IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

ALLAN DOUGLAS WILSON,

Plaintiff,

v.

DERRICK BRENT, et al.,

Defendants.

Civil Action No. 25-3561 (RDM)

PLAINTIFF'S OPPOSITION TO UNITED STATES' MOTION TO DISMISS

AND CROSS-MOTION FOR SUMMARY JUDGMENT

INTRODUCTION

The United States' Motion to Dismiss fundamentally mischaracterizes the nature of Plaintiff's claims, ignores controlling statutory provisions, and attempts to rename Defendants in a manner inconsistent with the Complaint. The government's arguments rest on a critical legal error that permeates the entire Memorandum in Support of Motion to Dismiss. Counsel for the defense has completely failed to address 26 U.S.C. § 6511(d)(3)(A), the statutory provision establishing a ten-year limitation period for refund claims involving foreign tax credits. This omission is not merely an oversight but represents a fundamental misunderstanding of the applicable law. The statutory provision is dispositive of the government's primary jurisdictional argument and renders the Motion to Dismiss without merit.

The government's attempt to recharacterize individual capacity suits against DOES 1-10 as official capacity suits against the United States of America misrepresents the Prayer for

Relief section of the Complaint and attempts to shield individual wrongdoers behind sovereign immunity that does not apply to their tortious conduct. The Complaint explicitly requests that this Court award compensatory damages against individual Defendants in their individual capacities, yet counsel has unilaterally renamed all defendants as the United States and now argues that sovereign immunity bars relief. This improper renaming cannot defeat claims properly stated against individual actors who deprived Plaintiff of property rights without statutory authority.

STATEMENT OF FACTS

The Filing of the 2020 Tax Return and Initial Processing

Plaintiff Allan Douglas Wilson timely filed his 2020 federal income tax return on April 3, 2025. The return claimed the Recovery Rebate Credit, commonly known as the stimulus credit rebate, in the amount of $1,800. The 2020 tax return clearly indicated all income and deductions as Canadian in nature, putting the Internal Revenue Service on constructive notice that foreign tax credit provisions would apply to any refund claims related to this return. This disclosure was not buried in obscure schedules or forms but was apparent on the face of the return itself with supporting proofs.

Plaintiff paid Canadian income taxes on retirement income received from Canada during tax year 2020. These taxes were properly creditable against United States tax liability under the provisions of the United States-Canada Tax Treaty and the foreign tax credit provisions codified at 26 U.S.C. § 901. The Canadian income taxes paid reduced Plaintiff's United States tax liability dollar-for-dollar under treaty provisions. When this foreign tax credit is properly applied in conjunction with the Recovery Rebate Credit of $1,800, it demonstrates that Plaintiff overpaid his 2020 federal income tax liability and is entitled to a refund.

The IRS Review Process and Initial Denial

On June 12, 2025, the Internal Revenue Service requested proof and details of 2020 income to clarify income amounts. This request came despite the IRS identifying no line errors or omissions on the submitted return. During the review process that followed, the IRS initially and incorrectly classified Canadian retirement income as United States taxable income, citing a taxpayer math error. This classification was erroneous and was later corrected.

The IRS Legal Department subsequently verified that no additional forms applied to the taxpayer's return due to the income being retirement income from Canada. After Plaintiff faxed the requested proof of income, thirty-six days passed before a determination was made upon follow-up contact. This extended delay occurred despite the straightforward nature of the verification request and the clear documentation provided.

On July 17, 2025, at 3:00 PM Eastern Time, an IRS Agent made a determination while revising the return in the IRS system. The agent stated to Plaintiff that "because it's over 3 years you don't get the rebate but your 2020 return will be processed." This verbal determination represented the first time Plaintiff was informed that the IRS was applying a three-year limitation period to the claim. The agent provided no citation to statutory authority for this determination and made no mention of any exception or special limitation period that might apply to claims involving foreign tax credits. IRS employees failed to take responsibility for the denials claiming it was the ‘system’ that denied the refund.

In the final assessment, the IRS confirmed that the 2020 Canadian retirement income would be properly excluded as non-taxable income under treaty provisions. This resulted in a determination of zero balance owing. The IRS completed a proper tax return assessment and acknowledged that the 2020 tax return would be processed with no line errors or omissions identified in the underlying tax calculation.

The Formal Disallowance and Denial Notice

On September 8, 2025, upon follow-up contact with an IRS representative, Plaintiff was informed that the Recovery Rebate Credit claim was formally "disallowed" due to the three-year general filing limitation. The IRS representative confirmed that a notice had been issued denying the claimed rebate based on the purported expiration of the three-year limitation period. This notice was dated September 5, 2025.

The September 5, 2025 denial notice specifically provided instructions for filing suit, stating that Plaintiff could "file suit with the United States District Court that has jurisdiction or with the United States Court of Federal Claims." The notice made no mention of any other administrative appeal rights or procedures for challenging the denial. The IRS thereby directed Plaintiff to pursue judicial remedies for the denial.

The Formal Written Protest and IRS Non-Response

Before receiving the formal notice of disallowance, Plaintiff prepared and filed a detailed Formal Written Protest dated September 8, 2025. This protest was transmitted via facsimile to the IRS International Tax Account Issues office at the designated fax number 681-247-3101.

The Formal Written Protest explicitly cited 26 U.S.C. § 6511(d)(3)(A) and presented detailed legal arguments explaining why the ten-year limitation period applies to claims involving foreign tax credits. The protest quoted the statutory language in full and explained how the Canadian income taxes paid by Plaintiff triggered the extended limitation period. The protest argued that the claim, filed in 2025, was well within the ten-year period extending to 2031. The protest requested an Appeals conference and specifically identified the legal error in applying the three-year rule to a foreign tax credit situation.

Despite the detailed legal analysis and explicit citation to controlling statutory authority, the IRS never acknowledged receipt of the Formal Written Protest. No Appeals conference was scheduled. No written response was issued. No IRS representative contacted Plaintiff to discuss the arguments raised in the protest. The protest was simply ignored as though it had never been filed. This complete non-response to a formal administrative protest citing controlling statutory authority demonstrates that the IRS's internal administrative procedures provide no meaningful remedy when agency employees choose to ignore the law.

The Contradictory Account Records

The IRS assessment failed to properly account for the overpayment created by Canadian income taxes paid, which reduced United States tax liability under treaty provisions. When combined with the Recovery Rebate Credit, these foreign tax payments demonstrate a clear overpayment of taxes. However, the IRS's handling of the account created significant contradictions in the official records.

The IRS's own account transcript, filed as Defendant's Exhibit A to the Motion to Dismiss, shows an account balance of negative $1,238.55 owed to Plaintiff. This balance appears on the transcript as of the request date in April 2026. The negative balance indicates that the IRS's accounting system recognizes money is owed to Plaintiff. The transcript shows specific transaction codes documenting the Recovery Rebate Credit of $1,800 that was initially credited to the account with Transaction Code 766 dated April 15, 2021 in the amount of negative $1,800.00.

The transcript further shows that late filing penalties were assessed with Transaction Code 166 for a penalty of $516.50. Late payment penalty interest was assessed with Transaction Code 196 in the amount of $722.05. These penalties and interest charges were subsequently removed from the account with Transaction Codes 167 and 197, both dated August 11, 2025.

The removal of these penalties and interest resulted in credits back to Plaintiff's account for negative $516.50 and negative $722.05 respectively.

When the Recovery Rebate Credit of $1,800 is combined with the penalty and interest reversals, the net result shown on the account transcript is negative $1,238.55 owed to Plaintiff. This balance directly contradicts the September 5, 2025 denial notice, which claims zero balance due and denies the refund entirely. The IRS cannot simultaneously maintain in its official accounting records that Plaintiff is owed $1,238.55 while issuing denial notices claiming zero balance and no refund due. This contradiction demonstrates either gross negligence in record-keeping or deliberate withholding of properly claimed refund amounts.

The USPTO Patent Application and Denial of Refund

Plaintiff filed a utility patent application with the United States Patent and Trademark Office and paid $200 via Fedwire transfer for the required filing fees. Despite proper submission of the application and payment, the USPTO failed to acknowledge or process the patent application. Plaintiff made numerous phone calls to the USPTO attempting to determine the status of the application and to understand why no acknowledgment had been received. Each inquiry yielded no satisfactory explanation and no processing of the application.

Plaintiff resubmitted the patent application materials multiple times, attempting to ensure that any potential processing issue was resolved. Despite these resubmissions and follow-up contacts, the USPTO continued to fail to acknowledge in correspondence that the payment and application had been received or filed. Despite being assigned a UPSTO file number, no substantive examination began.

On October 15, 2025, the USPTO issued a Notice of Abandonment for the patent application. This notice was remarkable in that it declared abandoned an application that the agency had never properly acknowledged as being filed in the first place. The notice made no explanation for how an application could be both unacknowledged and simultaneously declared abandoned.

Plaintiff contacted the USPTO Petition Service Desk on October 15, 2025 and spoke with a representative identified as Dale. During this conversation, Dale admitted that there was no actually known reason for denying the Plaintiff's refund. She confirmed that she did not deny the refund, explaining that she is only responsible for what she does personally. When asked if there was any recourse or appeal process, Dale advised to call the Patent Application Assistance unit to make another refund request, saying that she was unable to issue any refund. This was understood as a deemed refusal to refund payment to USPTO with no practical option to appeal, all administrative remedies were exhausted.

Plaintiff requested a refund of the $200 fee paid for services that were admittedly not rendered. The USPTO denied this refund request, citing 37 C.F.R. § 1.26(a). This regulation authorizes the USPTO to refund fees paid by mistake or in excess of that required but states that USPTO will not refund a fee when a party desires to withdraw a patent filing for which the fee was paid. The USPTO applied this withdrawal provision despite the fact that Plaintiff never withdrew the application. The agency closed the application for reason of abandonment despite all requirements having been filed.

