TO A SUMMARY JUDGEMENT AS A MATTER OF LAW

As Schulz wrote under Point II of the memorandum in support of the motion to dismiss, the instant case is one of "first impression." Lacking any court ruling declaring the full contours of the meaning of the Petition Clause as it applies to ordinary natural citizens seeking Redress against their government for **constitutional torts**, and taking into account the plain language and the Framers' intent behind the words of the Petition Clause as expressed in the Journals of the Continental Congress and Declaration of Independence and the First Amendment itself, the 791 years of history documenting the evolution of Liberty from Runnymede to Philadelphia, and the complete failure of the Government and this Court to cite any act of Congress or case precedent that opposes Schulz's specific interpretation, the ends of Justice, Liberty and Due Process require that deference, and the presumption that those Fundamental Rights exist must be provided to Schulz who has claimed and is exercising those Rights by distributing and promoting the distribution of the target March 15, 2003 letter from Schulz to the Government and the attached Blue Folder that the Government complains of.

As argued in Schulz's pleadings, there is absolutely nothing in American History or Jurisprudence that contradicts Schulz's interpretation of the meaning of the Petition Clause of the First Amendment and critically, the Government and the Court have failed to cite any such oppositional legal authority. On the other hand, Schulz's interpretation is supported cohesively,

and seamlessly by all of history, extending centuries from the English Magna Carta to the American Declaration of Independence and beyond.

For instance, Chapter 61 of the Magna Carta (the cradle of Freedom from wrongful government, signed at a time when King John was sovereign) reads in relevant part:

> " 61. Since, moreover, for God and the amendment of our kingdom and for the better allaying of the quarrel that has arisen between us and our barons, we have granted all these concessions, desirous that they should enjoy them in complete and firm endurance forever, we give and grant to them the underwritten security, namely, that the barons choose five and twenty barons of the kingdom, whomsoever they will, who shall be bound with all their might, **to observe and hold, and cause to be observed, the peace and liberties we have granted and confirmed to them by this our present Charter**, so that if we, or our justiciar, or our bailiffs or any one of our officers, shall in anything be at fault towards anyone, **or shall have broken any one of the articles of this peace or of this security**, and the offense be notified to four barons of the foresaid five and twenty, the said four barons shall repair to us (or our justiciar, if we are out of the realm) and, laying the transgression before us, **petition to have that transgression redressed without delay**. And if we shall not have corrected the transgression (or, in the event of our being out of the realm, if our justiciar shall not have corrected it) **within forty days**, reckoning from the time it has been intimated to us (or to our justiciar, if we should be out of the realm), the four barons aforesaid shall refer that matter to the rest of the five and twenty barons, and those five and twenty barons shall, **together with the community of the whole realm**, distrain and distress us in all possible ways, namely, by **seizing our castles, lands, possessions, and in any other way they can, until redress has been obtained as they deem fit,** saving harmless our own person, and the persons of our queen and children; and **when redress has been obtained, they shall resume their old relations towards us….**" (emphasis added by the People).

Surely, Chapter 61 was a procedural vehicle for enforcing the rest of the Charter, just at the Petition Clause of the First Amendment to the Constitution of the United States of America is the procedural vehicle for enforcing the rest of the Constitution. It spells out the Rights of the People and the obligations of the Government, and the procedural steps to be taken by the People and the King, in the event of a violation by the King of any provision of that Charter: the People were to transmit a Petition for a Redress of their Grievances; the King had 40 days to respond; if the King failed to do so, the People could retain their money or violence could be **legally** employed against the King until he Redressed the alleged Grievances.[34]

[34] See Magna Carta Chapter 61. See also William Sharp McKechnie, Magna Carta 468-77 (2nd ed. 1914)

In addition, the 1689 Declaration of Rights proclaimed, "[I]t is the Right of the subjects to petition the King, and all commitments and prosecutions for such petitioning is illegal." This was obviously a basis of the "shall make no law abridging the right to petition government for a redress of grievances" provision of our Bill of Rights.

