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9 **UNITED STATES DISTRICT COURT**
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

| | |
|--|---|
| 11 Social Security Administration, 12 13 Complainant | DISTRICT COURT DOCKET NO.: 2-18-cv-07752-VBF (DFM) |
| 14 v. | SSA DOCKET NO.: RS-17-03 |
| 15 Jeffrey D. Moffatt, 16 17 Respondent. | REPLY AND NOTICE OF MOTION AND MOTION TO ORDER SSA TO CORRECT ADDRESS, ISSUE CORRECTED 1099, REMIT EARNED INCOME AND MOTION TO STRIKE SSA’S (“DOCUMENT# 66”) UNDER Fed. R. Civ. P. 12(F) AND SUBPART 12(F)(2), Fed. R. Civ. P. 65 |
| | Honorable Judge Valerie Baker Fairbank, United States District Court Judge |

22 **TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECORD:**

23 **NOTICE IS HEREBY GIVEN** that Respondent Jeffrey D. Moffatt
24 (“Moffatt”) files this Reply and Notice of Motion and Motion to Enjoin Social
25 Security Administration’s (“SSA”), to Correct Address, Issue Corrected 1099,
26

1 Remit Earned Income and Motion to Strike SSA's ("Document# 66") Under Fed.
2 R. Civ. P. 12(f) and Subpart 12(f)(2) in response to Social Security
3 Administration's ("SSA") alleged ("Document# 66") as well as Other Pertinent
4 Facts.
5

6 Multiple **alarming** deliberate acts by SSA to harm Moffatt and deny
7 Moffatt's constitutional rights executed outside the purview of the Court,
8 compelled Moffatt to take this extraordinary step to alert the Court by filing this
9 Reply and Notice of Motion and Motion to, Order SSA to Correct Address, Issue
10 Corrected 1099, Remit Earned Income and Motion to Strike SSA's ("Document#
11 66") Under Fed. R. Civ. P. 12(f) and Subpart 12(f)(2).
12
13

14 As a foreshadowing of a movie, part comedy part irony part criminal set up,
15 Moffatt has made six (6) attempts to ensure that an SSA Form-1699 is filed to
16 correct Moffatt's mailing address. Moffatt has even enlisted certified delivery, as
17 well as management from California offices in this endeavor; proof of these
18 submissions is available, however the statement enough is enough to refute
19 Counsel's statement. The SSA Baltimore Maryland office has been unwilling to
20 change Moffatt's address.
21
22

23 It is highly likely that opposing counsel has had a hand in unwilling to
24 change Moffatt's address, which has a combinations of denying an actual second
25 hearing with notice, financially squeezing Moffatt, and also setting Moffatt up for
26

1 criminal charges, for under-withholding tax, based on errored 1099's submitted by
2 SSA. These combinations of actions in themselves also assist in showing that the
3 underlying case should be removed to Federal Court, thus the comedy and irony
4 stage of this movie.
5

6
7 SSA has assigned a new administrative law judge ("ALJ"), out of its
8 Baltimore, Maryland Office, David S. Pang ("Pang"), to conduct SSA's
9 Disciplinary Proceedings against Moffatt, Docket No.: RS-17-03.
10

11 Pang, out of its Baltimore, Maryland Office, has likely mailed notices of
12 events in SSA's Disciplinary Proceedings against Moffatt, Docket No.: RS-17-03,
13 to the incorrect mailing address for Moffatt.
14

15 Moffatt has not received a single call, fax, letter, telegram, smoke signal, or
16 Morris Code reflective mirror message from Pang. It was only through SSA's
17 challenge to the Stay action in December that Moffatt was notified that SSA had
18 assigned an ALJ to the matter.
19

20 Moffatt has filed an address change to ALJ Pang, as well as motion for
21 recusal, with absolutely no response from Maryland, but an argument from SSA's
22 counsel regarding the address change was received last week.
23

24 It's kind of hard to have a second administrative hearing when the ALJ from
25 Maryland refuses to change the address, thus establishing the irony component to a
26

1 neutral hearing. The comedy component comes in, if in fact SSA Counsel advised
2 Maryland's SSA not to change Moffatt's office, and then strings this court a line,
3 saying that Moffatt only needs to file a simple form to have it changed, when 6
4 times it has been done, and counsel likely has a hand in preventing the change
5 from happening.
6