Exhaustion of Administrative Remedies

Plaintiff satisfied all prerequisites for bringing suit in federal court. A formal claim for refund was filed with the IRS through the 2020 tax return itself, which included the Recovery Rebate Credit claim. A subsequent Formal Written Protest was filed on September 8, 2025, providing detailed legal arguments and citing controlling statutory authority. The IRS issued a formal denial notice dated September 5, 2025, which specifically directed Plaintiff to file suit in this Court or the Court of Federal Claims. No other administrative remedies were available or suggested by the IRS.

Regarding the USPTO claim, Plaintiff requested a refund for the patent application fees paid for services not rendered. The USPTO denied this request. No administrative appeal procedures were offered or available for challenging the refund denial. The USPTO provided no avenue for further administrative review of the decision to deny the refund despite admitting the application was never processed.

All administrative remedies that were available have been exhausted. The agencies have issued final decisions denying the relief requested. The IRS itself directed Plaintiff to seek judicial review in this Court. No further administrative proceedings are possible or required.

ARGUMENT

THE TEN-YEAR LIMITATION PERIOD UNDER 26 U.S.C. § 6511(d)(3)(A) ESTABLISH ES SUBJECT MATTER JURISDICTION

The Statutory Framework for Foreign Tax Credit Refund Claims

The entire jurisdictional analysis in the government's Motion to Dismiss rests on a false premise. Counsel for the defense argues that Plaintiff's refund claim is time-barred under the general three-year limitation period set forth in 26 U.S.C. § 6511(a) and the lookback provisions of § 6511(b)(2). This argument completely ignores the existence of 26 U.S.C. § 6511(d)(3)(A), a specific statutory provision that supersedes the general rules when foreign tax credits are involved.

Section 6511(d)(3)(A) provides in relevant part that if a claim for credit or refund relates to an overpayment attributable to any taxes paid or accrued to any foreign country or to any possession of the United States for which credit is allowed against the tax imposed by subtitle

A in accordance with the provisions of section 901 or the provisions of any treaty to which the United States is a party, then in lieu of the three-year period of limitation prescribed in subsection (a), the period shall be ten years from the date prescribed by law for filing the return for the year in which such taxes were actually paid or accrued. This language is mandatory, not permissive. The statute states that the ten-year period applies "in lieu of" the three-year period.

The statutory language is unambiguous. When a refund claim relates to an overpayment attributable to foreign taxes paid, the three-year limitation period does not apply. Instead, a ten-year limitation period governs the claim. This extended period recognizes the complexity of international tax matters and the need for taxpayers to have adequate time to resolve issues involving foreign tax credits and treaty provisions.

Application of the Ten-Year Period to Plaintiff's Claim

Plaintiff's claim directly implicates § 6511(d)(3)(A) for several independent reasons, each of which is sufficient to trigger the extended limitation period. The claim relates to an overpayment attributable to foreign taxes paid to Canada during tax year 2020. These foreign taxes reduced Plaintiff's United States tax liability under the United States-Canada Tax Treaty and the foreign tax credit provisions of section 901. The refund claim therefore relates to an overpayment attributable to these foreign taxes within the plain meaning of § 6511(d)(3)(A).

The 2020 tax return was due on April 15, 2021. Under § 6511(d)(3)(A), the ten-year limitation period runs from this date. Simple arithmetic demonstrates that the ten-year period extends to April 15, 2031. Plaintiff filed his 2020 tax return on April 3, 2025. This filing occurred more than six years before the expiration of the ten-year period. The claim is timely under any reasonable application of the statute.

Moreover, the 2020 tax return itself clearly indicated that all income and deductions were Canadian in nature. This disclosure put the IRS on constructive notice from the moment of filing that foreign tax credit provisions would apply to any refund claims. The IRS cannot now claim surprise or argue that it was entitled to apply the general three-year rule when the face of the return disclosed the international character of the tax situation.

The Government's Complete Failure to Address Controlling Authority

The most remarkable aspect of the government's Motion to Dismiss is what it does not say. Counsel's Memorandum in Support of Motion to Dismiss spans eleven pages and cites numerous statutory provisions, regulations, and cases. Yet nowhere in these eleven pages do the words "foreign" or “Canada” appear in connection with tax credits, despite the Plaintiff having lived and worked in Canada for 41 years. Nowhere does the Memorandum cite, quote, discuss, or even acknowledge the existence of 26 U.S.C. § 6511(d)(3)(A).

This is not a minor omission. Section 6511(d)(3)(A) is the controlling statutory provision for this case. It directly governs the limitation period applicable to Plaintiff's refund claim. The government's failure to address this provision cannot be explained as inadvertent oversight. Plaintiff's Complaint cited this statute. Plaintiff's Formal Written Protest to the IRS cited this statute and quoted it in full. The statute is directly on point and dispositive of the government's primary argument.

Counsel's silence on § 6511(d)(3)(A) speaks volumes. The government has no answer to this statute without conceding the facts. The plain language of the statute defeats the government's jurisdictional argument. Rather than acknowledge this inconvenient legal reality, counsel has simply pretended the statute does not exist. This Court should not permit such a fundamental evasion of controlling statutory authority.

The Inapplicability of Section 6511(b)(2) When Foreign Tax Credits Are Involved

The government argues that because no tax was paid in the three years immediately preceding the refund claim, Plaintiff is not entitled to any refund under § 6511(b)(2). This argument fails to account for the interaction between § 6511(b)(2) and § 6511(d)(3)(A). When the ten-year limitation period applies under subsection (d)(3)(A), it applies "in lieu of" the three-year period prescribed in subsection (a). This substitution of limitation periods necessarily affects the application of related provisions such as subsection (b)(2).

The statute creates a complete alternative framework for foreign tax credit cases. The ten-year period under § 6511(d)(3)(A) is not merely an extension of the filing deadline. It represents a fundamental recognition that foreign tax credit situations require different treatment under the limitations provisions. The lookback rules of § 6511(b)(2) must be read in harmony with the special ten-year period, not in a manner that would render the ten-year period meaningless.

Furthermore, the government's own Memorandum acknowledges that refundable tax credit programs are structured to create the legal fiction that recipients make overpayments on their taxes, thereby entitling them to the resulting tax refunds. When this legal fiction of overpayment created by the Recovery Rebate Credit is combined with actual foreign tax credits that reduced United States tax liability, a genuine overpayment situation arises. The § 6511(b)(2) lookback limitation cannot be applied in a manner that eliminates refunds for overpayments attributable to foreign taxes when § 6511(d)(3)(A) specifically provides a ten-year period for such claims.

Distinguishing Musungayi and Other Cited Authority

The government cites Musungayi v. United States, 86 Fed. Cl. 121, 124 (2009) for the proposition that the claim is time-barred under § 6511(b)(2). This reliance is misplaced.

Musungayi did not involve foreign tax credits. The case did not discuss or apply § 6511(d)(3)(A). The special ten-year limitation period was not at issue in that case. Musungayi stands for the unremarkable proposition that under the general rules of § 6511(a) and (b), certain claims are time-barred. It has no application to cases where the special ten-year period applies.

None of the other cases cited by the government in its jurisdictional argument involve § 6511(d)(3)(A). None address the situation where foreign tax credits are properly claimed and the ten-year period applies. The government's reliance on general principles applicable to domestic tax refund claims cannot overcome the specific statutory language providing an extended limitation period for foreign tax credit situations.

THE IRS ACCOUNT TRANSCRIPT CONTRADICTS THE DENIAL AND DEMONSTRATES OVERPAYMENT

The Documentary Evidence of Account Balance

The government's own evidence undermines its position. Defendant's Exhibit A consists of the IRS account transcript for Plaintiff's 2020 tax year. This official IRS document, certified as a true business record by IRS employee Devry J. Gillens, shows an account balance of negative $1,238.55. In IRS accounting terminology, a negative balance represents money owed to the taxpayer. The transcript therefore constitutes an official IRS acknowledgment that Plaintiff is owed $1,238.55.

The account transcript reveals a complex series of transactions that the IRS applied to Plaintiff's 2020 tax account. Transaction Code 766 dated April 15, 2021 shows a credit to the account for the Recovery Rebate Credit in the amount of negative $1,800.00. This transaction demonstrates that the IRS initially accepted and processed the Recovery Rebate Credit claim. The credit was applied to Plaintiff's account and created a refund situation.

Subsequent transactions show that the IRS then assessed late filing and late payment penalties against the account. Transaction Code 166 shows a penalty for late filing in the amount of $516.50. Transaction Code 196 shows interest charged for late payment in the amount of $722.05. These penalties and interest reduced the refund amount that would otherwise have been due to Plaintiff.

However, the transcript further shows that these penalties and interest charges were later removed. Transaction Code 167 dated August 11, 2025 removed the late filing penalty, creating a credit of negative $516.50. Transaction Code 197 dated August 11, 2025 removed the late payment interest, creating a credit of negative $722.05. The removal of these penalties and interest indicates that the IRS ultimately determined they were improperly assessed.

<u>The Fundamental Contradiction in IRS Position</u>

When the Recovery Rebate Credit of $1,800 is combined with the penalty and interest reversals totaling $1,238.55, the account transcript shows that Plaintiff is owed $1,238.55. This is the official IRS accounting position as of the date the transcript was generated in April 2026. Yet the IRS denial notice dated September 5, 2025 claims zero balance due and denies any refund to Plaintiff.

The IRS cannot maintain both positions simultaneously. Either the account transcript is correct and Plaintiff is owed $1,238.55, or the denial notice is correct and zero balance is due. Both cannot be true. The government has offered no explanation for this contradiction. The Motion to Dismiss does not address the discrepancy between the account transcript and the denial notice. Counsel has simply presented the contradictory documents to the Court without attempting to reconcile them.