In 1774, the same Congress that adopted the Declaration of Independence adopted unanimously an Act that gave meaning to the Right to Petition for Redress of Grievances and the Right of enforcement as they spoke about the People's "Great Rights." Quoting:

> "**If money is wanted by rulers who have in any manner oppressed the People, they may retain it until their grievances are redressed, and thus peaceably procure relief, without trusting to despised petitions or disturbing the public tranquility.**" "Continental Congress To The Inhabitants Of The Province Of Quebec." Journals of the Continental Congress 1774, Journals 1: 105-13.

In 1775, just prior to drafting the Declaration of Independence, Jefferson gave further meaning to the Right to Petition for Redress and the Right of enforcement. Quoting:

> **"The privilege of giving or withholding our moneys is an important barrier against the undue exertion of prerogative which if left altogether without control may be exercised to our great oppression; and all history shows how efficacious its intercession for redress of grievances and reestablishment of rights, an hou improvident would be the surrender of so powerful a mediator."** Thomas Jefferson: Reply to Lord North, 1775. Papers 1:225.

In 1776 the Declaration of Independence was adopted by the Continental Congress. The bulk of the document is a listing of the Grievances the People had against a Government that had been in place for 150 years. The final Grievance on the list is referred to by scholars as the "capstone" Grievance. The capstone Grievance was the ultimate Grievance, the Grievance that prevented Redress of these other Grievances, the Grievance that caused the People to non-violently withdraw their support and allegiance to the Government, and the Grievance that eventually justified War against the King, morally and legally. The First Congress gave further

meaning to the People's Right to Petition for Redress of Grievances and the Right of enforcement. Quoting the Capstone Grievance:

> **"In every stage of these Oppressions We have Petitioned for Redress in the most humble terms. Our repeated Petitions have been answered only by with repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is thus unfit to be the ruler of a free people….We, therefore…declare, That these United Colonies…are Absolved from all Allegiance to the British Crown…."** *Declaration of Independence*, 1776

There can be no other interpretation of the intended effect of the First Amendment's Petition Clause. No other interpretation has been presented and none can be imagined if the original balance of power between the sovereign People and the servant government is to be preserved. **Any doubt as to this Material Fact can be safely put out of view until the Supreme Court provides us with an intended effect other than the one provided by the historical record and purpose.** There has to be *some* intended effect of every provision of the Constitution. "It cannot be presumed, that any clause in the Constitution is intended to be without effect." Justice Marshall in *Marbury v. Madison*, 5 U.S. (1 Cranch) 139 (1803).

Any doubt as to whether a judicial tribunal has the power to deviate from the original intended effect of a provision of the Constitution can be put to rest given the words of Jefferson, "On every question of the construction of the Constitution, let us carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of trying what meaning may be squeezed out of the text, or invented against it, conform to the probable one in which it was passed." Thomas Jefferson, Letter to William Johnson, Supreme Court Justice (1823).

Any doubt as to the sovereignty of the People, the supremacy of the Constitution without qualification, and the duty of judicial tribunals to apply the supreme law and reject the inferior statute whenever the two conflict can be safely put out of view given the words of the United States Supreme Court in *Carter v. Carter Coal Co.*, 298 U.S. 238 (1936):

