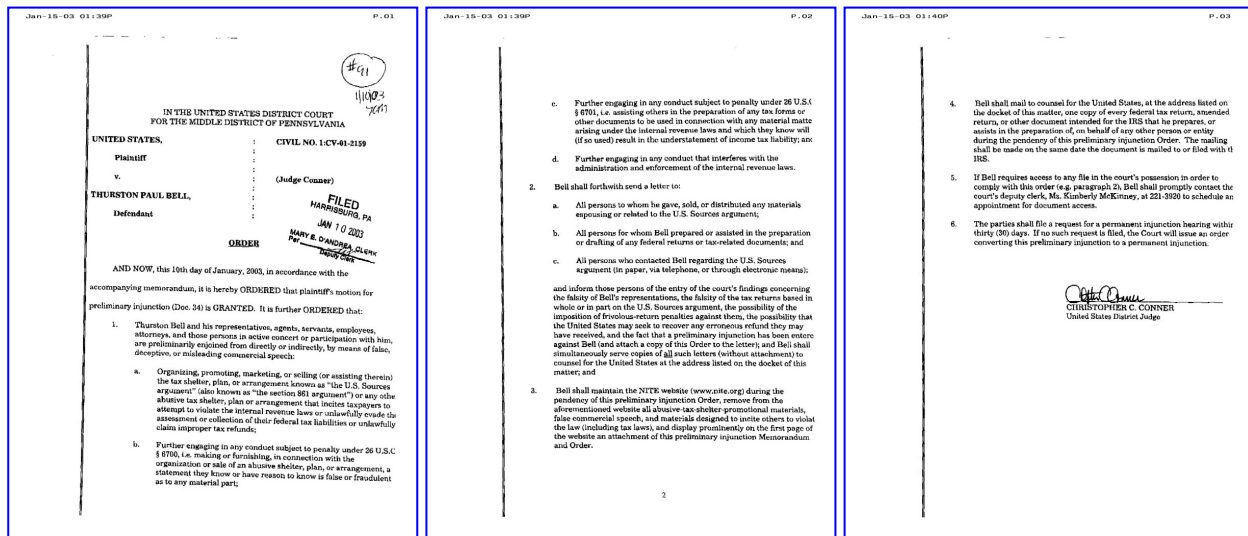


**When even one American - - who has done nothing wrong is forced by fear to shut his mind and close his mouth, then all Americans are in peril.**

**Harry Truman**

**ENJOINED**

Judge Conner's ORDER  
Please click on the images to enlarge.



[Court's Memorandum Supporting Preliminary Injunction](#)

[Mr Bell's Memorandum In support of Motion to Stay Preliminary Injunction Click here and see how there is no evidence in the case and convoluted, conflicting and inconsistent the reasoning of the court is.](#)

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**USA v. Bell: 11/04/2002 HEARING LINKS**

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#91  
1/10/03  
TCM

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

<b>UNITED STATES,</b>	:	<b>CIVIL NO. 1:CV-01-2159</b>
	:	
<b>Plaintiff</b>	:	
	:	
<b>v.</b>	:	<b>(Judge Conner)</b>
	:	
<b>THURSTON PAUL BELL,</b>	:	
	:	
<b>Defendant</b>	:	

**FILED**  
HARRISBURG, PA  
JAN 10 2003  
MARY E. D'ANDREA, CLERK  
Per Deputy Clerk

**ORDER**

AND NOW, this 10th day of January, 2003, in accordance with the accompanying memorandum, it is hereby ORDERED that plaintiff's motion for preliminary injunction (Doc. 34) is GRANTED. It is further ORDERED that:

1. Thurston Bell and his representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with him, are preliminarily enjoined from directly or indirectly, by means of false, deceptive, or misleading commercial speech:
  - a. Organizing, promoting, marketing, or selling (or assisting therein) the tax shelter, plan, or arrangement known as "the U.S. Sources argument" (also known as "the section 861 argument") or any other abusive tax shelter, plan or arrangement that incites taxpayers to attempt to violate the internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities or unlawfully claim improper tax refunds;
  - b. Further engaging in any conduct subject to penalty under 26 U.S.C § 6700, i.e. making or furnishing, in connection with the organization or sale of an abusive shelter, plan, or arrangement, a statement they know or have reason to know is false or fraudulent as to any material part;



- c. Further engaging in any conduct subject to penalty under 26 U.S.C. § 6701, i.e. assisting others in the preparation of any tax forms or other documents to be used in connection with any material matter arising under the internal revenue laws and which they know will (if so used) result in the understatement of income tax liability; and
- d. Further engaging in any conduct that interferes with the administration and enforcement of the internal revenue laws.

2. Bell shall forthwith send a letter to:

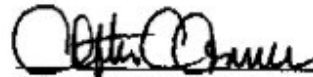
- a. All persons to whom he gave, sold, or distributed any materials espousing or related to the U.S. Sources argument;
- b. All persons for whom Bell prepared or assisted in the preparation or drafting of any federal returns or tax-related documents; and
- c. All persons who contacted Bell regarding the U.S. Sources argument (in paper, via telephone, or through electronic means);

and inform those persons of the entry of the court's findings concerning the falsity of Bell's representations, the falsity of the tax returns based in whole or in part on the U.S. Sources argument, the possibility of the imposition of frivolous-return penalties against them, the possibility that the United States may seek to recover any erroneous refund they may have received, and the fact that a preliminary injunction has been entered against Bell (and attach a copy of this Order to the letter); and Bell shall simultaneously serve copies of all such letters (without attachment) to counsel for the United States at the address listed on the docket of this matter; and

3. Bell shall maintain the NITE website (www.nite.org) during the pendency of this preliminary injunction Order, remove from the aforementioned website all abusive-tax-shelter-promotional materials, false commercial speech, and materials designed to incite others to violate the law (including tax laws), and display prominently on the first page of the website an attachment of this preliminary injunction Memorandum and Order.



4. Bell shall mail to counsel for the United States, at the address listed on the docket of this matter, one copy of every federal tax return, amended return, or other document intended for the IRS that he prepares, or assists in the preparation of, on behalf of any other person or entity during the pendency of this preliminary injunction Order. The mailing shall be made on the same date the document is mailed to or filed with the IRS.
5. If Bell requires access to any file in the court's possession in order to comply with this order (e.g. paragraph 2), Bell shall promptly contact the court's deputy clerk, Ms. Kimberly McKinney, at 221-3920 to schedule an appointment for document access.
6. The parties shall file a request for a permanent injunction hearing within thirty (30) days. If no such request is filed, the Court will issue an order converting this preliminary injunction to a permanent injunction.



CHRISTOPHER C. CONNER  
United States District Judge





1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE MIDDLE DISTRICT OF PENNSYLVANIA  
3 HARRISBURG DIVISION

3 UNITED STATES OF AMERICA, : CASE NO.  
4 Plaintiff : 1:01-CV-2159  
5 :  
6 vs. :  
7 : Harrisburg, PA  
8 : (Judge Conner)  
9 THURSTON PAUL BELL, individually :  
10 and d/b/a/ NATIONAL INSTITUTE :  
11 FOR TAXPAYER EDUCATION, : 4 November 2002  
12 Defendants : 9:30 a.m.  
13 .....:

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
TRANSCRIPT OF PRELIMINARY INJUNCTION HEARING  
BEFORE THE HONORABLE CHRISTOPHER CONNER  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the United States:

Evan J. Davis, Esquire  
Donald N. Dowie, Esquire  
U.S. Department of Justice  
Tax Division, Central Trial Section  
Washington, D.C. 20530  
202-514-0079

For the Defendant:

Thurston Paul Bell (appearing pro se)  
118 Carlisle Street, Suite 201  
Hanover, PA 17331  
717-637-7797

Court Reporter:

Wesley J. Armstrong, RPR  
228 Walnut Street, Room 804  
Harrisburg, PA 17108  
443-418-7154

## P R O C E E D I N G S

1

2

THE COURT: Thank you. Please be seated.

3

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5

6

7

We're here today on the government's motion for preliminary injunction against Thurston Paul Bell, case number 1-CV-01259. It's the government's motion. Would counsel identify themselves for the record?

8

9

10

11

12

13

MR. DAVIS: Excuse me. Certainly, Your Honor. My name is Evan Davis. I'm government counsel. This is Don Dowie, who also is going to counsel. Actually in the front row is another attorney who just joined our office named Michael Raum, and down here is Chris Roginsky, who's an IRS employee.

14

15

16

17

18

THE COURT: Good morning.

MR. ROGINSKY: Good morning, Your Honor.

THE COURT: You may be seated, and Mr. Bell, you're representing yourself, is that correct?

MR. BELL: Yes, Your Honor.

19

20

21

22

THE COURT: Okay. Because you're going to I assume be testifying at some point during this proceeding, I'm going to swear you in now so that you're under oath, okay?

23

24

25

MR. BELL: Certainly.

THE COURT: Please rise and give the oath, Ms. McKinney.

1 (Mr. Thurston Paul Bell was sworn by the  
2 courtroom deputy.)

3 THE COURT: Okay. The government may proceed.

4 MR. DAVIS: Thank you, Your Honor. Your Honor,  
5 the defendant Thurston Bell needs to be stopped now  
6 before he causes further damage to his clients or  
7 the United States Treasury. Bell is selling an  
8 abusive tax scheme, defrauding his clients, and  
9 bilking the U.S. Treasury. Bell helped clients file  
10 tax returns based on his frivolous U.S. sources  
11 argument, which fraudulently claims that all  
12 domestic income is tax free.

13 Bell claims that his clients have received  
14 refunds in excess of a million dollars based on this  
15 frivolous scheme. Bell also recruits so-called  
16 senior fellows to spread his gospel throughout the  
17 country and recruit more clients. Bell's clients  
18 are relying on him and his fellows to provide sound  
19 tax advice, but Bell, who has no tax accounting or  
20 legal training, claims to be the only one who really  
21 understands the tax code.

22 Nothing can be further from the truth. The  
23 argument is a consistent loser, the U.S. sources  
24 argument. All taxpayers who have raised it have  
25 lost, most have been penalized, and most courts have

1 deemed it to be a frivolous argument. Three former  
2 clients or associates have been summarily enjoined  
3 for promoting the same argument, but Bell still  
4 continues.

5 Bell's activities have resulted in harm to the  
6 government. Clients use Bell's arguments to evade  
7 their taxes and to delay the IRS process. The  
8 government will eventually catch up with these  
9 clients and subject them to possible civil and  
10 criminal penalties. Audits and investigations will  
11 continue, and the government has filed three  
12 erroneous refund suits against Bell's clients or  
13 former clients, but some erroneous refunds still  
14 slip through.

15 In the meantime Bell is enriched by charging  
16 his clients, and the government is left holding the  
17 bag. What does the government need to show for its  
18 preliminary injunction? Under Internal Revenue Code  
19 Section 7408 the government must show that Bell's  
20 conduct violates one of the two penalty sections,  
21 6700 or 6701, and that an injunction is appropriate  
22 to prevent the recurrence of that penalty conduct.

23 The government's preliminary injunction motion  
24 and exhibits shows that Bell has violated Section  
25 6700. Bell has organized and sold the tax plan or

1 arrangement. He has made material statements about  
2 the excludability of income from taxation. He's  
3 told people that unless their income is on a defined  
4 narrow limit that is essentially just foreign  
5 income, their income is tax free. Further,  
6 Bell knew or had reason to know that his argument  
7 was false or fraudulent. He knows of the cases  
8 ruling against this U.S. sources, or also known as  
9 the 861 argument, but he still continues.

10 The government's motion also showed that Bell  
11 is violating Section 6701. Bell prepared and  
12 assisted others to prepare documents, tax returns,  
13 and letters that he knew or had reason to know would  
14 be sent to the IRS, and Bell also knew that those  
15 documents would result in an understatement of  
16 income -- excuse me, of tax liability for his  
17 clients.

18 Further, Bell essentially has admitted that he  
19 won't stop absent a court order. So we've shown  
20 that the injunction is appropriate to prevent the  
21 recurrence. Further, the court can enjoin Bell  
22 under Section 7402 of the Internal Revenue Code if  
23 an injunction is necessary or appropriate to the  
24 enforcement of Internal Revenue law. This  
25 essentially is a catch-all statute that allows the

1 court fully specifically to focus on conduct that is  
2 not subject to penalty under Section 6700 or 6701,  
3 but is still essentially gumming up the IRS works in  
4 the case of Thurston Bell. If his activities are  
5 encroaching or hindering the IRS's activities, then  
6 an injunction can be entered if it's necessary or  
7 appropriate.

8 Looking now at Bell's arguments, as you've seen  
9 in his preliminary injunction response brief, first  
10 he tries to explain his U.S. sources argument, which  
11 at first he tries to distinguish between the 861  
12 argument, and for all intents and purposes they're  
13 the same argument. The reason that we talk about  
14 the 861 argument is if you look at the Tax Court  
15 cases that have discussed situations in which  
16 taxpayers have said Section 861 of the code or  
17 regulations under Section 861 exempts my income  
18 from taxation, that's generically the 861 argument.

19 Bell uses the same Section 861 in the code. He  
20 uses the same regulations and he reaches the same  
21 frivolous result that unless your income is on this  
22 narrow list of sources, then it is not taxable. So  
23 the government has demonstrated first that this U.S.  
24 sources 861 argument is frivolous, but two of Bell's  
25 arguments likely or could give the court pause.

1 First is that the proposed injunction violates his  
2 1st Amendment rights, and second, that Bell is  
3 simply advocating for his clients to due process  
4 rights.

5 Looking at the 1st Amendment, the 1st Amendment  
6 is always a concern when you're looking at Sections  
7 7402 and 7408 injunctions, because the sections by  
8 their terms sweep broadly and could draw in  
9 protected speech if an injunction is issued under  
10 them without carefully looking at the 1st Amendment  
11 implications of them, and you see in the cases that  
12 the government has cited in its briefs that the  
13 courts really are mindful of the 1st Amendment when  
14 they enter the injunctions.

15 However, the sections are constitutional  
16 and the injunctions that they've entered are  
17 constitutional because they focus on banning false  
18 commercial speech, courses of illegal conduct, and  
19 incitement to imminent lawless action, and that's  
20 precisely what the government has asked for in its  
21 preliminary injunction.

22 Bell is charging for faulty tax advice. Bell's  
23 website contains faulty tax advice, and he charges  
24 people to go into the members area of that site.  
25 That's false commercial speech unprotected by the



1 1st Amendment. Further, Bell is helping clients to  
2 evade their taxes by assisting them in filling out  
3 forms and letters that contain his frivolous U.S.  
4 sources argument. That's a course of illegal  
5 conduct, and he's inviting his clients to commit  
6 tax evasion.

7 The website also contains protected speech,  
8 and likely Bell is talking to his clients about  
9 protected speech. On his website he rails against  
10 the government, the court system. There's nothing  
11 wrong with doing that. The 1st Amendment protects  
12 that. The government is not trying to shut down  
13 Bell's website. The government is asking the court  
14 to simply enter an injunction that stops his false  
15 commercial speech, stops incitement to imminent  
16 lawless action, and stops his course of illegal  
17 conduct, helping others to evade their taxes.  
18 Looking at the --

19 THE COURT: Excuse me, are you also, are you  
20 asking though to shut down the members only area  
21 of the website?

22 MR. DAVIS: Only to the extent the members only  
23 section has false commercial speech and in theory  
24 could incite or as part of the course of the illegal  
25 conduct, so that the same standard would apply to

1 Bell's actions and discussions with his clients as  
2 to the website.

3 Bell's second major argument involves due  
4 process, and when you hear the term due process you  
5 think well, there's nothing wrong with bringing a  
6 due process argument, but Bell essentially says the  
7 Goldberg vs. Kelly and a number of other cases  
8 require that his clients be allowed to cross-examine  
9 witnesses at the audit stage, which is the first  
10 stage of the process, and the reason that he wants  
11 to cross-examine witnesses, he wants to bring  
12 employers in, he wants to bring his clients'  
13 employers in and say, "My client's income is not  
14 from a source outside the United States. It's not  
15 from a source listed in Regulation 1.861."

16 He wants to argue the merits of, or lack  
17 thereof of the U.S. sources argument with employers.  
18 Number one, it's a waste of time, but number two,  
19 due process does not require what Bell is saying.  
20 Due process requires that before serious adverse  
21 harm occurs administratively that the person have an  
22 opportunity to cross-examine and confront witness,  
23 and that process is allowed to taxpayers  
24 specifically in the situation of income taxes by  
25 going to Tax Court.

1           Before the assessment has become final they  
2 have an opportunity to appeal the Tax Court,  
3 cross-examine anyone that they want, bring their  
4 legal arguments to a neutral court. So the due  
5 process that is required by Goldberg and the other  
6 cases that Mr. Bell cites is in the system. Bell  
7 essentially is making up what he thinks due process  
8 should be without regard to what the cases say.

9           In summary, Bell denies very few of the  
10 government's allegation. If you look at his  
11 arguments in the response brief, he doesn't talk  
12 about "I didn't do work for Ray Berglund, I didn't  
13 work with Hal Hearn." He admits to owning and  
14 writing the contents on the website. He also admits  
15 to encouraging and assisting others to file tax  
16 returns and other documents with the IRS based on  
17 this frivolous U.S. sources argument.

18           He also admits to pushing this due process  
19 argument, all in support of his U.S. sources  
20 argument. So the analysis of whether to enjoin  
21 him is really reduced to one question: Is the U.S.  
22 sources argument correct? Do the tax code and  
23 regulations say that domestic income is tax free?

24           Of course not. Bell's argument is nonsense.  
25 The tax court knows it, the 8th Circuit knows it in

1 the Madge case, federal courts in Tampa and Atlanta  
2 who have enjoined Bell's former associates know it,  
3 and despite his protestations to the contrary, Bell  
4 knows it. Bell needs to be enjoined immediately  
5 before he convinces one more taxpayer to evade their  
6 taxes and before he draws more money and resources  
7 from the government.

8 Complaining about taxes is one thing, but  
9 charging people for bad tax advice and convincing  
10 them to stop paying taxes is a whole different  
11 ballgame. Bell needs to be stopped now, and we  
12 ask to court to enter the proposed preliminary  
13 injunction. Thank you, Your Honor. Do you have any  
14 questions?

15 THE COURT: Not at this time. Do you intend to  
16 present any witnesses today?

17 MR. DAVIS: No, but we brought Chris Roginsky  
18 from the IRS essentially. If the court has any  
19 concerns, we can certainly present Mr. Roginsky.  
20 Otherwise we would leave him as a possible rebuttal  
21 witness, but other than that we would like to rest  
22 on the deposition attachments, the exhibits, the  
23 declarations, etc., attached to our preliminary  
24 injunction motion, and just to remind the court, we  
25 submitted a short memorandum and additional, an

1 additional exhibit I believe on Thursday or Friday  
2 which included essentially excerpts from a  
3 deposition of a gentleman by the name of David  
4 Eichner. Do you know if the court received that?

5 THE COURT: I have not looked at that. I have  
6 not seen that. Do you have an extra copy?

7 MR. DAVIS: We can get our copy, but we can  
8 certainly pass this up if the court -- do we  
9 actually have the --

10 MR. DOWIE: I believe we also have the brief.

11 THE COURT: When was that filed?

12 MR. DAVIS: It was filed at the latest on  
13 Friday, but I thought it was actually filed on  
14 Thursday.

15 MR. DOWIE: We have the brief here, Your Honor,  
16 but perhaps when we take a break we could obtain the  
17 brief.

18 THE COURT: Why don't we do that. What does  
19 this new document consist of?

20 MR. DAVIS: Actually Mr. Dowie took the  
21 deposition, if you don't mind I'd --

22 THE COURT: Mr. Bell has a copy. Is that your  
23 extra copy?

24 MR. BELL: That's mind.

25 THE COURT: I don't want you to give up your

1 copy. Thank you for the offer.