This contradiction reveals one of two possibilities, neither of which is favorable to the government's position. Either IRS employees engaged in gross negligence in maintaining Plaintiff's account records, applying and removing penalties in an arbitrary manner that distorted any accurate accounting, or IRS employees deliberately withheld properly claimed refund amounts while maintaining internal records showing money owed to the taxpayer. In either case, the contradiction demonstrates that the IRS denial is erroneous and must be reversed.

Implications for Subject Matter Jurisdiction

The government argues that this Court lacks subject matter jurisdiction because the amount of allowable refund is zero under § 6511(b)(2). This argument is factually incorrect in light of the IRS's own account transcript. The IRS's accounting records show that Plaintiff is owed $1,238.55. This amount represents the allowable refund for the 2020 tax year under the IRS's own calculations. The existence of this refund amount, acknowledged in official IRS records, establishes that a genuine controversy exists regarding Plaintiff's entitlement to a refund. Subject matter jurisdiction exists when there is a justiciable controversy regarding a taxpayer's entitlement to a refund. The contradictory positions taken by the IRS create precisely such a controversy. The Court has jurisdiction to resolve the dispute between the account transcript showing money owed to Plaintiff and the denial notice claiming zero balance due. This jurisdiction is reinforced by the IRS's own direction to Plaintiff in the denial notice to file suit in this Court.

THE GOVERNMENT HAS IMPROPERLY RENAMED THE DEFENDANTS TO INVOK E SOVEREIGN IMMUNITY

The Actual Defendants Named in the Complaint

The Complaint names three categories of defendants. Derrick Brent is named in his official capacity as Acting Director of the United States Patent and Trademark Office. Frank Bisignano is named in his official capacity as Commissioner of the Internal Revenue Service. DOES 1 through 10 are named as individual agency employees whose identities will be determined through discovery.

The Prayer for Relief section of the Complaint makes clear distinctions between the types of relief sought against different defendants. Against Derrick Brent and Frank Bisignano in their official capacities, Plaintiff seeks only injunctive and declaratory relief. Specifically, the Complaint requests that the Court compel the agencies to issue the lawful refunds that are statutorily required. No monetary damages are requested against Brent or Bisignano personally.

Against DOES 1 through 10, the Complaint seeks compensatory and punitive damages. The Prayer for Relief explicitly states that Plaintiff requests "this Court award compensatory damages against individual Defendants in their individual capacities." This language is unambiguous. Plaintiff is suing individual agency employees in their personal capacities for conduct that exceeded their statutory authority and deprived Plaintiff of property rights without legal basis.

<u>The Government's Unilateral Renaming of Parties</u>

The caption of the government's Motion to Dismiss identifies the defendant as "the United States of America, improperly named and sued as Derrick Brent, in his official capacity as Acting Director of the United States Patent and Trademark Office; Frank Bisignano, in his official capacity as Chief Executive Officer of the Internal Revenue Office; and DOES 1–10." This renaming is improper for multiple reasons.

First, the government cannot unilaterally rename parties to a lawsuit. The Supreme Court has recognized that whether a suit is against an individual or against a governmental entity depends on the nature of the relief sought and the capacity in which the defendant is sued. As noted in Kentucky v. Graham, 473 U.S. 159 (1985) , whether the suit is against the officer in his personal capacity or against the entity he represents depends on the pleading. The plaintiff's characterization is controlling absent clear indication that it is impossible to grant the relief requested.

Here, Plaintiff has clearly characterized the suit. Officials are sued in their official capacities for injunctive relief only. Individual employees are sued in their individual capacities for damages. The government offers no explanation for why this characterization is impossible or improper. The government simply asserts that all defendants should be renamed as the United States and that sovereign immunity therefore bars all relief.

Second, the government's renaming conflates fundamentally different types of claims. Claims for injunctive relief against officials in their official capacities are distinct from claims for damages against individuals in their personal capacities. The former seek to compel official action consistent with statutory requirements. The latter seek compensation from individuals who violated rights while acting outside the scope of their authority. By renaming all defendants as the United States, the government attempts to eliminate this distinction and invoke sovereign immunity as a blanket defense.

Individual Capacity Suits Do Not Implicate Sovereign Immunity

When federal employees act outside the scope of their statutory authority, they may be sued individually without implicating sovereign immunity. The doctrine of sovereign immunity protects the government from suits challenging actions that are authorized by law and taken within the scope of official duties. It does not protect individual employees who exceed their authority or who violate clear statutory mandates.

The Supreme Court recognized this principle in Larson v. Domestic & Foreign Commerce Corp., holding that sovereign immunity does not apply when the conduct complained of is not within the officer's statutory powers or when the powers themselves or the manner in which they are exercised are constitutionally void. Here, Plaintiff alleges that DOES 1 through 10 denied tax refunds with no statutory basis in violation of 26 U.S.C. § 6511(d)(3)(A), applied erroneous penalties that were later removed, ignored a formal written protest citing controlling statutory authority, and issued contradictory determinations regarding account balances and refund entitlement.

These actions are not authorized by the Internal Revenue Code. To the contrary, they violate clear statutory provisions establishing the rights of taxpayers to claim refunds within the applicable limitation periods. When IRS employees deny refunds by misapplying limitation periods despite being presented with formal protests citing the correct statutory provisions, those employees act outside the scope of their authority. They may be held personally liable for deprivations of property rights caused by their unauthorized conduct.

No Monetary Claims Against Agency Heads

The government's Memorandum argues that Plaintiff seeks monetary damages against the United States. This characterization is incorrect. Plaintiff seeks no monetary damages against Derrick Brent or Frank Bisignano. The Complaint requests only that the Court compel these officials in their official capacities to issue refunds that are required by statute. This is quintessential injunctive relief against officials to compel performance of ministerial duties. Monetary damages are sought only against DOES 1 through 10, the individual employees who engaged in the wrongful conduct. These individuals have not been identified by name because they are currently unknown to Plaintiff. Discovery will be necessary to identify which specific IRS employees made the decision to apply the three-year limitation period, which employees ignored the Formal Written Protest citing § 6511(d)(3)(A), which employees created the contradictory account records, and which employees authorized the denial notice. Once identified, these individuals will be subject to claims for compensatory and punitive damages in their individual capacities.

The government's attempt to rename DOES 1 through 10 as the United States is particularly inappropriate. These are not official capacity defendants. They are individual wrongdoers who will be identified through discovery and held accountable for their personal conduct in depriving Plaintiff of property rights. Sovereign immunity has no application to such individual capacity suits.

BIVENS CLAIMS PROVIDE A REMEDY FOR CONSTITUTIONAL VIOLATIONS BY I NDIVIDUAL FEDERAL EMPLOYEES

The Nature of Bivens Liability

Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics established that individuals who violate constitutional rights while acting under color of federal authority may be held personally liable for damages. This cause of action serves a vital function in our constitutional system by providing a remedy for violations of constitutional rights by federal actors. While the Supreme Court has cautioned against expanding Bivens to new contexts, it has never questioned the validity of Bivens claims in circumstances where federal employees deprive individuals of property without due process of law.

Plaintiff's Bivens claims arise under the Fifth Amendment, which prohibits deprivation of property without due process of law and prohibits taking of property without just compensation. When IRS employees deny tax refunds in contravention of clear statutory provisions, they deprive taxpayers of property. When they do so by ignoring controlling statutory authority and refusing to acknowledge formal protests citing that authority, they deny due process. These constitutional violations give rise to Bivens liability against the individual employees who committed them.

The Inadequacy of Statutory Remedies When Agencies Ignore the Law

The government argues that Bivens remedies are foreclosed by the comprehensive remedial scheme of the Internal Revenue Code. This argument assumes that the statutory remedies are meaningful and available. That assumption fails in this case. Plaintiff invoked the statutory remedies. Plaintiff filed a detailed Formal Written Protest citing controlling statutory authority. The IRS completely ignored this protest. No response was issued. No appeals conference was scheduled. The protest was treated as though it had never been filed.

When statutory remedies are illusory because agency employees refuse to apply the law, Bivens provides the necessary recourse. The Internal Revenue Code establishes procedures for challenging IRS determinations. Those procedures assume that IRS employees will acknowledge and respond to protests citing statutory authority. They assume that appeals procedures will function as designed. When those assumptions prove false and administrative remedies provide no meaningful relief, Bivens is the viable authority.

The Supreme Court in Bush v. Lucas emphasized that the critical question is whether meaningful remedies are available through other channels. Here, Plaintiff sought meaningful remedies through the IRS administrative process. The IRS ignored a formal protest citing the controlling statute. The administrative process provided no remedy. Under these circumstances, Bivens claims are appropriate to provide a forum for Plaintiff to assert constitutional rights that were denied by individual IRS employees.

Distinguishing Bucholz and Other Authority

The government cites Bucholz v. Mnuchin for the proposition that the Internal Revenue Code forecloses Bivens remedies in tax cases. Bucholz is distinguishable on multiple grounds. That case involved claims related to Affordable Care Act tax credits, not foreign tax credit provisions or recovery rebate credits. More fundamentally, the plaintiff in Bucholz did not allege that IRS employees ignored explicit statutory authority or failed to respond to formal protests citing controlling law.

The Bivens analysis requires examination of whether Congress has provided an alternative remedial scheme that is sufficiently comprehensive to supplant Bivens liability. That analysis depends on whether the alternative remedies are actually available and meaningful in the particular case. In Bucholz, the statutory remedies were available. Here, they were not. Plaintiff exhausted the administrative remedies by filing a protest that was ignored. The IRS's failure to provide any response to a formal protest demonstrates that the statutory scheme does not provide meaningful remedies in this case.

Moreover, the extraordinary nature of the conduct alleged supports Bivens liability. It would be extraordinary to hold that IRS employees can deny tax credits without legal basis, ignore formal protests citing controlling statutes, maintain contradictory account records showing money owed while issuing denials claiming zero balance, and face no individual accountability for this conduct. The denial of refunds based on misapplication of law while deliberately ignoring citations to the correct law constitutes a level of misconduct that warrants individual liability.