> "And the Constitution itself is in every real sense a law-the lawmakers being the people themselves, in whom under our system all political power and sovereignty primarily resides, and through whom such power and sovereignty primarily speaks. It is by that law, and not otherwise, that the legislative, executive, and judicial agencies which it created exercise such political authority as they have been permitted to possess. The Constitution speaks for itself in terms so plain that to misunderstand their import is not rationally possible. 'We the People of the United States,' it says, 'do ordain and establish this Constitution.' Ordain and establish! These are definite words of enactment, and without more would stamp what follows with the dignity and character of law. The framers of the Constitution, however, were not content to let the matter rest here, but provided explicitly-'This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; ... shall be the supreme Law of the Land.' (Const. art. 6, cl. 2.) **The supremacy of the Constitution as law is thus declared without qualification. That supremacy is absolute; the supremacy of a statute enacted by Congress is not absolute but conditioned upon its being made in pursuance of the Constitution. And a judicial tribunal, clothed by that instrument with complete judicial power, and, therefore, by the very nature of the power, required to ascertain and apply the law to the facts in every case or proceeding properly brought for adjudication, must apply the supreme law and reject the inferior statute [298 U.S. 238, 297] whenever the two conflict.** In the discharge of that duty, the opinion of the lawmakers that a statute passed by them is valid must be given great weight, *Adkins v. Children's Hospital,* 261 U.S. 525, 544 , 43 S.Ct. 394, 24 A.L.R. 1238; but their opinion, or the court's opinion, that the statute will prove greatly or generally beneficial is wholly irrelevant to the inquiry. *Schechter Poultry Corp. v. United States,* 295 U.S. 495, 549 , 550 S., 55 S.Ct. 837, 97 A.L.R. 947." *Carter v. Carter Coal Co.*, 298 U.S. 238 (1936). (Schulz's emphasis).

And from Hamilton, *Federalist No. 78*:

> "There is no position which depends on clearer principles, than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this, would be to affirm, that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid.
>
> "If it be said that the legislative body are themselves the constitutional judges of their own powers, and that the construction they put upon them is conclusive upon the other departments, it may be answered, that this cannot be the natural presumption, where it is not to be collected from any particular provisions in the Constitution. It is not otherwise to be supposed, that the Constitution could intend to enable the representatives of the people to substitute their WILL to that of their constituents. It is far more rational to suppose, that the courts were designed to be an intermediate body between the people and the legislature, in order, among other things, to keep the latter within the limits assigned to their authority. The interpretation of the laws is the proper and peculiar province of the courts. A constitution is, in fact, and must be regarded by the judges, as a fundamental law. It therefore belongs to them to ascertain its meaning, as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcilable variance between the two, that which has the superior obligation and validity ought, of course, to be preferred; or, in other words, the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents.
>
> "Nor does this conclusion by any means suppose a superiority of the judicial to the legislative power. It only supposes that the power of the people is superior to both; and that where the will of

> the legislature, declared in its statutes, stands in opposition to that of the people, declared in the Constitution, the judges ought to be governed by the latter rather than the former. They ought to regulate their decisions by the fundamental laws, rather than by those which are not fundamental."

Though the Rights to Popular Sovereignty and its "protector" Right, the Right of Petition for Redress have become somewhat forgotten, they took shape early on by Government's *response* to Petitions for Redress of Grievances.[35] The Right is not changed by the fact that the Petition Clause lacks an affirmative statement that Government shall respond to Petitions for, "It cannot be presumed, that any clause in the Constitution is intended to be without effect." Chief Justice Marshall in *Marbury v. Madison*. 5 U.S. (1 Cranch) 139 (1803). For instance, the 26th Amend. guarantees citizens over the age of 18 the Right to Vote, it does not contain an affirmative statement that the Government shall count the votes. To argue otherwise however, would be preposterous.

The Right to Petition is a distinctive, substantive Right, from which other First Amendment Rights were *derived*. The Rights to free speech, press and assembly originated as *derivative* Rights insofar as they were necessary to protect the *preexisting* Right to Petition. Petitioning, as a way to hold Government accountable to natural Rights, originated in England in

