

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI

RAY HERRON and ELAINE HERRON	)	
	)	
Plaintiffs	)	CASE No.
	)	
v.	)	JUDGE:
	)	
IKE SKELTON, individually and in his official	)	
capacity as a member of the U.S. House of	)	
Representatives;	)	
Defendant	)	

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**COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF**

1. Plaintiffs RAY HERRON and ELAINE HERRON (hereinafter, the “ HERRONS”), hereby move the Court for an entry of an Order:
  - a. Granting declaratory relief to the HERRONS by declaring the obligation of the Defendant IKE SKELTON (hereinafter, “SKELTON”), under the First Amendment to the Constitution of the United States of America, to enter into good faith exchanges with the HERRONS and to provide to the HERRONS documented and specific answers to the reasonable questions asked of him in seven Petitions for Redress of Grievances regarding the federal Government’s violations of the U.S. Constitution’s war powers, money, “privacy,” tax, “faithfully execute,” and firearms provisions as well as the unconstitutional construction of a “North American Union,” and
  - b. Granting injunctive relief to the HERRONS by directing SKELTON to formally notify the Attorney General of the United States and the Commissioner of the Internal Revenue Service that they should disregard any and all prior communications from

SKELTON regarding the HERRONS, and that they should return to SKELTON the originals of all documents and materials they received from SKELTON regarding the HERRONS, and

- c. Granting declaratory relief to the HERRONS by declaring the Right of the HERRONS to withdraw their allegiance and support from the federal Government should SKELTON not respond to the HERRONS by providing formal, specific answers to the questions contained in the seven Petitions for Redress, and
- d. Granting injunctive relief to the HERRONS by constraining SKELTON from retaliating against the HERRONS if the HERRONS decide to withdraw their allegiance and support from the federal Government until the constitutional violations are Redressed, and
- e. Retaining jurisdiction of this action to ensure compliance with the Court's decisions, and
- f. Granting any other, non-financial relief that to the Court may seem just and proper.

### **STATEMENT OF THE CLAIM**

2. This Complaint arises from the failure of the HERRONS representative to the United States House of Representatives, Defendant IKE SKELTON, to respond to the HERRONS' Petitions for Redress relating to certain violations by the federal Government of specific provisions of the Constitution of the United States of America.

3. This Complaint also arises from SKELTON's unlawful retaliation against the HERRONS for exercising their First Amendment Right to Petition SKELTON for Redress of those constitutional violations.

## **THE PARTIES**

4. Plaintiff ELAINE HERRON is a natural living human being, is over the age of eighteen, and is a citizen of the state of Missouri, residing at 14655 State Route TT, Warsaw, MO 65355. She has signed one or more of the Petitions for Redress. She served said Petitions for Redress on Defendant IKE SKELTON.

5. Plaintiff RAYMOND HERRON is a natural living human being, is over the age of eighteen, and is a citizen of the state of Missouri, residing in the fourth congressional district of Missouri at 14655 State Route TT, Warsaw, MO 65355. He has signed one or more of the Petitions for Redress. He served said Petitions for Redress on Defendant IKE SKELTON.

6. IKE SKELTON is a natural living human being and a citizen of the state of Missouri. He is an employee of the Government of the United States and a member of the United States House of Representatives. He resides in the State of Missouri. As a member of the House of Representatives, he represents the People in the fourth congressional district of Missouri. He is sued here in his individual and official capacities.

## **JURISDICTION AND VENUE**

7. The United States District Court for the Western District of Missouri is the "court of the United States", located in the State of Missouri, an Article III judicial court, vested with all the judicial powers granted by the 3<sup>rd</sup> Article of the Constitution for the United States of America, with full respect, recognition and guarantee of the HERRONS' constitutionally protected Rights.

8. This case and controversy arises under the Constitution of the United States of America, giving this Court jurisdiction under 28 USC 1331.

9. All elected officials as federal employees are immune from suit individually for common law torts occurring within the scope of their employment. See 28 U.S.C. §2679(b)(1). However, Section 2679(b)(1) does not extend to “a civil action against an employee of the Government which is brought for a violation of the Constitution of the United States, or which is brought for a violation of a statute of the United States...” See §2679(b)(2).

10. A refusal, or failure, by SKELTON to provide Redress by responding with formal, specific answers to the questions contained within the HERRONS’ *First Amendment* Petitions for Redress of constitutional torts is a violation of the HERRONS’ First Amendment Right, which violation is repugnant to the common law as well as spirit and letter of the Constitution and is, therefore, a violation of SKELTON’S oath of office and not within the scope of SKELTON’S federal employment.

11. Retaliation by SKELTON against the HERRONS for lawfully petitioning SKELTON for Redress of constitutional torts is a violation of Plaintiffs’ First Amendment Rights, which violation of common law and is also repugnant to the spirit and letter of the Constitution and is, therefore, a violation of SKELTON’S oath of office and not within the scope of SKELTON’S employment.

12. This is a civil action for declaratory relief against SKELTON, in his official capacity as an elected employee of the federal Government, for violating the HERRONS’ unalienable, constitutionally guaranteed Right of Redress by failing to respond to said Petitions for Redress with formal, specific answers to the questions presented in the Petitions.