Constitutional Violations Are Clearly Alleged

The Complaint alleges specific violations of constitutional rights. The Fifth Amendment Due Process Clause prohibits deprivation of property without due process of law. Tax refunds are property interests protected by the Due Process Clause. When IRS employees deny tax refunds by misapplying limitation periods despite being presented with the correct statutory authority, they deprive taxpayers of property. When they do so without meaningful opportunity to be heard, without responding to formal protests, and without providing reasoned explanations for their decisions, they deny due process.

The Fifth Amendment Takings Clause prohibits taking of property without just compensation. When the government takes money from citizens in the form of taxes and then refuses to refund overpayments as required by statute, it effects a taking of property. The refusal to refund is not authorized by law when it is based on misapplication of limitation periods. An unauthorized taking of property violates the Takings Clause.

These constitutional violations were committed by individual IRS employees who made the decisions to deny the refund, to ignore the Formal Written Protest, and to maintain contradictory records. Those individuals are proper defendants in Bivens actions seeking to remedy the constitutional violations they committed.

DECLARATORY RELIEF IS AVAILABLE REGARDING NON-TAX CLAIMS AND ISS UES OF STATUTORY INTERPRETATION

The Declaratory Judgment Act Exception for Tax Matters

The government argues that 28 U.S.C. § 2201(a) bars any declaratory relief in this case. Section 2201(a) authorizes federal courts to declare rights and legal relations but carves out an exception for controversies "with respect to Federal taxes." The government reads this exception broadly to bar all declaratory relief whenever taxes are mentioned anywhere in the case. This reading is overly expansive.

The exception for federal taxes is intended to prevent taxpayers from using declaratory judgment actions to challenge tax liabilities or to obtain advance rulings on tax consequences of proposed transactions. It is not intended to bar declaratory relief regarding issues of statutory interpretation, constitutional rights, or agency conduct that happens to occur in the tax context. Here, Plaintiff seeks declarations regarding the proper interpretation of § 6511(d)(3)(A), the applicability of the ten-year limitation period, and the rights of taxpayers when agency employees ignore controlling statutory authority.

These are issues of law that can and should be resolved through declaratory judgment. The declaration Plaintiff seeks does not ask the Court to calculate tax liability or determine tax consequences. It asks the Court to declare what the law is regarding limitation periods for foreign tax credit claims. This is a proper subject for declaratory relief even in the tax context.

Declaratory Relief Regarding USPTO Claims

Even if the tax exception to the Declaratory Judgment Act were read as broadly as the government suggests, that exception has no application to the USPTO claims. Plaintiff seeks a declaration that USPTO failed to process a properly filed patent application, that fees paid for services not rendered must be refunded, and that 37 C.F.R. § 1.26(a) authorizes refunds when fees are paid by mistake or for services not provided. These claims involve patent law and administrative law, not federal taxes. The tax exception to § 2201(a) is simply irrelevant to these claims.

The government's Motion to Dismiss does not separately address the declaratory relief claims regarding USPTO. Counsel appears to assume that all declaratory relief is barred by the tax exception. This assumption is incorrect. The Court has full authority to issue declaratory relief regarding the USPTO's denial of refund for patent application fees paid for services not rendered.

Declaratory Relief Regarding Conduct of Individual Employees

Plaintiff also seeks declaratory relief regarding the conduct of DOES 1 through 10 when that conduct violated constitutional rights and exceeded statutory authority. A declaration that certain conduct was unauthorized and unlawful does not fall within the tax exception to § 2201(a). The exception bars declaratory relief "with respect to Federal taxes," not declaratory relief regarding whether individual employees violated the Constitution or exceeded their statutory powers.

The Court can and should declare that IRS employees who ignore controlling statutory authority, refuse to acknowledge formal protests, and maintain contradictory account records have exceeded their authority and violated constitutional rights. Such a declaration serves important purposes beyond the immediate parties. It establishes standards for agency conduct and provides guidance for future cases. The tax exception to the Declaratory Judgment Act does not bar such declarations.

THE ADMINISTRATIVE PROCEDURE ACT PROVIDES JURISDICTION FOR CLAIMS AGAINST AGENCY ACTION

APA Review of USPTO Refund Denials

The Administrative Procedure Act authorizes judicial review of final agency action for which there is no other adequate remedy in a court. The government argues that Plaintiff has other adequate remedies and therefore cannot proceed under the APA. This argument fails with respect to the USPTO claims because the government has not identified any other adequate remedy for challenging a USPTO refusal to refund fees paid for services not rendered.

The government cites no statute providing for judicial review of USPTO refund denials. The government cites no administrative appeal procedure within USPTO for challenging such denials. The only authority the government cites is 37 C.F.R. § 1.26(a), which is the very regulation that USPTO invoked in denying the refund. That regulation authorizes refunds for fees paid by mistake or in excess of that required but states that USPTO will not refund a fee when a party desires to withdraw a patent filing.

The government's argument assumes that this regulatory bar on refunds for voluntary withdrawals applies to Plaintiff's situation. It does not. Plaintiff did not withdraw his patent application. USPTO failed to process the application and then declared it abandoned despite meeting all filing requirements. When an agency collects fees for services it admittedly did not provide, those fees were necessarily paid by mistake or for services not required. The regulation should authorize refund in such circumstances.

In any event, the existence of a regulation that USPTO interprets to bar refunds does not constitute an "adequate remedy in a court." The question under 5 U.S.C. § 704 is whether Plaintiff has another adequate judicial remedy, not whether USPTO has a regulation it believes supports its position. The government has identified no other judicial forum for challenging USPTO's refusal to refund fees for services not provided. The APA therefore provides the appropriate vehicle for judicial review.

APA Review of IRS Action in Conjunction with Section 7422 Claims

The Complaint sets forth in Count VI a claim for injunctive relief under both 5 U.S.C. § 706 and 26 U.S.C. § 7422. These statutory provisions are not mutually exclusive. While the government correctly notes that the APA does not authorize monetary damages, Plaintiff seeks injunctive and declaratory relief compelling the IRS to apply the correct limitation period under § 6511(d)(3)(A). This is precisely the type of relief the APA authorizes.

Section 706 of the APA provides that a reviewing court shall compel agency action unlawfully withheld or unreasonably delayed and shall hold unlawful and set aside agency action that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. The IRS's application of the three-year limitation period when § 6511(d)(3)(A) requires application of the ten-year period is agency action not in accordance with law. The Court has authority under § 706 to set aside this action and compel the IRS to apply the correct statutory provision.

The government argues that § 7422 provides an adequate alternative remedy, making APA review unavailable. This argument misunderstands the relationship between § 7422 and the APA. Section 7422 provides the vehicle for taxpayers to sue for refunds after exhausting administrative remedies. It authorizes district court jurisdiction over tax refund suits. The APA provides the standard of review and the scope of relief available when challenging agency action. The two statutes work in tandem, not in conflict.

Moreover, the adequacy analysis under § 704 requires that the alternative remedy offer relief of the same genre as APA review. The government has not explained how § 7422 alone provides adequate relief when the agency refuses to apply controlling statutory provisions and ignores formal protests citing those provisions. The APA's authorization to compel agency action unlawfully withheld and to set aside action not in accordance with law provides remedies that complement and enhance the relief available under § 7422.

THE USPTO CLAIMS STATE VALID CAUSES OF ACTION FOR REFUND OF FEES P AID FOR SERVICES NOT RENDERED

The Fundamental Factual Distinction from Cited Cases

The government's argument regarding the USPTO claims rests on a fundamental misunderstanding of the factual allegations. The government cites 37 C.F.R. § 1.26(a) for the proposition that USPTO will not refund a fee when a party desires to withdraw a patent filing for which the fee was paid. From this regulation, the government appears to argue that

Plaintiff cannot obtain a refund because fees paid for patent applications are generally not refundable.

This argument misses the point entirely. The Complaint does not allege that Plaintiff filed a patent application, received examination, and then decided to withdraw. The Complaint alleges that USPTO failed to acknowledge proper receipt and to process the application, failed to recognize the Fedwire payment in notices, and then issued a Notice of Abandonment for an application the agency never properly acknowledged receiving. These facts were confirmed in related correspondence in Complaint Exhibits and upon calling the USPTO Information Branch, Application Assistance Unit, and Petition Service Desk on October 15, 2025.

When an agency collects fees for services and then admittedly provides no services, the fees were paid by mistake within the meaning of § 1.26(a). The regulation authorizes refunds in these circumstances. A fee paid for patent application processing when the agency never processes or even acknowledges the application is a fee paid by mistake. The agency collected money for a service it did not provide. Basic principles of fairness and unjust enrichment require refund of such fees.

<u>The Inapplicability of Christy and KHOLLE Magnolia</u>

The government cites Christy, Inc. v. United States and KHOLLE Magnolia 2015, LLC v. Vidal as supporting denial of USPTO refund claims. Both cases are distinguishable because they presuppose that a patent application was actually filed and processed by USPTO. In Christy, the court addressed the general rule that patent application fees are not refundable once the application has been examined. Kholle Magnolia references filing errors related to abandonment of application not relevant to the present claim.

Neither case addresses the situation presented here, where USPTO denies properly acknowledging receipt and processing the application despite the applicant's evidence of payment and submission with no verified errors. Neither case holds that USPTO may collect fees for services it admittedly did not provide and then refuse to refund those fees. The cases are simply not on point.

Moreover, the factual circumstances distinguish this case from typical patent fee refund cases. The application was not properly recognized in USPTO assessment letters and the Fedwire payment was also not acknowledged in correspondence. These omissions establish that payment was received as verified by phone call to USPTO and a file number was assigned but no services were provided. Under these circumstances, basic principles of consumer protection and fair dealing require a refund.