7 Additionally adding to the movie scene, an element of cruelty, SSA's
8 Baltimore, Maryland Office, is tasked with mailing out checks to those attorneys
9 representing claimants before SSA and is mailing checks to Moffatt at his former
10 mailing address and those checks are being returned. Moffatt is owed 18 checks,
11 that range from \$1.00 to \$6,000.00 each.
12
13

14 Adding to the movie scene a criminal set up. Say Moffatt completes his
15 mandated tax returns with the money received, compared to the money listed in
16 SSA's 1099, which is reported to the IRS, and they have Moffatt's correct
17 Address. Under the tax code, if there is a 25% or more discrepancy between what
18 is filed as income, and what is reported then a charge of Fraud Baumgardner v.
19 Comm'r, 251 F.2d 311 (9th Cir. 1957) from the Federal Government can be issued.
20 The burden is on the taxpayer to show that what was received is different than
21 what is reported.
22
23

24 As a result, SSA issued an inaccurate 1099 form for Moffatt with the
25 Internal Revenue Service ("IRS") and has deprived Moffatt of earned income
26

1 while exposing Moffatt to potential criminal charges if he reports only the income
2 he received.

3 The gamesmanship involved in the denial of changing the Maryland SSA
4 offices address for Moffatt compounded by the irony, comedy and criminal set up
5 make for a good movie. This court can address Moffatt's request under Fed. R.
6 Civ. P. 65 motion to enjoin.
7

8 Additionally, Attorney Geralyn Ann Gulseth ("Gulseth"), the attorney filing
9 SSA's ("Document #66"), is not an attorney of record to represent SSA in this
10 matter.
11

12 Therefore, this motion is based on this Reply and Notice of Motion and
13 Motion to Enjoin Social Security Administration's ("SSA") Order SSA to Correct
14 Address, Issue Corrected 1099, Remit Earned Income and Motion to Strike SSA's
15 ("Document# 66") Under Fed. R. Civ. P. 12(f) and Subpart 12(f)(2), with
16 Memorandum of Points and Authorities in Support, and true and correct copies of
17 attachments incorporated herein.
18

19 **Dated:** January 7, 2020, Tuesday
20

21
22 _____/s/ Jeffrey D. Moffatt
23 By: Jeffrey D. Moffatt
24 Federal SSA Attorney / Pro Se
25
26

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1
2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 **INTRODUCTION**

4 As outlined above, multiple recent **alarming** deliberate acts by SSA
5 executed outside the purview of the Court justify Respondent Jeffrey D. Moffatt's
6 ("Moffatt") extraordinary step in filing this Reply and Notice of Motion and
7 Motion to Enjoin Social Security Administration's ("SSA") Order SSA to Correct
8 Address, Issue Corrected 1099, Remit Earned Income and Motion to Strike SSA's
9 ("Document# 66") Under Fed. R. Civ. P. 12(f) and Subpart 12(f)(2), and Fed. R.
10 Civ. P. 65.
11
12
13

14 **ARGUMENTS**

15 **I. FORM SSA-1699**

16 In her alleged Document# 66, Gulseth stated at Page 2, Line 12, in pertinent
17 part: "...SSA provides a mechanism by which Social Security claimant
18 representatives can update their information with the agency."
19

20 Given the extreme simplicity, conveyed one would think that Moffatt
21 submitting this form six (6) times is a charm with submitting numerous Form SSA-
22 1699 forms and Direct Payment information, even personally visiting the SSA
23 Office and enlisting the assistance of supervisors to update Respondent Moffatt's
24 mailing address information at SSA. No change was ever made by SSA.
25
26

1 Moffatt has made six (6) attempts to ensure that an SSA Form-1699 is filed
2 to correct Moffatt's mailing address, thus refuting opposing counsel's simple
3 assertion that the fix is merely filling out a form.

4 It appears all Moffatt's extreme efforts to correct his mailing address with
5 SSA especially at SSA's Baltimore, Maryland Office are being thwarted by some
6 unknown and impenetrable force.

7 Amazing that Moffatt is able to receive mail and communications from other
8 SSA offices as Moffatt prevailed in 18 cases before SSA during 2019, and received
9 regular communication about his cases from SSA.

10 It has the appearance that certain employees of SSA, possibly SSA counsel,
11 are exercising gamesmanship as even after the sixth time Moffatt submitted Form
12 SSA-1699 to correct his mailing address, Respondent Moffatt's address for over a
13 year has yet to be updated. The court could, on its own, issue a directive to
14 determine whom is responsible for the unknown and impenetrable force.