13. This is a civil action for injunctive relief against SKELTON, in his individual capacity, for acting outside of the scope of his employment by unconstitutionally utilizing and directing the vast resources of the federal government to unlawfully retaliate against the HERRONS and

harming the HERRONS by libelously misinforming the Internal Revenue Service and the Department of Justice, using the official stationary of the United States House of Representatives, that the HERRONS were engaged in “an effort to avoid federal taxes,” causing numerous injuries to the HERRONS including (but not limited to) damages to their personal and professional reputations, emotional distress, and economic loss by forcing them to incur the expense of petitioning the Court for Redress of Grievances, all in violation of the HERRONS’ First Amendment Right of Redress and Speech.

14. The HERRONS, as free people, have been placed in the intolerable position of : a) knowing the federal Government is violating the war powers, tax, money, privacy and other clauses of the Constitution; b) knowing their only representative to the United States House of Representatives refuses to answer questions or otherwise be held accountable under the *First Amendment’s* accountability clause; and c) knowing their representative in the House of Representatives will retaliate swiftly and harshly against “constituents” who claim and exercise their natural Right to hold him accountable to the Constitution by identifying them as targeted federal “tax avoiders” by, *under the guise of an official capacity*, turning their names over to the revenue collectors and law enforcement arms of the Executive branch with a clear and deliberate intent to (unlawfully) expose them to IRS tax audits, property seizures, harassment, etc. and even possible civil or criminal investigations and/or prosecutions or other silencing and intimidation techniques, merely for peaceably exercising Rights clearly guaranteed by the Constitution.

15. In violation of the First and Ninth Amendments to the Constitution, SKELTON has already demonstrated his lack of respect for the Constitution and his oath of office by his willingness to immediately punish, libel, and silence constituents who move to hold him accountable to the Constitution. By his behavior thus far, it is reasonable to conclude SKELTON

has acted in violation of his fiduciary duty and in his official capacity, to engage the resources of the United States Government to immediately retaliate against the HERRONS who, as a consequence of SKELTON'S repeated violations of the Constitution and failure to properly respond to their Petitions for Redress, may, at some point in the future, (lawfully) act to withdraw their allegiance and support from the federal government until their Grievances are Redressed.

16. The HERRONS need the Court to apply the protections afforded by the First and Ninth Amendments to the Constitution. This controversy arises out of federal, constitutional issues. Jurisdiction is proper in accordance with 28 U.S.C. §1331.

#### **STATEMENT OF FACTS**

17. On or about June 30, 2008, SKELTON was formally served by the HERRONS with seven Petitions for Redress of Grievances, signed by tens of thousands of Americans representing all 435 congressional districts, including the HERRONS. The purpose of the Petitions for Redress was to secure from SKELTON answers to reasonable questions regarding certain actions of the federal Government that are repugnant to the U.S. Constitution. The seven Petitions for Redress and their signatories were included on a CD-ROM.

18. The Petitions for Redress include requests for answers to legitimate questions regarding specific actions by the federal Government -- questions designed to assist the HERRONS in their quest to hold SKELTON accountable to the Constitution of the United States and to determine their *bona fide* Rights and *bona fide* legal obligations under those actions.

19. Along with the seven Petitions for Redress, SKELTON was served with a letter containing a constructive notice and demand for specific answers within forty (40) days to the questions included in each of the seven Petitions for Redress.

20. For a copy of the letter and CD-ROM, see Exhibit A annexed to the Declaration accompanying this Complaint.

21. On July 9, 2008, SKELTON retaliated against the HERRONS. He brought the HERRONS to the attention of the Internal Revenue Service and the US Attorney, identifying the HERRONS as tax avoiders, all for the purpose of intimidating and silencing the HERRONS, infringing on their First Amendment Rights to Redress and Speech.

22. For a copy of SKELTON'S retaliatory letter, see Exhibit B annexed to the Declaration accompanying this Complaint.

**REP. SKELTON HAS VIOLATED THE HERRONS' FIRST AMENDMENT  
RIGHT TO FORMAL, SPECIFIC ANSWERS TO THEIR PETITIONS  
FOR REDRESS OF CONSTITUTIONAL TORTS**

23. If, "Congress shall make no law...abridging ... the right of the people ... to Petition the government for Redress of Grievances" (accountability clause, First Amendment) and if, "The enumeration in the Constitution of certain Rights shall not be construed to deny or disparage others retained by the People" (Ninth Amendment), then the HERRONS, acting in their individual **private** capacities, have an unalienable, natural Right to Petition their representative to the U.S. House of Representatives for Redress, **without retaliation**, as well as an inherent Right to an official response (i.e., substantive Redress) from their representative.

24. In addition, (and as our Founders consistently noted on repeated occasions), if SKELTON fails to respond to those Petitions, the HERRONS are not only free to withdraw their allegiance and support from the federal Government until their Grievances are Redressed, SKELTON is prohibited from retaliating against the HERRONS for the exercise of such Rights.

