

The United States Reaches Agreement with a Nationwide Class of Over 400 Targeted Groups in *NorCal v United States*, Vindicating Plaintiffs' Claims in a Generous Financial Settlement



*by Eddie Greim
Graves, Graves LLC
Kansas City, MO*

IRS Settles with San Angelo TEA Party

[San Angelo TX, October 26, 2017]

The San Angelo TEA Party, a Lead Plaintiff in *NorCal v. United States*, is pleased to announce that late yesterday, the United States entered into a generous financial settlement to pay the claims of each of over 400 groups in the Plaintiff Class who were targeted by the IRS for their political beliefs. It is a great day for the First Amendment and the promise of fair and impartial government. But this day was too long in coming.

The San Angelo TEA Party was among the original Plaintiffs in this case, the first claim against the IRS for its targeting of conservative groups, and the only nationwide class action, in May 2013. Members of the San Angelo TEA Party sacrificed hundreds of hours of time. The lawsuit stretched over four years and was sustained by funding from Citizens for Self-Governance, a non-profit that aids citizen groups. CSG was itself targeted by the IRS during the discovery process, but refused to back down.

In 2015, Judge Susan Dlott of the U.S. District Court for the Southern District of Ohio certified what may be the only nationwide class ever formed for a claim of this type. In 2016, the Sixth Circuit Court of Appeals soundly rejected the IRS's attempt to use taxpayer protection laws to withhold evidence of its own wrongdoing in the case. In 2016, District Judge Michael Barrett entered a preliminary injunction against the IRS, finding a strong showing of a likelihood of success on Texas Patriots Tea Party's First Amendment claim. In 2017, Texas Patriots became one of the last groups to have its exempt status recognized. Also in 2017, the Plaintiffs took the first and only

deposition of Lois Lerner, which remains under seal in a manner still being litigated by Plaintiffs notwithstanding the proposed settlement. Under federal court rules, District Judge Barrett must still approve the class settlement on the motion of the parties.

By the fall of 2017, dozens of IRS officials had testified under oath, and the case was being prepared for trial. As part of this process, Attorney General Sessions' Department of Justice carefully reviewed the facts. The generosity of its proposed settlement belies recent, uninformed claims that IRS officials merely mismanaged the files of conservative groups, or subjected liberal groups to similar treatment. To the contrary, Plaintiffs developed evidence showing that IRS managers knew that groups' views, not their activities, were being used to target them for heightened scrutiny. Even after they gained this knowledge, officials like Lois Lerner failed to release the targeted groups, ordering up more scrutiny and delay even while betraying worry that the "Tea Party matter" was "very dangerous." This was far more than the "lack of adequate management" the IRS or TIGTA is publicly willing to acknowledge.

Attorney General Sessions rightly calls this "abuse." As he says, the Plaintiffs deserve an apology from the IRS. But not even a court can force the IRS to apologize or admit to its wrongdoing. Those remedies are unknown to the law. A true reckoning is finally up to the agency itself. Until the IRS itself steps forward to admit what really happened, we cannot have faith that the same abuse won't be repeated again. It is easy for the IRS to abuse its toolbox of policies and procedures that seem neutral on their face, just like the superficially innocent process of "centralization" that Lois Lerner and others used as an excuse to abuse the Plaintiffs. So truly, it is not just Plaintiffs who need an apology. Every taxpayer and group, whether or not targeted in this particular scheme, has a right to demand a truthful apology based on the facts and a real reckoning. Before Commissioner Koskinen leaves office, the Plaintiffs call on him to do the right thing.

For questions, please contact counsel Eddie Greim at 816-256-4144, or Lyleann McClellan Thee at 325-650-0658.