<u>Consumer Protection Principles Applicable to Federal Agencies</u>

The Complaint alleges violations of consumer protection principles and fair dealing in Count VIII. While the government argues that no waiver of sovereign immunity exists for such claims, the underlying principles remain relevant to interpretation of USPTO's refund regulation. When a federal agency collects fees from the public for specific services, the agency assumes certain obligations regarding those fees.

If the agency fails to provide the services for which fees were paid, the agency must refund the fees. This is not merely a matter of regulatory interpretation but a fundamental principle of fairness. An agency cannot collect money from citizens, provide no services in return, and then claim sovereign immunity as a defense to refund claims. Such conduct would constitute unjust enrichment and would violate basic notions of fair dealing.

The USPTO's reliance on the provision of § 1.26(a) barring refunds for voluntary withdrawals is misplaced when the application was never processed in the first place. That provision assumes that the applicant received the benefit of filing and initial processing before deciding to withdraw. Here, Plaintiff received no benefit. USPTO never properly acknowledged the application. No examination occurred despite the correct submission of all elements of the application. Under these circumstances, the withdrawal provision is inapplicable and the mistake provision for refunds should govern.

PLAINTIFF IS ENTITLED TO SUMMARY JUDGMENT ON THE IRS CLAIMS

No Genuine Issues of Material Fact Exist

The facts material to the IRS refund claim are not in dispute. Plaintiff filed his 2020 tax return on April 3, 2025. The return claimed the Recovery Rebate Credit of $1,800. The return indicated Canadian income and deductions. Plaintiff paid Canadian income taxes in 2020. The IRS denied the refund claim as time-barred under the three-year general limitation period. Section 6511(d)(3)(A) provides a ten-year limitation period for claims involving foreign tax credits. The claim was filed within the ten-year period. The IRS account transcript shows a balance of negative $1,238.55 owed to Plaintiff. The denial notice claims zero balance. Plaintiff filed a Formal Written Protest citing § 6511(d)(3)(A), which was ignored. These facts are established by the pleadings, the IRS's own exhibits, and the denial notice. No factual disputes require resolution by a fact-finder. The only questions are legal questions regarding the proper interpretation and application of § 6511(d)(3)(A). These legal questions are appropriate for resolution on summary judgment.

Entitlement to Declaratory Relief Regarding the Ten-Year Limitation Period

Plaintiff is entitled to a declaration that the ten-year limitation period under 26 U.S.C. § 6511(d)(3)(A) applies to his 2020 tax refund claim. The statute unambiguously provides that when a claim relates to an overpayment attributable to foreign taxes paid, the limitation period is ten years in lieu of the three-year general period. Plaintiff's claim relates to an overpayment attributable to Canadian income taxes paid in 2020. The ten-year period therefore applies as a matter of law.

The Court should declare that the IRS erred in applying the three-year limitation period to Plaintiff's claim. The Court should further declare that claims filed within ten years of the filing deadline for the year in which foreign taxes were paid are timely under § 6511(d)(3)(A). This declaration will establish the correct legal standard and prevent the IRS from repeating the same error in future cases.

Entitlement to Injunctive Relief Compelling Refund Payment

Plaintiff is entitled to injunctive relief under both 26 U.S.C. § 7422 and 5 U.S.C. § 706 compelling the IRS to reverse the denial of the Recovery Rebate Credit and to issue immediate payment of $1,800 plus interest. The IRS's denial was based on an incorrect application of law. When an agency applies the wrong statute or misinterprets a clear statutory provision, courts have authority to set aside the agency action and compel the agency to act in accordance with law.

Section 706 of the APA specifically authorizes courts to compel agency action unlawfully withheld or unreasonably delayed and to set aside agency action that is not in accordance with law. The IRS's application of the three-year period instead of the ten-year period is action not in accordance with law. The Court should set aside this action and compel the IRS to apply the correct limitation period, which will result in acceptance of the refund claim and issuance of the refund without penalties.

Section 7422 authorizes suits for recovery of tax refunds erroneously or illegally assessed or collected. The IRS's refusal to refund the overpayment is based on an erroneous legal determination. The Court has authority under § 7422 to order the refund to be paid. The combination of § 7422 and § 706 provides clear authority for the Court to enter judgment in Plaintiff's favor requiring payment of the refund.

Entitlement to Interest from the Original Filing Date

Plaintiff is entitled to interest on the refund amount calculated from the date the 2020 return was originally due. Under 26 U.S.C. § 6611, interest must be paid on overpayments from the date of the overpayment to the date the refund is paid. The overpayment in this case existed as of April 15, 2021, when the 2020 return was due and the Recovery Rebate Credit combined with foreign tax credits to create an overpayment situation.

The IRS cannot avoid paying interest by improperly denying the refund claim. The statute requires interest to be paid from the date of overpayment. The overpayment existed in 2021. Interest has accrued since that time. Plaintiff is entitled to recover this interest as part of the refund judgment.

Moreover, Plaintiff is entitled to interest because the 2020 tax return clearly disclosed the Canadian source of income, putting the IRS on notice that foreign tax credit provisions applied. The IRS should have applied the ten-year limitation period from the outset. The failure to do so was an error that has cost Plaintiff years of interest. The Court should award interest from April 15, 2021 to ensure that Plaintiff receives the full measure of relief to which he is entitled.

The Straightforward Nature of the Required Relief

This case presents a simple application of clear statutory rules requiring immediate resolution. The statute provides a ten-year limitation period for foreign tax credit claims. The claim was filed within ten years. The IRS applied the wrong limitation period. The error must be corrected. No complex factual findings are necessary. No novel legal theories require development. The Court need only read the statute and apply it as written.

The government has not disputed that § 6511(d)(3)(A) exists or that it provides a ten-year period. The government has simply ignored the statute and pretended it does not apply. This Court should not permit such evasion of clear statutory mandates. The relief requested is straightforward: apply the statute as written, reverse the erroneous denial, and issue the refund with interest. This relief should be granted immediately through summary judgment.

PLAINTIFF IS ENTITLED TO SUMMARY JUDGMENT ON THE USPTO CLAIMS

The Undisputed Facts Regarding USPTO's Failure to Process the Application

The facts regarding the USPTO claim are similarly undisputed. Plaintiff filed a patent application and paid $200. USPTO assigned a file number but failed to verify application receipt in notices. Plaintiff made numerous follow-up contacts. Plaintiff resubmitted materials multiple times. USPTO issued a Notice of Abandonment for an application it never properly acknowledged receiving. Plaintiff requested a refund. USPTO denied the refund citing § 1.26(a).

These facts establish that USPTO collected fees for services it did not provide. No genuine factual dispute exists regarding whether USPTO processed the application. Defendant counsel has admitted through failure to contest that the patent application was properly filed and that services were not provided. The only question is whether USPTO must refund the fees collected. This is a legal question appropriate for summary judgment.

USPTO Must Refund Fees Paid for Services Not Provided

As a matter of law, USPTO cannot collect fees for patent application processing and then refuse to refund those fees when it admittedly provided no processing services. The regulation at 37 C.F.R. § 1.26(a) authorizes refunds for fees paid by mistake. When an agency collects payment for services and then provides no services, the payment was made by mistake. The applicant paid for processing. No processing occurred. The fee was therefore paid by mistake and must be refunded.

The regulation's exception for voluntary withdrawals is inapplicable here. Plaintiff did not withdraw the application. USPTO deemed it to be abandoned and closed it. The withdrawal exception assumes that the applicant received the benefit of filing before choosing to abandon the application. That assumption fails when the agency never processed the filing in the first place.

Basic principles of fairness and prevention of unjust enrichment require refund in these circumstances. Federal agencies must deal fairly with the public. When an agency collects money for services it does not provide, keeping that money constitutes unjust enrichment. The Court should order USPTO to refund the $200 plus interest to prevent unjust enrichment and to ensure fair dealing.

CONCLUSION

The government's Motion to Dismiss is untenable. The foundation of the government's jurisdictional argument is the claim that the three-year limitation period bars Plaintiff's refund claim. This foundation proves unreliable upon examination of 26 U.S.C. § 6511(d)(3)(A), the statute the government completely failed to address in its Memorandum. The statute provides a ten-year limitation period for claims involving foreign tax credits. The claim was filed within ten years. The jurisdictional argument fails.

The government's attempt to rename all defendants as the United States and invoke sovereign immunity fails to account for the individual capacity suits against DOES 1 through 10. These are Bivens claims against individual wrongdoers who deprived Plaintiff of property rights by acting outside the scope of their statutory authority. Sovereign immunity offers no protections for individuals who violate constitutional rights while ignoring clear statutory mandates.

The contradictions in the IRS's own records extinguish any claim that no refund is due. The account transcript shows Plaintiff is owed $1,238.55 for tax year 2020 yet the denial notice claims zero balance. The contradiction demonstrates that the IRS's position is without merit and that Plaintiff is entitled to relief.

The USPTO claims present an even clearer case for relief. When an agency collects fees for services it admittedly did not provide, basic fairness requires refund of those fees. No principle of sovereign immunity or administrative law justifies allowing a federal agency to engage in unjust enrichment by keeping money paid for services never rendered.

Plaintiff respectfully requests that this Court deny the government's Motion to Dismiss in its entirety and grant summary judgment in Plaintiff's favor. The relief requested is straightforward and flows directly from application of clear statutory provisions. The statute says ten years for foreign tax credit claims. The claim was filed within ten years. The refund must be paid. Justice requires no less.

WHEREFORE, Plaintiff Allan Douglas Wilson respectfully requests that this Court enter the following relief:

The Court should deny the United States' Motion to Dismiss in its entirety. The government has failed to demonstrate lack of subject matter jurisdiction or failure to state a claim. The jurisdictional argument ignores controlling statutory authority. The failure to state a claim argument mischaracterizes the nature of the defendants and the relief sought.

The Court should grant Plaintiff's Cross-Motion for Summary Judgment. No genuine issues of material fact exist regarding the IRS refund claim or the USPTO refund claim. The legal issues are appropriate for resolution on summary judgment. Plaintiff is entitled to judgment as a matter of law on both claims.

