

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

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CHRISTOPHER D. MOORE-BACKMAN,	:	Index No. _____
Plaintiff/Petitioner,	:	
-against-	:	Judge _____
UNITED STATES OF AMERICA	:	
Defendant/Respondent.	:	

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COMPLAINT

Plaintiff/petitioner **CHRISTOPHER D. MOORE-BACKMAN**, as and for a Complaint against defendant/respondent **UNITED STATES OF AMERICA**, alleges as follows:

Christopher Moore-Backman brings this suit to secure a return of monies wrongfully deducted from the tax refund due to plaintiff for the 2007 tax year by the Internal Revenue Service (“IRS”). Plaintiff was entitled to a federal income tax refund in the amount of \$3,255.00. The IRS applied \$1,509.69 of those funds to taxes allegedly owed for the 2001 tax year (\$1,026.04) and for the 2004 tax year (\$483.65). Christopher Moore-Backman had filed his tax returns for 2001 and 2004, but had been compelled to withhold the amounts owing on those returns because the United States government violates his religious beliefs and conscience by forcing him to finance the conduct of war and the production of the weaponry of war, and the government also fails to provide a means for applying his tax payments to non-military purposes. The refusal of the government to accommodate his religious beliefs and conscience violates Christopher Moore-Backman’s legal rights under the Religious Freedom Restoration Act of 1993, 42 U.S.C. § 2000bb, *et seq.* and breaches the United States’ obligations to respect the universal human right to freedom of thought, conscience and religion. Accordingly, the

offset of those taxes against Christopher Moore-Backman's 2007 refund was in violation of both his domestic civil rights and his international human rights, and he is therefore entitled to a judgment directing the United States of America to refund the remaining unpaid \$1,509.69, pending the enactment of appropriate legislation or regulations to provide for the non-military use of such funds.

I.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1346(a)(1), as this is a claim for a refund of federal taxes.

3. Venue is proper in this district pursuant to 28 U.S.C. § 1402(a)(1) because plaintiff resides in this district.

II.

PARTIES

4. Plaintiff **CHRISTOPHER D. MOORE-BACKMAN** is a citizen of the United States of America, and resides in the State of Arizona, at 3 Navajo Trail, Apt. 4, Bisbee, Arizona 85603. Christopher is a member of the Religious Society of Friends, also known as the Quakers. His practice of nonviolence is in accordance with the Quaker peace testimony that is a long-held Friends' belief and a vital part of Christopher's faith.

5. Defendant **UNITED STATES OF AMERICA** acts for and controls its Department of Treasury and the Internal Revenue Service ("IRS") therein. It is the responsible party in suits for tax refunds.

III.

FACTS

6. Christopher Moore-Backman timely and properly filed his federal

income tax return for the 2001 year with the IRS. The return reflected adjusted gross income of \$13,116.00, taxable income of \$5,666.00 and taxes owing of \$567.00. With his tax return, Christopher enclosed a letter dated April 8, 2002, advising the IRS that any form of compelled participation in the conduct of warfare violates his religious beliefs and convictions of conscience:

“I am a Quaker, and my faithfulness to God, my human family and this Earth our fragile home, requires that I refuse payment of my federal taxes, as such a large portion of such monies are used for military purposes. Just as I will not participate in combat against my fellow man, I will not pay that others may do so. Just as I will not manufacture weapons of violence and destruction, I will not pay that others may do so.”

7. In further communication with the IRS, Christopher reiterated and elaborated on the religious principles that precluded his participating in warfare and the preparation for war, and his desire voluntarily to pay his taxes if the funds would be applied to nonviolent governmental purposes. In a letter dated April 17, 2003, he wrote:

“Peace be with you.

“I am writing in response to the notices I have received from you regarding my unpaid taxes for tax year 2001. I am a Quaker and a tax resister. My conscience forbids me from paying money that will be used to develop and build weaponry designed to kill people and cause mass destruction. My conscience forbids me from paying money that will fund the training of people to use such weapons to

kill their fellow human beings and damage our fragile planet.

“I am not opposed to taxation in principle, and I recognize that tax dollars go to fund many things besides the military. Because I have no way of directing my contribution so as to avoid enriching the U.S. military, however, I have no conscientious choice but to withhold payment entirely. In order to contribute to the general welfare of our society and the world, I have donated the full amount of my calculated tax for 2001 to support humane efforts to build a more just and peaceful society and world community. If and when our nation changes its spending policies to bolster such humane and non-militaristic efforts I will be happy to pay taxes to the IRS.