25. This interpretation of the full contours of the meaning of the accountability clause of the First Amendment is strongly supported by all of history, from the English Magna Carta, English Bill of Rights, to the American Declaration of Independence and beyond. **On the other hand, there is nothing in Anglo-American history that contradicts this interpretation.**

26. For instance, Chapter 61 of the Magna Carta, long regarded as the cradle of Liberty, Freedom and western civilization, provides the first written record of the meaning of the Right to Petition for Redress. It reads:

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

27. Chapter 61 was a procedural vehicle for enforcing the rest of the Charter. It spells out the Rights of the People and the obligations of the Government and the procedural steps to be taken by the People and the King in the event of a violation by the King of any provision of that Charter: the People were to transmit a Petition for a Redress (remedy) of their Grievances; the

King had 40 days to respond; if the King failed to respond in 40 days, the People could withdraw their allegiance and support from the Government until their Grievances were Redressed.<sup>1</sup>

28. In addition, the HERRONS' unalienable, inherent Right against retaliation was first articulated in the 1689 English Declaration of Rights, which proclaimed, “[I]t is the **Right of the subjects to petition the King, and all commitments and prosecutions for such petitioning is illegal.**” [emphasis added] This was obviously a basis of the “shall make no law abridging the right to petition government for a redress of grievances” provision of our Bill of Rights.

29. In addition, in 1774, the same American Congress that adopted the Declaration of Independence in 1776 unanimously adopted an Act in which they gave clear meaning to the People's Right to Petition for Redress of Grievances (embodied now in the First Amendment) and the Right of enforcement (embodied now in the Ninth Amendment) as they spoke about the People's “Great Rights.” Quoting:

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

30. In addition, in 1775, just prior to drafting the Declaration of Independence, Jefferson gave further meaning to the People's Right to Redress and Enforcement. Quoting:

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

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<sup>1</sup> See Magna Carta Chapter 61. See also William Sharp McKechnie, Magna Carta 468-77 (2<sup>nd</sup> ed. 1914)

31. Finally, in 1776, the Declaration of Independence provides clear evidence of the importance the Founders placed on the Right to a response to their Petitions for Redress. The bulk of the document is a listing of the Grievances the People had against a Government (that had been in place for 150 years). The final Grievance on the list is referred to by scholars as the “capstone grievance” -- the ultimate Grievance, the Grievance that prevented Redress of these other Grievances, the Grievance that caused the People to non-violently withdraw their support and allegiance to the Government, and the Grievance that eventually justified War against the King, morally and legally. Thus, the first Congress gave further meaning to the People’s Right to of Redress and Enforcement. Quoting the Capstone Grievance:

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

32. Though the Rights to Popular Sovereignty and its “protector” Right, the Right to Redress and Enforcement have become somewhat forgotten, they took shape early on by the U.S. Government’s *response* to Petitions for Redress of Grievances.<sup>2</sup>

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<sup>2</sup> See A SHORT HISTORY OF THE RIGHT TO PETITION GOVERNMENT FOR THE REDRESS OF GRIEVANCES, Stephen A. Higginson, 96 Yale L.J. 142(November, 1986); "SHALL MAKE NO LAW ABRIDGING . . .": AN ANALYSIS OF THE NEGLECTED, BUT NEARLY ABSOLUTE, RIGHT OF PETITION, Norman B. Smith, 54 U. Cin. L. Rev. 1153 (1986); "LIBELOUS" PETITIONS FOR REDRESS OF GRIEVANCES -- BAD HISTORIOGRAPHY MAKES WORSE LAW, Eric Schnapper, 74 Iowa L. Rev. 303 (January 1989); THE BILL OF RIGHTS AS A CONSTITUTION, Akhil Reed Amar, 100 Yale L.J. 1131 (March, 1991); NOTE: A PETITION CLAUSE ANALYSIS OF SUITS AGAINST THE GOVERNMENT: IMPLICATIONS FOR RULE 11 SANCTIONS, 106 Harv. L. Rev. 1111 (MARCH, 1993); SOVEREIGN IMMUNITY AND THE RIGHT TO PETITION: TOWARD A FIRST AMENDMENT RIGHT TO PURSUE JUDICIAL CLAIMS AGAINST THE GOVERNMENT, James E. Pfander, 91 Nw. U.L. Rev. 899 (Spring 1997); THE **VESTIGIAL CONSTITUTION**: THE HISTORY AND SIGNIFICANCE OF THE RIGHT TO PETITION, Gregory A. Mark, 66 Fordham L. Rev. 2153 (May, 1998); DOWNSIZING THE RIGHT TO PETITION, Gary Lawson and Guy Seidman, 93 Nw. U.L. Rev. 739 (Spring 1999); A RIGHT OF ACCESS TO COURT UNDER THE PETITION CLAUSE OF THE FIRST AMENDMENT: DEFINING THE RIGHT, Carol Rice Andrews, 60 Ohio St. L.J. 557 (1999) ; MOTIVE RESTRICTIONS ON COURT ACCESS: A FIRST AMENDMENT CHALLENGE, Carol Rice Andrews, 61 Ohio St. L.J. 665 (2000).