2 MR. DAVIS: Mr. Dowie took the deposition. I  
3 think he'd be the best person to answer --

4 MR. DOWIE: Yes, Your Honor, just to give a  
5 brief background of the supplemental brief and  
6 transcript from the deposition of David Eichner  
7 which we supplied, we filed the brief just to give  
8 the court a brief road map as to the additional  
9 evidence we believe this deposition transcript  
10 affords the court as a basis for entering the  
11 preliminary injunction, and I'll go ahead and just  
12 summarize that here if the court will indulge.

13 THE COURT: Sure.

14 MR. DOWIE: David Eichner up until a few months  
15 ago was the putative general counsel and legislative  
16 liaison for NITE. Mr. Bell here hired Mr. Eichner  
17 back in early 2001 I believe to serve in this role  
18 as the -- now, I should say initially even though he  
19 was labeled the NITE general counsel, Mr. Eichner  
20 had a juris doctor degree from Rutgers University,  
21 but he did not at that time have a license to  
22 practice law, and as I understand it did not receive  
23 a license until approximately one month ago from the  
24 state of Arizona.

25 Nonetheless, Mr. Bell hired him and marketed

1 him as the general counsel for NITE. Mr. Eichner  
2 assisted Mr. Bell in marketing the abusive sections  
3 861 scheme. He met with NITE clients, and perhaps  
4 most importantly assisted in drafting numerous  
5 drafts which were filed in federal and state courts  
6 asserting among other things the frivolous section  
7 861 or U.S. sources argument.

8 Now, he did these things at Mr. Bell's  
9 direction, and he was paid for them by Mr. Bell.  
10 He earned approximately I believe in a year and a  
11 half about \$15,000 for assisting Bell clients. Some  
12 of his more, or one of his more notorious clients  
13 was Thomas Madge, whom the Tax Court fined \$25,000  
14 for asserting the frivolous U.S. sources of the  
15 Section 861 argument and whom then at Mr. Bell's  
16 direction then filed a frivolous brief with the 8th  
17 Circuit appealing that Tax Court decision, and of  
18 course the 8th Circuit affirmed the Tax Court.

19 Still not satisfied, Mr. Eichner assisted  
20 Mr. Madge at Mr. Bell's direction to draft the  
21 petition for certiorari to the United States Supreme  
22 Court, again asserting the frivolous U.S. sources  
23 argument, and in the process taking Mr. Madge's  
24 money for these purported services. Of course the  
25 Supreme Court denied certiorari. Among other things

1 Mr. Eichner also admitted to advising NITE clients  
2 as to filing what are known as zero tax returns.  
3 That's essentially a return that states that a  
4 taxpayer has not earned any taxable income despite  
5 the fact that the taxpayer may have earned a  
6 substantial amount of money working within the  
7 United States during a given tax year.

8 Even more importantly, he testified that he had  
9 on multiple occasions seen and heard over, as I  
10 understand it over the telephone Mr. Bell making or  
11 providing the same advice to taxpayers, telling them  
12 they could file a zero tax returns, or zero returns  
13 as they're called, regardless of the fact that they  
14 may have earned substantial amounts of money working  
15 within the United States during a given tax year.

16 Finally, Mr. Eichner has provided a significant  
17 amount of testimony they gave Mr. Bell, or that  
18 shows that Mr. Bell knows and has reason to know  
19 that his arguments are frivolous. For example,  
20 Mr. Eichner made it clear that he and Mr. Bell had  
21 drafted an extensive discussion of the Tax Court  
22 case known as Aiello versus Commissioner. That's  
23 A-I-E-L-L-O. I believe that's cited in our briefs.

24 THE COURT: I'm familiar with that case.

25 MR. DOWIE: Yes, sir. I know the court has of



1 course read the materials. We note that that case  
2 found its Section 861 argument to be frivolous, and  
3 Mr. Bell is obviously aware of the case. Mr. Bell  
4 is aware of publications from the Internal Revenue  
5 Service stating that the U.S. sources argument is  
6 unlawful, and I believe there's some other things,  
7 but that I think and I hope provides the court with  
8 a brief sketch of what the additional information  
9 from Mr. Eichner's deposition will offer with  
10 respect to this matter. If the court has any  
11 questions?

12 THE COURT: We'll take a look at the materials  
13 that you have submitted. I'll read them and review  
14 them carefully before we issue a decision.  
15 Mr. Bell, you have the opportunity if you would like  
16 to file a response to this brief in light of the  
17 fact that it is, it was filed only late last week,  
18 I'll give you that opportunity.

19 MR. BELL: Thank you.

20 THE COURT: Anything further?

21 MR. DAVIS: Unless the court has questions, no,  
22 Your Honor.

23 THE COURT: I don't have any questions at this  
24 time. I'd like to hear from Mr. Bell.

25 MR. BELL: Thank you, Your Honor. This is my

1 first time on this side of the bench, so please  
2 excuse me if I breach any protocols or --

3 THE COURT: You can speak freely from where you  
4 stand.

5 MR. BELL: This case arises under a singular  
6 issue. The entire thing stands or falls on false  
7 speech. Whether it's commercial or not, I, the  
8 defendant, don't care. If I'm saying something that  
9 is false and it is harming people, I certainly want  
10 it stopped, and I believe that I well demonstrated  
11 that to the United States government in my Exhibits  
12 B, C, and E that were attached to my affidavit of  
13 facts in this case, but the speech has to be  
14 narrowly confined to that which is under Section  
15 6700(a)(2)(A) of 26 CFR.

16 That fact is reaffirmed by, the I believe the  
17 5th Circuit -- excuse me, the 8th Circuit, in the  
18 case of United States versus White. I have that  
19 case with me today if the court would like to see  
20 it.

21 THE COURT: Is it cited in your materials?

22 MR. BELL: No, no. That would probably be  
23 something that I would submit in the future, but I  
24 have that with me today.

25 THE COURT: Why don't you gave me the citation.

1 Do you have the citation?

2 MR. BELL: It is United States versus White, 769  
3 F.2d 511, 1985.

4 MR. DAVIS: If I may, Your Honor, the government  
5 did cite U.S. vs. White at some point. I think I  
6 can tell, because I have my cases here, so it's in  
7 our briefs.

8 MR. BELL: The specific page citation is page  
9 515.

10 THE COURT: Okay.

11 MR. BELL: And if it pleases the court I would  
12 like to read it that, it's stated that the false or  
13 fraudulent representations about "the allowability  
14 of any deduction or credit, the excludability of any  
15 income, or the securing of any other tax benefit,"  
16 26 USC, Section 6700(a)(2)(A). I don't deal with  
17 credits and deductions, because credits and  
18 deductions can only be claimed when one indeed has  
19 gross income and makes a claim. So the only issue  
20 is exempt income.

21 In this case the government bears the burden of  
22 proof under Section 6700(a)(3) -- excuse me,  
23 6703(a). So the issue has to be false speech in  
24 regards to what is exempt income. The government  
25 has to carry that burden of proof. I think it was

1 in Cowen versus United States, which was also cited  
2 by the government, which I have copies of for the  
3 court should it require it. On page 1148, the only  
4 thing really required by the intent of the Congress  
5 and the enactment of this statute is false speech,  
6 and that's where I draw my position of commercial or  
7 noncommercial, I need to tell the truth, because  
8 what is false is false and hurts people, and what is  
9 true needs to come to light, and that's why I  
10 continue to press this, but falsehood is the main  
11 criteria.

12 At that I want to touch on Section 7402(a),  
13 where Counselor Davis claims that 7402(a) is a catch  
14 all statute that would allow this court to issue an  
15 injunction against even free speech or poor speech  
16 that isn't covered under 6700 or 6701 or anything in  
17 the other parts of Section 7400 section. I have no  
18 knowledge of the plaintiff presenting any evidence  
19 that the Congress intended for Section 7402(a) to  
20 function in any capacity for the courts to use it as  
21 a catch all against any speech or to regulate 1st  
22 Amendment as a catch all, but the government  
23 obviously has the authority to issue the injunction.  
24 The court obviously has the authority to issue an  
25 injunction, but only pursuant to criteria of four

1 factors.

2 I found four in particular which have been  
3 quite profound in Detroit Free Press versus Ashcroft  
4 decided by the 6th Circuit on August 26th of 2002,  
5 and the government has to prevail on its merits. It  
6 has to show that my speech has already been  
7 determined to be false, such as in White on page  
8 515, that the false speech determined in that case  
9 was pursuant to the reality of judicial decisions  
10 that oppose that specific speech.

11 Well, the government has the burden of proof to  
12 show that Mr. Bell's speech, his specific speech, is  
13 frivolous. All of the cases that Mr. Bell has  
14 examined that the government has presented, not a  
15 single one addresses the regulations asserted by  
16 Mr. Bell, the defendant. Not a single case  
17 addresses 1.861-8(a)(4), 1.861-8(t)(d)(2)(ii)(A).  
18 That's 1.861-8, paren, small "d," paren, Arabic 2,  
19 paren, small Roman numeral, paren, cap "A." This is  
20 a matter of law. This is why Mr. Bell continues to  
21 speak. It's a matter of 1st Amendment, and it is a  
22 fact that according to the United States Tax Court  
23 in Chevron versus Commissioner of Internal Revenue,  
24 which I have copies for the court should it require  
25 them, has stated that the regulations have not been

1 altered for over 80 years and have the effect of  
2 law.

3 1.861-8 to be exact is the section, and  
4 according to the Commerce Clearinghouse publication  
5 of it, it's on page 4266, is that specific citation.  
6 On page 4265 is the citation of the case called  
7 United States versus Corell, U.S. Supreme Court  
8 case, that says long established regulations are  
9 held to have the effect of law.

10 Herein lies the controversy. In February of  
11 2001 I wrote a letter to IRS Commissioner Charles  
12 Rossoti. I asked him publicly to show me exactly  
13 where it is that I am not understanding the law and  
14 misrepresenting it, that I am not interested in  
15 hurting anybody, neither the government, nor the  
16 people, that I wanted the law specifically  
17 addressed.

18 It has taken this case for me to understand the  
19 total magnitude of that which I have done and  
20 started and what the 1st Amendment is, and I have  
21 begun my greatest understanding with a case called  
22 Speiser versus Randall in 1958, United States  
23 Supreme Court. I have copies of that case as well  
24 for the court should it want it. Specifically on  
25 page 521, and this was a case regarding a state

1 imposing a, technically imposing a penalty on free  
2 speech, and in Speiser on page 521 the high court  
3 stated that "the validity of restraint depends upon  
4 careful analysis of the circumstance."

5 In light of the government having to bear the  
6 burden of proof under Section 6703(a), the  
7 government should be required by this court to  
8 specifically address 1.861-8(a)(4) and  
9 1.861-8(t)(d)(2)(ii)(A). The significance of  
10 8(t)(d)(2)(ii)(A) is that the tax court has  
11 continued to issue statements that there is nothing  
12 within the regulations that says anything about  
13 income being exempt, but 8(t)(d)(2)(ii)(A) is  
14 clearly the section of regulation that defines  
15 exempt income in relationship to the U.S. sources  
16 argument.

17 The United States government, the plaintiff,  
18 has asserted that Section 861 has nothing to do with  
19 Section 61. In my briefs you will see that I have  
20 shown that they do, that the tax court has twice  
21 touched upon it and applied 861 statute to Section  
22 61 determinations. Therefore the regulations, also  
23 being law, need to be applied.

24 I have taken great risk to bring this to the  
25 attention of the government, who instead of coming

1 to meet with me and talk with me has decided that  
2 they would rather crush the 1st Amendment and ask  
3 you for help to do so. The government in their  
4 brief, as you will see in my response brief, will  
5 say that, has said that Section 861 has to do with  
6 foreign earned income because of a title within the  
7 publication of the code to which I have responded  
8 with Section 7806(b), which I have a copy  
9 highlighted for all parties here today which says  
10 that, "No inference, implication, or presumption of  
11 legislative construction shall be drawn or made by  
12 reason of the location or grouping of any particular  
13 section of provision or portion of this title, nor  
14 shall any table of contents, cross reference, or  
15 similar outline or analysis or descriptive matter  
16 relating to contents of the title be given any legal  
17 effect."

18 THE COURT: Okay, Mr. Bell, I don't mean to  
19 interrupt you, but if you could talk a little more  
20 slowly so our court reporter can get down everything  
21 that you're saying.

22 MR. BELL: Okay, but I have that for the court.  
23 If the court would like a copy I will give it to you  
24 for your analysis.

25 THE COURT: Okay.



1 MR. BELL: That case basically is saying to my  
2 understanding as a layman who is bound to the law,  
3 because ignorance of the law is no excuse, is that  
4 the words in the law mean what they say, not titles  
5 or groupings or headings, that the law needs to be  
6 read for what it is. The government in its motion  
7 for preliminary injunction I think submitted about  
8 six different arguments. I think if I recall  
9 correctly, three of them actually cancelled each  
10 other out, and three of them were just completely  
11 unreasonable in light of the words in the law and  
12 what it says.

13 If the government really believed that I, the  
14 defendant, am causing damage to it, it would have  
15 been nice if the government came and accepted my  
16 three invitations to sit down and show me where it  
17 is that I am wrong instead of doing this action, but  
18 I understand if it feels that it needs to follow  
19 certain procedures and even take this matter to the  
20 court, but the requirement that it offer a specific  
21 analysis of this argument, although Speiser was  
22 1958, has been reaffirmed by the district court in  
23 this state, Eastern District of Pennsylvania, in  
24 American Library Association versus United States.

25 I believe that's been cited in some of my

1       briefs, but not the one regarding this matter, but  
2       the American Library Association, Incorporated  
3       versus U.S. was 201 F.sub 2d 401, Eastern District  
4       of Pennsylvania, 2002. Page 479 seems to be the  
5       bulwark of protection of speech when in the  
6       government seeks to enjoin it or to suppress it.

7               In one case it's quoting from the Bantam  
8       Books case, "The separation of legitimate from  
9       illegitimate speech call for sensitive tools. The  
10       1st Amendment demands the precision of a scalpel,  
11       not the sledge hammer." I have offered an argument,  
12       Section 861 regulations. There's approximately,  
13       there's over 55 pages of regulations between Section  
14       1.861-1 to Section 1.861-8. I state, I argue  
15       sections of law on the 17th page of that group of  
16       law, of that mass of law, and on the 55th page of  
17       that body of law.

18               I do not believe as a citizen that I should  
19       sit back and say nothing when the Tax Court attacks  
20       something with a broad brush and doesn't address it,  
21       that it's my political, moral obligation and duty to  
22       press a matter of law that could bring hope to those  
23       who are suffering under government oppression, and  
24       truly oppression, Your Honor, truly oppression,  
25       because we did have hearings on matters of

1 government oppression in the IRS in 1997 which gave  
2 us the Revenue Reform and Restructuring Act.

3 I understand, I understand what the government  
4 believes that they have here. I understand why they  
5 are here today, because they have decided that  
6 because my speech merely appears to be similar to  
7 prior unprotected speech, that they have a duty by  
8 order, request, referral, whatever, referral is the  
9 proper word, of the IRS counsel in Philadelphia to  
10 seek to enjoin me, but the decision of Ashcroft  
11 versus Free Speech Coalition, 122 Supreme Court  
12 Reporter 1389, and on April 16th, 2002 nonetheless,  
13 on page 1404 of the Supreme Court Reporter of  
14 West's, let me find that page very quickly, the  
15 Supreme Court was gracious to our 1st Amendment  
16 rights. In these troubled times it said, "Protected  
17 speech does not become unprotected merely because it  
18 resembles the latter."

19 For that reason I've offered my time, my  
20 efforts to the people of this country and to the  
21 government to sit down and show me specifically  
22 where it is that my speech is incorrect, because the  
23 line is finely drawn. The law and the regulations,  
24 the regulations are law, and it's kind of vast, and  
25 I didn't do a word count on that to find out how

1 many words are in there, but one ruling that touches  
2 on the statute doesn't touch the regulations.

3 Six rulings that rule on the statute and  
4 don't touch on the regulations do not touch the  
5 regulations, which are still law, and I am bound to  
6 from my understanding, from my understanding, and  
7 that a judge saying that there is nothing within  
8 this regulation that provides exemption I find  
9 highly questionable in light of a definition of  
10 exempt income at 1.861-8(t)(d)(2)(ii)(A).

11 I offer to this court the case of Detroit Free  
12 Press versus Ashcroft, 6th Circuit, I have multiple  
13 citations from pages 685, 686, 693, 704, 705, and  
14 711. It covers the four factors for preliminary  
15 injunction according to the 6th Circuit, which may  
16 not apply here, but they seem reasonable to me. The  
17 1st Amendment as stated on page 686, "The 1st  
18 Amendment prohibits the government from suppressing  
19 embarrassing information." I think this is  
20 embarrassing to them, but I'm more than happy to  
21 work it out quietly.

22 693, "The government must account for their  
23 choices." I wrote an e-mail to Mr. Davis, and it's  
24 somewhere in the mass of this case, probably in one  
25 of the motions that Judge Yvette Kane denied, I

1 asked Mr. Davis shortly before New Year's of this  
2 year to please show me now where it is that my  
3 speech is false so that we can avoid this expense  
4 and this effort, because I will confess to this  
5 court that I have dealt with the issue of taxes for  
6 eight and a half years on the edge of what would be  
7 seen as legal, working with people who were being  
8 hurt and seeing them taken advantage of by  
9 charlatans and liars and con men, and God forbid  
10 that I become one of those.

11 I want away from this. I want it addressed. I  
12 do not need this in my life. For who in their right  
13 mind would think that they can make an existence, a  
14 meaningful, have a meaningful life by confronting  
15 the IRS and the Justice Department? It's only out  
16 of duty and obligation that I'm here.

17 On page 704 the 6th Circuit said in Detroit  
18 Free Press, it reaffirms, they reaffirmed free  
19 discussion of government affairs that the 1st  
20 Amendment is key to that. 705, that the  
21 government's selectivity of what information the  
22 public sees is a powerful tool for deception. The  
23 6th Circuit acknowledged that it's possible that our  
24 government could deceive us. In almost any capacity  
25 that's possible, that the 1st Amendment is the

1 bulwark against that. That is why I'm here.

2 711 was the most profound statement of our  
3 times of what our nation faces under the onslaught  
4 of terrorism that seeks to undermine the fabric of  
5 society and collapse our civilization, that the 6th  
6 Circuit stood up and said, "We're not going to do  
7 the job of the terrorists and destroy that which  
8 they seek to do by force with our gavel," and that's  
9 at 711, their last paragraph, I will not bore the  
10 court by reading it, but it is truly exciting, but  
11 ultimately it states that democracy operates on  
12 faith, that government officials are forthcoming and  
13 honest.

14 I pray this court sees that I have attempted to  
15 be forthcoming and honest. I have only stepped into  
16 the arena of attempting to help people to understand  
17 the administrative process of the IRS, because in  
18 order to bring forth the arguments of 1.861-8(a)(4)  
19 and 1.861-8(t)(d)(2)(ii)(A), the administrative  
20 process must be exhausted. Mr. Davis in the  
21 deposition of Mr. Larken Rose, which is not part of  
22 the court record but I have a complete copy here,  
23 asked Mr. Rose, who is a significant person in this  
24 matter, which I hope to get to in a moment.

25 THE COURT: Would you like to make it part of

1 the record, Mr. Bell?