The Court should declare that the ten-year limitation period under 26 U.S.C. § 6511(d)(3)(A) applies to Plaintiff's 2020 tax refund claim. This declaration will establish the correct legal standard and provide guidance for future cases involving foreign tax credits and refund claims.

The Court should order the Internal Revenue Service to take the following actions. The IRS should reverse the denial of the Recovery Rebate Credit and acknowledge that the claim was timely filed within the ten-year limitation period. The IRS should issue immediate payment of $1,800 representing the Recovery Rebate Credit originally claimed on the 2020 tax return. The IRS should pay interest on this amount calculated from April 15, 2021, the original due date for 2020 tax returns, through the date of payment in accordance with 26 U.S.C. § 6611 and applicable Treasury Regulations. The IRS should apply the ten-year limitation period under § 6511(d)(3)(A) to all refund claims involving foreign tax credits as required by statute. The IRS should correct the account balance inconsistency between the account transcript showing negative $1,238.55 owed to Plaintiff and the denial notice claiming zero balance.

The Court should order the United States Patent and Trademark Office to refund $200 paid by Plaintiff for patent application services that were admittedly not provided. The USPTO should pay interest on the refund amount from the date of payment through the date of refund. The USPTO should implement procedures to ensure that applicants whose applications are not properly acknowledged or processed receive refunds of fees paid for services not rendered.

The Court should permit Plaintiff's Bivens claims against DOES 1 through 10 to proceed to discovery. Through discovery, Plaintiff will identify the individual IRS employees responsible for applying the wrong limitation period, ignoring the Formal Written Protest citing controlling statutory authority, creating contradictory account records, and denying refunds without legal basis. Once identified, these individuals should be held accountable for violations of Plaintiff's constitutional rights to property and due process.

The Court should award Plaintiff such other and further relief as the Court deems just and proper under the circumstances. This may include declaratory relief regarding the obligations of federal agencies to respond to formal protests citing statutory authority, injunctive relief regarding agency procedures for handling refund claims involving foreign tax credits, and any other relief necessary to fully remedy the violations of Plaintiff's rights.

Respectfully submitted,

Pro-se Plaintiff, Allan Douglas Wilson

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Dated: April 30, 2026

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

ALLAN DOUGLAS WILSON,

Plaintiff,

v.

DERRICK BRENT, et al.,

Defendants.

Civil Action No. 25-3561 (RDM)

STATEMENT OF FACTS IN SUPPORT OF

PLAINTIFF'S CROSS-MOTION FOR SUMMARY JUDGMENT

PRELIMINARY STATEMENT REGARDING UNCONTESTED FACTS

Counsel for the defense has failed to address the primary basis for Complaint in Memorandum in Support of Motion to Dismiss and is considered to have conceded or admitted to by failure to contest the facts set forth therein, specifically: 1) The USPTO failed to process the properly filed patent application and 'Notice of Abandonment' was received October 15, 2025; 2) Counsel failed to recognize the ten-year limitation period under 26 U.S.C. § 6511(d)(3)(A) that applies to Plaintiff's IRS claim.

The following facts are established by the pleadings, the government's own exhibits, agency notices, and documentary evidence submitted to this Court. No genuine issue of material fact exists regarding any of the facts stated herein. These facts establish Plaintiff's entitlement to summary judgment as a matter of law.

FACTS REGARDING THE 2020 TAX RETURN AND RECOVERY REBATE CREDIT CLAIM

Filing and Content of the 2020 Tax Return

1. Plaintiff Allan Douglas Wilson is a United States citizen residing abroad who filed his 2020 federal income tax return on April 3, 2025.

2. The 2020 tax return claimed the Recovery Rebate Credit, also known as the Economic Impact Payment or stimulus credit rebate, in the amount of $1,800.

3. The 2020 tax return included a properly completed Taxpayer Statement for Recovery Rebate Credit Claim filed with the original return, demonstrating full compliance with all procedural requirements established by the Internal Revenue Service for claiming the credit.

4. The 2020 tax return clearly indicated all income and deductions as Canadian in nature on its face, putting the Internal Revenue Service on constructive notice that foreign tax credit provisions would apply to any refund claims related to this return.

5. The return disclosed retirement income received from Canada during tax year 2020 for which taxes were deducted.

6. No line errors or omissions existed in the tax calculation or reporting on the face of the 2020 tax return as filed.

Canadian Income Taxes Paid and Foreign Tax Credit Implications

7. Plaintiff paid Canadian income taxes on the retirement income received from Canada during tax year 2020.

8. These Canadian income taxes were properly creditable against United States tax liability under the provisions of the United States-Canada Income Tax Convention.

9. The foreign tax credit provisions codified at 26 U.S.C. § 901 allow credit for taxes paid to foreign countries including Canada pursuant to applicable tax treaties.

10. The Canadian income taxes paid by Plaintiff reduced his United States tax liability on a dollar-for-dollar basis under treaty provisions and section 901.

11. When the foreign tax credit from Canadian income taxes is properly applied in conjunction with the Recovery Rebate Credit of $1,800, Plaintiff overpaid his 2020 federal income tax liability.

12. The overpayment attributable to the combination of foreign tax credits and the Recovery Rebate Credit entitled Plaintiff to a refund under applicable provisions of Title 26 of the United States Code.

Initial IRS Review and Processing

13. On June 12, 2025, the Internal Revenue Service requested proof and details of 2020 income from Plaintiff to clarify income amounts.

14. This request for documentation came despite the IRS having identified no line errors or omissions on the submitted 2020 tax return.

15. During the review process that followed the June 12, 2025 request, the IRS initially and incorrectly classified the Canadian retirement income as United States taxable income.

16. The IRS cited a purported taxpayer "math error" as the basis for the initial incorrect classification of Canadian retirement income.

17. This initial classification was erroneous because the retirement income from Canada was properly excludable from United States taxation under treaty provisions.

18. The IRS Legal Department subsequently verified that no additional forms applied to Plaintiff's return due to the income being retirement income from Canada.

19. The IRS Legal Department determination confirmed that the Canadian retirement income was properly treated under applicable treaty provisions.

20. After Plaintiff faxed the requested proof of income documentation to the IRS, thirty-six days passed before any determination was communicated to Plaintiff upon his follow-up inquiry.

<u>The July 2025 Verbal Denial</u>

21. On July 17, 2025, at 3:00 PM Eastern Time, an IRS Agent communicated a determination to Plaintiff while revising the return in the IRS computer system.

22. The IRS Agent stated verbatim to Plaintiff: "because it's over 3 years you don't get the rebate but your 2020 return will be processed."

23. This verbal statement represented the first communication to Plaintiff that the IRS was applying a three-year limitation period to deny the Recovery Rebate Credit claim.

24. The IRS Agent provided no citation to statutory authority supporting the application of a three-year limitation period to Plaintiff's claim.

25. The IRS Agent made no mention of 26 U.S.C. § 6511(d)(3)(A) or any special limitation period applicable to claims involving foreign tax credits.

26. The IRS Agent made no inquiry regarding whether Plaintiff had paid foreign taxes or whether the claim related to an overpayment attributable to foreign taxes paid.

27. In the final assessment communicated on July 17, 2025, the IRS confirmed that the 2020 Canadian retirement income would be properly excluded as non-taxable income under treaty provisions.

28. The final assessment resulted in a determination of zero balance owing on the 2020 tax return based on proper exclusion of the Canadian retirement income.

29. The IRS completed a proper tax return assessment and acknowledged that the 2020 tax return would be processed with no line errors or omissions identified in the underlying tax calculation.

30. The only matter remaining unresolved after the July 17, 2025 assessment was the administrative denial of the Recovery Rebate Credit based on the purported expiration of a three-year limitation period.

The September 2025 Formal Disallowance

31. On September 8, 2025, Plaintiff made follow-up contact with an IRS representative to determine the status of the Recovery Rebate Credit claim.

32. The IRS representative informed Plaintiff during the September 8, 2025 contact that the Recovery Rebate Credit claim had been formally "disallowed" due to the three-year general filing limitation.

33. The IRS representative confirmed that a written notice had been issued denying the claimed rebate based on the purported expiration of the three-year limitation period.

34. The IRS representative provided no information regarding any special limitation period that might apply to claims involving foreign tax credits.

35. The written denial notice was dated September 5, 2025, three days before Plaintiff's follow-up contact with the IRS representative.

36. The September 5, 2025 denial notice specifically stated that Plaintiff could "file suit with the United States District Court that has jurisdiction or with the United States Court of Federal Claims."

37. The denial notice made no reference to 26 U.S.C. § 6511(d)(3)(A) or any extended limitation period for foreign tax credit claims.

<u>The Formal Written Protest and IRS Non-Response</u>

38. On September 8, 2025, immediately upon learning from the IRS representative of the formal disallowance, Plaintiff prepared a detailed Formal Written Protest.

39. The Formal Written Protest was transmitted via facsimile on September 8, 2025 to the IRS International Tax Account Issues office at the designated fax number 681-247-3101.

40. The Formal Written Protest explicitly cited 26 U.S.C. § 6511(d)(3)(A) as the controlling statutory provision governing the limitation period applicable to Plaintiff's refund claim.

41. The Formal Written Protest quoted the full text of 26 U.S.C. § 6511(d)(3)(A), which provides that claims relating to overpayments attributable to foreign taxes paid are subject to a ten-year limitation period in lieu of the three-year general period.

42. The Formal Written Protest presented detailed legal arguments explaining that the Canadian income taxes paid by Plaintiff in 2020 triggered the ten-year limitation period under section 6511(d)(3)(A).

43. The Formal Written Protest calculated that the ten-year limitation period for the 2020 tax year extends from April 15, 2021 to April 15, 2031.

44. The Formal Written Protest demonstrated that Plaintiff's claim filed in April 2025 was well within the ten-year limitation period and therefore timely under controlling statutory provisions.

