

ORIGINAL

In the District Court of the United States for the District of Columbia

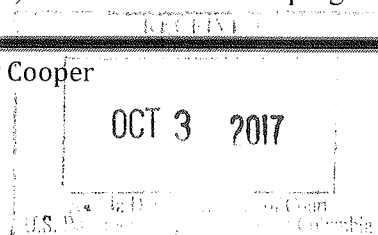
Mark Crumpacker,	§	
Plaintiff	§	
v.	§	District Cause No. 1:16-CV-1053 (CRC)
Ms. C. Ciruolo-Klepper, et al,	§	
Defendants	§	
<hr/>		
United States of America,	§	
Counterclaim Plaintiff,	§	
v.	§	COUNTERCLAIM
Mark Crumpacker,	§	
Michael Ellis, and	§	
Robert McNeil,	§	
Counterclaim Defendants,	§	

**Counterclaim Defendants’
MOTION TO RECUSE THE HON. CHRIS COOPER
& to
NOTICE SUSPENSION by TIGTA OF IRS’
“ASFR” RECORD FALSIFICATION PROGRAM**

Because Mr. Cooper repeatedly falsified the record of this case and all Class cases before his bench, in conjunction with other judges, in a transparent attempt to obstruct justice, (as detailed below), a reasonable person could question his impartiality. More specifically, since his acts favor the Government by concealing and prolonging the nine (9) step record falsification program used by IRS to enforce the income tax exaction on targeted nontaxpayers, Mr. Cooper should recuse forthwith, and, moreover, should resign from the bench.

Preliminary Notice Requested

The Court is requested to notice the September 26, 2017 announcement by the Office of the Treasury Inspector General for Tax Administration (TIGTA), that TIGTA is soon to suspend operation of the Automated Substitute for Return (ASFR) record falsification program, which



comprises only two of the nine (9) steps of IRS' layered multi-level criminal enterprise¹ used to enforce the income exaction on nontaxpayers.² Suspension of the ASFR program by TIGTA simultaneously destroys all claims by attorneys that victims have been filing "meritless", "frivolous" lawsuits by seeking to terminate the entire layered enterprise, while providing tremendous confirmation of the merit of those suits.

Background

The two steps of the ASFR portion, of the nine stage overall IRS scheme, consists of IRS use of two related computer databases to fabricate the appearance IRS prepared substitute income tax returns on claimed dates, when no such thing occurs.³ Enjoining operation of the ASFR program, as well as the other seven steps of the scheme, is the goal victims have fruitlessly sought for the past four years in Mr. Cooper's and other district courts.

But, to defeat Class cases, almost every government-employed attorney involved to date, including Mr. Cooper, Ryan O. McMonagle and others, have viciously claimed that victims seeking to terminate the ASFR program (and the other (7) stages of the IRS scheme) have supposedly been filing "meritless", "frivolous" and "vexatious" litigation, and the attorneys have repeatedly falsified the record of all class cases to conceal and prolong the underlying felonious enterprise. (The repeated falsification of the federal record of Class cases appears to have been proscribed at 18 USC §4, as acts of misprision.)

¹ See Exh. A. "Nine (9) Step IRS DoJ Income Tax Enforcement Program, with documentary support provided courtesy of IRS.

² "The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers, and not to nontaxpayers. The latter are without their scope. No procedure is prescribed for nontaxpayers, and no attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not assume to deal, and they are neither of the subject nor of the object of the revenue laws..." *Long v. Rasmussen*, 281 F.236@238 (1922).

³ The ASFR program manipulates IRS's Individual Master File and AIMS databases resulting in the falsification of the IMF annual module concerning targeted nontaxpayers, making it appear IRS prepares substitute income tax returns on claimed dates, when no such thing happened. Falsifying government records is proscribed by Congress at 18 USC §1001.

Specifically, as shown below, the attorneys fabricated and attributed to victims/litigants *inter alia* that they supposedly seek as relief to “enjoin IRS creation of substitute income tax returns.” But, since TIGTA is suspending IRS operation of the felonious ASFR scheme, the attorneys are now going to have to explain how that suspension does not provide full justification for victims’ suits filed to terminate the entire IRS record fabrication scheme, including the ASFR program.

However, Christopher R. Cooper should not be allowed to rule on the pending motion by Ryan McMonagle (to sanction Counterclaim Defendants), since Cooper’s impartiality might VERY reasonably be questioned, in light of his acts supporting the criminal enterprise, as shown below.