2 MR. BELL: I would like to, but I don't have a  
3 copy for the court today.

4 THE COURT: You can submit it in your response  
5 to the government's recent submission if you would  
6 like.

7 MR. BELL: Thank you for the wonderful  
8 suggestion, Your Honor. He asked Mr. Rose, he  
9 said, "Well, if you filed your claim for refund with  
10 this argument, why haven't you sued?" Well, in  
11 response to Mr. Davis's question, we have worked  
12 very hard, I have worked very hard for five years  
13 now to completely understand the administrative  
14 process, exhausted, turned over every stone, turned  
15 over every point of fact and step, and we have  
16 reached the point that the government merely calls  
17 everything frivolous, throws the people aside, and  
18 that the only thing left to do now, yes, Mr. Davis,  
19 is we will litigate.

20 I have no other choice. I have to carry this  
21 forward, because the Supreme Court is the final  
22 interpreter of the law, and no one is addressing  
23 861-8(a)(4) and 8(t)(d)(2)(ii)(A). I would like to  
24 go back to the government's brief. Ultimately it  
25 seems that the government, both the agents and the

1 DOJ want to stand on, stand on the term that the  
2 idea that the 16th Amendment says that income taxes  
3 are imposed on whatever source.

4 Well, the case called Dennis versus United  
5 States, which -- gosh, I have a hard time reading  
6 the citations of these things, but it's heavily  
7 cited in other items, and I would obviously submit  
8 something about it in the future, but it was ruled  
9 in 1950 and I have a copy for the court should it  
10 need it, and for plaintiff. On page 508 it said,  
11 "A phrase only has meaning when associated with  
12 considerations which gave birth to the  
13 nomenclature."

14 I would have to say that that principle applies  
15 to my speech, that the specifics of my speech have  
16 to be analyzed for what they are, as well as what  
17 the government says when they say whatever source,  
18 or even when they say all inclusive, which is cited  
19 in Glenshaw Glass, the Glenshaw Glass case from  
20 1955, that it's fascinating to read that to find out  
21 the term all inclusive actually is not the words of  
22 the United States Supreme Court but are actually  
23 dicta, citations from the U.S. Congress, but  
24 whatever source has already been decided and stated  
25 in Evans versus Gore in 1920 as basically saying



1 that whatever source does not mean whatever source,  
2 and Justice Stone in his citation, in his opinion on  
3 page 607 of Wright versus U.S., 1938, states that  
4 whatever source does not mean whatever source, and  
5 he cites Evans vs. Gore and that very famous case  
6 regarding the taxation of federal judges, which I  
7 know of course has been overturned on principle, on  
8 principle of the judges having to pay the taxes that  
9 the people have to pay.

10 To date I have yet to see a single case, Tax  
11 Court, U.S. District Court, Court of Claims, circuit  
12 Court, United States Supreme Court, that addresses  
13 the regulations that NITE argues. NITE continues  
14 and persists in this effort for the purposes of  
15 redress of grievance, of hearing of the issue. If  
16 the court rules on something regarding Section 861  
17 statute, that is not hitting the mark, and that is  
18 what our assertion is and that is what the assertion  
19 of many American citizens is.

20 We want this matter specifically addressed. If  
21 we're going to be bound by the regulations, then we  
22 want the regulations fully applied. The court  
23 addressing the statute is not sufficient. We want a  
24 ruling on the regulations as was given Chevron in  
25 Chevron versus Commissioner. We want a ruling on

1 this definition of exempt income.

2 For my final point on this opening statement  
3 that I can -- I don't think I can make a final point  
4 because I want to look at the notes quickly as to  
5 what Mr. Davis's opening statements were, but in  
6 Enochs versus Williams Packaging, the United States  
7 Supreme Court, 1961, it was stated that "The  
8 government's chance of ultimately prevailing on an  
9 injunction issue is determined by the information  
10 available at the time of suit."

11 Since there's no address of  
12 1.861-8(t)(d)(2)(ii)(A) or 1.861-8(a)(4), I  
13 don't see any that they can prevail. They have  
14 not addressed the defendant's argument to prove  
15 frivolity. If there was frivolity, then the  
16 argument, if it was actually addressed perhaps  
17 someone could say that I was defrauding or bilking,  
18 defrauding and bilking the government or the people,  
19 then it would be arguable. As for Mr. Davis's naked  
20 assertion that I claim to be the only one who  
21 understands the code, I don't think so.

22 SPECTATOR: That's right.

23 MR. BELL: There is at least one other person  
24 I know who understands the code. There are many  
25 people that as I understand it, and that's Mr. Rose.

1 This is his video tape that he made. I'd like to  
2 enter it as evidence if possible, Your Honor.

3 THE COURT: Is there any objection, Mr. Davis?

4 MR. DAVIS: For what purpose?

5 THE COURT: It's a fair question, Mr. Bell. For  
6 what purpose?

7 MR. BELL: He claims number one that I'm the  
8 only person who understands the code, the Internal  
9 Revenue Code. Mr. Rose spent untold hours putting  
10 together an 88-minute video tape on the statutory  
11 history of Section 861 and its regulations all the  
12 way back to 1921. It's a presentation showing you  
13 only the law, right out of the book. It's rather I  
14 dry, and it says what it, it's right there for what  
15 it says.

16 THE COURT: And do you have any kind of  
17 connection or relation with Mr. Rose?

18 MR. BELL: Mr. Rose was at one time a member of  
19 NITE. He joined for reasons I don't know precisely,  
20 but he saw my website, he was probably rather  
21 concerned like the plaintiff is that my speech was  
22 false and frivolous and basically crazy, and he set  
23 out to prove that I was wrong, and he came back  
24 showing that I'm right.

25 THE COURT: Mr. Davis? Any objection?

1 MR. DAVIS: Your Honor, it's not relevant to  
2 number 1 of --

3 (Verbal comments from spectator gallery.)

4 THE COURT: Now, hang on. I'm only going to  
5 hear arguments from counsel, and I will clear this  
6 courtroom if I hear any arguments from the gallery.  
7 Is that understood? Okay. Proceed.

8 MR. DAVIS: If he's trying to tie it to my  
9 statement that Mr. Bell is the only one, he claims  
10 he's the only one that understands it, that's  
11 certainly not relevant to what the government has  
12 to show and what Mr. Bell has to show. Mr. Bell is  
13 trying to introduce this essentially as Larken  
14 Rose's testimony. He's trying to get in Mr. Rose as  
15 some expert in the law.

16 If he's saying that all it says is what's in  
17 the regulations, then the court doesn't need someone  
18 else to walk it through regulations of the law. If  
19 it's something else, then it's expert testimony,  
20 Mr. Rose has an associate's degree in I think it was  
21 arts and sciences. He's not a lawyer, he's not an  
22 expert in the law, and it's simply an effort to  
23 introduce his testimony as an expert, and I think it  
24 should be disallowed.

25 THE COURT: Could it be relevant to the issue of

1 what NITE does, what kind of an organization it is  
2 in terms of the --

3 MR. BELL: I believe, Your Honor, that it's  
4 relevant in respect to showing that I have not  
5 misrepresented the existence of the law nor the  
6 presentment of the law and the assertion of it by  
7 the NITE members, and I would also like to say that  
8 I was up until 3:00 in the morning reading the rules  
9 of the evidence, and in examining Rule 702 and the  
10 notes regarding it, it doesn't show that for someone  
11 to even be an expert that they have to be a  
12 professional, that experience is also admissible.  
13 Mr. Rose spent, I have no idea, at his deposition he  
14 says at least 500 hours researching the law and  
15 researching all of the law on this section of the  
16 law.

17 THE COURT: I'm going to allow the video tape  
18 to be submitted, and I'll give it the weight it  
19 deserves under the circumstances after I have had  
20 an opportunity to review it, and without reviewing  
21 it I think I should take it in and take it into  
22 consideration. We would like to have that I believe  
23 marked as an exhibit, we'll mark it Defendant's  
24 Exhibit Number 1.

25 MR. DAVIS: Just so the court doesn't worry

1 about copies, the government already has a copy of  
2 that.

3 THE COURT: Oh, you do?

4 MR. DAVIS: Yes. It was actually one of the  
5 exhibits to the Larken Rose deposition. Mr. Bell  
6 is going to submit that deposition transcription,  
7 he would have submitted that.

8 (Defendant's Exhibit 1 marked for evidence.)

9 MR. BELL: The government claims that  
10 individuals have used this argument to file  
11 erroneous refunds. There is a point of my Exhibit P  
12 in support of my affidavit of facts in response to  
13 the complaint, Your Honor. Exhibit P is a  
14 transcript of the case of the United States of  
15 America Versus Gene Webb before the Honorable Judge  
16 Anne Conway. For background, Mr. Webb came to me  
17 going before a judge who had just put his mother in  
18 prison for filing a zero return, and that he was  
19 going to be imprisoned should he not file a return  
20 for sake of compliance with his probation agreement,  
21 or parole, I'm not sure which one.

22 After discussing the matter with me he  
23 determined that he wanted to make contentions of  
24 factual nature using the Form 4852 and the Form 8275  
25 making this argument. It was presented to the

1 court, to the IRS, via certified mail as presented  
2 to the court. My Exhibit O shows the United States  
3 attorney objecting to its submission of this type of  
4 return. The Exhibit P shows that in May of 2000  
5 U.S. Attorney Gold saying, "He now filed his '98 and  
6 '99 returns as I understand it, there would have  
7 been refunds due. However, due to his previous tax  
8 problems the IRS used those refunds to apply to some  
9 old debts."

10 That's on lines 16 through 19, Your Honor. It  
11 appears very clear by the evidence of the admission  
12 of the United States Department of Justice that  
13 Mr. Webb's return, which used the argument of NITE,  
14 using the forms of the government, was accepted and  
15 a refund was due, and in the end the document speaks  
16 for itself.

17 Judge Anne Conway released Mr. Webb from the  
18 court. He has not had to have to return. It was  
19 acceptable argument. That, Your Honor, that event  
20 alone was seminal in my eight years of efforts. It  
21 was clear to me at that moment that I needed to pay  
22 attention to what happened in that court as very  
23 profound, and I went to some fact research and found  
24 the case of the United States versus Sullivan, which  
25 I believe is 1927, which helped me communicate to

1 NITE members that it is time to stop fighting the  
2 government about the requirement to file returns,  
3 that the U.S. Supreme Court was clear: If the  
4 government believes you're required to file a  
5 return, file the return, but it also says that  
6 you're not precluded from making your arguments on  
7 the face of the return in light of the existence of  
8 the Form 4852 and 8275 as used by Mr. Webb in his  
9 case where a judge well familiar with the law has no  
10 problems putting people in jail, and a Justice  
11 Department attorney who was well familiar with it  
12 and originally objected it as frivolous, and the  
13 IRS, all three, saying basically in paraphrase, Your  
14 Honor, return received, refund due, send him home,  
15 convinced me that it was time to tell the people who  
16 have been fighting the government about whether or  
17 not to file to stop the agony of willful failure to  
18 file cases, engage the government in their process,  
19 with their forms in good faith, and settle the  
20 issues.

21 It is claimed that I'm enriched by this effort.  
22 Probably only in my service to my fellow man.  
23 Money? No. It's shoestring, Your Honor. It's  
24 month to month. This isn't -- this is not something  
25 that the American people want to do. They don't



1 want to come before you and take your time. They  
2 don't want to go into IRS audits. They are afraid,  
3 and they're all sitting back waiting to see what you  
4 do to me and to the 1st Amendment. The government  
5 says I know of cases. I've already given my point,  
6 none of the cases address the law that I argue,  
7 specifically with the specificity of a scalpel as  
8 ALA stated in Speiser says that the line is finely  
9 drawn. The only thing that can address it is  
10 something precise.

11 It is stated that I used the same regulations  
12 as others have in prior cases. I find no evidence  
13 of that in the case of Aiello versus Commissioner,  
14 Solomon versus Commissioner, you name the case. If  
15 the case can be shown to me, I am a reasonable man.  
16 I have watched for years as a gentleman by the name  
17 of Bill Benson has travelled the company saying the  
18 16th Amendment was never properly ratified.

19 I went to the law library, I looked into West's  
20 4th Digest on the income tax, I found the case of  
21 U.S. versus House. It was only a district court,  
22 but its reasoning and logic as to why his argument  
23 against the 16th Amendment was invalid was so purely  
24 reasonable that I acknowledge without question that  
25 that gentleman is wrong in his argument.

1 I am willing to reasonably resolve this. I am  
2 willing to be reasonable if the government will  
3 specifically address the argument. Mr. Dowie in  
4 December said that will come out in court. Well, in  
5 light of Enochs versus Williams Packaging, that  
6 which shows my speech to be false needs to be in  
7 existence in and public knowledge prior to the  
8 filing of suit, or least at that moment. I haven't  
9 seen it.

10 THE COURT: Mr. Bell, do you have any additional  
11 arguments at this time?

12 MR. BELL: I'm trying to go through my notes  
13 quickly. The government specifically cites the  
14 Madge case. Again it didn't address the argument.  
15 The government claims they needed to shut me up in  
16 order to stop another person from believing this  
17 allegedly false argument. Your Honor, I don't  
18 believe that quieting me is going to shut down this  
19 argument. There have been 20,000 I believe of those  
20 video tapes produced. If the government fails to  
21 specifically address and resolve this matter, it's  
22 only going to hurt the image and the people's faith  
23 in their government, as mine has been hurt because  
24 of this suit.

25 THE COURT: 20,000 video tapes of what?

1 MR. BELL: Of that video tape, Exhibit 1.

2 THE COURT: Oh, okay.

3 MR. BELL: And they're being distributed. I  
4 have nothing to do with that by the way. I believe  
5 that Justice Brandice was very, very wise in his  
6 understanding of the 1st Amendment in Whitney versus  
7 California where he said when there's no clear  
8 impending danger of evil, that the solution in a  
9 situation of free speech is not to forcibly stop the  
10 speech, but to have more speech. I believe, Your  
11 Honor, that the government being given this  
12 injunction at this time without specifically  
13 addressing the argument will not, it may win this  
14 battle, Your Honor, but it's only going to heat up  
15 even worse, and I am not going to be able to help  
16 anybody understand how to address the situation, how  
17 to resolve the situation in the future if I am  
18 muzzled.

19 As for Mr. Dowie's statements about the  
20 deposition of Mr. Eichner where he made assertions  
21 about me having knowledge of case law, again nothing  
22 is addressed in the regulations specific, the two  
23 that I have repeated to the point that I do not want  
24 to harass the ears of the court any further with  
25 them.

1 THE COURT: And Mr. Bell, I've already granted  
2 you allowance to respond to those arguments in  
3 writing.

4 MR. BELL: Yes, sir.

5 THE COURT: And I will take them into  
6 consideration.

7 MR. BELL: And as for the claim that Mr. Bell  
8 made advice to people to file zero returns, for his  
9 sake he is not here to raise objections. I have  
10 looked at this, and you will see in my response what  
11 I do with this, that Mr. Dowie twists word so  
12 heavily, as in his example on his Exhibit 11, on his  
13 document he claims that this Exhibit 11 shows that  
14 an attorney "had found no case, rule, or regulation  
15 under IRC Section 861 which could be used to modify  
16 section 61's definition of gross income," and then  
17 he brings in his own inflection into this, his own  
18 interpretation. He says, "In other words, the  
19 letter informed the addressee that there was no  
20 legal justification for the NITE U.S. sources  
21 scheme."

22 Well, first of all, Your Honor, the letter  
23 doesn't mention NITE, and second of all this exhibit  
24 states "I must report," this is Exhibit 11 of that,  
25 which you will get a copy of from Mr. Davis, "I must

1 report that in the course of this research I found  
2 no case law, rule, or regulation addressing the  
3 argument..." It is a case of first impression, Your  
4 Honor, and a case of first impression, it has not  
5 been ruled upon. It has not been addressed by the  
6 courts. It has not been addressed by Mr. Dowie, who  
7 was asked nicely to be forthcoming and honest so  
8 that we could expedite this matter, save the time of  
9 the court, save me the stress and anguish that has  
10 gone along with facing the most powerful government  
11 in the world, that would save more people from  
12 arguments with the IRS and the pain and suffering  
13 that they endured. I want it ended. I want the  
14 issues addressed. I've sought to do it nicely. I  
15 thank you for entertaining my presentation.

16 THE COURT: I have a couple of questions for  
17 you. You've seen the government's argument with  
18 respect to the commercial nature of your speech?

19 MR. BELL: Yes, Your Honor.

20 THE COURT: Do you agree that you are providing  
21 through the NITE website advice and that your speech  
22 should be considered commercial speech?

23 MR. BELL: No, Your Honor. I believe it's  
24 purely political in every form. I have met  
25 with people who have seen others who are out there

1 who will attempt to charge them \$40,000 just to  
2 retain them in association. I have seen other  
3 organizations that will charge \$600 for such, and  
4 they will not even help the person understand what  
5 the procedures are with the IRS, with the courts,  
6 what their rights are, or even begin to crack open a  
7 law book.

8 Your Honor, this is political, because taxes  
9 are of a political nature, and we probably have the  
10 most vital political nature second to free speech  
11 within itself. That is the only reason why I can  
12 see, Your Honor, that Mr. Davis, Mr. Dowie, Mr. Raum  
13 would even dare to be here and to take the tax law  
14 and push it up against the 1st Amendment and see  
15 which one cracks first.

16 THE COURT: For that political speech are you  
17 receiving any form of remuneration or any form of  
18 funds flowing from members of NITE, whether it's in  
19 the form of donations or in some other form?

20 MR. BELL: That would, the point is that, and  
21 I'm not, I was not prepared to speak of that in  
22 particular, because all I'm concerned about is  
23 falsehood. For if anything I'm saying is false,  
24 that is sufficient to get my full cooperation, Your  
25 Honor. The point about receipt of remuneration was

1 addressed in the U.S. Supreme Court case I believe,  
2 and it might be in my, I do believe I mentioned it  
3 in my opposition brief. It said that remuneration,  
4 Your Honor, if remuneration were the sole criteria  
5 or even used as a criteria opens the door for even  
6 the newspapers to be regulated.

7 THE COURT: But I'm asking you, and I'm asking  
8 you directly, do you receive any form of donation or  
9 remuneration or any kind of compensation whatsoever?

10 MR. BELL: As a newspaper does and as any  
11 political party and political movement, Your Honor,  
12 yes. That's according to this court decision that I  
13 read. I see why the court determined that receipt  
14 of money cannot be that determination. It has to be  
15 the value of the speech. It has to be the nature of  
16 what's going on. I'm not selling the pharmaceutical  
17 drug, I'm not selling cars, I'm not selling a  
18 commodity item. I'm discussing law, political  
19 action, legal action, and rights. I'm not selling  
20 these things. In fact, most of everything I do I  
21 give away.

22 THE COURT: The government contends that the  
23 injunction is necessary to halt additional advice  
24 being given to more people that they claim is  
25 erroneous, clearly erroneous. What is your

1 intention if I do not issue an injunction with  
2 respect to the use of the NITE website?

3 MR. BELL: Presently the members hall has been  
4 taken down because of lack of staffing and the  
5 ability to keep that information up to date.  
6 Presently the members get information from me  
7 directly, Your Honor. They send me a note, they  
8 communique, and I provide them what they need  
9 according to what I know.

10 THE COURT: What kinds of things -- and I assume  
11 that that's what you would like to continue to do?

12 MR. BELL: Yes.

13 THE COURT: And what kinds of information do you  
14 provide them?

15 MR. BELL: Administrative procedure, information  
16 about their rights.

17 THE COURT: Including their rights under the  
18 Internal Revenue Code?

19 MR. BELL: Specifically that, through the  
20 administrative process. I didn't get to address  
21 Mr. Davis's comment about the tax court being the  
22 venue for confronting and cross-examining adverse  
23 witnesses. It's my understanding, Your Honor, in  
24 the Tax Court the burden of proof has already been  
25 well placed on the individual and the government



1 doesn't have to call its witnesses for the person to  
2 be able to confront and cross-examine. So my  
3 logical conclusion was press the issue in the  
4 examinations process and let's find out what the  
5 reasonable answer is, why they can't bring the  
6 witnesses forward in examination and expedite these  
7 matters.