15 SSA continues to send mail to an old mailing address Respondent has not
16 conducted business out of since May 2018.

17 SSA's Baltimore, Maryland Office, tasked with mailing out checks to those
18 attorneys representing claimants before SSA is mailing checks to Moffatt at his
19 former mailing address, which checks are returned to the U.S. Treasury.

1 This Court has jurisdiction, pending disposition of Respondent's 60(b)
2 Motion before Honorable Valerie Baker Fairbank, United States District Judge, to
3 issue a simple Order asking SSA as a professional courtesy to update Respondent
4 Moffatt's address **FROM:** 43625 N. Sierra Hwy, Suite A, Lancaster, CA 93534
5 **TO:** 332 W. Ave S, Suite D – Box 8, Palmdale, CA 93551.
6

7 It shouldn't be necessary for Moffatt to bother the Court with having SSA
8 correct something so simple as a mailing address, yet here we are.
9

10 **II. THE IRONY OF ASSIGNING A JUDGE FROM AN OFFICE**
11 **THAT RUFUSES TO CHANGE MOFFATT'S ADDRESS**
12 **PROVES MOFFATT'S POINT IN REQUESTING A**
13 **TRANSFER TO FEDERAL DISTRICT COURT**
14

15 Here is where the present case, by actions of SSA alone, starts to make a
16 good slap stick comedy movie. SSA has assigned a new administrative law judge
17 ("ALJ") out of its Baltimore, Maryland Office, David S. Pang ("Pang"), to conduct
18 SSA's Disciplinary Proceedings against Moffatt, Docket No.: RS-17-03.
19

20 Pang, out of the SSA Office in Baltimore, Maryland, likely mailed notices of
21 events in SSA's Disciplinary Proceedings against Moffatt, Docket No.: RS-17-03,
22 to the incorrect mailing address for Moffatt.
23

24 Moffatt has had absolutely no contact from Judge Pang, which is strange
25 compared to the 18 cases that checks are pending. SSA normally reaches out by
26

1 phone to schedule a hearing, it then sends notices asking for evidence, has the
2 hearing, and then mails the decision, unless a bench decision is given. In at least 18
3 cases, occurring from different states, the various SSA offices have conducted
4 themselves this way. Moffatt only learned of the new assignment in December via
5 SSA's documentation in this case challenging the Stay request.
6

7 Moffatt filed a notice of change of address to Judge Pang, as well as notice
8 of recusal. Maryland has given no response by phone, fax, email.
9

10 The refusal of Maryland's SSA to change Moffatt's address with a proper
11 notice to Moffatt of SSA's administrative proceedings violate Moffatt's right to
12 due process, this is a 14th amendment violation. Failure of SSA ALJ Pang to
13 change Moffatt's address denies proper notice and due process Blackburn v.
14 Astrue, No. C07-5387-KLS, 2008 WL 2063698 (W.D. Wash. May 13, 2008). This
15 failure to change the address has an old fashioned slap stick humor to it, with the
16 exception of Moffatt being made the joke, which is what this motion seeks to
17 solve.
18
19

20 In its August 5, 2019, Minute Order (Document# 47), the Court lifted the
21 Stay ordering Moffatt's case remanded back to SSA. The Court erred and based
22 the alarming behavior of SSA harming Moffatt outside the Court's view; the Court
23 should reconsider its position.
24
25
26

1 On August 31, 2019, Moffatt filed a Fed. R. Civ. P. 60(b) Motion asking the
2 Court to reconsider its Order. Moffatt's Fed. R. Civ. P. 60(b) Motion is still
3 pending.

4 Moffatt filed a Stay Motion as well.

5
6 Based on the actions of the address comedy alone, Moffatt should be at least
7 granted a change of address, since it is impossible for the administrative action to
8 continue with Maryland not using Moffatt's correct address. This comedy, should
9 also assist in moving the court to granting the stay as well as support Moffatt's
10 Fed. R. Civ. P. 60(b) Motion.
11

12 **III. MOFFATT IS BEING DEPRIVED OF EARNED INCOME BY**
13 **SSA**

14 SSA is intentionally continuing to mail Moffatt's checks issued by the
15 United States ("U.S.") Treasury to the wrong mailing address.
16

17 As a result, SSA (overstated) Moffatt's income in an inaccurate 1099 form
18 with the IRS applicable to Moffatt for Tax Period ending 12/31/2019.
19

20 Moffatt has 18 pending checks outstanding from \$1.00 to \$6,000.00 each
21 likely mailed to an incorrect address. SSA will issue a 1099 based on what was
22 awarded, not what Moffatt received. This equates to estimates close to \$100,000.00
23 in cases where Moffatt represented claimants has been intentionally overstated on
24 Moffatt's IRS Form 1099 issued by SSA for 2019.
25
26

1 SSA's overstatement of Moffatt's income on its issued 1099 is a direct result
2 of SSA's continual mailing of Moffatt's checks for his attorney's fees to Moffatt's
3 former address: 43625 N. Sierra Hwy, Suite A, Lancaster, CA 93534, where
4 Moffatt has not conducted business since May 2018.