33. The Right to Redress is a distinctive, substantive Right, from which other substantive First Amendment Rights were *derived*. The Rights to free speech, press and assembly originated as *derivative* Rights insofar as they were necessary to protect the *preexisting* Right to Redress. Petitioning for redress, as a way of holding government accountable to natural Rights, originated in England in the 11<sup>th</sup> century<sup>3</sup> and gained recognition as a Right in the mid 17<sup>th</sup> century.<sup>4</sup> Free speech Rights first developed because members of Parliament needed to discuss freely the Redress Petitions they received.<sup>5</sup> Publications reporting Redress Petitions were the first to receive protection from the frequent prosecutions against the press for seditious libel.<sup>6</sup> Public meetings to prepare Petitions led to recognition of the Right of Public Assembly.<sup>7</sup>

34. In addition, the Right to Redress was widely accorded greater importance than the Rights of free expression. For instance, in the 18<sup>th</sup> century, the House of Commons,<sup>8</sup> the American Colonies,<sup>9</sup> and the first Continental Congress<sup>10</sup> gave official recognition to the Right to Petition for Redress, but not to the Rights of Free Speech or of the Press.<sup>11</sup>

35. The historical record shows that the Framers and ratifiers of the First Amendment also understood the Right of Redress as distinct from the Rights of free expression. In his original proposed draft of the Bill of Rights, Madison listed the Right to Petition for Redress and the

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<sup>3</sup> Norman B. Smith, "Shall Make No Law Abridging...": Analysis of the Neglected, But Nearly Absolute, Right of Petition, 54 U. CIN. L. REV. 1153, at 1154.

<sup>4</sup> See Bill of Rights, 1689, 1 W & M., ch. 2 Sections 5,13 (Eng.), reprinted in 5 THE FOUNDERS' CONSTITUTION 197 (Philip B. Kurland & Ralph Lerner eds., 1987); 1 WILLIAM BLACKSTONE, COMMENTARIES 138-39.

<sup>5</sup> See David C. Frederick, *John Quincy Adams, Slavery, and the Disappearance of the Right to Petition*, 9 LAW & HIST. REV. 113, at 115.

<sup>6</sup> See Smith, *supra* n.4, at 1165-67.

<sup>7</sup> See Charles E. Rice, *Freedom of Petition*, in 2 ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION 789, (Leonard W. Levy ed., 1986)

<sup>8</sup> See Smith, *supra* n.4, at 1165.

<sup>9</sup> For example, Massachusetts secured the Right to Petition in its Body of Liberties in 1641, but freedom of speech and press did not appear in the official documents until the mid-1700s. See David A. Anderson, *The Origins of the Press Clause*, 30 UCLA L. REV. 455, 463 n.47 (1983).

<sup>10</sup> See *id.* at 464 n.52.

<sup>11</sup> Even when England and the American colonies recognized free speech Rights, petition Rights encompassed freedom from punishment for petitioning, whereas free speech Rights extended to freedom from prior restraints. See Frederick, *supra* n.6, at 115-16.

Rights to free speech and press in two separate sections.<sup>12</sup> In addition, a “considerable majority” of Congress defeated a motion to strike the assembly provision from the First Amendment because of the understanding that all of the enumerated rights in the First Amendment were separate Rights that should be specifically protected.<sup>13</sup>

36. Petitioning government for Redress of Grievances has played a key role in the development, exercise and enforcement of popular sovereignty throughout British and American history.<sup>14</sup> In medieval England, petitioning for Redress began as a way for barons to inform the King of their concerns and to influence his actions.<sup>15</sup> Later, in the 17<sup>th</sup> century, Parliament gained the Right to Petition the King for Redress and to bring matters of public concern to his attention.<sup>1</sup> This broadening of political participation culminated in the official recognition of the right of Redress in the People themselves.<sup>2</sup>

37. The People used this newfound Right to question the legality of the government’s actions,<sup>3</sup> to present their views on controversial matters,<sup>4</sup> and to demand that the government, *as the creature and servant of the People, be responsive to the popular will.*<sup>5</sup>

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<sup>12</sup> See *New York Times Co. v. U.S.*, 403 U.S. 670, 716 n.2 (1971)(Black, J., concurring). For the full text of Madison’s proposal, see 1 ANNALS OF CONG. 434 (Joseph Gales ed., 1834).

<sup>13</sup> See 5 BERNARD SCHWARTZ, THE ROOTS OF THE BILL OF RIGHTS at 1089-91 (1980).

<sup>14</sup> See Don L. Smith, *The Right to Petition for Redress of Grievances: Constitutional Development and Interpretations* 10-108 (1971) (unpublished Ph.D. dissertation) (Univ. Microforms Int’l); K. Smellie, Right to Petition, in 12 ENCYCLOPEDIA OF THE SOCIAL SCIENCES 98, 98-101 (R.A. Seiligman ed., 1934).

<sup>15</sup> The Magna Carta of 1215 guaranteed this Right. See MAGNA CARTA, ch. 61, reprinted in 5 THE FOUNDERS’ CONSTITUTION, *supra* n.5, at 187.

<sup>1</sup> See PETITION OF RIGHT chs. 1, 7 (Eng. June 7, 1628), reprinted in 5 THE FOUNDERS’ CONSTITUTION, *supra* n5 at 187-88.

<sup>2</sup>In 1669, the House of Commons stated that, “it is an inherent right of every commoner in England to prepare and present Petitions to the House of Commons in case of grievances, and the House of Commons to receive the same.” Resolution of the House of Commons (1669), reprinted in 5 THE FOUNDERS’ CONSTITUTION, *supra* n5 at 188-89.