[35] See A SHORT HISTORY OF THE RIGHT TO PETITION GOVERNMENT FOR REDRESS OF GRIEVANCES, Stephen A. Higginson, 96 Yale L.J. 142(November, 1986); "SHALL MAKE NO LAW ABRIDGING . . .": AN ANALYSIS OF THE NEGLECTED, BUT NEARLY ABSOLUTE, RIGHT OF PETITION, Norman B. Smith, 54 U. Cin. L. Rev. 1153 (1986);"LIBELOUS" PETITIONS FOR REDRESS OF GRIEVANCES -- BAD HISTORIOGRAPHY MAKES WORSE LAW, Eric Schnapper, 74 Iowa L. Rev. 303 (January 1989);THE BILL OF RIGHTS AS A CONSTITUTION, Akhil Reed Amar, 100 Yale L.J. 1131 (March, 1991); NOTE: A PETITION CLAUSE ANALYSIS OF SUITS AGAINST THE GOVERNMENT: IMPLICATIONS FOR RULE 11 SANCTIONS, 106 Harv. L. Rev. 1111 (MARCH, 1993); SOVEREIGN IMMUNITY AND THE RIGHT TO PETITION: TOWARD A FIRST AMENDMENT RIGHT TO PURSUE JUDICIAL CLAIMS AGAINST THE GOVERNMENT, James E. Pfander, 91 Nw. U.L. Rev. 899 (Spring 1997);THE **VESTIGIAL CONSTITUTION:** THE HISTORY AND SIGNIFICANCE OF THE RIGHT TO PETITION, Gregory A. Mark, 66 Fordham L. Rev. 2153 (May, 1998); DOWNSIZING THE RIGHT TO PETITION, Gary Lawson and Guy Seidman, *93 Nw. U.L. Rev. 739* (Spring 1999); A RIGHT OF ACCESS TO COURT UNDER THE PETITION CLAUSE OF THE FIRST AMENDMENT: DEFINING THE RIGHT, Carol Rice Andrews, 60 Ohio St. L.J. 557 (1999) ; MOTIVE RESTRICTIONS ON COURT ACCESS: A FIRST AMENDMENT CHALLENGE, **Carol Rice** Andrews, 61 Ohio St. L.J. 665 (2000).

the 11th century[36] and gained recognition as a Right in the mid 17th century.[37] Free speech Rights first developed because members of Parliament needed to discuss freely the Petitions they received.[38] Publications reporting Petitions were the first to receive protection from the frequent prosecutions against the press for seditious libel.[39] Public meetings to prepare Petitions led to the Right of Public Assembly.[40]

The Right to Petition was widely accorded greater importance than the Rights of free expression. For instance, in the 18th century, the House of Commons, [41] the American Colonies, [42] and the first Continental Congress[43] gave official recognition to the Right to Petition, but not to the Rights of Free Speech or of the Press.[44]

The historical record shows that the Framers and Ratifiers of the First Amendment also understood the Petition Right as distinct from the Rights of free expression. In his original proposed draft of the Bill of Rights, Madison listed the Right to Petition and the Rights to speech and press in two separate sections.[45] In addition, a "considerable majority" of Congress defeated a motion to strike the assembly provision from the First Amendment because of the

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[36] Norman B. Smith, "Shall Make No Law Abridging…": Analysis of the Neglected, But Nearly Absolute, Right of Petition, 54 U. CIN. L. REV. 1153, at 1154.
[37] See Bill of Rights, 1689, 1 W & M., ch. 2 Sections 5,13 (Eng.), reprinted in 5 THE FOUNDERS' CONSITUTION 197 (Philip B. Kurland & Ralph Lerner eds., 1987); 1 WILLIAM BLACKSTONE, COMMENTARIES 138-39.
[38] See David C. Frederick, *John Quincy Adams, Slavery, and the Disappearance of the Right to Petition*, 9 LAW & HIST. REV. 113, at 115.
[39] See Smith, *supra* n.4, at 1165-67.
[40] See Charles E. Rice, *Freedom of Petition*, in 2 ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION 789, (Leonard W. Levy ed., 1986)
[41] See Smith, *supra* n4, at 1165.
[42] For example, Massachusetts secured the Right to Petition in its Body of Liberties in 1641, but freedom of speech and press did not appear in the official documents until the mid-1700s. See David A. Anderson, *The Origins of the Press Clause*, 30 UCLA L. REV. 455, 463 n.47 (1983).
[43] See id. at 464 n.52.
[44] Even when England and the American colonies recognized free speech Rights, petition Rights encompassed freedom from punishment for petitioning, whereas free speech Rights extended to freedom from prior restraints. See Frederick, *supra* n6, at 115-16.
[45] See New York Times Co. v. U.S., 403 U.S. 670, 716 n.2 (1971)(Black, J., concurring). For the full text of Madison's proposal, see 1 ANNALS OF CONG. 434 (Joseph Gales ed., 1834).

