

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

Brian P. Carr, Rueangrong Carr, and Buakhao Von Kramer Plaintiffs versus United States, US Department of Justice, USPS, USPS OIG, USPS BoG, US CIGIE, Department of State, Department of State OIG, USCIS, DHS OIG, and SSA Defendants	 Civil No. 3-23CV2875 - S Verified ¹ Brief of Mr. Carr Supporting Counts 10 and 11 Against IRS and TIGTA
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**Brief of Mr. Carr Supporting Counts 10 and 11
Against IRS and TIGTA**

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¹ The Verification of this document is at the end of this document.

Introduction

Standard Challenges and Defenses Discussed

This verified affirmation will present the legal arguments which demonstrate that both Count 10 and Count 11 have valid claims to be considered by the court. The basic form of a claim is to demonstrate that the defendants:

- had a duty to perform certain acts,
- that they did not perform the required acts,
- that the plaintiffs were damaged by their failure to act, and
- that the court can remedy the problem through valid orders.

Each element of the above will be discussed for each count to address the standard challenge of ‘failure to state a claim’ which means that one or more of the above elements is not alleged (the traditional form) or affirmed in this case as this is a verified complaint and brief.

As all of the defendants are government agencies, another standard challenge which will be addressed is sovereign immunity which really means that government agencies can only be ordered to perform actions which are authorized by Congress or the constitution with a special focus on the disbursement of government funds (the power of the purse) which the constitution specifically reserves for Congress (and not the courts).

There is also an extension of sovereign immunity which is executive discretion which says that when Congress gives conflicting or ambiguous statutes then it is up to the senior executive to decide what is the best course and the courts shouldn’t micro-manage decisions in areas where the executives are assumed to have the best knowledge and experience (that is what they were hired for).

The statutes and case law for sovereign immunity and executive discretion are discussed in ECF 67-3, a verified brief on that topic, which also discusses the difference between a credit for future services (or a credit for future taxes) and direct payments from the federal government.

Count 10, IRS Ignores Due Process and Improperly Demands Payment

Contested Amount Paid Under Duress of Seizure, i.e. Improper ‘Shakedown’

The IRS sent us tax penalty notices which were for an incorrect and over stated amount for estimated tax payments. We appealed but no one in IRS seemed to understand estimated tax payments and the penalties for ‘Annualized Income’ and so the appeal was passed off between groups without any resolution.

However the IRS convinced us to pay the over stated penalties which were not really due by making illegal threats to seize our property (even though the appeal was still bouncing around unresolved). Once we paid the contested penalties, the IRS simply forgot about the pending appeal (put the appeal into the metaphorical shredder) and ignored the matter.

The IRS only sent us the required refund when apparently DoJ encouraged them to resolve any outstanding issues as part of the February 2025 blitz just before the court dismissed this complaint.

IRS Ignored Due Process and Statute Mandated 30 Day Notice

The IRS failed its duty to perform through the absence of due process. Specifically the IRS is precluded from seizing property (or threatening to seize property) while an appeal is outstanding. Also, it is a crime of falsifying government records ([18](#)

USC § 1001) to claim that we must make payment immediately while an appeal is pending. Similarly, 8 USC § 6331 requires the IRS to provide 30 day notice before seizing property and to not include that notice is concealing a material fact, also a crime under (18 USC § 1001).

IRS Must Forgive Penalties Which Result From Incomprehensible Rules

In addition, the estimated tax Form 2210 is too complex to be comprehensible by an ordinary tax payer (or most IRS tax professionals it seems) and the IRS has a duty insure that directions for paying taxes are meaningful to individual taxpayers. The IRS also has the authority to waive penalties in the interest of justice and so inadvertent errors by individual taxpayers must be forgiven if they are the result of incomprehensible estimated tax payment requirements.

Plaintiffs Were Harmed By Illegal Shakedown, Incomprehensible Forms

The relief sought is damages from the illegal ‘shakedown’ of penalties which were not really due. While the contested amount was eventually refunded, the interest provided did not fully cover the damages.