8 That was the determination in my mind as to  
9 what to do with examinations, and I saw they clearly  
10 had the authority under Section 7602 to summons the  
11 witnesses against the individual, and with cases  
12 such as Goldberg versus Kelly and Green versus  
13 McElroy, and I think it's Olden versus Kentucky, and  
14 many other case, the 6th Amendment is the key as  
15 getting to the truth.

16 If the examinations process isn't about getting  
17 to the truth of the matter, then I just don't even  
18 want to say what kind of process it is, Your Honor.  
19 It's just, it's too scary. I don't want to  
20 prejudice the court with any type of emotional  
21 outburst. The 6th Amendment in regards to people's  
22 means to defend themselves against an agency with  
23 such power, the ability to get to the truth, to know  
24 the truth. That's what this is about, just to get  
25 to the bottom of it.

1           The only way to get to the bottom of it,  
2           Your Honor, is to take the matter through the  
3           administrative process, exhaust it as the courts  
4           require, and then step into the courts with a claim  
5           for which relief can be granted. This court here is  
6           being asked by the plaintiff to say that this  
7           decision, this argument is already known to be  
8           frivolous.

9           This court's authority within this regulation  
10          of free speech, 6700, 6701, is limited, that it  
11          cannot now put the cart before the horse and say,  
12          "Well, we've now considered the argument, and now  
13          we're going to address it and now it's frivolous, so  
14          all your prior speech, Mr. Bell, is sanctionable."  
15          No, that's not the function of this court from  
16          everything that I have read. It has to already be  
17          established and the burden of proof upon the  
18          plaintiff to present that.

19          THE COURT: I understand. You've presented that  
20          argument and you've cited the Enoch case. Do you  
21          have anything further you'd like to add?

22          MR. BELL: I have nothing further, Your Honor.  
23          I could present witnesses, but the admission of the  
24          video tape is overwhelming. I could bring in  
25          witnesses about the inconsistencies seen by the IRS,

1 but I don't want to detract this court's attention  
2 and valuable time from the clear, simple issue about  
3 those two sections of regulation. Do the people  
4 have the right to press those regulations forward in  
5 the administrative process to bring it to the  
6 judiciaries attention? Do the people have the right  
7 to group together, to band together so that they  
8 don't continue to make the same mistakes as the tax  
9 freedom fighters have repeated year after year for  
10 three decades. I have sought to bring forth reason  
11 and prudence and respect to this issue. I have  
12 tried to avoid this day.

13 THE COURT: Anything further?

14 MR. BELL: Thank you.

15 THE COURT: Thank you for your presentation and  
16 your demeanor, Mr. Bell, which was excellent. Does  
17 the government have any response?

18 MR. DAVIS: Yes, Your Honor. Just a couple of  
19 short points. First, the government is not saying  
20 that this argument is frivolous because the Tax  
21 Court has ruled on it and because courts have  
22 enjoined three other people for promoting the same  
23 argument. That's further evidence of why Mr. Bell  
24 should stop and should know and does know that what  
25 he's doing is wrong.

1           The argument is frivolous because it's  
2 frivolous. If you look at the regulation, it says  
3 in no -- that he's relying on, in no uncertain terms  
4 it says that this regulation is only applicable to a  
5 certain defined group of other sections of the  
6 Internal Revenue Code, calling them operative  
7 sections. There is no reasonable way of reading  
8 that regulation any other way, and yet Mr. Bell and  
9 Mr. Rose and whoever else he would like to submit to  
10 the court as one of his friends will try to argue  
11 the other way, but it's frivolous because it's  
12 frivolous. The tax court decisions are helpful to  
13 the court, but they also really show that Bell  
14 should know and knows that his argument is  
15 frivolous.

16           Next, he also talked about this case of Ms.  
17 Webb, or Mr. Webb. If he submitted the, that  
18 taxpayer's tax returns, the court will be able to  
19 evaluate whether in fact that was number one even  
20 accepted by the IRS, because I can write on my  
21 return that I'm not liable for any taxes because I'm  
22 left-handed, and if indeed I didn't earn any money  
23 that year, then the IRS will accept the return.

24           The issue is not simply whether he made the  
25 argument, but also whether the individual actually

1 earned enough money, and then the second issue is  
2 did the IRS make a mistake or not. Obviously the  
3 IRS has shown in this case that it does make  
4 mistakes. It issued a \$475,000 refund to one of  
5 Mr. Bell's clients after this case was ongoing.  
6 That shows number one the IRS makes mistakes, but it  
7 also shows why the injunction was needed.

8 His answer to the court's, one of the court's  
9 last questions about the website and what he's  
10 presently doing shows that the website, although is  
11 one of the things that the government wants to  
12 address, his actions are part and parcel of his tax  
13 scheme. He is telling people on a daily or hourly  
14 or weekly basis, whatever it is, that "You don't  
15 have to pay your taxes, and I will show you how to  
16 use my arguments to avoid taxes."

17 So if it's on the website or not, if he shuts  
18 the website down, he will still, as he said he will  
19 still give one on one advice to his clients. He's  
20 essentially practicing law without a license, and  
21 his clients are getting what they pay for. He's not  
22 an attorney, he has no legal training, and he's  
23 misinterpreting the law, misinterpreting the  
24 regulations, and steering his clients wrong, and  
25 they're the ones -- I mean other than the

1 government, which obviously is losing revenue, they  
2 are the ones who suffer, and they don't, a lot of  
3 them don't even know it. They'd still stand him  
4 until he ends, which is why he needs to know through  
5 the court's order that it is not okay what he's been  
6 doing.

7 Finally, Bell says that he would have stopped  
8 if someone addressed his argument. Well, the IRS  
9 has addressed his argument on four or five occasions  
10 with public pronouncements, and every time Bell and  
11 Mr. Rose and other people in this movement  
12 deconstruct what the IRS has said and said we don't  
13 agree, you didn't exactly do this right or you don't  
14 do that right, they will never be satisfied with any  
15 explanation that this court gives or that the  
16 government gives. They will continue to do it  
17 unless they're told they can't make this argument  
18 anymore. They can't get paid for it and they can't  
19 incite others to evade their taxes by use of this.  
20 Thank you very much, Your Honor.

21 THE COURT: Thank you. Mr. Bell, in closing  
22 would you like to address any of the arguments that  
23 have been raised by the government?

24 MR. BELL: Yes, sir. The government claims that  
25 the argument is frivolous because it's frivolous.

1 The regulations state they are only applicable to  
2 the named operative sections. I ask the court to  
3 take careful judicial notice of 1.861-8(a)(4) which  
4 states that the, that there are other sections and  
5 other operative sections that apply and residual  
6 groupings and a lot of confusing talk, but in  
7 particular it states that some income from sources  
8 is exempt and falls within the definition of exempt  
9 income at 1.861-8(t)(d)(2)(ii)(A).

10 Mr. Davis, the plaintiff, excuse me, has not  
11 shown anything that addresses the specifics of that  
12 section of law to show the defendant how it is that  
13 1.861-8(a)(4), does not mean what he is reading it  
14 to say, and that the definition of exempt income  
15 doesn't apply to that. To date I haven't seen  
16 anything, so I believe that the government has  
17 failed to carry its burden of proof.

18 It's an interesting point that the government  
19 raises that there needs to be proof that Mr. Webb's  
20 return was accepted. I think that matter is res  
21 judicata before Judge Anne Conway, that the U.S.  
22 Attorney's Office agreed with what the IRS  
23 determined. They knew well that Mr. Webb, he had  
24 already been in prison before. They knew well of  
25 his mother. They knew well of his boss. His mother

1 and his boss were in prison at the moment that he  
2 submitted those returns by the order of that judge.

3 The government knew well what it was that he  
4 submitted. I just thank God that what happened did  
5 happen. Now, if the government now is complaining  
6 that they're getting all these returns, well, Your  
7 Honor, the prior five years of my life before the  
8 Webb decision I had been seeing all kinds of people  
9 listening to others running about the country saying  
10 don't file returns. The Webb case showed me  
11 something to show to the people to say file your  
12 returns, engage the government properly, stop  
13 suffering and hurting yourselves. We will resolve  
14 this over time.

15 Now the government claims and protracts this  
16 argument to say that my actions are a tax scheme.  
17 Well, in light of the breadth of Section 6700, Your  
18 Honor, I'm not going to argue that the Congress  
19 enacted a law to stop false, frivolous, fallacious,  
20 and fraudulent speech about the Internal Revenue  
21 Code, but in enacting such a law the courts have  
22 made it clear that it is always been the precepts of  
23 the 1st Amendment that require the government to  
24 specifically address the speech and address that  
25 fine line between protected and unprotected speech



1 and not use a sledge hammer and not merely cast  
2 speech into one category because it looks like it  
3 is, and as far as his assertion of practice of law,  
4 I have no knowledge that that is an issue before  
5 this court, that it is material to this issue, and  
6 that it is an issue that's within the jurisdiction  
7 of this court at all.

8 I have sought to create a private organization  
9 of individuals and operate to assist them in a pro  
10 se capacity as a friend, as a person who has watched  
11 far too many people get hurt by the false arguments  
12 and charlatans in this country, and to get to the  
13 only issue I see left to bring up to the government  
14 and end this 30-year conflict. The government has  
15 also said that they had issued numerous public  
16 pronouncements.

17 Well, they wouldn't respond to my letter to  
18 Charles Rossoti, the first one, the second one, nor  
19 the third one. I believe I did a responsible, a  
20 politically responsible act. I committed one by  
21 responding in writing with specificity to the  
22 government's public pronouncements that they try  
23 to construe to address my specific speech, because  
24 the government has not come forth with authorities  
25 and specific authorities and address as required in

1 Speiser, they claim that I and others will not, will  
2 never be satisfied.

3 Not true. How do they know what I believe,  
4 Your Honor? How do they know what my actions are?  
5 How do they know what I think? I just have clearly  
6 told you what it is that I need done. They failed  
7 to do it. They were supposed to do it from the  
8 beginning. The case seems to be clear. They failed  
9 to carry the burden of proof. Therefore, this case  
10 must be dismissed post haste, because I'm under a  
11 lot of stress.

12 They say that I will continue to incite others  
13 to evade. As I said, for 30 years I've watched  
14 people tell others not to file returns. If not  
15 filing returns, seems to be a pretty clear effort of  
16 an action to evade. I have no longer sought for  
17 people to do that. I have never sought for them to  
18 do that, but I have tried to educate them on U.S.  
19 versus Sullivan to engage their government in the  
20 process provided using the Form 4852 which clearly  
21 states that it is used to point out when a W-2 is  
22 incorrect.

23 THE COURT: And how have you used Form 4852 and  
24 U.S. versus Sullivan?

25 MR. BELL: Well, U.S. versus Sullivan says that

1 if the government requires you to file a return you  
2 have to file a return, and what I have sought to do  
3 was help people bring forth their contentions of  
4 factual nature against the claim, the naked claim of  
5 the employers that they earned something that's  
6 includable within gross income, because the form  
7 says in its instructions as shown in Exhibit 3, my  
8 Exhibit Number 3 in this case, that -- I'd better  
9 read it to you.

10 THE COURT: I have it.

11 MR. BELL: Okay, "if you receive an incorrect  
12 W-2." Well, looking at the logical rules of  
13 evidence, the only way -- if the IRS isn't going to  
14 listen to what someone says when they step into a  
15 meeting, but they've created a form, it's the  
16 individual's responsibility to know about the form,  
17 implement the form, and implement the process  
18 properly and respectfully, and that's what the 4852  
19 is about. The 8270 --

20 THE COURT: Give me an example of how you would  
21 use U.S. versus Sullivan and Form 4852.

22 MR. BELL: Well, the U.S. versus Sullivan is  
23 just a point of understanding to help the individual  
24 to understand that if you are facing a W-2 and a  
25 1099 filed against you, don't try to hide, because

1 it's in the computer and it will come up one day  
2 and you will have to face this. So consider when  
3 the IRS tells you to file, that we don't have a  
4 return, CP Form 515, 518, that the government is  
5 asking you to file a return, and Sullivan certainly  
6 applies in such a case.

7 THE COURT: Okay. Then tell me how you would  
8 use, give me an example of how you would use Form  
9 4852. Is it specifically to identify an incorrect  
10 form W-2?

11 MR. Bell: Or 1099, sir, Your Honor.

12 THE COURT: Or 1099? And how would you -- give  
13 me an example of how you would identify an erroneous  
14 W-2.

15 MR. BELL: Well, it would be addressed, the  
16 address that, the name of the person, their social  
17 security number, their address, the year, the  
18 employer's name and address and EIN if known, and  
19 the person would make their contentions of factual  
20 nature on the spaces provided in this form, which  
21 would be where they would put in the amounts, and if  
22 they believe they had no gross income and they had  
23 nothing includable in gross income, including wages  
24 as defined by law, then they would state zero in  
25 contention of fact.

1 THE COURT: Okay, and have the arguments that  
2 you've been raising in your briefs and that you're  
3 raising here today, is that what you would use to  
4 assert that the W-2 is incorrect and identify zero  
5 for the wages earned?

6 MR. BELL: That's the only way I see that could  
7 be used, Your Honor.

8 THE COURT: So your answer is yes?

9 MR. BELL: I have offered it to other people  
10 that this is what I see. It is up to them what they  
11 want to do. I never fill in any forms for anybody,  
12 and I tell them this is what I see. This is what I  
13 understand. If you're going to make an argument,  
14 you've got to use their forms and processes.

15 THE COURT: So whether you fill out the form or  
16 somebody else fills out the form, this is the manner  
17 in which you describe how the form could be used?

18 MR. BELL: I understand this is the manner, if I  
19 were give an specific example, I understand that was  
20 the manner that was implemented by Mr. Gene Webb.

21 THE COURT: Pursuant to your advice?

22 MR. BELL: I don't want to play with the word  
23 advice. I can't venture there without sitting down  
24 and looking at it.

25 THE COURT: Well, pursuant to the information

1 that you provide, you anticipate that people will  
2 take action with respect to Form 4852 if they agree  
3 with your interpretation of the --

4 MR. BELL: If they agree.

5 THE COURT: Let me finish, if they agree  
6 with your interpretation of 861 or regulations  
7 promulgated thereunder and your interpretation of  
8 the instructions as they appear on Form 4852.

9 MR. BELL: Yes, sir.

10 THE COURT: Thank you.

11 MR. BELL: And also Form 8275, which is quite  
12 significant. As I believe my response to the motion  
13 for preliminary injunction addressed the 8275 in  
14 that I believe in the regulations at 1.6662-4 state  
15 that the use of the 8275 absolves the filer from a  
16 claim of the government of understatement of the  
17 liability. I am trying to exhibit to the government  
18 and to this court that my effort has been to take  
19 this information and bring it to the attention of  
20 the people so that they can bring it to the  
21 attention of the government through the proper  
22 process, not to rail, shake their fists, or waste  
23 time.

24 THE COURT: Mr. Bell, how much time would you  
25 like to respond to the government's most recent

1 submissions to the court?

2 MR. BELL: Thirty days would be nice.

3 THE COURT: I can't give you thirty days.

4 MR. BELL: Then I guess the rules would have to  
5 be fifteen.

6 THE COURT: I'll give you fifteen days from your  
7 receipt, which would have been Friday?

8 MR. BELL: Friday, yes, Your Honor.

9 THE COURT: So it will be due Monday, November,  
10 help me with the date of the month, I think the  
11 18th?

12 COURTROOM DEPUTY: Yes.

13 THE COURT: 19th?

14 COURTROOM DEPUTY: 18th.

15 MR. BELL: 18th.

16 THE COURT: Anything further, gentlemen, on  
17 either side?

18 MR. DAVIS: Nothing further, Your Honor.

19 THE COURT: Mr. Bell, anything further?

20 MR. BELL: Not at this time.

21 THE COURT: Okay. We'll take a good hard look  
22 at your written submissions after November 18th when  
23 they are due, and we will close these proceedings  
24 with respect to the motion for preliminary  
25 injunction. I would like counsel and Mr. Bell to

1 stay for a second with respect to other pending  
2 matters. I have a motion to strike a supplemental  
3 document that was filed by Mr. Bell, and I have I  
4 think a motion to compel, but was that ruled upon by  
5 Judge Kane?

6 MR. DOWIE: No, Your Honor.

7 THE COURT: Okay, so you have a pending  
8 outstanding motion to compel, and Mr. Bell, you  
9 have a pending outstanding motion to strike?

10 MR. DAVIS: Your Honor, I thought the motion to  
11 strike had been ruled on, but which motion to  
12 strike? I know at the very least one has been ruled  
13 on. I don't know if he did more than one. May I  
14 take a look at the docket?

15 THE COURT: Okay. Mr. Bell, has your motion to  
16 strike been ruled upon?

17 MR. BELL: I believe so, but I cannot affirm  
18 that at this time.

19 THE COURT: All right. We'll take a look to see  
20 if there's an order outstanding on that, and your  
21 motion to compel has not been ruled on?

22 MR. DOWIE: That is correct, Your Honor.

23 MR. BELL: I believe the motion, Your Honor, the  
24 motion to compel was possibly pending in the review  
25 of the documents.



1 THE COURT: That's pending the in camera review,  
2 yes. Any other pending motions that you need to  
3 bring to the court's attention?

4 MR. DAVIS: None for the government, Your Honor.

5 THE COURT: Mr. Bell?

6 MR. BELL: No, Your Honor.

7 THE COURT: Okay. Very good. The record is  
8 closed. We'll await Mr. Bell's submissions, and I  
9 would like to close the record with Mr. Bell's  
10 submissions to bring these proceedings to its  
11 logical conclusion so that I can rule. I'm not  
12 going to allow the government to respond to  
13 Mr. Bell's reply. We have too many briefs as it  
14 is, and so that will be the last document that I'll  
15 review before ruling on your motion.

16 MR. DAVIS: Understood.

17 THE COURT: Okay? Thank you. We are adjourned.

18 (Thereupon, at 11:11 a.m. the proceedings were  
19 adjourned.)  
20  
21  
22  
23  
24  
25

## I N D E X

## Preliminary Injunction Hearing

USA vs. Thurston Paul Bell

1:01-CV-2159

4 November 2002

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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA  
HARRISBURG DIVISION

3	UNITED STATES OF AMERICA,	:	CASE NO.
	Plaintiff	:	1:01-CV-2159
4		:	
	vs.	:	
5		:	Harrisburg, PA
		:	(Judge Conner)
6	THURSTON PAUL BELL, individually	:	
	and d/b/a/ NATIONAL INSTITUTE	:	
7	FOR TAXPAYER EDUCATION,	:	4 November 2002
	Defendants	:	9:30 a.m.
8	.....	:	

TRANSCRIPT OF PRELIMINARY INJUNCTION HEARING  
BEFORE THE HONORABLE CHRISTOPHER CONNER  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the United States:

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Donald N. Dowie, Esquire  
U.S. Department of Justice  
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202-514-0079

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P R O C E E D I N G S

THE COURT: Thank you. Please be seated.  
We're here today on the government's motion for preliminary injunction against Thurston Paul Bell, case number 1-CV-01259. It's the government's motion. Would counsel identify themselves for the record?