5
6 As these are government checks, the U.S. Post Office will not forward them
7 to Moffatt's correct address: 332 W. Ave S, Suite D-Box 8, Palmdale, CA 93551.

8
9 U.S. Post Office then returns Moffatt's attorney checks back to U.S.
10 Treasury.

11 SSA's inexplicable mailing of Moffatt's checks to the wrong address has
12 deprived Moffatt of earned income while exposing Moffatt to potential criminal
13 charges for U.S. Tax Code violations.

14
15 Therefore, Moffatt requests that the Court issue a simple Order that SSA
16 correct and remit Moffatt's earned income that was never received nor cashed by
17 Moffatt to Moffatt's correct mailing address.

18
19 **IV. SSA OVERSTATED MOFFATT'S IRS FORM 1099**

20 Moffatt requests the Court Order SSA to issue a corrected 1099, as Federal
21 Agency SSA overstated Moffatt's income by approximately \$100k in its
22 submission of Moffatt's 1099 form to the IRS for tax year 2019.

23
24 This occurred as SSA based Moffatt's income on attorney fee moneys
25 earned but not paid based on the fact that these government checks are being
26

1 mailed to our former business address and returned to the U.S. Treasury. Moffatt
2 did not cash the checks, therefore, the income cannot be included by SSA in
3 Moffatt's 1099 form submitted to the IRS. Improperly submitted 1099's creates a
4 duty on issuer. United States v. Kirk, No. C11-1075 MJP, 2012 WL 1099772
5 (W.D. Wash. Apr. 2, 2012).
6

7 Failure by SSA to submit a corrected 1099 for Tax Year 2019 will set the
8 stage for charging Moffatt with a crime. If Moffatt reports what was received
9 compared to what the 1099 shows, this will vastly exceed the 25% threshold for
10 criminal tax evasion, United States v. Boulware, 558 F.3d 971 (9th Cir. 2009),
11 without Moffatt having any intent. As such the IRS would have grounds to file
12 criminal charges by not using the incorrect 1099, and the lack of intent on
13 Moffatt's part would not remove the taint of criminality, despite the error being
14 manufactured by SSA.
15
16
17

18 If Moffatt had reported the income shown on his 1099 form issued by SSA,
19 Moffatt would have been in criminal jeopardy for violating U.S. Tax Codes. The
20 burden of proof is on the taxpayer, IRS is presumed correct Cook v. United States,
21 46 Fed. Cl. 110 (2000); Kobus v. United States, 103 Fed. Cl. 575 (2012); Lovelace
22 v. United States, 951 F.2d 360 (9th Cir. 1991) as such SSA's 1099 form is
23 presumed correct, making the need to have the 1099 corrected paramount.
24
25
26

1 **V. GUSSETH IS NOT THE ATTORNEY OF RECORD FOR SSA**

2 SSA is improperly allowing Attorney Geralyn Ann Gulseth to represent the
3 agency, when Gulseth is not attorney of record for SSA. This has been discussed
4 in doc 22, and Moffatt’s recent submission.
5

6 **V. USDC FORM G-123 BY GERALYN ANN GULSETH**
7 **INDICATES COUNSEL ONLY FOR NANCY BERRYHILL**

8 Attorney Geralyn Ann Gulseth (“Gulseth”), the attorney filing SSA’s
9 (“Document #66”), is not an attorney of record to represent SSA in this matter.
10

11 On 11/18/2018, Attorney Geralyn Ann Gulseth filed Document #18 with this
12 Court, United States District Court (“USDC”) Form G-123, indicating Gulseth is
13 counsel ONLY for former SSA Acting Commissioner Nancy Berryhill.
14

15 Hence, as Gulseth is not attorney of record in this matter to represent
16 (“SSA”), she (Gulseth) has submitted fraudulent pleadings on this Court further
17 supporting Respondent Moffatt’s Motion to Strike Document# 66 in its entirety.
18