Further, we had asked for a one time forgiveness of the penalties as we did not know how to compute the required estimated tax payments when there was ‘Annualized Income’ and this has not been provided.

The Court Can Order the IRS to Refund Penalties, Provide Better Tools

As stated previously, the IRS is authorized to waive penalties and so can comply with a court order to that effect. We are also seeking ancillary relief of the IRS answering FOIA requests to determine the magnitude of the problems with such penalties and potentially converting this count into a class action suit. Lastly we are asking that the court order the IRS to improve support for estimated tax

payments in the case of ‘Annualized Income’ which, as stated previously, is already required of the IRS.

TIGTA Failed to Report Crimes, Provide Relief

We complained to TIGTA, the IRS Commissioner, and DoJ of the due process violations and crimes of falsifying government records (see ECF 67-1), but it was ignored until the DoJ decided to wrap up the related matters in this suit in Feb 2025 blitz (perhaps in collusion with the court and their effort to bury the matter).

The precise details of the above interactions are listed in the proposed Second Amended Complaint (ECF 76-1)

Count 10, IRS Ignored Due Process and Lawful Statutes

IRS ‘Shakedown’ Was Illegal

The details of the IRS ‘Shakedown’ are listed in the Proposed Second Amended Complaint (ECF 76-1), but a summary is presented below.

The IRS sent us a notice that we owed penalties for under payment of estimated taxes even though we had paid the required 90% of total taxes due by the last payment. Of course our income was not evenly distributed through the year and so our estimated tax payments were not equal and the penalties were computed assuming equal income in each tax period (even though the tax periods are not all the same length and our income widely varied for each tax period).

I promptly appealed the penalty and inquired about how to compute estimated taxes when our income varies widely through the year. No one I spoke with (or wrote to) seems to have understood Form 2210 which is used to compute the

required estimated tax payments for each tax period through the ‘Annualized Income’ worksheets and the penalty due for any under payment for any tax period. As a result the appeal languished with IRS agents and the IRS appeals tribunal shuffling the appeal around as no one seems to have understood how to compute the required estimated tax payments and the penalty which results from under payment.

While the appeal was being passed off between groups, the collections department continued the notices (never mentioning the appeal) and finally sent a CP504 (ECF 67-16) demanding immediate payment of the balance due or they would seize our property (e.g. house, car, business accounts).

This CP504 was in error in two ways:

- Pending active appeals preclude any seizure of property and
- the IRS must provide 30 days notice before seizing property (by statute)

We paid the balance due at that time of pay \$753.70² which was a paltry sum compared to the inconvenience and damages which would result from having our house, car, and business accounts seized.

Once we paid the balance the IRS claimed we owed (but which we thought was an illegal ‘shakedown’) the IRS simply ignored our appeal and did not respond to any queries about the appeal. From the IRS perspective, they had the money and any resolution to the appeal would surely entail a refund.

Duty to Perform, Damages, Relief Elaborated in Complaint

The Proposed Second Amended Complaint (ECF 76-1), in the IRS arguments

² When I had submitted a completed Form 2210 to ‘Appeals’ as requested, I also made payment of a reduced penalty of \$340.81 which I had computed using Form 2210.

sections provides a detailed explanation of the relevant statutes which demonstrate that the IRS had a duty to perform with Internal Revenue Code Section 6331(d) which is [26 USC § 6331](#) and [18 USC § 1001](#). The IRS has explained the constitutional due process rights for taxpayers in the widely published IRS '[Taxpayer Bill of Rights](#)', ECF 70-6, and the IRS clearly violated two of these rights as elaborated in the complaint itself.

There is also a separate brief (ECF 71-9) concerning the failures of the IRS to provide sufficient documentation, advice, or tools for an individual taxpayer to determine the amount of estimated tax payments actually required in the case of 'Annualized Income'. It also discusses the duty to perform based substantially on the due process requirement that individuals can not be penalized for not being omniscient or omnipotent (from ECF 71-8). It suggests how the IRS can migrate from broad forgiveness of penalties until the appropriate staff and tools can provide the required support.

