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Plummer v. Comm'r of Internal Revenue

United States Tax Court

Sep 27, 2022

No. 30144-21 (U.S.T.C. Sep. 27, 2022)

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30144-21

09-27-2022

MARK B. PLUMMER & JOCELYN B. PLUMMER, Petitioners v.
COMMISSIONER OF INTERNAL REVENUE, Respondent

Holmes, Judge

This case is set for trial at the Los Angeles, California trial session beginning at 10:00 am on Monday, January 30, 2023.

Please refer to the Notice Setting Case for Trial for more information.

STANDING PRETRIAL ORDER

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About the Court. The U.S. Tax Court hears disputes between taxpayers (petitioners) and the IRS (respondent). The Court is independent of, and not affiliated with, the IRS. Documents previously given to the IRS are not part of the record in this case and may not be considered unless made a part of this case.

Contact Information. The parties must provide the Court with current contact information. If your phone number, email, or mailing address changes, inform the Court right away by filing a Notice of Change of Address form, available on the Court's website, www.ustaxcourt.gov.

Electronic Filing (eFiling). The Court encourages registration for DAWSON, the Court's electronic filing and case management system, so that you can electronically file and view documents in your case. If you are not registered for eFiling, you must send the opposing party a copy of any document you file with the Court. To register for DAWSON, email dawson.supDort@ustaxcourt.gov. eFiling will remain available to parties during the trial session. For more information, see www.ustaxcourt.gov.

Communication Between the Parties. The parties must begin discussing settlement and/or preparation of a stipulation of facts (facts on which the parties agree) as soon as possible. All minor issues should be settled so that the Judge can focus on the issue(s) needing a decision. Some cases may be susceptible to partial or full settlement, and the Court expects the parties to negotiate in good faith with this goal in mind. If a party has trouble communicating with another party or complying with this Order, that party should inform the Judge right away by filing a Status Report or requesting a conference call by calling the Judge's chambers at the phone number listed below.

Language Barriers. All Court proceedings are conducted in English. All documents must be filed in English or include a certified English translation. You should let the Judge know as early as possible if you require help with

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www.ustaxcourt.gov). **If you have not settled your case and you do not participate in conference calls and pretrial conferences, or appear at trial, the Judge may dismiss your case and enter a decision against you.**

Any failures may also be considered in relation to sanctions against and disciplinary proceedings involving counsel. See Rule 202(a).

To allow the efficient disposition of all cases on the trial calendar:

It is ORDERED that the parties comply with the following deadlines and requirements, unless the Court, upon request, grants an extension:

1. No later than *60 days before the first day of the trial session*: If a party wants to ask the Judge to decide all or part of the case without trial, the party may file a Motion for Summary Judgment.

2. No later than *45 days before the first day of the trial session*: The parties should file any motions related to discovery or stipulations.

3. No later than *31 days before the first day of the trial session*:

A. *Motion for Continuance*. The parties may file any Motions for Continuance (postponement of trial), which the Judge will grant only in exceptional circumstances. See Rule 133. Even joint Motions for Continuance are not automatically granted.

B. *Motion to Proceed Remotely*. The parties may file a Motion to Proceed Remotely. If the Judge grants the motion, you will be provided with detailed instructions, including the date, time, and Zoomgov information for the remote proceeding.

4. No later than *30 days before the first day of the trial session*: If a party plans to call an expert witness at trial, that party must file a Motion for Leave to File an Expert Report and lodge (that is, submit separately through DAWSON if registered for eFiling or otherwise submit in paper) the expert report. An

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Report.

A. *Settlement*. If a basis for settlement has been reached, the Proposed Stipulated Decision must be electronically filed no later than 21 days before the first day of the trial session. If the parties have reached a basis for settlement and need additional time to file the Proposed Stipulated Decision, they must file a joint Status Report including a summary of the basis of settlement no later than 21 days before the first day of the trial session. A Stipulation of Settled Issues should be attached, if available. The Status Report must state the reasons for delay in filing the Proposed Stipulated Decision. The Court may issue an Order specifying the date by which the Proposed Stipulated Decision will be due. If a basis for settlement is reached after the trial session begins, the Court will handle any required scheduling on the record.