19 Therefore, Gulseth’s Document# 66 filed on 01/03/2020, is defective on its
20 face and “moot” and must be stricken in its entirety Under Fed. R. Civ. P. 12(f)
21 specifically as a scandalous matter; subpart 12(f)(2).
22
23
24
25
26

1 **VI. GULSETH IMPLIES OR MISREPRESENTS THAT**
2 **RESPONDENT MOFFATT HAS A CLAIM AGAINST THE**
3 **UNITED STATES**

4 Gulseth on Page 2, Lines 4-7, in her alleged Document# 66 to this Court
5 intentionally implies and/or misrepresents in her fraudulent pleadings that
6 Respondent Moffatt has a claim against the United States by stating the following
7 in part: **“The party asserting a claim against the United States bears “the**
8 **burden of establishing [the government’s] unequivocally expressed waiver.”**
9 **Dunn & Black, P.S. v. United States, 492 F.3d 1084, 1088 (9th Cir. 2007).”**

10
11 Gulseth mis-cited case authority in Dunn & Black, P.S., 492 F.3d at 1088.

12 “We must decide whether a law firm can bring an action against the United
13 States to recover attorney's fees from monies that its client was awarded as a result
14 of a settlement with the Federal Highway Administration, but never received
15 because the Internal Revenue Service requested that payment be withheld to offset
16 unpaid tax liabilities, -O'SCANNLAIN, Circuit Judge. ...”

17
18
19 There is no assertion by the IRS that the IRS has asserted an offset of money
20 due Moffatt for unpaid tax liabilities, as such the attempt to use the Dunn & Black,
21 P.S., 492 F.3d 1084 case as a cite has no application as reason to not change the
22 address.

23
24 Therefore, this Court should deny Gulseth’s Document# 66 pleadings in
25 their entirety for mis-citing Dunn.
26

1 **VII. CONCLUSION**

2 The movie with comedy, irony, and the criminal set up stems from SSA
3 Office in Baltimore, Maryland refusal to change the address. If the Federal District
4 court takes jurisdiction of the underlying matter, this solves half the battle, and
5 would put an element of justice into the movie theme.
6

7 When SSA's purported counsel infers to this court just fill out a form, send it
8 in and we will change the address, and this has been done 6 times, that argument
9 goes away. If IRS purported counsel had a hand in refusing to change the address,
10 denying due process, income, and setting the stage for criminal charges, the
11 comedy turns to a criminal set up, that only this court can solve; this court has the
12 power under Fed. R. Civ. P. 65 to enjoin SSA to change Moffatt's address, issue
13 the back checks, as well as order the 1099 to be corrected to avoid criminal charges
14 for tax misrepresentation being assessed to Moffatt.
15
16
17

18 Now, what is Moffatt supposed to garner from these intentional alarming
19 actions against him by SSA employees that are violating his constitutional rights
20 and causing him real harm? And how does Moffatt defend himself against what
21 appears to be irregular actions outside legal authority by a rogue agency?
22

23 With the SSA intentionally taking adverse actions outside of this Court's
24 view to harm Respondent Moffatt such as repeatedly refusing to correct the
25 mailing address; issuing a fraudulent 1099 form reflecting income earned and not
26

1 received; and withholding payments earned by Respondent Moffatt in representing
2 claimants before SSA; and utilizing an attorney not properly before the Court
3 pretending to represent SSA, SSA is before this Court with unclean hands.
4

5 The intentional failure of SSA to accomplish a simple address update
6 adversely impacts Moffatt and more importantly impacts claimants being
7 represented by Moffatt.
8

9 ***WHEREFORE RESPONDENT MOFFATT*** prays and requests the Court:
10

11 (1) Order (“SSA”) to correct Respondent Moffatt’s MAILING ADDRESS
12 **TO:** 332 W. Ave S, Suite D- Box 8, Palmdale, CA 93551.
13

14 (2) Order (“SSA”) to issue a corrected 1099 for tax years 2018 and 2019
15 to the IRS reflecting the correct income actually received by Moffatt from SSA.
16

17 (3) Order SSA to issue checks for any income earned by Moffatt in
18 representing claimants before SSA and not paid by SSA in prior tax years 2018
19 and 2019.
20

21
22
23 (4) Order that GERALYN ANN GULSETH discontinue submitting pleadings in
24 this case, until such time as Gulseth has submitted an updated USDC Form G-123
25 indicating Gulseth as counsel of record for the SSA.
26