“At present I am living below the taxable income so have not filed a return for tax year 2002. In this way I am continuing to resist taxation that funds violence and destruction.”

8. Christopher Moore-Backman also timely and properly filed his federal income tax return for the 2004 year with the IRS. The return reflected adjusted gross income of \$7,359.00, taxable income of \$ -0- and taxes owing of \$311.00 for self-employment tax. With his tax return, Christopher enclosed a letter dated April 13, 2005, again advising the IRS that he could not contribute to the conduct of warfare consistently with his religious beliefs. The text of this letter is substantially identical to his letter of April 8, 2002 quoted above at ¶ 6.

9. In further communication with the IRS, Christopher again reiterated

and elaborated on the religious principles and convictions of conscience that preclude his participating in warfare and preparations for war, and his desire voluntarily to pay his taxes if the funds would be applied to nonviolent governmental purposes. In a letter dated November 5, 2005, he wrote:

“I can only respond as I have in the past by saying that my conscience forbids me from paying the \$360.59 noted in your letter. Just as I am unwilling to kill other human beings on a battlefield, I am unwilling to pay so others may do so. Just as I am unwilling to develop or manufacture weapons of mass destruction, I am unwilling to pay so others may do so.”

10. And in a letter dated September 23, 2006 to Scott Prentky, Field Director of the IRS’s Compliance Services in Ogden, Utah, Christopher wrote:

“I write in response to your letter dated July 17, 2006.

“I am saddened to know that the IRS regards my practice of civil disobedience as ‘frivolous.’ I recognize that you are likely using the word ‘frivolous’ as a legal term, but I can only grieve that it is used in this way - to describe a person’s earnest effort to faithfully respond to the dictates of his/her religious convictions, especially when those convictions are rooted so firmly in love. I draw comfort, however, from the fact that my deliberate and transparent refusal to do what my conscience abhors, in this case helping to fund our nation’s immoral and devastating war-making and militarization, places me in the company of fellow U.S. citizens such as

Henry David Thoreau and Martin Luther King Jr. How deeply troubling it is to know that the IRS would likewise describe the arguments they raised as ‘frivolous’.

“I am copying this letter to the clerk of my Quaker Meeting, remaining mindful that at its root this matter is a religious one. My devotion to God and the search for a nonviolent life grounded in God’s love and mercy represent the greatest care I can show for my country, for which I want the very best. It is for this reason that at this juncture in our nation’s history I have no choice but to refuse payment of my income taxes, and to redirect those dollars to organizations that are committed to effecting positive change through nonviolent means.

“Thank you for contacting me. I hope that our contact will continue – if possible with a letter from your own hand expressing your personal views on this matter. I would receive such a letter with joy.”

11. Christopher Moore-Backman also timely and properly filed his tax return for the 2007 year with the IRS. The return reflected adjusted gross income of \$18,723.00, taxable income of \$673.00 and a payment due to Christopher in the amount of \$3,255.00 because he was the only wage earner in a low income family.

12. The IRS did not pay the full refund to Christopher, however. Rather, the IRS deducted \$1,509.69 of those funds for taxes, penalties and interest allegedly owed for the 2001 tax year (\$1,026.04) and for the 2004 tax year (\$483.65), and

paid a refund to Christopher of only \$1,745.31.

THE QUAKER PEACE TESTIMONY

13. The Religious Society of Friends has a long history of opposition to warfare and of advocacy of alternatives to violence for settling conflicts. Quakers are well known for their unyielding religious conviction that attention to the Inner Light, present in every person, empowers all of us to resolve disputes without resort to the machinery of war. This conviction results in Friends' uncompromising stand against warfare in all forms.

14. The Religious Society of Friends was established during the era of violent revolution and counter-revolution in seventeenth-century England. Those times of civil war compelled the early Quakers immediately to confront their faith in the Inner Light in every person in response to demands that they participate in these British wars. The earliest Quakers, in 1661, declared to King Charles II their unequivocal refusal to participate in war making:

“We do utterly deny all outward wars and strife and fightings with outward weapons, for any end or under any pretense whatsoever. And this is our testimony to the whole world... The spirit of Christ, by which we are guided, is not changeable, so as once to command us from a thing as evil and again to move unto it; we do certainly know, and do testify to the world, that the spirit of Christ, which leads us into all Truth, will never more move us to fight and war against any man with outward weapons, neither for the Kingdom of Christ, nor for Kingdoms of this world.”

(Declaration "Against All Plotters and Fighters in the World" addressed to Charles II by

George Fox, Richard Hubberthorne and 10 other Friends, January 21, 1661.)