<sup>3</sup> For example, in 1688, a group of bishops sent a petition to James II that accused him of acting illegally. See Smith, *supra* n4, at 1160-62. James II’s attempt to punish the bishops for this Petition led to the Glorious Revolution and to the enactment of the Bill of Rights. See Smith, *supra* n15 at 41-43.

<sup>4</sup> See Smith, *supra* n4, at 1165 (describing a Petition regarding contested parliamentary elections).

<sup>5</sup> In 1701, Daniel Defoe sent a Petition to the House of Commons that accused the House of acting illegally when it incarcerated some previous petitioners. In response to Defoe’s demand for action, the House released those Petitioners. See Smith, *supra* n4, at 1163-64.

38. In the American colonies, disenfranchised groups used Petitions for Redress to seek government accountability for their concerns and to rectify government misconduct.<sup>6</sup>

39. By the nineteenth century, Petitioning for Redress was described as “essential to ... a free government”<sup>7</sup> – an inherent feature of a republican democracy,<sup>8</sup> and one of the chief means of enhancing government accountability through the participation of citizens.

### **This Interest In Government Accountability Was Understood To Demand Government Response To Redress Petitions.<sup>9</sup>**

40. American colonists, who exercised their Right to Petition the King or Parliament for Redress,<sup>10</sup> expected the government to receive *and respond*.<sup>11</sup> The King’s persistent refusal to answer the colonists’ grievances outraged the colonists and, as the “**capstone grievance**” in the Declaration of Independence, was a significant factor that led to the American Revolution.<sup>12</sup>

41. **Frustration with the British government led the Framers to consider incorporating a people’s right to “instruct their Representatives” in the First Amendment.<sup>13</sup> Members of**

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<sup>6</sup> See RAYMOND BAILEY, POPULAR INFLUENCE UPON PUBLIC POLICY: PETITIONING IN EIGHTEENTH-CENTURY VIRGINIA 43-44 (1979).

<sup>7</sup> THOMAS M. COOLEY, TREATISE ON THE CONSTITUTIONAL LIMITATIONS WHICH REST UPON THE LEGISLATIVE POWER OF THE STATES OF THE AMERICAN UNION 531 (6<sup>th</sup> ed. 1890).

<sup>8</sup> See CONG. GLOBE, 39<sup>th</sup> Cong., 1<sup>st</sup> Session. 1293 (1866) (statement of Rep. Shellabarger) (declaring petitioning an indispensable Right “without which there is no citizenship” in any government); JOSEPH STORY, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES 707 (Carolina Academic Press ed. 1987) (1833) (explaining that the Petition Right “results from [the] very nature of the structure [of a republican government]”).

<sup>9</sup> See Frederick, *supra* n7 at 114-15 (describing the historical development of the duty of government response to Petitions).

<sup>10</sup> See DECLARATION AND RESOLVES OF THE CONTINENTAL CONGRESS 3 (Am. Col. Oct. 14, 1774), reprinted in 5 THE FOUNDERS’ CONSTITUTION, *supra* n5 at 199; DECLARATION OF RIGHTS OF THE STAMP ACT CONGRESS 13 (Am. Col. Oct. 19, 1765), reprinted in *id.* at 198.

<sup>11</sup> See Frederick, *supra* n4 at 115-116.

<sup>12</sup> See THE DECLARATION OF INDEPENDENCE para. 30 (U.S. July 4, 1776), reprinted in 5 THE FOUNDERS’ CONSTITUTION, *supra* n5 at 199; Lee A. Strimbeck, The Right to Petition, 55 W. VA. L. REV. 275, 277 (1954).

<sup>13</sup> See 5 BERNARD SCHWARTZ, *supra* n15, 1091-105.

**the First Congress voted against this right-of-instruction proposal.<sup>14</sup> Some discretion to reject petitions that “instructed government,” they reasoned, would not undermine government accountability to the People, as long as Congress had a duty to consider petitions and fully respond to them.<sup>15</sup>**

42. Congress’s response to Redress Petitions in the early years of the Republic also indicates that the original understanding of Redress Petitions *included a governmental duty to respond*. Congress viewed the receipt and serious consideration of every Redress Petition as an important part of its duties.<sup>16</sup>

43. Congress referred Redress Petitions to committees<sup>17</sup> and even created committees to deal with particular types of Redress Petitions.<sup>18</sup> Ultimately, most Redress Petitions resulted in either favorable legislation or an adverse committee report.<sup>19</sup>

44. Thus, throughout early Anglo-American history, general petitioning for Redress (as opposed to judicial petitioning) allowed the people a means of direct political participation that in turn demanded government *response* and promoted accountability.

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<sup>14</sup> The vote was 10-41 in the House and 2-14 in the Senate. See *id.* at 1105, 1148.

<sup>15</sup> See 1 ANNALS OF CONG. 733-46 (Joseph Gales ed., 1789); 5 BERNARD SCHWARTZ, *supra* n15, at 1093-94 (stating that representatives have a duty to inquire into the suggested measures contained in citizens’ Petitions) (statement of Rep. Roger Sherman); *id.* at 1095-96 (stating that Congress can never shut its ears to Petitions) (statement of Rep. Elbridge Gerry); *id.* at 1096 (arguing that the Right to Petition protects the Right to bring non-binding instructions to Congress’s attention) (statement of Rep. James Madison).