45. The Formal Written Protest requested an Appeals conference to provide opportunity for Plaintiff to present evidence and legal arguments demonstrating the error in the IRS's denial.

46. The Formal Written Protest specifically requested that the IRS reverse the denial of the Recovery Rebate Credit and authorize payment of $1,800 as originally claimed.

47. The Formal Written Protest requested that interest be paid on the rebate amount from the date the refund should have been issued, calculated in accordance with 26 U.S.C. § 6611 and applicable Treasury Regulations.

48. Despite the detailed legal analysis and explicit citation to controlling statutory authority in the Formal Written Protest, the Internal Revenue Service never acknowledged receipt of the protest.

49. No Appeals conference was scheduled in response to the Formal Written Protest request.

50. No written response to the Formal Written Protest was ever issued by the Internal Revenue Service.

51. No IRS representative ever contacted Plaintiff to discuss the legal arguments or statutory citations presented in the Formal Written Protest.

52. The complete non-response to the Formal Written Protest citing controlling statutory authority demonstrates that the IRS's internal administrative procedures provided no meaningful remedy when agency employees chose to ignore applicable law.

<u>The IRS Account Transcript and Contradictory Records</u>

53. The Internal Revenue Service maintains an official account transcript for each taxpayer showing all transactions applied to each tax year.

54. The IRS account transcript for Plaintiff's 2020 tax year was accessed through the IRS's Employee User Portal on April 22, 2026.

55. A certified copy of the account transcript was filed with this Court as Exhibit A to the Declaration of Devry J. Gillens in support of the government's Motion to Dismiss.

56. The account transcript filed by the government as Exhibit A shows an account balance of negative $1,238.55 as of the request date.

57. In IRS accounting terminology and practice, a negative balance on an account transcript represents money owed by the IRS to the taxpayer.

58. The account transcript therefore constitutes an official IRS acknowledgment that Plaintiff is owed $1,238.55 as a refund.

59. The account transcript shows Transaction Code 766 dated April 15, 2021 in the amount of negative $1,800.00 representing the Recovery Rebate Credit.

60. Transaction Code 766 is the IRS transaction code used to record credits applied to taxpayer accounts, including recovery rebate credits.

61. The presence of Transaction Code 766 for negative $1,800.00 on the account transcript demonstrates that the IRS initially accepted and processed the Recovery Rebate Credit claim.

62. The Recovery Rebate Credit was applied to Plaintiff's account and created a refund situation as reflected by the negative $1,800.00 transaction.

63. The account transcript shows Transaction Code 166 for a late filing penalty in the amount of $516.50.

64. Transaction Code 166 is the IRS transaction code used to assess penalties for late filing of tax returns.

65. The account transcript shows Transaction Code 196 for interest charged for late payment in the amount of $722.05.

66. Transaction Code 196 is the IRS transaction code used to assess interest on late payment of taxes.

67. The late filing penalty of $516.50 and late payment interest of $722.05 reduced the refund amount that would otherwise have been due to Plaintiff based on the Recovery Rebate Credit.

68. The account transcript shows Transaction Code 167 dated August 11, 2025 removing or reversing the late filing penalty and creating a credit of negative $516.50.

69. Transaction Code 167 is the IRS transaction code used to reverse or abate penalties previously assessed.

70. The account transcript shows Transaction Code 197 dated August 11, 2025 removing or reversing the late payment interest and creating a credit of negative $722.05.

71. Transaction Code 197 is the IRS transaction code used to reverse or abate interest charges previously assessed.

72. The removal of the late filing penalty and late payment interest on August 11, 2025 indicates that the IRS ultimately determined these charges were improperly assessed against Plaintiff's account.

73. The reversal of penalties and interest that had reduced the refund amount resulted in additional credits to Plaintiff's account totaling negative $1,238.55.

74. When the original Recovery Rebate Credit of negative $1,800.00 is combined with the penalty reversal of negative $516.50 and the interest reversal of negative $722.05, the mathematical result equals negative $3,038.55.

75. The account transcript shows other transactions that offset a portion of the credits, resulting in a net account balance of negative $1,238.55 owed to Plaintiff.

76. The account balance of negative $1,238.55 shown on the official IRS account transcript directly contradicts the September 5, 2025 denial notice, which claims zero balance due and denies any refund to Plaintiff.

77. The Internal Revenue Service cannot simultaneously maintain in its official accounting system records that Plaintiff is owed $1,238.55 while issuing denial notices claiming zero balance and no refund due.

78. This fundamental contradiction between the account transcript and the denial notice demonstrates either gross negligence in maintaining accurate records or deliberate withholding of properly claimed refund amounts.

79. No explanation for the contradiction between the account transcript balance and the denial notice balance has been provided by the Internal Revenue Service or by counsel for the defense.

80. The government's Motion to Dismiss does not address or attempt to reconcile the discrepancy between the account transcript showing negative $1,238.55 owed and the denial notice claiming zero balance.

81. Counsel for the defense filed the contradictory account transcript as an exhibit without explaining how it can be reconciled with the denial notice claiming no refund is due.

Exhaustion of Administrative Remedies

82. Plaintiff satisfied all prerequisites for bringing suit in federal court under 26 U.S.C. § 7422 for recovery of the tax refund.

83. A formal claim for refund was filed with the Internal Revenue Service through the 2020 tax return itself, which included the Recovery Rebate Credit claim on the face of the return.

84. A subsequent detailed Formal Written Protest was filed on September 8, 2025, providing comprehensive legal arguments and citing controlling statutory authority in support of the refund claim.

85. The Internal Revenue Service issued a formal final denial notice dated September 5, 2025, which constituted final agency action denying the refund claim.

86. The September 5, 2025 denial notice specifically directed Plaintiff to file suit in the United States District Court that has jurisdiction or in the United States Court of Federal Claims.

87. No other administrative remedies were available, suggested, or required after the issuance of the final denial notice directing judicial review.

88. All administrative remedies that were available to Plaintiff have been exhausted through the filing of the refund claim, the Formal Written Protest, and receipt of the final denial notice.

89. The agency has issued a final decision denying the relief requested, and the IRS itself has directed Plaintiff to seek judicial review in this Court.

90. No further administrative proceedings are possible, required, or necessary before judicial review of the denial.

FACTS REGARDING THE APPLICABLE STATUTORY LIMITATION PERIOD

The Existence and Plain Language of 26 U.S.C. § 6511(d)(3)(A)

91. Title 26 of the United States Code contains provisions governing the limitation periods for filing refund claims with the Internal Revenue Service.

92. Section 6511(a) of Title 26 provides a general limitation period of three years from the time the return was filed or two years from the time the tax was paid, whichever is later.

93. Section 6511(d) of Title 26 contains special rules providing exceptions to the general limitation period for specific types of claims.

94. Section 6511(d)(3)(A) of Title 26 provides a special limitation period specifically applicable to claims relating to overpayments attributable to foreign taxes paid.

95. The full text of 26 U.S.C. § 6511(d)(3)(A) states: "If the claim for credit or refund relates to an overpayment attributable to any taxes paid or accrued to any foreign country or to any possession of the United States for which credit is allowed against the tax imposed by subtitle A in accordance with the provisions of section 901 or the provisions of any treaty to which the United States is a party, in lieu of the 3-year period of limitation

prescribed in subsection (a), the period shall be 10 years from the date prescribed by law for filing the return for the year in which such taxes were actually paid or accrued."

96. The statutory language "in lieu of the 3-year period" means instead of or in place of the three-year period, not in addition to the three-year period.

97. The statutory language is mandatory, using the word "shall" rather than "may" regarding application of the ten-year period.

98. The statute does not grant the Internal Revenue Service discretion to choose whether to apply the three-year period or the ten-year period when foreign taxes are involved.

99. The statute requires application of the ten-year period whenever the claim relates to an overpayment attributable to foreign taxes paid for which credit is allowed under section 901 or treaty provisions.

<u>Application of Section 6511(d)(3)(A) to Plaintiff's Claim</u>

100. Plaintiff's refund claim relates to an overpayment attributable to taxes paid to Canada, a foreign country, during tax year 2020.

101. Credit for Canadian income taxes is allowed against United States tax liability under the provisions of 26 U.S.C. § 901.

102. Credit for Canadian income taxes is also allowed under the provisions of the United States-Canada Income Tax Convention, a treaty to which the United States is a party.

103. Plaintiff's claim therefore falls squarely within the scope of 26 U.S.C. § 6511(d)(3)(A) as a claim relating to an overpayment attributable to foreign taxes paid for which credit is allowed under section 901 and treaty provisions.

104. Under section 6511(d)(3)(A), the limitation period for Plaintiff's claim is ten years from the date prescribed by law for filing the return for the year in which the Canadian taxes were paid.

105. The Canadian income taxes at issue were paid or accrued during tax year 2020.

106. The date prescribed by law for filing the 2020 tax return was April 15, 2021.

107. The ten-year limitation period therefore runs from April 15, 2021 to April 15, 2031.

108.. Plaintiff filed his 2020 tax return claiming the Recovery Rebate Credit on April 3, 2025.

109. April 3, 2025 falls more than six years before the April 15, 2031 expiration of the ten-year limitation period.

110. Plaintiff's refund claim was therefore timely filed within the applicable ten-year limitation period prescribed by 26 U.S.C. § 6511(d)(3)(A).

111. No provision of Title 26 or applicable regulations shortens the ten-year limitation period or makes it inapplicable when recovery rebate credits are claimed in conjunction with foreign tax credits.

112. The plain language of section 6511(d)(3)(A) controls the limitation period applicable to Plaintiff's claim as a matter of statutory interpretation.

The Government's Complete Failure to Address Section 6511(d)(3)(A)

113. Plaintiff's Complaint filed with this Court on December 18, 2025 explicitly cited 26 U.S.C. § 6511(d)(3)(A) as the controlling statutory provision.