MR. DAVIS: Excuse me. Certainly, Your Honor. My name is Evan Davis. I'm government counsel. This is Don Dowie, who also is going to counsel. Actually in the front row is another attorney who just joined our office named Michael Raum, and down here is Chris Roginsky, who's an IRS employee.

THE COURT: Good morning.

MR. ROGINSKY: Good morning, Your Honor.

THE COURT: You may be seated, and Mr. Bell, you're representing yourself, is that correct?

MR. BELL: Yes, Your Honor.

THE COURT: Okay. Because you're going to I assume be testifying at some point during this

20 assume be testifying at some point during this  
21 proceeding, I'm going to swear you in now so that  
22 you're under oath, okay?

23 MR. BELL: Certainly.

24 THE COURT: Please rise and give the oath,  
25 Ms. McKinney.

3

1 (Mr. Thurston Paul Bell was sworn by the  
2 courtroom deputy.)

3 THE COURT: Okay. The government may proceed.

4 MR. DAVIS: Thank you, Your Honor. Your Honor,  
5 the defendant Thurston Bell needs to be stopped now  
6 before he causes further damage to his clients or  
7 the United States Treasury. Bell is selling an  
8 abusive tax scheme, defrauding his clients, and  
9 bilking the U.S. Treasury. Bell helped clients file  
10 tax returns based on his frivolous U.S. sources  
11 argument, which fraudulently claims that all  
12 domestic income is tax free.

13 Bell claims that his clients have received  
14 refunds in excess of a million dollars based on this  
15 frivolous scheme. Bell also recruits so-called  
16 senior fellows to spread his gospel throughout the  
17 country and recruit more clients. Bell's clients

17 country and recruit more clients. Bell's clients  
18 are relying on him and his fellows to provide sound  
19 tax advice, but Bell, who has no tax accounting or  
20 legal training, claims to be the only one who really  
21 understands the tax code.

22 Nothing can be further from the truth. The  
23 argument is a consistent loser, the U.S. sources  
24 argument. All taxpayers who have raised it have  
25 lost, most have been penalized, and most courts have

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1 deemed it to be a frivolous argument. Three former  
2 clients or associates have been summarily enjoined  
3 for promoting the same argument, but Bell still  
4 continues.

5 Bell's activities have resulted in harm to the  
6 government. Clients use Bell's arguments to evade  
7 their taxes and to delay the IRS process. The  
8 government will eventually catch up with these  
9 clients and subject them to possible civil and  
10 criminal penalties. Audits and investigations will  
11 continue, and the government has filed three  
12 erroneous refund suits against Bell's clients or  
13 former clients, but some erroneous refunds still

14 slip through.

15 In the meantime Bell is enriched by charging  
16 his clients, and the government is left holding the  
17 bag. What does the government need to show for its  
18 preliminary injunction? Under Internal Revenue Code  
19 Section 7408 the government must show that Bell's  
20 conduct violates one of the two penalty sections,  
21 6700 or 6701, and that an injunction is appropriate  
22 to prevent the recurrence of that penalty conduct.

23 The government's preliminary injunction motion  
24 and exhibits shows that Bell has violated Section  
25 6700. Bell has organized and sold the tax plan or

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1 arrangement. He has made material statements about  
2 the excludability of income from taxation. He's  
3 told people that unless their income is on a defined  
4 narrow limit that is essentially just foreign  
5 income, their income is tax tree free. Further,  
6 Bell knew or had reason to know that his argument  
7 was false or fraudulent. He knows of the cases  
8 ruling against this U.S. sources, or also known as  
9 the 861 argument, but he still continues.

10 The government's motion also showed that Bell

10 The government's motion also showed that Bell  
11 is violating Section 6701. Bell prepared and  
12 assisted others to prepare documents, tax returns,  
13 and letters that he knew or had reason to know would  
14 be sent to the IRS, and Bell also knew that those  
15 documents would result in an understatement of  
16 income -- excuse me, of tax liability for his  
17 clients.

18 Further, Bell essentially has admitted that he  
19 won't stop absent a court order. So we've shown  
20 that the injunction is appropriate to prevent the  
21 recurrence. Further, the court can enjoin Bell  
22 under Section 7402 of the Internal Revenue Code if  
23 an injunction is necessary or appropriate to the  
24 enforcement of Internal Revenue law. This  
25 essentially is a catch-all statute that allows the

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1 court fully specifically to focus on conduct that is  
2 not subject to penalty under Section 6700 or 6701,  
3 but is still essentially gumming up the IRS works in  
4 the case of Thurston Bell. If his activities are  
5 encroaching or hindering the IRS's activities, then  
6 an injunction can be entered if it's necessary or  
7 appropriate.



7 appropriate.

8 Looking now at Bell's arguments, as you've seen  
9 in his preliminary injunction response brief, first  
10 he tries to explain his U.S. sources argument, which  
11 at first he tries to distinguish between the 861  
12 argument, and for all intents and purposes they're  
13 the same argument. The reason that we talk about  
14 the 861 argument is if you look at the Tax Court  
15 cases that have discussed situations in which  
16 taxpayers have said Section 861 of the code or  
17 regulations under Section 861 exempts my income  
18 from taxation, that's generically the 861 argument.

19 Bell uses the same Section 861 in the code. He  
20 uses the same regulations and he reaches the same  
21 frivolous result that unless your income is on this  
22 narrow list of sources, then it is not taxable. So  
23 the government has demonstrated first that this U.S.  
24 sources 861 argument is frivolous, but two of Bell's  
25 arguments likely or could give the court pause.

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1 First is that the proposed injunction violates his  
2 1st Amendment rights, and second, that Bell is  
3 simply advocating for his clients to due process

4 rights.

5 Looking at the 1st Amendment, the 1st Amendment  
6 is always a concern when you're looking at Sections  
7 7402 and 7408 injunctions, because the sections by  
8 their terms sweep broadly and could draw in  
9 protected speech if an injunction is issued under  
10 them without carefully looking at the 1st Amendment  
11 implications of them, and you see in the cases that  
12 the government has cited in its briefs that the  
13 courts really are mindful of the 1st Amendment when  
14 they enter the injunctions.

15 However, the sections are constitutional  
16 and the injunctions that they've entered are  
17 constitutional because they focus on banning false  
18 commercial speech, courses of illegal conduct, and  
19 incitement to imminent lawless action, and that's  
20 precisely what the government has asked for in its  
21 preliminary injunction.

22 Bell is charging for faulty tax advice. Bell's  
23 website contains faulty tax advice, and he charges  
24 people to go into the members area of that site.  
25 That's false commercial speech unprotected by the

1 1st Amendment. Further, Bell is helping clients to  
2 evade their taxes by assisting them in filling out  
3 forms and letters that contain his frivolous U.S.  
4 sources argument. That's a course of illegal  
5 conduct, and he's inviting his clients to commit  
6 tax evasion.

7 The website also contains protected speech,  
8 and likely Bell is talking to his clients about  
9 protected speech. On his website he rails against  
10 the government, the court system. There's nothing  
11 wrong with doing that. The 1st Amendment protects  
12 that. The government is not trying to shut down  
13 Bell's website. The government is asking the court  
14 to simply enter an injunction that stops his false  
15 commercial speech, stops incitement to imminent  
16 lawless action, and stops his course of illegal  
17 conduct, helping others to evade their taxes.  
18 Looking at the --

19 THE COURT: Excuse me, are you also, are you  
20 asking though to shut down the members only area  
21 of the website?

22 MR. DAVIS: Only to the extent the members only  
23 section has false commercial speech and in theory  
24 could incite or as part of the course of the illegal

24 could incite or as part of the course of the illegal  
25 conduct, so that the same standard would apply to

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1 Bell's actions and discussions with his clients as  
2 to the website.

3 Bell's second major argument involves due  
4 process, and when you hear the term due process you  
5 think well, there's nothing wrong with bringing a  
6 due process argument, but Bell essentially says the  
7 Goldberg vs. Kelly and a number of other cases  
8 require that his clients be allowed to cross-examine  
9 witnesses at the audit stage, which is the first  
10 stage of the process, and the reason that he wants  
11 to cross-examine witnesses, he wants to bring  
12 employers in, he wants to bring his clients'  
13 employers in and say, "My client's income is not  
14 from a source outside the United States. It's not  
15 from a source listed in Regulation 1.861."

16 He wants to argue the merits of, or lack  
17 thereof of the U.S. sources argument with employers.  
18 Number one, it's a waste of time, but number two,  
19 due process does not require what Bell is saying.  
20 Due process requires that before serious adverse  
21 harm occurs administratively that the person have an

21     harm occurs administratively that the person have an  
22     opportunity to cross-examine and confront witness,  
23     and that process is allowed to taxpayers  
24     specifically in the situation of income taxes by  
25     going to Tax Court.

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1             Before the assessment has become final they  
2     have an opportunity to appeal the Tax Court,  
3     cross-examine anyone that they want, bring their  
4     legal arguments to a neutral court. So the due  
5     process that is required by Goldberg and the other  
6     cases that Mr. Bell cites is in the system. Bell  
7     essentially is making up what he thinks due process  
8     should be without regard to what the cases say.

9             In summary, Bell denies very few of the  
10    government's allegation. If you look at his  
11    arguments in the response brief, he doesn't talk  
12    about "I didn't do work for Ray Berglund, I didn't  
13    work with Hal Hearn." He admits to owning and  
14    writing the contents on the website. He also admits  
15    to encouraging and assisting others to file tax  
16    returns and other documents with the IRS based on  
17    this frivolous U.S. sources argument.

18           He also admits to pushing this due process  
19           argument, all in support of his U.S. sources  
20           argument. So the analysis of whether to enjoin  
21           him is really reduced to one question: Is the U.S.  
22           sources argument correct? Do the tax code and  
23           regulations say that domestic income is tax free?  
24           Of course not. Bell's argument is nonsense.  
25           The tax court knows it, the 8th Circuit knows it in

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1           the Madge case, federal courts in Tampa and Atlanta  
2           who have enjoined Bell's former associates know it,  
3           and despite his protestations to the contrary, Bell  
4           knows it. Bell needs to be enjoined immediately  
5           before he convinces one more taxpayer to evade their  
6           taxes and before he draws more money and resources  
7           from the government.  
8           Complaining about taxes is one thing, but  
9           charging people for bad tax advice and convincing  
10           them to stop paying taxes is a whole different  
11           ballgame. Bell needs to be stopped now, and we  
12           ask to court to enter the proposed preliminary  
13           injunction. Thank you, Your Honor. Do you have any  
14           questions?

14 questions?

15 THE COURT: Not at this time. Do you intend to  
16 present any witnesses today?

17 MR. DAVIS: No, but we brought Chris Roginsky  
18 from the IRS essentially. If the court has any  
19 concerns, we can certainly present Mr. Roginsky.  
20 Otherwise we would leave him as a possible rebuttal  
21 witness, but other than that we would like to rest  
22 on the deposition attachments, the exhibits, the  
23 declarations, etc., attached to our preliminary  
24 injunction motion, and just to remind the court, we  
25 submitted a short memorandum and additional, an

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1 additional exhibit I believe on Thursday or Friday  
2 which included essentially excerpts from a  
3 deposition of a gentleman by the name of David  
4 Eichner. Do you know if the court received that?

5 THE COURT: I have not looked at that. I have  
6 not seen that. Do you have an extra copy?

7 MR. DAVIS: We can get our copy, but we can  
8 certainly pass this up if the court -- do we  
9 actually have the --

10 MR. DOWIE: I believe we also have the brief.

11 THE COURT: When was that filed?



11 THE COURT: When was that filed?

12 MR. DAVIS: It was filed at the latest on  
13 Friday, but I thought it was actually filed on  
14 Thursday.

15 MR. DOWIE: We have the brief here, Your Honor,  
16 but perhaps when we take a break we could obtain the  
17 brief.

18 THE COURT: Why don't we do that. What does  
19 this new document consist of?

20 MR. DAVIS: Actually Mr. Dowie took the  
21 deposition, if you don't mind I'd --

22 THE COURT: Mr. Bell has a copy. Is that your  
23 extra copy?

24 MR. BELL: That's mind.

25 THE COURT: I don't want you to give up your

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1 copy. Thank you for the offer.

2 MR. DAVIS: Mr. Dowie took the deposition. I  
3 think he'd be the best person to answer --

4 MR. DOWIE: Yes, Your Honor, just to give a  
5 brief background of the supplemental brief and  
6 transcript from the deposition of David Eichner  
7 which we supplied, we filed the brief just to give



8 the court a brief road map as to the additional  
9 evidence we believe this deposition transcript  
10 affords the court as a basis for entering the  
11 preliminary injunction, and I'll go ahead and just  
12 summarize that here if the court will indulge.

13 THE COURT: Sure.

14 MR. DOWIE: David Eichner up until a few months  
15 ago was the putative general counsel and legislative  
16 liaison for NITE. Mr. Bell here hired Mr. Eichner  
17 back in early 2001 I believe to serve in this role  
18 as the -- now, I should say initially even though he  
19 was labeled the NITE general counsel, Mr. Eichner  
20 had a juris doctor degree from Rutgers University,  
21 but he did not at that time have a license to  
22 practice law, and as I understand it did not receive  
23 a license until approximately one month ago from the  
24 state of Arizona.

25 Nonetheless, Mr. Bell hired him and marketed

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1 him as the general counsel for NITE. Mr. Eichner  
2 assisted Mr. Bell in marketing the abusive sections  
3 861 scheme. He met with NITE clients, and perhaps  
4 most importantly assisted in drafting numerous

4 most importantly assisted in drafting numerous  
5 drafts which were filed in federal and state courts  
6 asserting among other things the frivolous section  
7 861 or U.S. sources argument.

8 Now, he did these things at Mr. Bell's  
9 direction, and he was paid for them by Mr. Bell.  
10 He earned approximately I believe in a year and a  
11 half about \$15,000 for assisting Bell clients. Some  
12 of his more, or one of his more notorious clients  
13 was Thomas Madge, whom the Tax Court fined \$25,000  
14 for asserting the frivolous U.S. sources of the  
15 Section 861 argument and whom then at Mr. Bell's  
16 direction then filed a frivolous brief with the 8th  
17 Circuit appealing that Tax Court decision, and of  
18 course the 8th Circuit affirmed the Tax Court.

19 Still not satisfied, Mr. Eichner assisted  
20 Mr. Madge at Mr. Bell's direction to draft the  
21 petition for certiorari to the United States Supreme  
22 Court, again asserting the frivolous U.S. sources  
23 argument, and in the process taking Mr. Madge's  
24 money for these purported services. Of course the  
25 Supreme Court denied certiorari. Among other things

1 Mr. Eichner also admitted to advising NITE clients

2 as to filing what are known as zero tax returns.  
3 That's essentially a return that states that a  
4 taxpayer has not earned any taxable income despite  
5 the fact that the taxpayer may have earned a  
6 substantial amount of money working within the  
7 United States during a given tax year.

8 Even more importantly, he testified that he had  
9 on multiple occasions seen and heard over, as I  
10 understand it over the telephone Mr. Bell making or  
11 providing the same advice to taxpayers, telling them  
12 they could file a zero tax returns, or zero returns  
13 as they're called, regardless of the fact that they  
14 may have earned substantial amounts of money working  
15 within the United States during a given tax year.

16 Finally, Mr. Eichner has provided a significant  
17 amount of testimony they gave Mr. Bell, or that  
18 shows that Mr. Bell knows and has reason to know  
19 that his arguments are frivolous. For example,  
20 Mr. Eichner made it clear that he and Mr. Bell had  
21 drafted an extensive discussion of the Tax Court  
22 case known as Aiello versus Commissioner. That's  
23 A-I-E-L-L-O. I believe that's cited in our briefs.

24 THE COURT: I'm familiar with that case.

25 MR. DOWIE: Yes, sir. I know the court has of

MR. DOWIE: Yes, sir. I know the court has of

16

1 course read the materials. We note that that case  
2 found its Section 861 argument to be frivolous, and  
3 Mr. Bell is obviously aware of the case. Mr. Bell  
4 is aware of publications from the Internal Revenue  
5 Service stating that the U.S. sources argument is  
6 unlawful, and I believe there's some other things,  
7 but that I think and I hope provides the court with  
8 a brief sketch of what the additional information  
9 from Mr. Eichner's deposition will offer with  
10 respect to this matter. If the court has any  
11 questions?

12 THE COURT: We'll take a look at the materials  
13 that you have submitted. I'll read them and review  
14 them carefully before we issue a decision.  
15 Mr. Bell, you have the opportunity if you would like  
16 to file a response to this brief in light of the  
17 fact that it is, it was filed only late last week,  
18 I'll give you that opportunity.

19 MR. BELL: Thank you.

20 THE COURT: Anything further?

21 MR. DAVIS: Unless the court has questions, no,

21 MR. BELL: ...  
22 Your Honor.  
23 THE COURT: I don't have any questions at this  
24 time. I'd like to hear from Mr. Bell.  
25 MR. BELL: Thank you, Your Honor. This is my

1 first time on this side of the bench, so please  
2 excuse me if I breach any protocols or --  
3 THE COURT: You can speak freely from where you  
4 stand.  
5 MR. BELL: This case arises under a singular  
6 issue. The entire thing stands or falls on false  
7 speech. Whether it's commercial or not, I, the  
8 defendant, don't care. If I'm saying something that  
9 is false and it is harming people, I certainly want  
10 it stopped, and I believe that I well demonstrated  
11 that to the United States government in my Exhibits  
12 B, C, and E that were attached to my affidavit of  
13 facts in this case, but the speech has to be  
14 narrowly confined to that which is under Section  
15 6700(a)(2)(A) of 26 CFR.  
16 That fact is reaffirmed by, the I believe the  
17 5th Circuit -- excuse me, the 8th Circuit, in the  
18 case of United States versus White. I have that

18 case with me today if the court would like to see  
19 it.

20  
21 THE COURT: Is it cited in your materials?

22 MR. BELL: No, no. That would probably be  
23 something that I would submit in the future, but I  
24 have that with me today.

25 THE COURT: Why don't you gave me the citation.

18

1 Do you have the citation?

2 MR. BELL: It is United States versus White, 769  
3 F.2d 511, 1985.

4 MR. DAVIS: If I may, Your Honor, the government  
5 did cite U.S. vs. White at some point. I think I  
6 can tell, because I have my cases here, so it's in  
7 our briefs.

8 MR. BELL: The specific page citation is page  
9 515.

10 THE COURT: Okay.

11 MR. BELL: And if it pleases the court I would  
12 like to read it that, it's stated that the false or  
13 fraudulent representations about "the allowibility  
14 of any deduction or credit, the excludability of any  
15 income, or the securing of any other tax benefit,"

15 income, or the securing of any other tax benefit,"  
16 26 USC, Section 6700(a)(2)(A). I don't deal with  
17 credits and deductions, because credits and  
18 deductions can only be claimed when one indeed has  
19 gross income and makes a claim. So the only issue  
20 is exempt income.

21 In this case the government bears the burden of  
22 proof under Section 6700(a)(3) -- excuse me,  
23 6703(a). So the issue has to be false speech in  
24 regards to what is exempt income. The government  
25 has to carry that burden of proof. I think it was

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1 in Cowen versus United States, which was also cited  
2 by the government, which I have copies of for the  
3 court should it require it. On page 1148, the only  
4 thing really required by the intent of the Congress  
5 and the enactment of this statute is false speech,  
6 and that's where I draw my position of commercial or  
7 noncommercial, I need to tell the truth, because  
8 what is false is false and hurts people, and what is  
9 true needs to come to light, and that's why I  
10 continue to press this, but falsehood is the main  
11 criteria.