<sup>16</sup> See STAFF OF HOUSE COMM. ON ENERGY AND COMMERCE, 99<sup>TH</sup> CONG., 2D SESS., PETITIONS, MEMORIALS AND OTHER DOCUMENTS SUBMITTED FOR THE CONSIDERATION OF CONGRESS, MARCH 4, 1789 TO DECEMBER 15, 1975, at 6-9 (Comm. Print 1986) (including a comment by the press that “the principal part of Congress’s time has been taken up in the reading and referring Petitions” (quotation omitted)).

<sup>17</sup> See Stephen A. Higginson, Note, *A Short History of the Right to Petition the Government for the Redress of Grievances*, 96 YALE L. J. 142, at 156.

<sup>18</sup> See H.J., 25<sup>th</sup> Cong., 2d Sess. 647 (1838) (describing how petitions prompted the appointment of a select committee to consider legislation to abolish dueling).

<sup>19</sup> See Higginson, n34 at 157.

**REP. SKELTON HAS VIOLATED THE HERRONS' FIRST AMENDMENT  
RIGHT TO PETITION FOR REDRESS WITHOUT RETALIATION**

45. Plaintiffs incorporate by reference the issues and facts stated in paragraphs 1 through 44, as if stated fully herein.

46. A retaliatory action is one brought with a motive to *interfere* with the exercise of protected Rights.

47. A danger to public interest is required before the government can restrict Rights.

48. The Right to Petition the government requires stringent protection. "The very idea of a government, republican in form, implies a right on the part of its citizens to meet peaceably for consultation in respect to public affairs and to petition for a redress of grievances." [\*United States v. Cruikshank\*, 92 U.S. 542, 552 \(1876\)](#).

49. Except in the most extreme circumstances citizens cannot be punished for exercising this right "without violating those fundamental principles of liberty and justice which lie at the base of all civil and political institutions," [\*De Jonge v. Oregon\*, 299 U.S. 353, 364 \(1937\)](#).

50. The greater the importance of safeguarding the community from incitements to the overthrow of our institutions by force and violence, the more imperative is the need to preserve inviolate the constitutional rights of free Speech, free Press, free Assembly and free Petition in order to maintain the opportunity for free political discussion, to the end that government may be responsive to the will of the people and that changes, if desired, may be obtained by peaceful means. Therein lies the security of the Republic, the very foundation of constitutional government and the freedom of the People.

51. Although the term "petition" is not defined by the Constitution, the United States Supreme Court long ago interpreted the "Petition Clause" to apply in a variety of circumstances, noting the Right to Petition the representatives of the people in Congress; to Petition the

Executive Branch, and the right of access to the courts. The Supreme Court has also determined that it is appropriate to give an alleged intrusion on First Amendment rights particular scrutiny where the government may be attempting to chill the exercise of First Amendment rights because the exercise of those rights would adversely affect the government's own selfish and conflicting interests.

52. More importantly, under our form of governance, the government cannot retaliate for the exercise of the Constitutional Right to Petition for Redress of Grievances, or to access the courts. Such retaliation is cognizable under Title 42, U.S.C. § 1983.

53. The right of access that underlies a charge of retaliation is lodged not only in the Petition Clause of the First Amendment, but also in the Due Process Clause of the Fifth and Fourteenth Amendments, and the Privileges and Immunities Clauses of Article IV and the 14th Amendment.

54. SKELTON has specifically targeted the HERRONS because of their expressed beliefs and their free exercise of their Right to Petition SKELTON to hold him accountable to the Constitution.

55. Included with this complaint is an affidavit from the HERRONS, attesting to the fact that they have Petitioned SKELTON for Redress of specific violations of the Constitution, that SKELTON has not properly responded and that SKELTON is retaliating against them by identifying them as “tax avoiders” and turning their names over to the IRS and the Department of Justice.

56. That the HERRONS have already been injured is clear. It is also clear that without recognizing it as such at the time, HERRONS have faced a “Hobson’s choice” in considering Petitioning SKELTON that no American should have to endure: Either ignore the substantive transgressions of their servant government and subsist without their Rights -- or face, what is not

only a remote fear, but actual retaliation against themselves and their families by our Government and losses of their most fundamental Rights for daring to publicly question SKELTON regarding his constitutional authority and for daring to exercise their unalienable Rights as championed in our Founding documents.

57. SKELTON’S retaliation is clearly unconstitutional and morally reprehensible. His conduct is reminiscent of the actions taken by undemocratic regimes and rogue nations whose actions have been openly criticized and vilified by the United States as behaviors unbecoming a civilized People. As a matter of law, the retaliatory actions against the HERRONS must be undone and Redressed.

58. The HERRONS have properly exercised their fundamental Right to Petition the government for Redress of Grievances regarding violations of the explicitly limited authorities delegated our government by the People through the Founding Documents. Instead of enjoying the first of the “Great Rights” – i.e., government based upon the consent of the People - - Plaintiffs have been directly and substantively retaliated against for the exercise of Petitioning their Government.