Recusal Standard under §455(a)

The statute requires recusal in any case “in which [the judge’s] impartiality might reasonably be questioned.” “The purpose of the section 455(a) is to promote public confidence in the integrity of the judicial process.”⁴ Under this Section, every Circuit has adopted some version of the “reasonable person” standard. [See *In re Barry*, 946 F.2d 913, 914 (D.C. Cir 1991.) And “in determining whether a judge had the duty to disqualify himself, our focus must be on the reaction of the reasonable observer. If there is an appearance of partiality, that ends the matter.”⁵ And, “although judicial rulings alone almost never constitute a valid basis for bias or partiality motion”,⁶ (as noted supra), they can if “they display a deep-seated favoritism or antagonism that would make fair judgment impossible.”⁷

Application of the Reasonable Person Review to Cooper’s acts

Even without the recent long-overdue suspension by TIGTA of the ASFR record falsification program, any reasonable person, viewing Mr. Cooper’s actions, would realize he has

⁴ See *Liljeberg v. Health Services Acquisition Corp*, 486 U.S. 847 (1988).

⁵ See for persuasive example, *U.S. v. Antar*, 53 F.3d 568 (3rd Cir. 1995)

⁶ *Liteky v. United States*, 510 U.S. 540 (1994).

⁷ *Id.* at 555.

demonstrated an overwhelming bias favoring the attorney-driven IRS scheme, and that he is a bitter, personal antagonist of his victims and the Rule of Law. On March 8, 2017, a DoJ attorney identified a core act IRS victims have been seeking to enjoin:

“The United States is aware that plaintiffs allege that the Service never actually prepares substitutes for [income tax] returns, but rather inputs computer codes to make it appear as though a substitute return has been filed. **The United States categorically denies this allegation.**” [Judge Cooper is again requested to judicially notice 17-00022, *Stanley, et al, v. Lynch, et al, Motion to Consolidate Cases*, March 8, 2017, Doc. 11, filed by Megan Hoffman-Logsdon, Pg. 3, FN 1.]

Victims agree with that key, correct (but partial) summary by the Government of the merits of their cases: IRS never prepares substitute income tax returns on any date shown in its systematically falsified computer and paper records concerning targeted nontaxpayers.⁸

As relief from the scheme, as noted above, victims very reasonably seek to enjoin the IRS scheme to fabricate both digital and paper records to conceal IRS’ failure to prepare substitute income tax returns. But, neither in his sanction Order, nor in any other document filed by Mr. Cooper in any Class case, did he even mention the actual controversy between the Government and victims, let alone adjudicate it. In fact, he and all other federally employed attorneys have “scrupulously” avoided mentioning and adjudicating that narrow controversy.⁹

To aid the attorney scheme to avoid adjudicating the ACTUAL allegations of victims’ cases, Judge Cooper fabricated and attributed to victims allegations they did NOT make, and relief they did NOT seek. For examples, in his “Opinion and Order” of December 31, 2016, wherein he

⁸ As noted above the falsification of IRS digital records concerning victims, which IRS labels the “ASFR program”, comprises only two of the nine (9) steps in the overall IRS record scheme victims seek to enjoin.

⁹ When judges refuse to adjudicate the merits of cases before their bench, the Supreme Court held such acts to be “treason to the Constitution”. “We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution.” *Cohens v. Virginia*, 19 U.S. (6 Wheaton) 264, 387 (1821), Chief Justice John Marshall. Such act also violates litigants’ First Amendment right to “meaningful” judicial relief, and is moreover a “manifest injustice”.

dismissed five class cases simultaneously, (but without finding them “meritless”!), Mr. Cooper fabricated that victims supposedly allege “IRS’s preparation and use of substitute tax returns amounts to a ‘record-falsification scheme’.”¹⁰ **Plaintiffs categorically deny making such ludicrous claim.**

Mr. Cooper’s **fabrication** contradicts their Complaint allegations that IRS neither “prepares” a substitute income tax return on any date shown in its falsified records, nor does IRS “use” them. As Mr. Cooper knows, what victims ACTUALLY claim is that IRS invariably falsifies records to reflect IRS’ pretended preparation of substitute income tax returns concerning victims, to conceal the fact IRS never prepares substitute income tax returns on any date. The falsification of digital records, (and subsequent fabrication of falsified paper records based thereon), is what victims ACTUALLY seek to terminate, and Mr. Cooper knows those allegations state a claim. [Which explains why he refused to cite a single word from victims’ filings to support his deliberately false summary statements of their complaint allegations.] Thus, Mr. Cooper circumvented his duty to adjudicate the actual CONTENT of victims’ complaints by deliberately misrepresenting their core allegation.