15. From this date on, the peace testimony has been an integral and distinctive feature of Quaker beliefs and practices, distinguishing the Society of Friends from many other religious groups and calling Quakers to personal witness and testimony to support the end of warfare and the promotion of nonviolent alternatives. Other Peace Churches include the Brethren and the Mennonites, and most major faiths have groups that practice and witness to active nonviolence, such as the Roman Catholic Church's Pax Christi and Catholic Worker Movement.

16. Conscientious objection to military service is the oldest and most familiar expression of the Quaker peace testimony. By the middle of the eighteenth century, the absolute refusal of Quakers to fight or to provide military requisition was so familiar that at least five colonies -- New York, Virginia, Massachusetts, North Carolina and Rhode Island -- allowed Quakers to be exempted from the military service obligatory for other able-bodied males. (Pennsylvania, more heavily Quaker, did not even adopt a military conscription act until 1775.) Conscientious objection by Quakers in the United States has continued to be an important expression of the peace testimony in all the major wars, from the Revolutionary War through the conflict in Vietnam, during which the United States abandoned the mandatory military draft.

17. Friends have also long been concerned by the inconsistency of helping to finance a war effort, while refusing to participate in warfare. For at least two hundred years, this concern has led numerous Friends to decline to support the machinery of warfare.

18. For example, in 1755, while the Pennsylvania Assembly was debating raising funds "for the king's use" in the French and Indian War, a delegation of 20 Quakers addressed the Assembly in opposition to the raising of money for the war. When

the bill became law, Friends published “An Epistle of Tender Love and Caution to Friends in Pennsylvania” to explain why their faith would not permit them to pay war taxes:

“And being painfully apprehensive that the large sum granted by the late Act of Assembly for the King's use is principally intended for purposes inconsistent with our peaceable testimony, we therefore think that as we cannot be concerned in wars and fightings, so neither ought we to contribute thereto by paying the tax directed by the said Act, though suffering be the consequence of our refusal, which we hope to be enabled to bear with patience.”

19. In 1776, during the Revolutionary War, Philadelphia Yearly Meeting approved a minute "that a tax levied for the purchasing of drums, colours, and other warlike purposes, cannot be paid consistent with our Christian testimony." Similar positions were expressed in opposition (i) to taxes imposed to retire the debt from the Revolutionary War, (ii) to import duties used to finance the War of 1812, and (iii), to a lesser extent, during the Civil War.

20. When Congress instituted the first federal universal military service draft during the Civil War, it provided exemption for “members of religious denominations, who shall by oath or affirmation declare that they are conscientiously opposed to the bearing of arms, and who are prohibited from doing so by the rules and articles of faith and practice of said religious denominations. . . .” Congress specifically accommodated conscientious objections to the payment of “war taxes” by providing, in the Act of Feb. 24, 1864, ch. 13, § 17, 13 Stat. 6, 9, that the commutation fee to be paid for exemption from military service was to be applied solely to humanitarian purposes.

21. The constitutions and statutes of many of the colonies and original

13 states similarly provided exemptions from militia service, which was the sole mechanism for gathering armed forces for the nation. Those statutes also accommodated objections to paying “war taxes” by providing that militia service commutation fees were to be applied to nonmilitary uses. For example, the New York legislature provided in statutes in the early 19th Century that the commutation or exemption tax paid by Quakers was be used for the “support of common schools”. (Act of April 8, 1808, NY Legis., 31st Sess., Ch. 154, Art. XIV; in Laws of the State of New York (Websters & Skinner 1809), Vol. V, at 333; Act of March 29, 1809, NY Legis., 32nd Sess., Ch. 165; in Public Laws of the State of New York (S. Southwick 1809), at 197-199.) In 1814, the New York legislature directed “That all commutation money hereafter to be received from people called Quakers, under or by virtue of the act to organize the militia of this state, instead of being paid to the treasurer of this state, for the benefit of common schools, shall be paid to the several county treasurers, for the use of the poor in the said counties.” (Act of April 15, 1814, NY Legis., 37th Sess., Ch. 200, Art. XXIII; in Laws of the State of New York (H.C. Southwick 1814), at 253.)

22. In more recent times, many Quakers, including Petitioner Christopher Moore-Backman, and Friends’ organizations refused to pay the federal telephone tax originally imposed to help finance the Vietnam War, but continued thereafter.

23. The peace testimony has led Quakers to seek nonviolent methods of resolving disputes and to provide training, counseling and assistance in peace making and reconciliation efforts. It was work of this sort that was the primary basis for the award of the Nobel Peace Prize to the Religious Society of Friends in 1947.