59. The HERRONS desire nothing more for themselves and the Republic than to exercise the final clause of the First Amendment and peacefully secure the Redress rightfully due them. The Court should uphold and protect the First Amendment Right.

60. Because the Right of Petition is by its nature a direct exercise of the sovereignty of the People, and is by Constitutional necessity superior to the Government’s narrowly limited powers, the Court should force SKELTON to undo his damage, fulfill his constitutional obligations and enjoin SKELTON from any further or continuing acts of retaliation, in any form.

## **The Petitions Are “Proper” First Amendment Petitions For Redress**

61. To be sure, a communication, to be protected as a Petition for Redress, would have to embody certain components to ensure that the document was a petition and not a "pretended petition." Not all communications, nor just any document, can be regarded as a constitutionally protected Petition for Redress of Grievances.

62. The HERRONS’ Petitions for Redress meet or exceed any rational standard. The HERRONS’ Petitions for Redress:

- are serious and documented, not frivolous.
- contain no falsehoods.
- are not absent probable cause.
- have the quality of a dispute.
- come from a person outside of the formal political culture.
- contain both a "direction" and a "prayer" for relief.
- have been punctilious.
- address public, collective grievances.
- involve constitutional principles not political talk.
- have been signed only by citizens.
- have been dignified.
- have widespread participation and consequences.
- are instruments of deliberation not agitation.
- provide new information.
- do not advocate violence or crime.
- Provide legal Notice of the existence of constitutional torts
- Seek substantive Redress to cure such constitutional torts

63. Although the term “petition” is not defined by the Constitution, the United States Supreme Court long ago interpreted the “Petition Clause” to apply in a variety of circumstances, noting the right to petition the representatives of the people in Congress, to petition the Executive Branch, and the right of access to the courts. The Supreme Court has also determined that it is appropriate to give an alleged intrusion on First Amendment rights particular scrutiny where the

government may be attempting to chill the exercise of First Amendment rights because the exercise of those rights would adversely affect the government's own interests.

64. SKELTON'S power is limited to precisely delineated purposes. Beyond this, as an official (and employee) of the Government, SKELTON is bound with certain affirmative fiduciary and constitutional duties to his constituents. The Government's tax and law enforcement powers are to be strictly limited for genuine investigations of tax payers and criminals. These powers cannot be lawfully used to quash political dissent or serious and intelligent Petitions for Redress of violations of the Constitution by the Government, or to chill the enthusiasm of People willing to claim and exercise their Right to Petition for Redress.

65. Any attempt by SKELTON to utilize, direct or induce the Government's enforcement powers to retaliate against the HERRONS' proper Petitions for Redress has been done outside his lawful authority as a Government official and is patently and constitutionally **impermissible**.

**THESE ARE FIRST IMPRESSION QUESTIONS OF  
EXTREME PUBLIC IMPORTANCE**

66. This proceeding involves a first-impression question of exceptional constitutional importance. The First Amendment is arguably the single most important sentence in the Constitution. Essential, unalienable, individual Rights were guaranteed by that sentence, including the Rights of the People to Petition the government for Redress to cure unconstitutional behavior. A decision denying these Rights, or even placing limitations upon them, is of exceptional constitutional importance.

67. No court has decided the underlying questions presented in the instant action; that is, whether private individuals have the Right to a response from their Government representatives to Petitions for Redress of constitutional torts, and whether those private individual have the Right to withdraw their allegiance and support from the Government should their Government representatives refuse to respond to their Redress Petitions, or worse yet, retaliate?

68. The Right to government limited by the Constitution and based upon the consent of the governed is among the most precious of the Great Rights and Liberties guaranteed by the Bill of Rights. The value in the Bill of Rights, particularly the Right to Redress and Enforcement , as an essential element in the direct, practical exercise of Popular Sovereignty and self-government is beyond question. It is, after all, the only way for the individual and the small group to secure their unalienable Rights against the majority, and to directly and peacefully hold the government accountable to the Constitution.

69. Indeed, this "capstone" Right was added to the First Amendment as the most critical element in the overall balance of power between the People and the Government, intended to preserve an environment conducive and protective of free political discourse, to the ends that government may be held accountable to the People, the Constitution and the Law, and that abuses of power may be curtailed and cured by peaceful means. Therein lies the very foundation of our Constitutional Republic and the Freedom of the People.

70. Any removal or diminution of the power of this, the People's procedural instrument for holding the Government accountable to the rest of the Constitution would drastically dismantle and destroy the balance of power between the People and the Government.

71. The zone of interest to be protected by the Accountability Clause of the First Amendment goes beyond the Clause itself to all Natural Rights. The Petition Clause guarantees the Right to

hold government accountable to each provision of the Constitution through citizen participation in their Right to self-government.

72. The question now before this Court has profound moral, legal and practical implications.

### ***We The People v. United States Is Not Dispositive***

73. The questions presented in this case were presented in *We The People v. United States*, 485 F.3d 140 (DC Cir., May 8, 2007), cert. denied \_\_\_ U.S. \_\_\_ (2008).

74. However, abusing the legal doctrine of *stare decisis*, the DC circuit court opined that it was compelled by the Supreme Court to hold that Government did not have to listen or respond to Petitions for Redress of constitutional torts. The *We The People* court opined that it's decision was constrained by the principle of law laid down by the Supreme Court in two earlier cases -- the *Smith* and *Knight* cases.