B. *Pretrial Memoranda*. If a basis for settlement has not been reached and it appears that a trial is necessary, each party must file a Pretrial Memorandum no later than 21 days before the first day of the trial session. A Pretrial Memorandum form is attached to this Order.

i. *Witnesses*. Witnesses must be identified in the pretrial memorandum with a brief summary of their anticipated testimony. Witnesses who are not

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identified will not be permitted to testify at the trial without a showing of good cause.

C. *Motion to Dismiss for Lack of Prosecution*. If a party has been unresponsive and has failed to cooperate in preparing the case for trial or resolution or to participate in preparing a Stipulation of Facts, the opposing party should file a Motion to Dismiss for Lack

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pages within documents.

A. *Stipulation of Facts*. All facts and documents must be stipulated (agreed upon in writing) to the maximum extent possible. If a complete stipulation of facts is not ready for submission no later than 14 days before the first day of the trial session, or when otherwise ordered by the Court, and if the Court determines that this is due to lack of cooperation by either party, the Court may order sanctions against the uncooperative party.

B. *Proposed Trial Exhibits*. All documents or materials (except impeachment documents or materials) that a party expects to use at trial that are not in the Stipulation of Facts must be exchanged with the opposing party as Proposed Trial Exhibits.

7. *No later than 7 days before the first day of the trial session*: The parties must file with the Court either a Supplemental Stipulation of Facts with any agreed Proposed Trial Exhibits or any unagreed Proposed Trial Exhibits. The Court may refuse to receive in evidence any document or material that is not filed as a Proposed Trial Exhibit no later than 7 days before the first day of the trial session. See the Court's website (www.ustaxcourt.gov) for instructions on identifying documents and numbering pages.

8. *Change in Case Status*. A Status Report must be filed to inform the Court if the status of the case changes at any time before the trial date and after a Pretrial Memorandum, Motion to Dismiss for Lack of Prosecution, or Status Report is filed. Alternatively, if the case has settled, a Proposed Stipulated Decision may be filed.

9. *Remote Proceeding Access*. If a remote proceeding is scheduled in your case, the parties must appear before the Judge as instructed in the Notice Setting Case for Trial. Information on how to use Zoomgov, including tips, can be found on the Court's website www.ustaxcourt.gov. A personal Zoom account is not required, and there is no cost to the parties. The parties are

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trial session unless a specific date and time has been previously set by the Court. After Pretrial Memoranda are filed, the Court may schedule a specific date and time for the trial. The parties may also jointly contact the Judge's chambers to request a specific date and time for the trial. If practicable, the Court will attempt to accommodate the request, keeping in mind other scheduling requirements and the anticipated length of the session. Parties should jointly inform the Judge as early as possible if they expect trial to require 3 days or more.

If you do not follow the provisions of this Order, the Judge may dismiss your case and enter a Decision against you. *3

Petitioner's (Taxpayer's) Getting Ready for Trial Checklist

Before you come to Court:

If possible, register for DAWSON, the Court's electronic filing and case management system. Registering allows you to submit documents electronically and to view documents submitted by the IRS or issued by the Court as soon as they are filed.

Review all the materials the Court has sent you.

Think about what facts you want to tell the Judge.

Organize your facts and arguments so you can tell your side of the story.

Organize any documents you have to support your case.

Speak to the people at the IRS who call or write to you after you get this notice.

Provide copies of documents to the IRS as soon as possible. The parties are required to exchange copies of any documents they want to use at trial.

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the Court as proposed trial exhibits no later than 7 days before trial. Read the instructions on the Court's website on to how to label each exhibit and remember to include page numbers.

Consider whether you need any witnesses to support your case. If you plan to have a witness, let the IRS know no later than 21 days before trial. Make sure the witness is available for trial at the trial session.

Respond to communications and meeting requests from the Judge.

Be at your trial session early so you are ready when your case is called. You may wish to be there an hour before the starting time to have the opportunity to meet with clinical and calendar call attorneys.

Be ready when your case is called for trial.

4 Learn more about the U.S. Tax Court at www.ustaxcourt.gov. *4

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