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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 UNITED STATES OF AMERICA,

12 Petitioner,

13 v.

14 RICHARD BERNAL,

15 Respondent.  
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1:17-cv-00522-LJO-SAB

ORDER TO SHOW CAUSE RE: TAX SUMMONS  
ENFORCEMENT

Date: Wednesday, June 21, 2017

Time: 10:00 a.m.

Crtm: 9, 6th Floor

Judge: Honorable Stanley A. Boone

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19 Upon the petition of Phillip A. Talbert, United States Attorney for the Eastern District of  
20 California, including the verification of Revenue Officer Lisa R. Lopez (formally Cumiford), and the  
21 Exhibit attached thereto, IT IS HEREBY ORDERED that:

- 22 1. Respondent, Richard Bernal shall appear before United States Magistrate Judge Stanley  
23 A. Boone, at the United States Courthouse, 2500 Tulare St., Fresno, California,  
24 Courtroom 9, on **Wednesday, June 21, 2017, at 10:00 a.m.** to show cause why  
25 Respondent should not be compelled to obey the IRS summons issued on September 12,  
26 2016.
- 27 2. Under Fed. R. Civ. P. 4(c)(1), the Court hereby appoints the investigating IRS employee,  
28 and all federal employees designated by that employee, to serve process in this case.

- 1           3.       To afford the respondent an opportunity to respond to the petition and the petitioner an  
2                   opportunity to reply, a copy of this order, the Petition and its Exhibits, and the Points and  
3                   Authorities, shall be served by delivering a copy to the respondent personally, or by  
4                   leaving a copy at the respondent's dwelling house or usual place of abode with some  
5                   person of suitable age and discretion then residing therein, or by any other means of  
6                   service permitted by Fed. R. Civ. P. 4(e), at least 30 days before the show cause hearing  
7                   date including any continued date, unless such service cannot be made despite reasonable  
8                   efforts.
- 9           4.       Proof of any service done under paragraph 3, above, shall be filed with the Clerk on or  
10                   before **May 14, 2017**.
- 11          5.       If the federal employee assigned to serve these documents is not reasonably able to serve  
12                   the papers as provided in paragraph 3, petitioner may request a court order granting leave  
13                   to serve by other means. See Fed. R. Civ. P. 81(a)(5). The request shall detail the efforts  
14                   made to serve the respondent.
- 15          6.       The file reflects a prima facie showing that the investigation is conducted pursuant to a  
16                   legitimate purpose, that the inquiry may be relevant to that purpose, that the information  
17                   sought is not already within the Commissioner's possession, and that the administrative  
18                   steps required by the Code have been followed. See United States v. Powell, 379 U.S.  
19                   48, 57-58 (1964). The burden of coming forward therefore has shifted to whoever might  
20                   oppose enforcement.
- 21          7.       Respondent shall file and serve any defense or opposition to the Petition to Enforce the  
22                   IRS Summons at least ten (10) days before the show cause hearing date including any  
23                   continued date.
- 24          8.       At the show cause hearing, the Magistrate Judge intends to consider the issues properly  
25                   raised in opposition to enforcement. Only those issues brought into controversy by the  
26                   responsive pleadings and supported by affidavit will be considered. Any uncontested  
27                   allegation in the petition will be considered admitted.
- 28          9.       If Respondent has no objections to enforcement of the summons, he may file and serve a

1 statement of non-opposition to the Petition at least ten (10) days prior to the show cause  
2 hearing date including any continued date. Respondent's appearance at the hearing will  
3 then be excused.

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5 IT IS SO ORDERED.

6 Dated: April 17, 2017

  
UNITED STATES MAGISTRATE JUDGE

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