12 At that I want to touch on Section 7402(a).



12           At that I want to touch on Section 7402(a),  
13 where Counselor Davis claims that 7402(a) is a catch  
14 all statute that would allow this court to issue an  
15 injunction against even free speech or poor speech  
16 that isn't covered under 6700 or 6701 or anything in  
17 the other parts of Section 7400 section. I have no  
18 knowledge of the plaintiff presenting any evidence  
19 that the Congress intended for Section 7402(a) to  
20 function in any capacity for the courts to use it as  
21 a catch all against any speech or to regulate 1st  
22 Amendment as a catch all, but the government  
23 obviously has the authority to issue the injunction.  
24 The court obviously has the authority to issue an  
25 injunction, but only pursuant to criteria of four

20

1 factors.

2           I found four in particular which have been  
3 quite profound in Detroit Free Press versus Ashcroft  
4 decided by the 6th Circuit on August 26th of 2002,  
5 and the government has to prevail on its merits. It  
6 has to show that my speech has already been  
7 determined to be false, such as in White on page  
8 515, that the false speech determined in that case



9 was pursuant to the reality of judicial decisions  
10 that oppose that specific speech.

11 Well, the government has the burden of proof to  
12 show that Mr. Bell's speech, his specific speech, is  
13 frivolous. All of the cases that Mr. Bell has  
14 examined that the government has presented, not a  
15 single one addresses the regulations asserted by  
16 Mr. Bell, the defendant. Not a single case  
17 addresses 1.861-8(a)(4), 1.861-8(t)(d)(2)(ii)(A).  
18 That's 1.861-8, paren, small "d," paren, Arabic 2,  
19 paren, small Roman numeral, paren, cap "A." This is  
20 a matter of law. This is why Mr. Bell continues to  
21 speak. It's a matter of 1st Amendment, and it is a  
22 fact that according to the United States Tax Court  
23 in Chevron versus Commissioner of Internal Revenue,  
24 which I have copies for the court should it require  
25 them, has stated that the regulations have not been

21

1 altered for over 80 years and have the effect of  
2 law.

3 1.861-8 to be exact is the section, and  
4 according to the Commerce Clearinghouse publication  
5 of it, it's on page 4266, is that specific citation.

5 of it, it's on page 4266, is that specific citation.  
6 On page 4265 is the citation of the case called  
7 United States versus Corell, U.S. Supreme Court  
8 case, that says long established regulations are  
9 held to have the effect of law.

10 Herein lies the controversy. In February of  
11 2001 I wrote a letter to IRS Commissioner Charles  
12 Rossoti. I asked him publicly to show me exactly  
13 where it is that I am not understanding the law and  
14 misrepresenting it, that I am not interested in  
15 hurting anybody, neither the government, nor the  
16 people, that I wanted the law specifically  
17 addressed.

18 It has taken this case for me to understand the  
19 total magnitude of that which I have done and  
20 started and what the 1st Amendment is, and I have  
21 begun my greatest understanding with a case called  
22 Speiser versus Randall in 1958, United States  
23 Supreme Court. I have copies of that case as well  
24 for the court should it want it. Specifically on  
25 page 521, and this was a case regarding a state

1 imposing a, technically imposing a penalty on free  
2 speech, and in Speiser on page 521 the high court

2 speech, and in Speiser on page 521 the high court  
3 stated that "the validity of restraint depends upon  
4 careful analysis of the circumstance."

5 In light of the government having to bear the  
6 burden of proof under Section 6703(a), the  
7 government should be required by this court to  
8 specifically address 1.861-8(a)(4) and  
9 1.861-8(t)(d)(2)(ii)(A). The significance of  
10 8(t)(d)(2)(ii)(A) is that the tax court has  
11 continued to issue statements that there is nothing  
12 within the regulations that says anything about  
13 income being exempt, but 8(t)(d)(2)(ii)(A) is  
14 clearly the section of regulation that defines  
15 exempt income in relationship to the U.S. sources  
16 argument.

17 The United States government, the plaintiff,  
18 has asserted that Section 861 has nothing to do with  
19 Section 61. In my briefs you will see that I have  
20 shown that they do, that the tax court has twice  
21 touched upon it and applied 861 statute to Section  
22 61 determinations. Therefore the regulations, also  
23 being law, need to be applied.

24 I have taken great risk to bring this to the  
25 attention of the government, who instead of coming

1 to meet with me and talk with me has decided that  
2 they would rather crush the 1st Amendment and ask  
3 you for help to do so. The government in their  
4 brief, as you will see in my response brief, will  
5 say that, has said that Section 861 has to do with  
6 foreign earned income because of a title within the  
7 publication of the code to which I have responded  
8 with Section 7806(b), which I have a copy  
9 highlighted for all parties here today which says  
10 that, "No inference, implication, or presumption of  
11 legislative construction shall be drawn or made by  
12 reason of the location or grouping of any particular  
13 section of provision or portion of this title, nor  
14 shall any table of contents, cross reference, or  
15 similar outline or analysis or descriptive matter  
16 relating to contents of the title be given any legal  
17 effect."

18 THE COURT: Okay, Mr. Bell, I don't mean to  
19 interrupt you, but if you could talk a little more  
20 slowly so our court reporter can get down everything  
21 that you're saying.

22 MR. BELL: Okay, but I have that for the court.

23 If the court would like a copy I will give it to you  
24 for your analysis.

25 THE COURT: Okay.

24

1 MR. BELL: That case basically is saying to my  
2 understanding as a layman who is bound to the law,  
3 because ignorance of the law is no excuse, is that  
4 the words in the law mean what they say, not titles  
5 or groupings or headings, that the law needs to be  
6 read for what it is. The government in its motion  
7 for preliminary injunction I think submitted about  
8 six different arguments. I think if I recall  
9 correctly, three of them actually cancelled each  
10 other out, and three of them were just completely  
11 unreasonable in light of the words in the law and  
12 what it says.

13 If the government really believed that I, the  
14 defendant, am causing damage to it, it would have  
15 been nice if the government came and accepted my  
16 three invitations to sit down and show me where it  
17 is that I am wrong instead of doing this action, but  
18 I understand if it feels that it needs to follow  
19 certain procedures and even take this matter to the

19 certain procedures and even take this matter to the  
20 court, but the requirement that it offer a specific  
21 analysis of this argument, although Speiser was  
22 1958, has been reaffirmed by the district court in  
23 this state, Eastern District of Pennsylvania, in  
24 American Library Association versus United States.

25 I believe that's been cited in some of my

25

1 briefs, but not the one regarding this matter, but  
2 the American Library Association, Incorporated  
3 versus U.S. was 201 F.sub 2d 401, Eastern District  
4 of Pennsylvania, 2002. Page 479 seems to be the  
5 bulwark of protection of speech when in the  
6 government seeks to enjoin it or to suppress it.

7 In one case it's quoting from the Bantam  
8 Books case, "The separation of legitimate from  
9 illegitimate speech call for sensitive tools. The  
10 1st Amendment demands the precision of a scalpel,  
11 not the sledge hammer." I have offered an argument,  
12 Section 861 regulations. There's approximately,  
13 there's over 55 pages of regulations between Section  
14 1.861-1 to Section 1.861-8. I state, I argue  
15 sections of law on the 17th page of that group of  
16 law. of that mass of law. and on the 55th page of

16 law, of that mass of law, and on the 55th page of  
17 that body of law.

18 I do not believe as a citizen that I should  
19 sit back and say nothing when the Tax Court attacks  
20 something with a broad brush and doesn't address it,  
21 that it's my political, moral obligation and duty to  
22 press a matter of law that could bring hope to those  
23 who are suffering under government oppression, and  
24 truly oppression, Your Honor, truly oppression,  
25 because we did have hearings on matters of

26

1 government oppression in the IRS in 1997 which gave  
2 us the Revenue Reform and Restructuring Act.

3 I understand, I understand what the government  
4 believes that they have here. I understand why they  
5 are here today, because they have decided that  
6 because my speech merely appears to be similar to  
7 prior unprotected speech, that they have a duty by  
8 order, request, referral, whatever, referral is the  
9 proper word, of the IRS counsel in Philadelphia to  
10 seek to enjoin me, but the decision of Ashcroft  
11 versus Free Speech Coalition, 122 Supreme Court  
12 Reporter 1389, and on April 16th, 2002 nonetheless,



13 on page 1404 of the Supreme Court Reporter of  
14 West's, let me find that page very quickly, the  
15 Supreme Court was gracious to our 1st Amendment  
16 rights. In these troubled times it said, "Protected  
17 speech does not become unprotected merely because it  
18 resembles the latter."

19 For that reason I've offered my time, my  
20 efforts to the people of this country and to the  
21 government to sit down and show me specifically  
22 where it is that my speech is incorrect, because the  
23 line is finely drawn. The law and the regulations,  
24 the regulations are law, and it's kind of vast, and  
25 I didn't do a word count on that to find out how

27

1 many words are in there, but one ruling that touches  
2 on the statute doesn't touch the regulations.

3 Six rulings that rule on the statute and  
4 don't touch on the regulations do not touch the  
5 regulations, which are still law, and I am bound to  
6 from my understanding, from my understanding, and  
7 that a judge saying that there is nothing within  
8 this regulation that provides exemption I find  
9 highly questionable in light of a definition of



9 highly questionable in light of a definition of  
10 exempt income at 1.861-8(t)(d)(2)(ii)(A).

11 I offer to this court the case of Detroit Free  
12 Press versus Ashcroft, 6th Circuit, I have multiple  
13 citations from pages 685, 686, 693, 704, 705, and  
14 711. It covers the four factors for preliminary  
15 injunction according to the 6th Circuit, which may  
16 not apply here, but they seem reasonable to me. The  
17 1st Amendment as stated on page 686, "The 1st  
18 Amendment prohibits the government from suppressing  
19 embarrassing information." I think this is  
20 embarrassing to them, but I'm more than happy to  
21 work it out quietly.

22 693, "The government must account for their  
23 choices." I wrote an e-mail to Mr. Davis, and it's  
24 somewhere in the mass of this case, probably in one  
25 of the motions that Judge Yvette Kane denied, I

28

1 asked Mr. Davis shortly before New Year's of this  
2 year to please show me now where it is that my  
3 speech is false so that we can avoid this expense  
4 and this effort, because I will confess to this  
5 court that I have dealt with the issue of taxes for  
6 eight and a half years on the edge of what would be

6 eight and a half years on the edge of what would be  
7 seen as legal, working with people who were being  
8 hurt and seeing them taken advantage of by  
9 charlatans and liars and con men, and God forbid  
10 that I become one of those.

11 I want away from this. I want it addressed. I  
12 do not need this in my life. For who in their right  
13 mind would think that they can make an existence, a  
14 meaningful, have a meaningful life by confronting  
15 the IRS and the Justice Department? It's only out  
16 of duty and obligation that I'm here.

17 On page 704 the 6th Circuit said in Detroit  
18 Free Press, it reaffirms, they reaffirmed free  
19 discussion of government affairs that the 1st  
20 Amendment is key to that. 705, that the  
21 government's selectivity of what information the  
22 public sees is a powerful tool for deception. The  
23 6th Circuit acknowledged that it's possible that our  
24 government could deceive us. In almost any capacity  
25 that's possible, that the 1st Amendment is the

29

1 bulwark against that. That is why I'm here.

2 711 was the most profound statement of our

3 times of what our nation faces under the constitution

3 times of what our nation faces under the onslaught  
4 of terrorism that seeks to undermine the fabric of  
5 society and collapse our civilization, that the 6th  
6 Circuit stood up and said, "We're not going to do  
7 the job of the terrorists and destroy that which  
8 they seek to do by force with our gavel," and that's  
9 at 711, their last paragraph, I will not bore the  
10 court by reading it, but it is truly exciting, but  
11 ultimately it states that democracy operates on  
12 faith, that government officials are forthcoming and  
13 honest.

14 I pray this court sees that I have attempted to  
15 be forthcoming and honest. I have only stepped into  
16 the arena of attempting to help people to understand  
17 the administrative process of the IRS, because in  
18 order to bring forth the arguments of 1.861-8(a)(4)  
19 and 1.861-8(t)(d)(2)(ii)(A), the administrative  
20 process must be exhausted. Mr. Davis in the  
21 deposition of Mr. Larken Rose, which is not part of  
22 the court record but I have a complete copy here,  
23 asked Mr. Rose, who is a significant person in this  
24 matter, which I hope to get to in a moment.

25 THE COURT: Would you like to make it part of

1 the record, Mr. Bell?

2 MR. BELL: I would like to, but I don't have a  
3 copy for the court today.

4 THE COURT: You can submit it in your response  
5 to the government's recent submission if you would  
6 like.

7 MR. BELL: Thank you for the wonderful  
8 suggestion, Your Honor. He asked Mr. Rose, he  
9 said, "Well, if you filed your claim for refund with  
10 this argument, why haven't you sued?" Well, in  
11 response to Mr. Davis's question, we have worked  
12 very hard, I have worked very hard for five years  
13 now to completely understand the administrative  
14 process, exhausted, turned over every stone, turned  
15 over every point of fact and step, and we have  
16 reached the point that the government merely calls  
17 everything frivolous, throws the people aside, and  
18 that the only thing left to do now, yes, Mr. Davis,  
19 is we will litigate.

20 I have no other choice. I have to carry this  
21 forward, because the Supreme Court is the final  
22 interpreter of the law, and no one is addressing  
23 861-8(a)(4) and 8(t)(d)(2)(ii)(A). I would like to

23 861-8(a)(4) and 8(t)(d)(2)(ii)(A). I would like to  
24 go back to the government's brief. Ultimately it  
25 seems that the government, both the agents and the

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1 DOJ want to stand on, stand on the term that the  
2 idea that the 16th Amendment says that income taxes  
3 are imposed on whatever source.

4 Well, the case called Dennis versus United  
5 States, which -- gosh, I have a hard time reading  
6 the citations of these things, but it's heavily  
7 cited in other items, and I would obviously submit  
8 something about it in the future, but it was ruled  
9 in 1950 and I have a copy for the court should it  
10 need it, and for plaintiff. On page 508 it said,  
11 "A phrase only has meaning when associated with  
12 considerations which gave birth to the  
13 nomenclature."

14 I would have to say that that principle applies  
15 to my speech, that the specifics of my speech have  
16 to be analyzed for what they are, as well as what  
17 the government says when they say whatever source,  
18 or even when they say all inclusive, which is cited  
19 in Glenshaw Glass, the Glenshaw Glass case from  
20 1955. That it's fascinating to read that to find out

20 1955, that it's fascinating to read that to find out  
21 the term all inclusive actually is not the words of  
22 the United States Supreme Court but are actually  
23 dicta, citations from the U.S. Congress, but  
24 whatever source has already been decided and stated  
25 in Evans versus Gore in 1920 as basically saying

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1 that whatever source does not mean whatever source,  
2 and Justice Stone in his citation, in his opinion on  
3 page 607 of Wright versus U.S., 1938, states that  
4 whatever source does not mean whatever source, and  
5 he cites Evans vs. Gore and that very famous case  
6 regarding the taxation of federal judges, which I  
7 know of course has been overturned on principle, on  
8 principle of the judges having to pay the taxes that  
9 the people have to pay.

10 To date I have yet to see a single case, Tax  
11 Court, U.S. District Court, Court of Claims, circuit  
12 Court, United States Supreme Court, that addresses  
13 the regulations that NITE argues. NITE continues  
14 and persists in this effort for the purposes of  
15 redress of grievance, of hearing of the issue. If  
16 the court rules on something regarding Section 861

17 statute, that is not hitting the mark, and that is  
18 what our assertion is and that is what the assertion  
19 of many American citizens is.

20 We want this matter specifically addressed. If  
21 we're going to be bound by the regulations, then we  
22 want the regulations fully applied. The court  
23 addressing the statute is not sufficient. We want a  
24 ruling on the regulations as was given Chevron in  
25 Chevron versus Commissioner. We want a ruling on

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1 this definition of exempt income.

2 For my final point on this opening statement  
3 that I can -- I don't think I can make a final point  
4 because I want to look at the notes quickly as to  
5 what Mr. Davis's opening statements were, but in  
6 Enochs versus Williams Packaging, the United States  
7 Supreme Court, 1961, it was stated that "The  
8 government's chance of ultimately prevailing on an  
9 injunction issue is determined by the information  
10 available at the time of suit."

11 Since there's no address of  
12 1.861-8(t)(d)(2)(ii)(A) or 1.861-8(a)(4), I  
13 don't see any that they can prevail. They have



13 don't see any that they can prevail. They have  
14 not addressed the defendant's argument to prove  
15 frivolity. If there was frivolity, then the  
16 argument, if it was actually addressed perhaps  
17 someone could say that I was defrauding or bilking,  
18 defrauding and bilking the government or the people,  
19 then it would be arguable. As for Mr. Davis's naked  
20 assertion that I claim to be the only one who  
21 understands the code, I don't think so.

22 SPECTATOR: That's right.

23 MR. BELL: There is at least one other person  
24 I know who understands the code. There are many  
25 people that as I understand it, and that's Mr. Rose.

34

1 This is his video tape that he made. I'd like to  
2 enter it as evidence if possible, Your Honor.

3 THE COURT: Is there any objection, Mr. Davis?

4 MR. DAVIS: For what purpose?

5 THE COURT: It's a fair question, Mr. Bell. For  
6 what purpose?

7 MR. BELL: He claims number one that I'm the  
8 only person who understands the code, the Internal  
9 Revenue Code. Mr. Rose spent untold hours putting  
10 together an 88-minute video tape on the statutory



10 together an 88-minute video tape on the statutory  
11 history of Section 861 and its regulations all the  
12 way back to 1921. It's a presentation showing you  
13 only the law, right out of the book. It's rather I  
14 dry, and it says what it, it's right there for what  
15 it says.

16 THE COURT: And do you have any kind of  
17 connection or relation with Mr. Rose?

18 MR. BELL: Mr. Rose was at one time a member of  
19 NITE. He joined for reasons I don't know precisely,  
20 but he saw my website, he was probably rather  
21 concerned like the plaintiff is that my speech was  
22 false and frivolous and basically crazy, and he set  
23 out to prove that I was wrong, and he came back  
24 showing that I'm right.

25 THE COURT: Mr. Davis? Any objection?

35

1 MR. DAVIS: Your Honor, it's not relevant to  
2 number 1 of --

3 (Verbal comments from spectator gallery.)

4 THE COURT: Now, hang on. I'm only going to  
5 hear arguments from counsel, and I will clear this  
6 courtroom if I hear any arguments from the gallery.

7 Is that understood? Okay. Proceed.

8 MR. DAVIS: If he's trying to tie it to my  
9 statement that Mr. Bell is the only one, he claims  
10 he's the only one that understands it, that's  
11 certainly not relevant to what the government has  
12 to show and what Mr. Bell has to show. Mr. Bell is  
13 trying to introduce this essentially as Larken  
14 Rose's testimony. He's trying to get in Mr. Rose as  
15 some expert in the law.

16 If he's saying that all it says is what's in  
17 the regulations, then the court doesn't need someone  
18 else to walk it through regulations of the law. If  
19 it's something else, then it's expert testimony,  
20 Mr. Rose has an associate's degree in I think it was  
21 arts and sciences. He's not a lawyer, he's not an  
22 expert in the law, and it's simply an effort to  
23 introduce his testimony as an expert, and I think it  
24 should be disallowed.

25 THE COURT: Could it be relevant to the issue of

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1 what NITE does, what kind of an organization it is  
2 in terms of the --

3 MR. BELL: I believe, Your Honor, that it's

3 MR. DAVIS: I BELIEVE, YOUR HONOR, THAT IT IS  
4 relevant in respect to showing that I have not  
5 misrepresented the existence of the law nor the  
6 presentment of the law and the assertion of it by  
7 the NITE members, and I would also like to say that  
8 I was up until 3:00 in the morning reading the rules  
9 of the evidence, and in examining Rule 702 and the  
10 notes regarding it, it doesn't show that for someone  
11 to even be an expert that they have to be a  
12 professional, that experience is also admissible.  
13 Mr. Rose spent, I have no idea, at his deposition he  
14 says at least 500 hours researching the law and  
15 researching all of the law on this section of the  
16 law.

