

## IRS Ordered to Process §501(c)(4) Application of Tea Party organization, finding violation of constitutional rights

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The U.S. District Court for the Southern District of Ohio publicly issued a slightly redacted Opinion and Order in *NorCal Tea Party Patriots, et al. v. Internal Revenue Service*, Case No. 1:13cv341, on Friday, November 4, 2016, ruling against the IRS. The issue in the case is whether the IRS discriminated against nonprofit tea party groups that applied to the IRS for recognition of exempt status. As unfolded during the past several years, the IRS was excoriated by Congress and the public for its handling of these applications from organizations that applied for recognition of exempt status, in this case as section 501(c)(4) social welfare organizations. The IRS delayed processing the applications of groups with tea party or other political markers whose applications reflected the potential for substantial political activity. The organizations that are a part of this *NorCal* class action lawsuit allege viewpoint discrimination, based upon their self-described views which dissent against the current presidential administration.

Texas Patriots Tea Party ( TPTP ), a member of the class, is the only organization whose application is still pending before the IRS. The Court granted TPTP's Motion for Injunctive Relief and ordered the IRS to consider TPTP's application for exempt status, pending for three years, in the ordinary course of its operations. The IRS had declined to do so pending the outcome of this litigation. In granting TPTP's request for relief, the Court reiterated the D.C. Circuit's finding: Processing applications pursuant to different standards and at different rates depending upon the viewpoint of the applicants [is] a blatant violation of the First Amendment. *Z Street v. Koskinen*, 791 F.3d 24, 32 (D.C. Cir. 2015). The Court disagreed with the Government's argument that TPTP could not prove irreparable harm, and held that the loss of First Amendment freedoms causes irreparable injury the public interest lies with the protection of constitutional rights. [*Liberty Coins, LLC v. Goodman*, 748 F.3d 682, 690 (6<sup>th</sup> Cir. 2014)] The Court also denied the IRS Motion for Partial Summary Judgment, ruling that the case is not moot and TPTP does not lack standing to pursue its claims against the IRS.