understanding that all of the rights in the First Amendment were separate Rights that should be specifically protected.[46]

Petitioning Government for Redress has played a key role in the development and enforcement of popular sovereignty throughout British and American history. [47] In medieval England, petitioning began as a way for barons to inform the King of their concerns and to influence his actions.[48] Later, in the 17th century, Parliament gained the Right to Petition the King.[49] This broadening of participation culminated in the official recognition of the right of Petition in the People themselves.[50]

The People used this newfound Right to question the legality of the Government's actions,[51] to present their views on controversial matters,[52] and to demand that the Government, *as the creature and servant of the People, be responsive to the popular will.*[53]

In the American colonies, disenfranchised groups used Petitions to seek government accountability for their concerns and to rectify Government misconduct.[54] By the nineteenth

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[46] See 5 BERNARD SCHWARTZ, THE ROOTS OF THE BILL OF RIGHTS at 1089-91 (1980).
[47] See Don L. Smith, *The Right to Petition for Redress of Grievances: Constitutional Development and Interpretations* 10-108 (1971) (unpublished Ph.D. dissertation) (Univ. Microforms Int'l); K. Smellie, Right to Petition, in 12 ENCYCLOPEDIA OF THE SOCIAL SCIENCES 98, 98-101 (R.A. Seiligman ed., 1934).
[48] The Magna Carta of 1215 guaranteed this Right. See MAGNA CARTA, ch. 61, reprinted in 5 THE FOUNDERS' CONSTITUTION, *supra* n.5, at 187.
[49] See PETITION OF RIGHT chs. 1, 7 (Eng. June 7, 1628), reprinted in 5 THE FOUNDERS' CONSTITUTION, *supra* n5 at 187-88.
[50] In 1669, the House of Commons stated that, "it is an inherent right of every commoner in England to prepare and present Petitions to the House of Commons in case of grievances, and the House of Commons to receive the same." Resolution of the House of Commons (1669), reprinted in 5 THE FOUNDERS' CONSTITUTION, *supra* n5 at 188-89.
[51] For example, in 1688, a group of bishops sent a petition to James II that accused him of acting illegally. See Smith, *supra* n4, at 1160-62. James II's attempt to punish the bishops for this Petition led to the Glorious Revolution and to the enactment of the Bill of Rights. See Smith, *supra* n15 at 41-43.
[52] See Smith, *supra* n4, at 1165 (describing a Petition regarding contested parliamentary elections).
[53] In 1701, Daniel Defoe sent a Petition to the House of Commons that accused the House of acting illegally when it incarcerated some previous petitioners. In response to Defoe's demand for action, the House released those Petitioners. See Smith, *supra* n4, at 1163-64.
[54] See RAYMOND BAILEY, POPULAR INFLUENCE UPON PUBLIC POLICY: PETITIONING IN EIGHTEENTH-CENTURY VIRGINIA 43-44 (1979).

century, Petitioning was described as "essential to … a free government,"[55] an inherent feature of a republic[56] and a means of enhancing Government accountability through the participation of citizens.

Government accountability was understood to include response to petitions.[57]

American colonists, who exercised their Right to Petition the King or Parliament, [58] expected the Government to receive *and respond* to their Petitions.[59] The King's persistent refusal to answer the colonists' grievances outraged the colonists and as the "**capstone" grievance**, was a significant factor that led to the American Revolution.[60]

Frustration with the British Government led the Framers to consider incorporating a people's right to "instruct their Representatives" in the First Amendment.[61] Members of the First Congress easily defeated this right-of-instruction proposal.[62] Some discretion to reject petitions that "instructed government," they reasoned, would not undermine Government accountability to the People, as long as Congress had a duty to consider petitions *and fully respond to them*.[63]