114.. Plaintiff's Formal Written Protest filed with the IRS on September 8, 2025 explicitly cited and quoted in full the text of 26 U.S.C. § 6511(d)(3)(A).

115. The government's Memorandum in Support of Motion to Dismiss filed April 22, 2026 spans eleven pages of legal argument.

116. The government's Memorandum cites numerous statutory provisions including 26 U.S.C. §§ 6511(a), 6511(b)(2), 6532(a), 7422(a), and others.

117. Nowhere in the eleven pages of the government's Memorandum does the phrase "26 U.S.C. § 6511(d)(3)(A)" appear.

118. Nowhere in the government's Memorandum do the words "foreign" or “Canada” appear in connection with tax credits or limitation periods.

119. Nowhere in the government's Memorandum does the phrase "ten-year limitation period" appear.

120. The government's Memorandum makes no attempt to distinguish, limit, or argue against the applicability of 26 U.S.C. § 6511(d)(3)(A) to Plaintiff's claim.

121. The government's Memorandum makes no argument that section 6511(d)(3)(A) does not apply when recovery rebate credits are claimed.

122. The government's Memorandum makes no argument that Canadian income taxes do not qualify as foreign taxes under section 6511(d)(3)(A).

123. The government's Memorandum makes no argument that the ten-year period has expired or that Plaintiff's claim was untimely under the ten-year period.

124. Counsel for the defense has completely failed to address the primary statutory basis for Plaintiff's claim despite that basis being explicitly set forth in both the Complaint and the Formal Written Protest.

125. By failing to address or contest the applicability of 26 U.S.C. § 6511(d)(3)(A), counsel for the defense has implicitly conceded that this statutory provision governs the limitation period for Plaintiff's claim.

126. By failing to argue that Plaintiff's claim is untimely under the ten-year period, counsel has implicitly conceded that the claim is timely if the ten-year period applies.

FACTS REGARDING THE USPTO PATENT APPLICATION AND REFUND DENIAL

Filing and Payment for Patent Application

127. Plaintiff Allan Douglas Wilson prepared a utility patent application for filing with the United States Patent and Trademark Office.

128. Plaintiff paid a fee of $200 to the United States Patent and Trademark Office for processing the utility patent application.

129. The $200 fee was transmitted to USPTO via Fedwire transfer, an electronic payment method.

130. Fedwire transfer provides electronic confirmation of payment transmission and receipt.

131. The $200 payment was successfully transmitted to USPTO via the Fedwire system.

132. Plaintiff submitted the utility patent application materials to USPTO through proper filing channels.

133. The application materials included all required components for a complete utility patent application filing.

USPTO Failure to Process or Acknowledge the Application

134. Despite application submission and payment, the United States Patent and Trademark Office failed to properly acknowledge receipt of Plaintiff's patent application in notices.

135. No substantive examination of the patent application was commenced by USPTO.

136. Plaintiff made numerous telephone calls to the United States Patent and Trademark Office attempting to verify receipt of payment and application information and determine application status.

137. During these telephone contacts, Plaintiff inquired why parts of the patent application and payment were not acknowledged in notices.

138. Plaintiff resubmitted the patent application materials to USPTO multiple times in an attempt to ensure that any potential processing issue was resolved.

139. Despite multiple resubmissions and follow-up contacts, USPTO continued to fail to properly acknowledge application receipt in notices.

140. No substantive examination began despite the multiple resubmission attempts.

The Notice of Abandonment and USPTO Admissions

141. On October 15, 2025, the United States Patent and Trademark Office issued a Notice of Abandonment regarding Plaintiff's patent application.

142. The Notice of Abandonment declared the patent application to be abandoned due to failure to respond to USPTO communications.

143. The Notice of Abandonment was remarkable in that it declared abandoned an application that the agency had never properly acknowledged receiving.

144. On October 15, 2025, Plaintiff contacted the USPTO Petition Service Desk to inquire about the Notice of Abandonment.

145. Plaintiff spoke with a USPTO representative identified as "Dale" at the Petition Service Desk during this October 15, 2025 contact.

146. Despite proper submission of the patent application the USPTO maintained its position that the application was abandoned.

Refund Request and USPTO Denial

147. During the October 15, 2025 conversation with Dale the Plaintiff was refused a refund from USPTO for the $200 fee paid.

148. Plaintiff's refund request was based on the fact that USPTO had collected fees for patent application processing services but had admittedly provided no such services.

149. The United States Patent and Trademark Office denied Plaintiff's request for refund of the $200 fee.

150. USPTO cited 37 C.F.R. § 1.26(a) as the basis for denying the refund request.

151. Section 1.26(a) of Title 37 of the Code of Federal Regulations authorizes USPTO to refund fees paid by mistake or in excess of that required.

152. Section 1.26(a) also states that USPTO will not refund a fee when a party desires to withdraw a patent filing for which the fee was paid.

153. USPTO applied the withdrawal provision of section 1.26(a) to deny Plaintiff's refund request.

154. The withdrawal provision of section 1.26(a) was inapplicable to Plaintiff's situation because Plaintiff never withdrew the patent application.

155. The withdrawal provision of section 1.26(a) presupposes that the applicant received the benefit of filing and initial processing before choosing to withdraw the application.

156. That presupposition fails when the agency never processed or properly acknowledged the filing in the first place.

157. No recourse for appealing the refund denial or challenging USPTO's position was offered or made available to Plaintiff.

158. No administrative appeal procedure within USPTO exists for challenging denials of refund requests for patent application fees.

159. All administrative remedies regarding the USPTO refund claim have been exhausted through the request for refund and USPTO's final denial.

FACTS ESTABLISHING NO GENUINE ISSUES OF MATERIAL FACT

Undisputed Documentary Evidence

160. The facts stated herein are established by documentary evidence filed with this Court or matters of public record.

161. The IRS account transcript filed as Defendant's Exhibit A is an official business record of the Internal Revenue Service certified as authentic under Federal Rule of Evidence 902(11).

162. The account transcript reflects the official IRS accounting position regarding Plaintiff's 2020 tax account as of April 22, 2026.

163. The September 5, 2025 IRS denial notice is an official agency communication directing Plaintiff to file suit in federal court.

164. The Formal Written Protest filed September 8, 2025 is a document prepared and transmitted by Plaintiff to the IRS citing controlling statutory authority.

165. The text of 26 U.S.C. § 6511(d)(3)(A) is a matter of public record and statutory interpretation is a question of law for the Court.

166. The Notice of Abandonment issued by USPTO on October 15, 2025 is an official agency communication regarding Plaintiff's patent application.

No Factual Disputes Requiring Trial

167. The government has not disputed that Plaintiff filed his 2020 tax return on April 3, 2025.

168. The government has not disputed that the 2020 tax return claimed the Recovery Rebate Credit of $1,800.

169. The government has not disputed that the 2020 tax return indicated Canadian income and deductions.

170. The government has not disputed that Plaintiff paid Canadian income taxes in 2020.

171. The government has not disputed that Canadian income taxes are creditable under section 901 and treaty provisions.

172. The government has not disputed the existence or text of 26 U.S.C. § 6511(d)(3)(A).

173. The government has not disputed that section 6511(d)(3)(A) provides a ten-year limitation period for claims involving foreign taxes.

174. The government has not disputed that April 3, 2025 falls within ten years of April 15, 2021.

175. The government has not disputed that the IRS account transcript shows a balance of negative $1,238.55.

176. The government has not disputed that Plaintiff filed a Formal Written Protest on September 8, 2025 citing section 6511(d)(3)(A).

177. The government has not disputed that the IRS never responded to the Formal Written Protest.

178. The government has not disputed that Plaintiff paid $200 to USPTO for patent application processing.

179. The government has not disputed that USPTO failed to process or properly acknowledge Plaintiff's patent application.

180. The government has not disputed that Dale at the USPTO Petition Service Desk denied Plaintiff's request for refund of the $200 fee.

Legal Issues Appropriate for Summary Judgment

181. The only issues remaining for determination are questions of law regarding the proper interpretation and application of 26 U.S.C. § 6511(d)(3)(A).

182. Statutory interpretation is a question of law for the Court, not a question of fact for a jury.

183. Whether the ten-year limitation period applies to Plaintiff's claim is a question of law to be determined by applying the statutory text to the undisputed facts.

184. Whether Plaintiff's claim filed on April 3, 2025 is timely under a ten-year period running from April 15, 2021 to April 15, 2031 is a simple mathematical calculation requiring no factual determination.

185. Whether USPTO must refund fees paid for services not rendered is a question of law regarding the proper interpretation of 37 C.F.R. § 1.26(a) and basic principles of fairness and unjust enrichment.

186. No genuine issue of material fact exists that would require a trial or evidentiary hearing to resolve.

187. All material facts are established by documentary evidence and admissions, and the remaining issues are purely legal questions appropriate for resolution on summary judgment.

Respectfully submitted,

Allan Douglas Wilson
Pro Se Plaintiff
1321 Upland Drive, Unit 21311
Houston, Texas 77043 USA
Telephone: (713) 363-3006

Dated: April 30, 2026

VERIFICATION

I, Allan Douglas Wilson, declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge, information, and belief.

Allan Douglas Wilson

Plaintiff (pro se)

CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2026 I caused a true and correct copy of the foregoing Plaintiff's Opposition to United States' Motion to Dismiss and Cross-Motion for Summary Judgment to be served via the Court's CM/ECF system through the Clerk of Court upon:

Stephen S. Ho, Trial Attorney, Eastern Trial Section, Civil Division,
Tax Litigation Branch, United States Department of Justice,
Post Office Box 227, Ben Franklin Station,
Washington, District of Columbia 20044;

with email delivery to stephen.s.ho@usdoj.gov as registered counsel for the defendant named as the United States in this action.

/s/ Allan Douglas Wilson

Allan Douglas Wilson

Pro-Se Plaintiff