FOIA Requested Records Not Provided

In order to properly document the violations of due process and clear and specific statutes, I had submitted FOIA requests to the IRS as described in the proposed Second Amended Complaint (ECF 76-1) in the section 'IRS FOIA Requests'.

The court has authority to order DoS to produce those records and we are seeking such relief, see [5 USC § 552\(a\)\(4\)\(B\)](#) which states:

(B) On complaint, the district court of the United States ... has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.

The records sought will clarify and substantiate the violations to due process as well as aid in determining the number of other individuals so impacted and whether this count is a good candidate for becoming a class action suit.

Relief Sought Is Proper

The IRS is authorized to waive penalties and we are seeking a waiver of all penalties for the delay in estimated tax payments. We are also seeking ancillary relief of the IRS answering FOIA requests to determine the magnitude of the problems with such penalties and potentially converting this count into a class action suit. Lastly we are asking that the court order the IRS to improve support for estimated tax payments in the case of ‘Annualized Income’ which, as stated previously, is already required of the IRS.

Count 11, TIGTA Did Not Report Crimes or Support the Constitution

On 17 Dec 2024 I requested assistance from the IRS, Treasury Inspector General for Tax Administration (TIGTA), CIGIE, DoJ, and USATXN via email but we have not received any response to date (see ECF 67-1).

TIGTA Had Clear Duty to Perform

TIGTA has clear statutory mandates to work with the IRS to resolve these problems and to report federal crimes to DoJ which it failed to do. The duties of OIGs and DoJ to support the constitution (protect individual constitutional rights and insure compliance with lawful statutes in their respective domains) and report federal crimes (OIG) and enforce the law (DoJ) is discussed in ECF 75-7, a brief on the duties of OIGs and DoJ.

Sovereign Immunity and Executive Discretion Do Not Apply

The primary relief sought is strict adherence to foundational statutes and mandates

as supported in [Marbury v. Madison \(1803\)](#) and the APA [5 USC § 702](#). The restrictions on 'sovereign immunity' and executive immunity are discussed at length in my brief on that topic (ECF 67-3).

Further, contrary to the broad claims of executive discretion by USATXN, it is not applicable here as the relief sought is simply a mandate that IG and OIG staff members be required to report federal crimes to DoJ as dictated in clear and unambiguous statutes.

Conclusion

The court is asked to direct that the IRS provide credits for future taxes to us for the damages we sustained from the illegal 'shakedown' as well as the base penalties which resulted from our lack of understanding on how to compute the amount of estimated tax payments in the event of 'Annualized Income'.

We also ask that the IRS release the requested FOIA records so that the court can determine the magnitude of this problem with other taxpayers. If necessary, the above relief could be expanded as a class action suit for similarly damaged taxpayers.

In addition, as ancillary relief the court is asked to order the IRS to cease its illegal 'shakedowns' as well as providing widespread relief from penalties for estimated tax payments when there could be 'annualized income' confusion.

This widespread relief from penalties will continue until the IRS can provide adequate support, documentation, and tools so that estimated tax payments in the 'annualized income' case are manageable for individual taxpayers.

Verification of Brief

I hereby affirms under penalty of perjury in both the United States and Thailand that as an individual:

1. I have reviewed the above affirmation and believe all of the statements to be true to the best of my knowledge.
2. I have reviewed the associated documents and exhibits and believe them to be true and accurate copies with the exception of the documents identified as being redacted. The redacted documents have only been altered to remove sensitive personal information or other redactable information (as cited in the redaction) according to normal redaction procedures.

I hereby reaffirm that the above is true to the best of my knowledge under penalty of perjury in both the United States and Thailand.

/s Brian P. Carr

Brian P. Carr
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Date: 8. Aug. 2025
Location: Irving, Texas

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