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[55] THOMAS M. COOLEY, TREATISE ON THE CONSTITUTIONAL LIMITATIONS WHICH REST UPON THE LEGISLATIVE POWER OF THE STATES OF THE AMERICAN UNION 531 (6th ed. 1890).
[56] See CONG. GLOBE, 39th Cong., 1st Session. 1293 (1866) (statement of Rep. Shellabarger) (declaring petitioning an indispensable Right "without which there is no citizenship" in any government); JOSEPH STORY, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES 707 (Carolina Academic Press ed. 1987) (1833) (explaining that the Petition Right "results from [the] very nature of the structure [of a republican government]").
[57] See Frederick, *supra* n7 at 114-15 (describing the historical development of the duty of government response to Petitions).
[58] See DECLARATION AND RESOLVES OF THE CONTINENTAL CONGRESS 3 (Am. Col. Oct. 14, 1774), reprinted in 5 THE FOUNDERS' CONSTITUTION, *supra* n5 at 199; DECLARATION OF RIGHTS OF THE STAMP ACT CONGRESS 13 (Am. Col. Oct. 19, 1765), *reprinted in id*. at 198.
[59] See Frederick, *supra n7* at 115-116.
[60] See THE DECLARATION OF INDEPENDENCE para. 30 (U.S. July 4, 1776), reprinted in 5 THE FOUNDERS' CONSTITUTION, *supra* n5 at 199; Lee A. Strimbeck, The Right to Petition, 55 W. VA. L. REV. 275, 277 (1954).
[61] See 5 BERNARD SCHWARTZ, *supra* n15, 1091-105.
[62] The vote was 10-41 in the House and 2-14 in the Senate. See *id*. at 1105, 1148.
[63] See 1 ANNALS OF CONG. 733-46 (Joseph Gales ed., 1789); 5 BERNARD SCHWARTZ, *supra* n15, at 1093-94 (stating that representatives have a duty to inquire into the suggested measures contained in citizens' Petitions) (statement of Rep. Roger Sherman); *id*. at 1095-96 (stating that Congress can never shut its ears to Petitions) (statement of Rep. Elbridge Gerry); *id*. at 1096 (arguing that the Right to Petition protects the Right to bring non-binding instructions to Congress's attention) (statement of Rep. James Madison).

Congress viewed the receipt and serious consideration of every Petition as an important part of its duties.[64] Congress referred Petitions to committees[65] and even created committees to deal with particular types of Petitions.[66] Ultimately, most Petitions resulted in either favorable legislation or an adverse committee report. [67] Thus, throughout early Anglo-American history, general petitioning (as opposed to judicial petitioning) allowed the people a means of direct political participation that in turn demanded government *response* and promoted accountability.

The Government can produce nothing, no law, no Court decision, nothing that contradicts Schulz's interpretation of the meaning – the Rights of the People and the obligation of the Government -- of the last ten words of the First Amendment, nothing that would limit or deny such exercise or enforcement of the Right of Petition by individual natural citizens, including the Right of Enforcement by withholding financial support – i.e., the Right of Redress Before Taxes.

CONCLUSION

The injunction infringes on Defendants' First Amendment Rights of Speech, Press, Assembly and Petition, and seriously discredits Defendants in their attempt to educate workers and companies regarding their Rights to legally stop withholding of pay.

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[64] See STAFF OF HOUSE COMM. ON ENERGY AND COMMERCE, 99TH CONG., 2D SESS., PETITIONS, MEMORIALS AND OTHER DOCUMENTS SUBMITTED FOR THE CONSIDERATION OF CONGRESS, MARCH 4, 1789 TO DECEMBER 15, 1975, at 6-9 (Comm. Print 1986) (including a comment by the press that "the principal part of Congress's time has been taken up in the reading and referring Petitions" (quotation omitted)).
[65] See Stephen A. Higginson, Note, *A Short History of the Right to Petition the Government for the Redress of Grievances*, 96 YALE L. J. 142, at 156.
[66] See H.J., 25th Cong., 2d Sess. 647 (1838) (describing how petitions prompted the appointment of a select committee to consider legislation to abolish dueling).
[67] See Higginson, n34 at 157.