**CHRISTOPHER MOORE-BACKMAN’S
PRACTICE OF HIS FAITH**

24. Christopher Moore-Backman has actively practiced this nonviolent faith and witness. He believes that, in the tradition of Mohandas Gandhi and Martin Luther

King, Jr., practitioners of nonviolence must be actively and openly nonviolent if they are to offer a true and viable alternative to militaristic use of lethal force in response to human conflict. He holds, with many Christians, that the teachings of Jesus point us to the active, nonviolent engagement and voluntary self-suffering that characterized Gandhi's and King's teachings and conduct.

25. Christopher Moore-Backman is a member of San Francisco Friends Meeting, which is part of the Pacific Yearly Meeting of the Religious Society of Friends. Pacific Yearly Meeting's Faith and Practice (1995), the yearly meeting's book of guidance in self-discipline, provides (at page 29; <http://www.pacificyearlymeeting.org/fp/pymfp2001pg029.html>):

“Based upon love and concern for the wellbeing of all, Friends work for reconciliation and active nonviolent resolutions of conflict. Friends have traditionally supported conscientious objectors to military service, while holding in love, but disagreeing with, those who feel that they must enter the armed forces. Friends oppose all war as inconsistent with God's will.”

26. Pacific Yearly Meeting's Faith and Practice goes on to provide the following guidance (at page 37; <http://www.pacificyearlymeeting.org/fp/pymfp2001pg037.html>):

“We value our part in shaping the laws of our country. Our task is to see that laws serve God's purposes and build a just social order. Our first allegiance should be to God, and if this conflicts with any compulsion of the state, we serve our country best by remaining true to our higher loyalty.”

27. Christopher Moore-Backman's faith in and witness of the Quaker peace testimony, and his resulting refusal to pay federal income taxes applied to military purposes, is in accordance with this guidance from Pacific Yearly Meeting.

28. Christopher Moore-Backman has sought to live fully in the life of this commitment and sacrifice by meeting conflict with nonviolence and love.

29. For example, he served a 10-month term as a human rights accompanier of civilians living in a war zone in Colombia, in a program organized by the Fellowship of Reconciliation. He accompanied and bore witness to a Colombian civilian community that had made a public declaration of neutrality in the on-going civil war.

30. Christopher Moore-Backman also undertook training as a facilitator with the Alternatives to Violence Project ("AVP") and has applied his training by facilitating AVP workshops in both prison and non-prison settings.

31. He assisted the Nonviolent Peaceforce in its efforts to lay the groundwork for its international peace team endeavors and, as this work provided no compensation, undertook fund-raising to provide for his own subsistence.

32. For the past four years, Christopher Moore-Backman has published articles and led numerous workshops on the teachings of Gandhi and their application to our society. Through these efforts, he has sought to bring Gandhi's teachings to the work of contemporary Quakers and other faith communities.

33. Gandhi taught that "Noncooperation with evil is a sacred duty," and he made his life a shining example of that truth. Christopher Moore-Backman follows this wisdom and example by committing his life to the power and efficacy of nonviolence. Coerced participation in our nation's use of lethal force is a violation of his religious practice and sacred duty to obey his conscience. His refusal to pay for war flows from this understanding and faith.

UNITED STATES MILITARISM

34. The United States government has engaged in continuous war making and preparations for war at least since World War II. A substantial portion of federal income taxes collected from individuals like Christopher Moore-Backman has been, and continues to be, spent on these preparations for warfare and on waging war.

35. According to the Stockholm International Peace Research Institute, “The USA’s military spending accounted for 45 per cent of the world total in 2007, followed by the UK, China, France and Japan, with 4–5 per cent each. Since 2001 US military expenditure has increased by 59 per cent in real terms, principally because of massive spending on military operations in Afghanistan and Iraq, but also because of increases in the ‘base’ defence budget. By 2007, US spending was higher than at any time since World War II.” (SIPRI Yearbook 2008, <http://yearbook2008.sipri.org/05>)

36. Since World War II, the United States government has continually engaged in warfare, including in the following countries: Korea, Vietnam, Laos, Cambodia, Haiti (twice or more), Grenada, Panama, Somalia, Iraq (twice), Sudan, Serbia (Kosovo), Afghanistan. These actions have caused enormous levels of death and injury, property damage, and environmental destruction.

37. The United States government has also utilized substantial federal income tax receipts to provide financial assistance to war making by other nations, and armaments and military instruction, including at least all of the following: Greece, Israel, Iran, El Salvador, Honduras, Guatemala, Nicaragua, Colombia, Philippines.