17 THE COURT: I'm going to allow the video tape  
18 to be submitted, and I'll give it the weight it  
19 deserves under the circumstances after I have had  
20 an opportunity to review it, and without reviewing  
21 it I think I should take it in and take it into  
22 consideration. We would like to have that I believe  
23 marked as an exhibit, we'll mark it Defendant's  
24 Exhibit Number 1.

25 MR. DAVIS: Just so the court doesn't worry

1 about copies, the government already has a copy of  
2 that.

3 THE COURT: Oh, you do?

4 MR. DAVIS: Yes. It was actually one of the  
5 exhibits to the Larken Rose deposition. Mr. Bell  
6 is going to submit that deposition transcription,  
7 he would have submitted that.

8 (Defendant's Exhibit 1 marked for evidence.)

9 MR. BELL: The government claims that  
10 individuals have used this argument to file  
11 erroneous refunds. There is a point of my Exhibit P  
12 in support of my affidavit of facts in response to  
13 the complaint, Your Honor. Exhibit P is a  
14 transcript of the case of the United States of  
15 America Versus Gene Webb before the Honorable Judge  
16 Anne Conway. For background, Mr. Webb came to me  
17 going before a judge who had just put his mother in  
18 prison for filing a zero return, and that he was  
19 going to be imprisoned should he not file a return  
20 for sake of compliance with his probation agreement,  
21 or parole, I'm not sure which one.

22 After discussing the matter with me he  
23 determined that he wanted to make contentions of  
24 factual nature using the Form 4852 and the Form 8275

24 factual nature using the Form 4852 and the Form 8275  
25 making this argument. It was presented to the

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1 court, to the IRS, via certified mail as presented  
2 to the court. My Exhibit O shows the United States  
3 attorney objecting to its submission of this type of  
4 return. The Exhibit P shows that in May of 2000  
5 U.S. Attorney Gold saying, "He now filed his '98 and  
6 '99 returns as I understand it, there would have  
7 been refunds due. However, due to his previous tax  
8 problems the IRS used those refunds to apply to some  
9 old debts."

10 That's on lines 16 through 19, Your Honor. It  
11 appears very clear by the evidence of the admission  
12 of the United States Department of Justice that  
13 Mr. Webb's return, which used the argument of NITE,  
14 using the forms of the government, was accepted and  
15 a refund was due, and in the end the document speaks  
16 for itself.

17 Judge Anne Conway released Mr. Webb from the  
18 court. He has not had to have to return. It was  
19 acceptable argument. That, Your Honor, that event  
20 alone was seminal in my eight years of efforts. It

21 was clear to me at that moment that I needed to pay  
22 attention to what happened in that court as very  
23 profound, and I went to some fact research and found  
24 the case of the United States versus Sullivan, which  
25 I believe is 1927, which helped me communicate to

39

1 NITE members that it is time to stop fighting the  
2 government about the requirement to file returns,  
3 that the U.S. Supreme Court was clear: If the  
4 government believes you're required to file a  
5 return, file the return, but it also says that  
6 you're not precluded from making your arguments on  
7 the face of the return in light of the existence of  
8 the Form 4852 and 8275 as used by Mr. Webb in his  
9 case where a judge well familiar with the law has no  
10 problems putting people in jail, and a Justice  
11 Department attorney who was well familiar with it  
12 and originally objected it as frivolous, and the  
13 IRS, all three, saying basically in paraphrase, Your  
14 Honor, return received, refund due, send him home,  
15 convinced me that it was time to tell the people who  
16 have been fighting the government about whether or  
17 not to file to stop the agony of willful failure to

17 not to file to stop the agony of willful failure to  
18 file cases, engage the government in their process,  
19 with their forms in good faith, and settle the  
20 issues.

21 It is claimed that I'm enriched by this effort.  
22 Probably only in my service to my fellow man.  
23 Money? No. It's shoestring, Your Honor. It's  
24 month to month. This isn't -- this is not something  
25 that the American people want to do. They don't

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1 want to come before you and take your time. They  
2 don't want to go into IRS audits. They are afraid,  
3 and they're all sitting back waiting to see what you  
4 do to me and to the 1st Amendment. The government  
5 says I know of cases. I've already given my point,  
6 none of the cases address the law that I argue,  
7 specifically with the specificity of a scalpel as  
8 ALA stated in Speiser says that the line is finely  
9 drawn. The only thing that can address it is  
10 something precise.

11 It is stated that I used the same regulations  
12 as others have in prior cases. I find no evidence  
13 of that in the case of Aiello versus Commissioner,  
14 Solomon versus Commissioner, you name the case. If



14 Solomon versus Commissioner, you name the case. If  
15 the case can be shown to me, I am a reasonable man.  
16 I have watched for years as a gentleman by the name  
17 of Bill Benson has travelled the company saying the  
18 16th Amendment was never properly ratified.

19 I went to the law library, I looked into West's  
20 4th Digest on the income tax, I found the case of  
21 U.S. versus House. It was only a district court,  
22 but its reasoning and logic as to why his argument  
23 against the 16th Amendment was invalid was so purely  
24 reasonable that I acknowledge without question that  
25 that gentleman is wrong in his argument.

41

1 I am willing to reasonably resolve this. I am  
2 willing to be reasonable if the government will  
3 specifically address the argument. Mr. Dowie in  
4 December said that will come out in court. Well, in  
5 light of Enochs versus Williams Packaging, that  
6 which shows my speech to be false needs to be in  
7 existence in and public knowledge prior to the  
8 filing of suit, or least at that moment. I haven't  
9 seen it.

10 THE COURT: Mr. Bell, do you have any additional



11 arguments at this time?

12 MR. BELL: I'm trying to go through my notes  
13 quickly. The government specifically cites the  
14 Madge case. Again it didn't address the argument.  
15 The government claims they needed to shut me up in  
16 order to stop another person from believing this  
17 allegedly false argument. Your Honor, I don't  
18 believe that quieting me is going to shut down this  
19 argument. There have been 20,000 I believe of those  
20 video tapes produced. If the government fails to  
21 specifically address and resolve this matter, it's  
22 only going to hurt the image and the people's faith  
23 in their government, as mine has been hurt because  
24 of this suit.

25 THE COURT: 20,000 video tapes of what?

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1 MR. BELL: Of that video tape, Exhibit 1.

2 THE COURT: Oh, okay.

3 MR. BELL: And they're being distributed. I  
4 have nothing to do with that by the way. I believe  
5 that Justice Brandice was very, very wise in his  
6 understanding of the 1st Amendment in Whitney versus  
7 California where he said when there's no clear

7 California where he says when there is no  
8 impending danger of evil, that the solution in a  
9 situation of free speech is not to forcibly stop the  
10 speech, but to have more speech. I believe, Your  
11 Honor, that the government being given this  
12 injunction at this time without specifically  
13 addressing the argument will not, it may win this  
14 battle, Your Honor, but it's only going to heat up  
15 even worse, and I am not going to be able to help  
16 anybody understand how to address the situation, how  
17 to resolve the situation in the future if I am  
18 muzzled.

19 As for Mr. Dowie's statements about the  
20 deposition of Mr. Eichner where he made assertions  
21 about me having knowledge of case law, again nothing  
22 is addressed in the regulations specific, the two  
23 that I have repeated to the point that I do not want  
24 to harass the ears of the court any further with  
25 them.

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1 THE COURT: And Mr. Bell, I've already granted  
2 you allowance to respond to those arguments in  
3 writing.

4 MR. BELL: Yes, sir.

4 MR. BELL: Yes, sir.

5 THE COURT: And I will take them into  
6 consideration.

7 MR. BELL: And as for the claim that Mr. Bell  
8 made advice to people to file zero returns, for his  
9 sake he is not here to raise objections. I have  
10 looked at this, and you will see in my response what  
11 I do with this, that Mr. Dowie twists word so  
12 heavily, as in his example on his Exhibit 11, on his  
13 document he claims that this Exhibit 11 shows that  
14 an attorney "had found no case, rule, or regulation  
15 under IRC Section 861 which could be used to modify  
16 section 61's definition of gross income," and then  
17 he brings in his own inflection into this, his own  
18 interpretation. He says, "In other words, the  
19 letter informed the addressee that there was no  
20 legal justification for the NITE U.S. sources  
21 scheme."

22 Well, first of all, Your Honor, the letter  
23 doesn't mention NITE, and second of all this exhibit  
24 states "I must report," this is Exhibit 11 of that,  
25 which you will get a copy of from Mr. Davis, "I must

1 report that in the course of this research I found  
2 no case law, rule, or regulation addressing the  
3 argument..." It is a case of first impression, Your  
4 Honor, and a case of first impression, it has not  
5 been ruled upon. It has not been addressed by the  
6 courts. It has not been addressed by Mr. Dowie, who  
7 was asked nicely to be forthcoming and honest so  
8 that we could expedite this matter, save the time of  
9 the court, save me the stress and anguish that has  
10 gone along with facing the most powerful government  
11 in the world, that would save more people from  
12 arguments with the IRS and the pain and suffering  
13 that they endured. I want it ended. I want the  
14 issues addressed. I've sought to do it nicely. I  
15 thank you for entertaining my presentation.

16 THE COURT: I have a couple of questions for  
17 you. You've seen the government's argument with  
18 respect to the commercial nature of your speech?

19 MR. BELL: Yes, Your Honor.

20 THE COURT: Do you agree that you are providing  
21 through the NITE website advice and that your speech  
22 should be considered commercial speech?

23 MR. BELL: No, Your Honor. I believe it's  
24 purely political in every form. I have met

25 with people who have seen others who are out there

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1 who will attempt to charge them \$40,000 just to  
2 retain them in association. I have seen other  
3 organizations that will charge \$600 for such, and  
4 they will not even help the person understand what  
5 the procedures are with the IRS, with the courts,  
6 what their rights are, or even begin to crack open a  
7 law book.

8 Your Honor, this is political, because taxes  
9 are of a political nature, and we probably have the  
10 most vital political nature second to free speech  
11 within itself. That is the only reason why I can  
12 see, Your Honor, that Mr. Davis, Mr. Dowie, Mr. Raum  
13 would even dare to be here and to take the tax law  
14 and push it up against the 1st Amendment and see  
15 which one cracks first.

16 THE COURT: For that political speech are you  
17 receiving any form of remuneration or any form of  
18 funds flowing from members of NITE, whether it's in  
19 the form of donations or in some other form?

20 MR. BELL: That would, the point is that, and  
21 I'm not, I was not prepared to speak of that in

21 I'M NOT, I WAS NOT PREPARED TO SPEAK OF THAT IN  
22 PARTICULAR, BECAUSE ALL I'M CONCERNED ABOUT IS  
23 FALSEHOOD. FOR IF ANYTHING I'M SAYING IS FALSE,  
24 THAT IS SUFFICIENT TO GET MY FULL COOPERATION, YOUR  
25 HONOR. THE POINT ABOUT RECEIPT OF REMUNERATION WAS

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1 addressed in the U.S. Supreme Court case I believe,  
2 and it might be in my, I DO BELIEVE I MENTIONED IT  
3 IN MY OPPOSITION BRIEF. IT SAID THAT REMUNERATION,  
4 YOUR HONOR, IF REMUNERATION WERE THE SOLE CRITERIA  
5 OR EVEN USED AS A CRITERIA OPENS THE DOOR FOR EVEN  
6 THE NEWSPAPERS TO BE REGULATED.

7 THE COURT: BUT I'M ASKING YOU, AND I'M ASKING  
8 YOU DIRECTLY, DO YOU RECEIVE ANY FORM OF DONATION OR  
9 REMUNERATION OR ANY KIND OF COMPENSATION WHATSOEVER?

10 MR. BELL: AS A NEWSPAPER DOES AND AS ANY  
11 POLITICAL PARTY AND POLITICAL MOVEMENT, YOUR HONOR,  
12 YES. THAT'S ACCORDING TO THIS COURT DECISION THAT I  
13 READ. I SEE WHY THE COURT DETERMINED THAT RECEIPT  
14 OF MONEY CANNOT BE THAT DETERMINATION. IT HAS TO BE  
15 THE VALUE OF THE SPEECH. IT HAS TO BE THE NATURE OF  
16 WHAT'S GOING ON. I'M NOT SELLING THE PHARMACEUTICAL  
17 DRUG, I'M NOT SELLING CARS, I'M NOT SELLING A  
18 COMMODITY ITEM. I'M DISCUSSING LAW, POLITICAL

18 commodity item. I'm discussing law, political  
19 action, legal action, and rights. I'm not selling  
20 these things. In fact, most of everything I do I  
21 give away.

22 THE COURT: The government contends that the  
23 injunction is necessary to halt additional advice  
24 being given to more people that they claim is  
25 erroneous, clearly erroneous. What is your

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1 intention if I do not issue an injunction with  
2 respect to the use of the NITE website?

3 MR. BELL: Presently the members hall has been  
4 taken down because of lack of staffing and the  
5 ability to keep that information up to date.  
6 Presently the members get information from me  
7 directly, Your Honor. They send me a note, they  
8 communicate, and I provide them what they need  
9 according to what I know.

10 THE COURT: What kinds of things -- and I assume  
11 that that's what you would like to continue to do?

12 MR. BELL: Yes.

13 THE COURT: And what kinds of information do you  
14 provide them?

15 MR. BELL: Administrative procedure information



15 MR. BELL: Administrative procedure, information  
16 about their rights.

17 THE COURT: Including their rights under the  
18 Internal Revenue Code?

19 MR. BELL: Specifically that, through the  
20 administrative process. I didn't get to address  
21 Mr. Davis's comment about the tax court being the  
22 venue for confronting and cross-examining adverse  
23 witnesses. It's my understanding, Your Honor, in  
24 the Tax Court the burden of proof has already been  
25 well placed on the individual and the government

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1 doesn't have to call its witnesses for the person to  
2 be able to confront and cross-examine. So my  
3 logical conclusion was press the issue in the  
4 examinations process and let's find out what the  
5 reasonable answer is, why they can't bring the  
6 witnesses forward in examination and expedite these  
7 matters.

8 That was the determination in my mind as to  
9 what to do with examinations, and I saw they clearly  
10 had the authority under Section 7602 to summons the  
11 witnesses against the individual, and with cases



11 witnesses against the individual, and with cases  
12 such as Goldberg versus Kelly and Green versus  
13 McElroy, and I think it's Olden versus Kentucky, and  
14 many other case, the 6th Amendment is the key as  
15 getting to the truth.

16 If the examinations process isn't about getting  
17 to the truth of the matter, then I just don't even  
18 want to say what kind of process it is, Your Honor.  
19 It's just, it's too scary. I don't want to  
20 prejudice the court with any type of emotional  
21 outburst. The 6th Amendment in regards to people's  
22 means to defend themselves against an agency with  
23 such power, the ability to get to the truth, to know  
24 the truth. That's what this is about, just to get  
25 to the bottom of it.

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1 The only way to get to the bottom of it,  
2 Your Honor, is to take the matter through the  
3 administrative process, exhaust it as the courts  
4 require, and then step into the courts with a claim  
5 for which relief can be granted. This court here is  
6 being asked by the plaintiff to say that this  
7 decision, this argument is already known to be  
8 frivolous.

8 frivolous.

9 This court's authority within this regulation  
10 of free speech, 6700, 6701, is limited, that it  
11 cannot now put the cart before the horse and say,  
12 "Well, we've now considered the argument, and now  
13 we're going to address it and now it's frivolous, so  
14 all your prior speech, Mr. Bell, is sanctionable."  
15 No, that's not the function of this court from  
16 everything that I have read. It has to already be  
17 established and the burden of proof upon the  
18 plaintiff to present that.

19 THE COURT: I understand. You've presented that  
20 argument and you've cited the Enoch case. Do you  
21 have anything further you'd like to add?

22 MR. BELL: I have nothing further, Your Honor.  
23 I could present witnesses, but the admission of the  
24 video tape is overwhelming. I could bring in  
25 witnesses about the inconsistencies seen by the IRS,

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1 but I don't want to detract this court's attention  
2 and valuable time from the clear, simple issue about  
3 those two sections of regulation. Do the people  
4 have the right to press those regulations forward in  
5 the administrative process to bring it to the

5 the administrative process to bring it to the  
6 judiciaries attention? Do the people have the right  
7 to group together, to band together so that they  
8 don't continue to make the same mistakes as the tax  
9 freedom fighters have repeated year after year for  
10 three decades. I have sought to bring forth reason  
11 and prudence and respect to this issue. I have  
12 tried to avoid this day.

13 THE COURT: Anything further?

14 MR. BELL: Thank you.

15 THE COURT: Thank you for your presentation and  
16 your demeanor, Mr. Bell, which was excellent. Does  
17 the government have any response?

18 MR. DAVIS: Yes, Your Honor. Just a couple of  
19 short points. First, the government is not saying  
20 that this argument is frivolous because the Tax  
21 Court has ruled on it and because courts have  
22 enjoined three other people for promoting the same  
23 argument. That's further evidence of why Mr. Bell  
24 should stop and should know and does know that what  
25 he's doing is wrong.

1 The argument is frivolous because it's

2 frivolous. If you look at the regulation, it says  
3 in no -- that he's relying on, in no uncertain terms  
4 it says that this regulation is only applicable to a  
5 certain defined group of other sections of the  
6 Internal Revenue Code, calling them operative  
7 sections. There is no reasonable way of reading  
8 that regulation any other way, and yet Mr. Bell and  
9 Mr. Rose and whoever else he would like to submit to  
10 the court as one of his friends will try to argue  
11 the other way, but it's frivolous because it's  
12 frivolous. The tax court decisions are helpful to  
13 the court, but they also really show that Bell  
14 should know and knows that his argument is  
15 frivolous.

16 Next, he also talked about this case of Ms.  
17 Webb, or Mr. Webb. If he submitted the, that  
18 taxpayer's tax returns, the court will be able to  
19 evaluate whether in fact that was number one even  
20 accepted by the IRS, because I can write on my  
21 return that I'm not liable for any taxes because I'm  
22 left-handed, and if indeed I didn't earn any money  
23 that year, then the IRS will accept the return.

24 The issue is not simply whether he made the  
25 argument, but also whether the individual actually

1 earned enough money, and then the second issue is  
2 did the IRS make a mistake or not. Obviously the  
3 IRS has shown in this case that it does make  
4 mistakes. It issued a \$475,000 refund to one of  
5 Mr. Bell's clients after this case was ongoing.  
6 That shows number one the IRS makes mistakes, but it  
7 also shows why the injunction was needed.

8 His answer to the court's, one of the court's  
9 last questions about the website and what he's  
10 presently doing shows that the website, although is  
11 one of the things that the government wants to  
12 address, his actions are part and parcel of his tax  
13 scheme. He is telling people on a daily or hourly  
14 or weekly basis, whatever it is, that "You don't  
15 have to pay your taxes, and I will show you how to  
16 use my arguments to avoid taxes."

17 So if it's on the website or not, if he shuts  
18 the website down, he will still, as he said he will  
19 still give one on one advice to his clients. He's  
20 essentially practicing law without a license, and  
21 his clients are getting what they pay for. He's not  
22 an attorney, he has no legal training, and he's

22 an attorney, he has no legal training, and he's  
23 misinterpreting the law, misinterpreting the  
24 regulations, and steering his clients wrong, and  
25 they're the ones -- I mean other than the

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1 government, which obviously is losing revenue, they  
2 are the ones who suffer, and they don't, a lot of  
3 them don't even know it. They'd still stand him  
4 until he ends, which is why he needs to know through  
5 the court's order that it is not okay what he's been  
6 doing.