75. Citing *Smith* and *Knight*,<sup>20</sup> the *We The People* Court held that government does not have to listen or respond to private citizens seeking Redress to constitutional violations by government officials.

76. The problem is the plaintiffs in *Smith* and *Knight* were suing as *public employees* who had petitioned their Arkansas and Minnesota *public employers* for redress of *employment-related grievances*. The *We The People* court erred, some say intentionally, in order to avoid declaring the People's Right of Redress and Enforcement as the constitutional way for individuals to hold the government accountable to the Constitution.

77. The doctrine of *stare decisis* was misapplied by the DC circuit court. *Smith* and *Knight* were clearly distinguishable from *We The People*, on both the facts and the law.

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<sup>20</sup> *Smith v. Ark. State Highway Employees, Local 1315*, 441 U.S. 463 (1979), and *Minnesota State Bd. Community Colleges v. Knight*, 465 U.S. 217, 284 (1984).

78. Neither the DC Circuit Court's decision in *We the People*, nor the Supreme Court decisions in *Smith* and *Knight* are relevant to the facts and law of the instant case.

79. In fact, in her separate opinion in *We The People*, DC Circuit Judge Rogers distinguished that case from *Smith* and *Knight*, recognizing that the legally significant contemporaneous, historical context and purpose of the accountability clause, as argued by the plaintiffs in *We The People* (and as argued above by the HERRONS) was not argued in *Smith* and *Knight*. In addition, *Smith* and *Knight* were cases involving job related grievances by **public** employees and grievance procedures set forth by their State legislatures. The cases were less about the Right to Petition than about the derivative Rights of free speech and association. *Smith* and *Knight* were not cases, as here, involving **private** citizens petitioning the Government for violating restrictions and prohibitions found in the provisions of the Constitution of the United States of America.

80. The constitutional principle declared in *Smith* and *Knight* merely governs the obligation of governments "to listen and respond" to **public employees** who do (*Smith*) or do not (*Knight*) want to submit employment related grievances to their state employers through a labor association as required by state legislation.

81. Notwithstanding *Smith* and *Knight*, the principle or rule of conduct governing Government's obligation to respond to Petitions by private citizens for Redress of Grievances involving constitutional torts **has yet to be declared by any Court**, much less "settled through iteration and reiteration over a long period."

82. In the instant case, the facts, circumstances and legal arguments are so radically different from those in *Smith* and *Knight* that there is no risk of making *Smith* or *Knight* a legal anomaly.

## CONCLUSION

54. Plaintiffs respectfully request a final Order:
- a. Granting declaratory relief to the HERRONS by declaring the obligation of the Defendant (hereinafter, "SKELTON"), under the First Amendment to the Constitution of the United States of America, to enter into good faith, substantive exchanges with the HERRONS and to provide to the HERRONS documented and specific answers to the reasonable questions served upon him in seven Petitions for Redress of Grievances regarding the federal Government's violations of the U.S. Constitution's war powers, money, "privacy," tax, "faithfully execute," and firearms provisions as well as the unconstitutional construction of a "North American Union," and
  - b. Granting injunctive relief to the HERRONS by directing SKELTON to formally notify the Attorney General of the United States and the Commissioner of the Internal Revenue Service that they should disregard any and all prior communications from SKELTON regarding the HERRONS, and that they should return to SKELTON the originals of all documents and materials they received from SKELTON regarding the HERRONS as well as copies of any and all collateral government communications regarding such matter, and to further provide all such materials to the HERRONS and
  - c. Granting declaratory relief to the HERRONS by declaring the Right of the HERRONS to withdraw their allegiance and support from the federal Government should SKELTON fail to substantively respond to the HERRONS by providing formal, specific answers to the questions contained in the seven Petitions for Redress, and

- d. Granting injunctive relief to the HERRONS by constraining SKELTON from retaliating against the HERRONS if the HERRONS decide to withdraw their allegiance and support from the federal Government until the constitutional violations are Redressed, and
- e. Retaining jurisdiction of this action to ensure compliance with the Court's decisions, and
- f. Granting any other, non-financial relief that to the Court may seem just and proper.

Dated: July 18, 2008

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RAY HERRON  
14655 State Route TT  
Warsaw, MO 65355.

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ELAINE HERRON  
14655 State Route TT  
Warsaw, MO 65355.

**INDIVIDUAL VERIFICATION**

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_, being duly sworn, says: I am a Plaintiff in the action herein; I have read the foregoing Complaint dated July 18, 2008, and know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief and as to those matters I believe them to be true.

(Signature) \_\_\_\_\_  
RAY HERRON

Sworn to before me this  
\_\_\_ day of July, 2008

\_\_\_\_\_  
Notary Public

**INDIVIDUAL VERIFICATION**

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_, being duly sworn, says: I am a Plaintiff in the action herein; I have read the foregoing Complaint dated July 18, 2008, and know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief and as to those matters I believe them to be true.

(Signature) \_\_\_\_\_  
ELAINE HERRON

Sworn to before me this  
\_\_\_ day of July, 2008

\_\_\_\_\_  
Notary Public