38. The taxpayers of the United States directly finance this military spending. Citizens like Christopher Moore-Backman through their federal income taxes are compelled continuously to pay for war and to support the government’s faith in and practice of militarism, or the use of lethal force, to resolve disputes. True religious freedom

requires respect for, and tolerance and accommodation of, each person's faith and conscience. The current tax policy of the United States government directly trespasses upon this basic human right of freedom of religion and conscience by forcing citizens like Christopher Moore-Backman to breach their religious principles of nonviolent conflict resolution in favor of the government imposed faith in the efficacy of militarism and lethal force.

IV.
FIRST CAUSE OF ACTION
(Religious Freedom Restoration Act of 1993)

39. Plaintiff repeats and realleges the allegations of paragraphs 1 through 38 above as if fully set forth.

40. The Religious Freedom Restoration Act of 1993, 42 U.S.C. § 2000bb, *et seq.*, ("RFRA") provides that, in general, the federal government "shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability. . . ." 42 U.S.C. § 2000bb-1(a). RFRA provides an exception to this general rule that permits the federal government to substantially burden a person's exercise of religion "only if it demonstrates that application of the burden to the person – (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest." 42 U.S.C. § 2000bb-1(b).

41. The application of Christopher Moore-Backman's federal income tax payments to military uses substantially burdens his exercise of religion. As a practicing Quaker, Christopher Moore-Backman's faith is infringed upon and violated by a government policy and practice that compels him to provide funding for militarism and war making.

42. Christopher Moore-Backman's request for accommodation is based on a sincere religious belief. As detailed above, Quakers have a long history of opposition

to warfare and of advocacy of alternatives to violence for settling conflicts. This peace testimony includes the conscientious refusal to finance the scourge of war.

43. Uniformity in tax collection and utilization policies is not required by any compelling governmental interest. The United States Tax Code includes numerous examples of special exemptions and deductions. Nor does accommodating specific concerns or programs cause the government any substantial burden. For example, the government provides exemptions to Amish applicants from the payment of Social Security taxes in recognition of their religious beliefs. (*Exemption Act of 1988*, 26 U.S.C. § 3127.) And the government is able without substantial burden to segregate certain taxes for specific uses, as with the \$3 campaign finance check-off, 26 U.S.C. § 6096.

44. The federal government is readily able to administer a program to accommodate Christopher Moore-Backman's practice of religion, such as by segregating his tax payments for use solely for nonmilitary purposes. Accordingly, the refusal to accommodate his religious beliefs is not the least restrictive means of furthering any compelling governmental interest.

45. The United States also has signed and ratified the International Covenant on Civil and Political Rights, which among other things protects both the freedom of religion and conscience as basic human rights. The United States is also a signatory to the American Declaration of the Rights and Duties of Man, which acknowledges the importance of conscience and duties of a moral nature. The United States has international obligations to ensure that all domestic laws conform to universal human rights standards. If the Religious Freedom Restoration Act, or the freedom of religion clause of the First Amendment to the United States Constitution are not interpreted to protect Christopher Moore-Backman's practice of his faith and conscience, the United States will be in violation of these obligations.

46. By virtue of the foregoing, the failure and refusal of the United States to accommodate Christopher Moore-Backman's practice of his religion violates the Religious Freedom Restoration Act, and Christopher Moore-Backman is entitled to the return of his funds allocated by the IRS for the payment of 2001 and 2004 taxes, penalties and interest, pending the enactment of appropriate legislation or regulations to provide for the non-military use of such funds.

WHEREFORE, Plaintiff CHRISTOPHER D. MOORE-BACKMAN demands judgment against defendant UNITED STATES OF AMERICA, as follows:

1. Refunding to plaintiff the amount of \$1,509.69 for overpayment of his 2007 taxes, pending the enactment of appropriate legislation or regulations to provide for the non-military use of such funds;

2. Directing defendant to accommodate plaintiff's practice of religion and conscience by applying his taxes solely to non-military purposes;

3. Directing defendant to recalculate plaintiff's tax obligations for 2001 and 2004 without including penalties and interest;

4. Awarding plaintiff his reasonable attorneys fees;

5. Awarding plaintiff his costs and disbursements of this action; and

6. Granting plaintiff such other and further relief as this Court deems

just and proper.

Dated: Bisbee, Arizona

July 16, 2009

CHRISTOPHER MOORE-BACKMAN

By: _____
Christopher Moore-Backman

3 Navajo Trail, Apt. 4
Bisbee, Arizona 85603