7 Finally, Bell says that he would have stopped  
8 if someone addressed his argument. Well, the IRS  
9 has addressed his argument on four or five occasions  
10 with public pronouncements, and every time Bell and  
11 Mr. Rose and other people in this movement  
12 deconstruct what the IRS has said and said we don't  
13 agree, you didn't exactly do this right or you don't  
14 do that right, they will never be satisfied with any  
15 explanation that this court gives or that the  
16 government gives. They will continue to do it  
17 unless they're told they can't make this argument  
18 anymore. They can't get paid for it and they can't  
19 incite others to evade their taxes by use of this.

19 incite others to evade their taxes by use of this.

20 Thank you very much, Your Honor.

21 THE COURT: Thank you. Mr. Bell, in closing  
22 would you like to address any of the arguments that  
23 have been raised by the government?

24 MR. BELL: Yes, sir. The government claims that  
25 the argument is frivolous because it's frivolous.

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1 The regulations state they are only applicable to  
2 the named operative sections. I ask the court to  
3 take careful judicial notice of 1.861-8(a)(4) which  
4 states that the, that there are other sections and  
5 other operative sections that apply and residual  
6 groupings and a lot of confusing talk, but in  
7 particular it states that some income from sources  
8 is exempt and falls within the definition of exempt  
9 income at 1.861-8(t)(d)(2)(ii)(A).

10 Mr. Davis, the plaintiff, excuse me, has not  
11 shown anything that addresses the specifics of that  
12 section of law to show the defendant how it is that  
13 1.861-8(a)(4), does not mean what he is reading it  
14 to say, and that the definition of exempt income  
15 doesn't apply to that. To date I haven't seen



16 anything, so I believe that the government has  
17 failed to carry its burden of proof.

18 It's an interesting point that the government  
19 raises that there needs to be proof that Mr. Webb's  
20 return was accepted. I think that matter is res  
21 judicata before Judge Anne Conway, that the U.S.  
22 Attorney's Office agreed with what the IRS  
23 determined. They knew well that Mr. Webb, he had  
24 already been in prison before. They knew well of  
25 his mother. They knew well of his boss. His mother

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1 and his boss were in prison at the moment that he  
2 submitted those returns by the order of that judge.

3 The government knew well what it was that he  
4 submitted. I just thank God that what happened did  
5 happen. Now, if the government now is complaining  
6 that they're getting all these returns, well, Your  
7 Honor, the prior five years of my life before the  
8 Webb decision I had been seeing all kinds of people  
9 listening to others running about the country saying  
10 don't file returns. The Webb case showed me  
11 something to show to the people to say file your  
12 returns, engage the government properly, stop



12 returns, engage the government properly, stop  
13 suffering and hurting yourselves. We will resolve  
14 this over time.

15 Now the government claims and protracts this  
16 argument to say that my actions are a tax scheme.  
17 Well, in light of the breadth of Section 6700, Your  
18 Honor, I'm not going to argue that the Congress  
19 enacted a law to stop false, frivolous, fallacious,  
20 and fraudulent speech about the Internal Revenue  
21 Code, but in enacting such a law the courts have  
22 made it clear that it is always been the precepts of  
23 the 1st Amendment that require the government to  
24 specifically address the speech and address that  
25 fine line between protected and unprotected speech

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1 and not use a sledge hammer and not merely cast  
2 speech into one category because it looks like it  
3 is, and as far as his assertion of practice of law,  
4 I have no knowledge that that is an issue before  
5 this court, that it is material to this issue, and  
6 that it is an issue that's within the jurisdiction  
7 of this court at all.

8 I have sought to create a private organization  
9 of individuals and operate to assist them in a pro

9 of individuals and operate to assist them in a pro  
10 se capacity as a friend, as a person who has watched  
11 far too many people get hurt by the false arguments  
12 and charlatans in this country, and to get to the  
13 only issue I see left to bring up to the government  
14 and end this 30-year conflict. The government has  
15 also said that they had issued numerous public  
16 pronouncements.

17 Well, they wouldn't respond to my letter to  
18 Charles Rossoti, the first one, the second one, nor  
19 the third one. I believe I did a responsible, a  
20 politically responsible act. I committed one by  
21 responding in writing with specificity to the  
22 government's public pronouncements that they try  
23 to construe to address my specific speech, because  
24 the government has not come forth with authorities  
25 and specific authorities and address as required in

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1 Speiser, they claim that I and others will not, will  
2 never be satisfied.

3 Not true. How do they know what I believe,  
4 Your Honor? How do they know what my actions are?  
5 How do they know what I think? I just have clearly

6 told you what it is that I need done. They failed  
7 to do it. They were supposed to do it from the  
8 beginning. The case seems to be clear. They failed  
9 to carry the burden of proof. Therefore, this case  
10 must be dismissed post haste, because I'm under a  
11 lot of stress.

12 They say that I will continue to incite others  
13 to evade. As I said, for 30 years I've watched  
14 people tell others not to file returns. If not  
15 filing returns, seems to be a pretty clear effort of  
16 an action to evade. I have no longer sought for  
17 people to do that. I have never sought for them to  
18 do that, but I have tried to educate them on U.S.  
19 versus Sullivan to engage their government in the  
20 process provided using the Form 4852 which clearly  
21 states that it is used to point out when a W-2 is  
22 incorrect.

23 THE COURT: And how have you used Form 4852 and  
24 U.S. versus Sullivan?

25 MR. BELL: Well, U.S. versus Sullivan says that

1 if the government requires you to file a return you  
2 have to file a return, and what I have sought to do

3 was help people bring forth their contentions of  
4 factual nature against the claim, the naked claim of  
5 the employers that they earned something that's  
6 includable within gross income, because the form  
7 says in its instructions as shown in Exhibit 3, my  
8 Exhibit Number 3 in this case, that -- I'd better  
9 read it to you.

10 THE COURT: I have it.

11 MR. BELL: Okay, "if you receive an incorrect  
12 W-2." Well, looking at the logical rules of  
13 evidence, the only way -- if the IRS isn't going to  
14 listen to what someone says when they step into a  
15 meeting, but they've created a form, it's the  
16 individual's responsibility to know about the form,  
17 implement the form, and implement the process  
18 properly and respectfully, and that's what the 4852  
19 is about. The 8270 --

20 THE COURT: Give me an example of how you would  
21 use U.S. versus Sullivan and Form 4852.

22 MR. BELL: Well, the U.S. versus Sullivan is  
23 just a point of understanding to help the individual  
24 to understand that if you are facing a W-2 and a  
25 1099 filed against you, don't try to hide, because

1 it's in the computer and it will come up one day  
2 and you will have to face this. So consider when  
3 the IRS tells you to file, that we don't have a  
4 return, CP Form 515, 518, that the government is  
5 asking you to file a return, and Sullivan certainly  
6 applies in such a case.

7 THE COURT: Okay. Then tell me how you would  
8 use, give me an example of how you would use Form  
9 4852. Is it specifically to identify an incorrect  
10 form W-2?

11 MR. Bell: Or 1099, sir, Your Honor.

12 THE COURT: Or 1099? And how would you -- give  
13 me an example of how you would identify an erroneous  
14 W-2.

15 MR. BELL: Well, it would be addressed, the  
16 address that, the name of the person, their social  
17 security number, their address, the year, the  
18 employer's name and address and EIN if known, and  
19 the person would make their contentions of factual  
20 nature on the spaces provided in this form, which  
21 would be where they would put in the amounts, and if  
22 they believe they had no gross income and they had  
23 nothing includable in gross income, including wages

23 nothing includable in gross income, including wages  
24 as defined by law, then they would state zero in  
25 contention of fact.

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1 THE COURT: Okay, and have the arguments that  
2 you've been raising in your briefs and that you're  
3 raising here today, is that what you would use to  
4 assert that the W-2 is incorrect and identify zero  
5 for the wages earned?

6 MR. BELL: That's the only way I see that could  
7 be used, Your Honor.

8 THE COURT: So your answer is yes?

9 MR. BELL: I have offered it to other people  
10 that this is what I see. It is up to them what they  
11 want to do. I never fill in any forms for anybody,  
12 and I tell them this is what I see. This is what I  
13 understand. If you're going to make an argument,  
14 you've got to use their forms and processes.

15 THE COURT: So whether you fill out the form or  
16 somebody else fills out the form, this is the manner  
17 in which you describe how the form could be used?

18 MR. BELL: I understand this is the manner, if I  
19 were give an specific example, I understand that was

20 the manner that was implemented by Mr. Gene Webb.

21 THE COURT: Pursuant to your advice?

22 MR. BELL: I don't want to play with the word  
23 advice. I can't venture there without sitting down  
24 and looking at it.

25 THE COURT: Well, pursuant to the information

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1 that you provide, you anticipate that people will  
2 take action with respect to Form 4852 if they agree  
3 with your interpretation of the --

4 MR. BELL: If they agree.

5 THE COURT: Let me finish, if they agree  
6 with your interpretation of 861 or regulations  
7 promulgated thereunder and your interpretation of  
8 the instructions as they appear on Form 4852.

9 MR. BELL: Yes, sir.

10 THE COURT: Thank you.

11 MR. BELL: And also Form 8275, which is quite  
12 significant. As I believe my response to the motion  
13 for preliminary injunction addressed the 8275 in  
14 that I believe in the regulations at 1.6662-4 state  
15 that the use of the 8275 absolves the filer from a  
16 claim of the government of understatement of the



16 claim of the government of unacceptance of the  
17 liability. I am trying to exhibit to the government  
18 and to this court that my effort has been to take  
19 this information and bring it to the attention of  
20 the people so that they can bring it to the  
21 attention of the government through the proper  
22 process, not to rail, shake their fists, or waste  
23 time.

24 THE COURT: Mr. Bell, how much time would you  
25 like to respond to the government's most recent

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1 submissions to the court?

2 MR. BELL: Thirty days would be nice.

3 THE COURT: I can't give you thirty days.

4 MR. BELL: Then I guess the rules would have to  
5 be fifteen.

6 THE COURT: I'll give you fifteen days from your  
7 receipt, which would have been Friday?

8 MR. BELL: Friday, yes, Your Honor.

9 THE COURT: So it will be due Monday, November,  
10 help me with the date of the month, I think the  
11 18th?

12 COURTROOM DEPUTY: Yes.

13 THE COURT: 19th?



13 THE COURT: 19th?

14 COURTROOM DEPUTY: 18th.

15 MR. BELL: 18th.

16 THE COURT: Anything further, gentlemen, on  
17 either side?

18 MR. DAVIS: Nothing further, Your Honor.

19 THE COURT: Mr. Bell, anything further?

20 MR. BELL: Not at this time.

21 THE COURT: Okay. We'll take a good hard look  
22 at your written submissions after November 18th when  
23 they are due, and we will close these proceedings  
24 with respect to the motion for preliminary  
25 injunction. I would like counsel and Mr. Bell to

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1 stay for a second with respect to other pending  
2 matters. I have a motion to strike a supplemental  
3 document that was filed by Mr. Bell, and I have I  
4 think a motion to compel, but was that ruled upon by  
5 Judge Kane?

6 MR. DOWIE: No, Your Honor.

7 THE COURT: Okay, so you have a pending  
8 outstanding motion to compel, and Mr. Bell, you  
9 have a pending outstanding motion to strike?

10 MR. DAVIS: Your Honor, I thought the motion to  
11 strike had been ruled on, but which motion to  
12 strike? I know at the very least one has been ruled  
13 on. I don't know if he did more than one. May I  
14 take a look at the docket?

15 THE COURT: Okay. Mr. Bell, has your motion to  
16 strike been ruled upon?

17 MR. BELL: I believe so, but I cannot affirm  
18 that at this time.

19 THE COURT: All right. We'll take a look to see  
20 if there's an order outstanding on that, and your  
21 motion to compel has not been ruled on?

22 MR. DOWIE: That is correct, Your Honor.

23 MR. BELL: I believe the motion, Your Honor, the  
24 motion to compel was possibly pending in the review  
25 of the documents.

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1 THE COURT: That's pending the in camera review,  
2 yes. Any other pending motions that you need to  
3 bring to the court's attention?

4 MR. DAVIS: None for the government, Your Honor.

5 THE COURT: Mr. Bell?

6 MR. BELL: No, Your Honor.

7 THE COURT: Okay. Very good. The record is  
8 closed. We'll await Mr. Bell's submissions, and I  
9 would like to close the record with Mr. Bell's  
10 submissions to bring these proceedings to its  
11 logical conclusion so that I can rule. I'm not  
12 going to allow the government to respond to  
13 Mr. Bell's reply. We have too many briefs as it  
14 is, and so that will be the last document that I'll  
15 review before ruling on your motion.

16 MR. DAVIS: Understood.

17 THE COURT: Okay? Thank you. We are adjourned.

18 (Thereupon, at 11:11 a.m. the proceedings were  
19 adjourned.)  
20  
21  
22  
23  
24  
25

1 I N D E X

2 Preliminary Injunction Hearing

3 USA vs. Thurston Paul Bell

USA vs. Thurston Paul Bell

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## US v. Bell

### An Encouraging Email from David

(used by permission)

WOW, that's GREAT! I read both the transcript and your reply on the web site, as well as the attached document. You seem to be doing a terrific job! Although, when the judge asked you to slow down so the court reporter could accurately capture you statements, I'm not sure that reflects anything other than that you were excited and were talking rather fast. :) Not being present at the hearing, I can't say for sure, but that's how I read it in the transcript.

The first thing that raised my eyebrows is at the very beginning of the hearing where it appears the IRS agent you dealt with (Roginsky?) has become a lawyer for the DOJ??? What's with that??? Is there more to be read into that besides just a simple "job transfer"?

Another thing I observed was how interesting it is how some people, regardless of context, are wont to judge others as idiots if they don't have some specific degree or professional license or certificate. You're not a lawyer, so obviously you cannot make legitimate arguments of law. Your former "chief counsel" HAD completed law school, but had not yet received his bar license, so HE was incapable of making legitimate arguments of law; in fact, they belittled much of what he said in their depositions. And, of course, since Larkin Rose merely has a BA in some liberal arts subject, it's impossible for HIM to be able to make legitimate arguments of law. (They admitted to having Rose's tape in their possession, but it would have been interesting to get them to admit whether they'd actually viewed it! I'd bet they have not watched it in its entirety, like the Judge Connor is likely to do.)

I got the impression from Judge Connor's reactions that he was a bit put off by this arrogant attitude and that he didn't like being advised through implication to simply dismiss all these legal arguments simply because the people bringing them weren't lawyers. That attitude was so pervasive on the part of the Government's lawyers that it CLEARLY tainted much of what they presented, leading to their stating several times that, "... it's frivolous because it's frivolous". They had FOUR lawyers at their bench, presenting a case against a non-lawyer, and they were unable to present anything they said with any clarity or certainty. They think they're arguing against a bunch of nonsensical idiots who have no legitimate standing with the court, and so they lowered themselves to the same level as they regard you to be. I think the judge caught this; don't you? I think he gave YOU the last word because YOUR word was far more legitimately presented than THEIRS. They kept repeating themselves and making broad generalizations that had no basis in fact or law (that they were able to provide). I have no real training in any of this, but it was very clear to me reading the transcript that their case had lots of noise in it and very little substance. They were being that which they were trying to portray you and Rose to be! It's really quite amusing.

Personally, I would say there's a good chance for a quite surprising and unexpected ruling to issue from Judge Connor. He might just put their backs against the wall and ask them to deconstruct your entire argument point-by-point and present the case law they claim is so "obvious" before he issues a ruling. They are saying you are making "false statements". They didn't effectively cite a single one, but nobody has yet to hold them accountable for their actions. It's one thing to simply deny their motion. It's another to get them to explain their position in detail and justify their presence before the court to begin with. With a little luck, they've pissed off the wrong judge.

-David

## US v. Bell

### DOJ Admission of Intimidation

Here is a more precise dissection of the admissions of the United States in the November 4, 2002 Hearing in U.S. v. Bell:

"...the government is not saying that this argument is frivolous because the Tax Court has ruled on it and the courts have enjoined three other people for promoting the same argument. That's further evidence of why Mr. Bell should stop and should know and does know that what he's(sic) doing is wrong."

Transcript p.50

If "...the government is not saying that this argument is frivolous because the Tax Court has ruled on it...", does this mean that the government is saying that the Tax Court has not ruled on it?

Either the rulings of the Tax Court are authoritative or not, and if they are not how can they rely upon them?

If "...the government is not saying that this argument is frivolous because the ... courts have enjoined three other people for promoting the same argument." does this mean that the government is saying that the courts have not enjoined three other people for promoting the same argument?

Either the rulings of the other Courts are authoritative or not, and if they are not how can they rely upon them?

If we take this statement of the United States in the context of Mr. Bell's prior statements that none of the Tax Court cases specifically address the regulations he is using in his argument, and that none of the Injunctions have evidenced that the issuing courts have addressed the regulations of his argument with the specificity as required by the High Court, then this statement by Mr. Davis is that the United States of America has abandoned its prior positions of case law and thus abandoned all of the authoritative language of its prior notices to Mr. Bell.

Then there is the interjection of the second sentence:

"That's further evidence of why Mr. Bell should stop and should know and does know that what he's (sic) doing is wrong."

If the Tax Court has not addressed the issue authoritatively, and the other courts have not evidenced that they have authoritatively addressed the argument of Mr. Bell, why then should he know that what he is doing is wrong?

Does not the U.S. D.O.J. know that any individual or group possess the right to have rulings of lower courts heard by higher courts even the U.S. Supreme Court?

With we as U.S. Citizens possessing that right how is the argument of the Government that the speech of Mr. Bell should be enjoined, correct?

Before we get to that, the final sentence needs some more analysis.

The actions of the Courts cannot be separated from any analysis of the speech that they have held as unprotected, in matters of First Amendment and *Speiser v. Randall*, 357 U.S. 513 (1958), there must be a specific address and analysis of the speech to make it subject to any penalty, so the first half of the Statement by the United States does not make any sense with the second.

If the Court cases did not effect Mr. Bell's speech there cannot be legally any authoritative notice to Mr. Bell. With the Court determinations not being authoritative, as the United States has admitted, they do not effect the case against him and his speech.

This leaves only one possibility of the intent of the second sentence uttered by the United States, and that is that Mr. Bell should have been INTIMIDATED into silence by the rulings of the other Courts.

The mere fact that the United States of America made new argument in its following paragraph of oral argument is proof of that.


"The argument is frivolous because it is frivolous...the regulation he's relying on, in no uncertain terms it says that this regulation is only applicable to a certain defined group of other sections of the Internal Revenue Code, calling them operative sections. There is no other way of reading that regulation any other way...it's frivolous because it's frivolous."

The complete absence of any citation of the specific language of the regulation or any court determination citing same that supports this new argument proves the matter of the argument of law presented by Mistery Bell and Rose, and all other NITE members, is a matter of first impression. If there was any authoritative decision on the language of the regulations, the United States would have presented it, as it was statutorily required to carry the burden of proof in the Preliminary Injunction Hearing.

Thus, there are no authoritative writings on this issue, it is therefore clearly a first impression issue that the government seeks to use INTIMIDATION as its ONLY defense against anyone who dares to argue this law.

Plainly, with no authority addressing Mr. Bell's point of law, no injunction can issue, and that authority had to exist prior to the Filing of suit by the government and the government was required to specifically present that authority in the proceedings, and as well prior to filing suit pursuant to Executive Order 12988.

This game was over before it started.

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