For a second example, whereupon a reasonable person might conclude Mr. Cooper holds overwhelming bias favoring the Government, Mr. Cooper falsified the record of this case in his sanctions order by literally fabricating and attributing to Class victims *relief they never requested*, i.e., he claimed IRS Class litigants supposedly seek to enjoin “IRS’s preparation or alleged falsification of SFRs.” [See Mem. Op., April 19, 2017, Pg. 6, first full sentence.] **Again, victims categorically deny seeking such ludicrous relief.**

Since victims ACTUALLY complain IRS never prepares substitute income tax returns on any date shown in IRS records, victims do NOT challenge any pretended preparation of substitute

¹⁰ See Opinion and Order, December 31, 2016, Pg. 2, Fourth sentence.

income tax returns; it never happens, thus can't "be challenged." Neither have victims complained IRS is "falsifying SFRs", and Mr. Cooper failed to cite (and cannot cite) any complaint language showing they did. They seek to enjoin IRS failure to prepare substitute income tax returns and IRS subsequent falsification of records concerning victims to conceal that failure.

In short, by repeatedly attributing to victims allegations they never made and relief they never sought, Mr. Cooper avoided adjudicating the merits of their cases, and brought them within the ambit of Anti-Injunction Act prohibitions, thus disposing of the cases on jurisdictional grounds *utterly unrelated to the litigants' complaints*.¹¹ It is evidence of partiality when a judge defeats the equitable jurisdiction of his court by fabricating and attributing to litigants complaint allegations they never made, and relief they never sought. It is an even greater injustice when he terminates victims' rights to access courts on the basis of his fabrications.¹²

For another example leading a reasonable person to question Mr. Cooper's impartiality, in order for him to justify sanctions of Counterclaim Defendants Ellis and McNeil, he failed to analyze in his sanctions order the ACTUAL content of the litigants' filings, and failed to show that the filings were "irrational", "incoherent", or "evidence a complete lack of substantive allegations",

¹¹ Further, since the AIA withdrew from courts power to adjudicate taxpayers attempts to enjoin any IRS assessment or collection activity, but since Plaintiffs complain that IRS never performs the assessment activity of preparing substitute income tax returns on any date shown in their records, victims aren't attempting to enjoin any assessment or collection activity. Victims seek to enjoin a "NON-ACT", the failure of IRS to prepare substitute income tax returns, and the subsequent falsification of federal records to conceal that failure.

Thus, the relief they actually seek fits their cases within the equitable exception to the Anti-Injunction Act noted by the Supreme Court in *Enochs v. Williams Packing and Navigation Company*, 371 U.S. 1, (1962). The attorneys know that. Hence, they rewrite complaints and assign to litigants allegations they did not make to defeat the equitable jurisdiction of their courts.

¹² Appellants respectfully requested via Rule 59 that Christopher R. Cooper remedy those apparent injustices by quoting specifically from Complaints filed by litigants where victims present language supporting his bald finding they supposedly claim "IRS's preparation and use of substitute tax returns amounts to a 'record-falsification scheme'", and where victims supposedly "challenge the IRS's preparation or alleged falsification of SFRs." But he failed to even address ANY issue raised when denying Rule 59 relief.

as binding Circuit precedent requires. Neither did he show, per Circuit precedent, that any complaint filed by Appellants had been previously dismissed as “frivolous” or “without merit.” Incredibly, of the five Class cases he dismissed simultaneously after hours on Saturday evening, December 31, 2016, he did not declare any of them to be “frivolous” or “without merit.” A reasonable person could thus see that Mr. Cooper only found the cases he dismissed to be supposedly “meritless” after discovering the Circuit requires such finding to justify the pre-filing sanction he wanted to impose upon Ellis and McNeil.

And, in most delicious irony, a reasonable person could conclude that Mr. Cooper ignored and left unadjudicated the merits of his victims’ cases, fabricated and attributed to his victims allegations they did NOT make and relief they did NOT seek, then declared his own mutant, variant version of their cases “meritless,” in order to justify sanctioning Ellis and McNeil. No more Kafkaesque parody of justice is imaginable.

