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7 Attorneys for Petitioner United States of America

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

10  
11 UNITED STATES OF AMERICA,  
12  
13 Petitioner,  
14 v.  
15 ROBERT E. O'NEAL,  
16 Respondent.

**2:15-MC-00088-MCE-KJN**  
**ORDER TO SHOW CAUSE**  
**RE: TAX SUMMONS ENFORCEMENT**  
**Taxpayer: ROBERT E. O'NEAL**  
**Date: Thursday, October 22, 2015**  
**Time: 10:00 a.m.**  
**Crtm: 25- 8<sup>th</sup> Floor**

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18 Upon the petition of BENJAMIN B. WAGNER, United States Attorney for the Eastern  
19 District of California, including the verification of Revenue Officer JOSE ARTEAGA, and the  
20 Exhibit attached thereto, it is hereby:

21 ORDERED that the Respondent, ROBERT E. O'NEAL, appear before United States  
22 Magistrate Judge Kendall J. Newman, in that Magistrate Judge's courtroom in the United States  
23 Courthouse, 501 I Street, Sacramento, California, on October 22, 2015, at 10:00 a.m., to show  
24 cause why the respondent should not be compelled to obey the IRS summons issued on  
25 February 13, 2015.

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1 It is further ORDERED that:

2 1. The United States Magistrate Judge will preside, under 28 U.S.C. Section  
3 636(b)(1) and Local Rule 72-302(c)(9), at the hearing scheduled above. After hearing, the  
4 Magistrate Judge intends to submit proposed findings and recommendations under Local Rule  
5 304(a), with the original thereof filed by the Clerk and a copy provided to all parties.

6 2. Under Fed. R. Civ. P. 4(c)(1), the Court hereby appoints the investigating IRS  
7 employee, and all federal employees designated by that employee, to serve process in this case.

8 3. To afford the respondent an opportunity to respond to the petition and the  
9 petitioner an opportunity to reply, a copy of this order, the Petition and its Exhibit, and the  
10 Points and Authorities, shall be served by delivering a copy to the respondent personally, or by  
11 leaving a copy at the respondent's dwelling house or usual place of abode with some person of  
12 suitable age and discretion then residing therein, or by any other means of service permitted by  
13 Fed. R. Civ. P. 4(e), at least 30 days before the show cause hearing date including any continued  
14 date, unless such service cannot be made despite reasonable efforts.

15 4. Proof of any service done under paragraph 3, above, shall be filed with the Clerk  
16 as soon as practicable.

17 5. If the federal employee assigned to serve these documents is not reasonably able  
18 to serve the papers as provided in paragraph 3, petitioner may request a court order granting  
19 leave to serve by other means. *See* Fed. R. Civ. P. 81(a)(5). The request shall detail the efforts  
20 made to serve the respondent.

21 6. The file reflects a *prima facie* showing that the investigation is conducted pursuant  
22 to a legitimate purpose, that the inquiry may be relevant to that purpose, that the information  
23 sought is not already within the Commissioner's possession, and that the administrative steps  
24 required by the Code have been followed. *See United States v. Powell*, 379 U.S. 48, 57-58  
25 (1964). The burden of coming forward therefore has shifted to whoever might oppose  
26 enforcement.

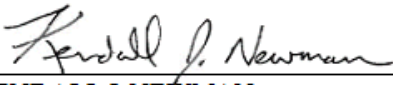
27 7. If the respondent has any defense or opposition to the petition, such defense or  
28 opposition shall be made in writing and filed with the Clerk and a copy served on the United

1 States Attorney at least 10 days before the show cause hearing date including any continued  
2 date.

3 8. At the show cause hearing, the Magistrate Judge intends to consider the issues  
4 properly raised in opposition to enforcement. Only those issues brought into controversy by the  
5 responsive pleadings and supported by affidavit will be considered. Any uncontested allegation  
6 in the petition will be considered admitted.

7 9. The respondent may notify the Court, in a writing filed with the Clerk and served  
8 on the United States Attorney at least 10 days before the date set for the show cause hearing,  
9 that the respondent has no objections to enforcement of the summons. The respondent's  
10 appearance at the hearing will then be excused.

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12 Dated: August 18, 2015

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15 KENDALL J. NEWMAN  
16 UNITED STATES MAGISTRATE JUDGE  
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