Summary

A reasonable person, reviewing only those acts by Chris R. Cooper cited above¹³ could conclude that The Honorable gentleman has been obstructing justice and is incapable of impartially adjudicating Ryan O. McMonagle’s Motion for Sanctions, or Ellis and McNeil’s Opposition thereto. Specifically, the Honorable Cooper should recuse, in light of the following acts, as viewed from the perspective of a reasonable person: He

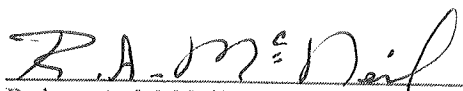
¹³ We leave unenumerated Mr. Cooper’s collusion with The Hon. Amy Berman Jackson to consolidate all Class cases on his docket for simultaneous dismissal without adjudicating their merits; his collusion with Ms. Jackson to terminate Counterclaim Defendants’ rights to access courts to complain of the IRS criminal enterprise, including the recently suspended ASFR program; his concealment in his office of his victims’ “Answer and Cross-Counterclaim” which they attempted to file in September 2016; his refusal to serve on his victims his dismissal order entered after 5 p.m. on Saturday evening, December 31, 2016, etc., etc., etc.

- Falsified the record of all class cases by fabricating and attributing to his victims allegations they did not make, and relief they did not seek;
- Dismissed all class cases without adjudicating their merits;
- Dismissed all class cases on the basis of his fabrications;
- Sanctioned Counterclaim Defendants for having the temerity to file, and to assist others to file, respectful lawsuits seeking to enjoin the entire IRS record falsification scheme, (including the two step ASFR portion);
- Claimed that Ellis & McNeil had filed, and assisted others to file, “meritless” cases seeking to enjoin the ASFR program; and
- Ignored and REFUSED to terminate the ASFR program himself, which has just been terminated by TIGTA, and which involves just two of the nine steps in the overall criminal enterprise Chris Cooper’s fellow attorneys use to enforce the income tax exaction.

Relief Requested

In light of the just-announced termination by IRS of its ASFR program, and the other arguments presented above, Ellis and McNeil respectfully request that Mr. Chris Cooper recuse himself and resign from the bench, allowing others to adjudicate Mr. Ryan O. McMonagle’s Motion for Sanctions, (inarguably filed to harass, and not for any legitimate purpose).

Sincerely,



Robert A. McNeil
729 Grapevine Hwy. #148
Hurst, Texas 76054

Dated: 10/2/17



Michael B. Ellis
5052 N.E. County Road 0220
Rice, Texas 75155

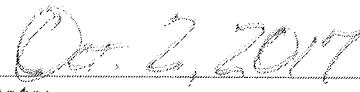
Dated: Oct. 2, 2017

Verification/Declaration


Comes now Counterclaim Defendants, declaring under penalty of perjury, pursuant to 28 U.S.C. §1746, that every single word in the foregoing **Motion to Recuse...** is true and accurate to the very best of their knowledge and belief. This filing is not intended to harass anyone, but by the open statement of the truth, commend ourselves to everyone's conscience, in the sight of God.




Michael B. Ellis



Date:



Robert A. McNeil



Date:

CERTIFICATE of SERVICE

I certify that a copy of the forgoing **Motion to Recuse....** was served via United States Mail on or about 2 October 2017, to the following:


Ms. Loretta Lynch
United States Attorney General
Department of Justice
950 Pennsylvania Ave. NW
Washington, D.C. 20530

Mr. John Koskinen
Commissioner, IRS
Attn: Office of Procedure and Administration
1111 Constitution Ave. NW, Room 5503
Washington, D.C. 20224

Mr. Channing D. Phillips
U.S. Attorney for the District of Columbia
Attn: Civil Process Clerk
555 Fourth Street, NW
Washington, D.C. 20530

Ms. Caroline D. Ciruolo-Klepper
Acting Assistant Attorney General
Tax Division
U.S. Department of Justice
950 Pennsylvania Avenue, Room 4603
Washington, D.C. 20530

Mr. Ryan O. McMonagle
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 227, Ben Franklin Station
Washington, D.C. 20044



Robert A. McNeil



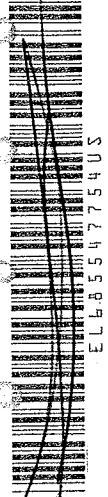
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