

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

Valdy Patriot,)
Plaintiff)
) Civil no. 8:07-CV-00930-XXX-XXX
V.)
)
UNITED STATES OF AMERICA) PART II
Defendant) OPPOSITION TO MOTION TO DISMISS
) BY GOVERNMENT

Plaintiff Valdy Patriot hereby files Part II of his Opposition to the Government's Motion to Dismiss dated July 25, 2007. This is Part II of said objection. Part I was filed on August 3.

1. Heretofore, Patriot filed his Part I of Objection the government's Motion To Dismiss. Therein, Plaintiff's pointed out that the government's Motion to Dismiss is very difficult to understand and should be rewritten. On August 10, he filed his Motion for Maximum Damages which are certainly warranted in this case.

DAMAGES

2. The Statute provides that the victim is entitled to damages with a cap of a million dollars for reckless and intentional disregard of the laws. Plus, damages with a cap of \$100,000 for negligence. Patriot's damages easily reach \$100,000 and the IRS conduct in this case is more than reckless, almost malicious. The wage levy was totally unnecessary and the IRS agents ignored his numerous pleas and explanations.

3. The damages should be enhanced because of the intransigents and bullying of the DOJ. In the companion case Patriot vs USA MDFL # 8:05-cv-2019-JDW-MAP, the US attorney told the Judge that the levy was invalid, but the same department has been fighting this case since then tooth and nail. When the government attorneys admitted the levy was incorrect, why didn't they just refund Patriot's money?

No, they made him fight every inch for what they admitted already belonged to him. For the time and expenses the plaintiff expended on this case after the said admission of opposing attorneys, for this alone, Patriot should be awarded damages of \$50,000 or time and costs times a multiple of 10. The IRS needs incentive to quickly settle these cases rather than eat up the value time of the courts.

4. As mentioned in their Motion to Dismiss, the government agreed to refund Patriot his \$5,387 that was illegally taken from his paycheck. This was done last week. However, the IRS should also pay interest as usual.

5. Further, Patriot is entitled to \$500 for filing fee, summons, coping and transportation expenses for the earlier lawsuit in this case. That lawsuit was a necessary part of the chain to stop the legal levy and recover illegal taking. Recovery of those expenses is necessary because it forced the DOJ to admit that the levy was invalid

6. Damages include:

- A. Interest for two years on the \$5,300 recently returned.
- B. Cost of this action, court cost, filing fees, service fees of \$500
- C. Costs of the companion case, filing fees, service fees, copying, travel etc.\$500
- D. Patriot's expenses, allowable costs in this case including \$500 for copying and travel.
- E. Westlaw expense of \$500.
- F. Patriot's time and expense in lieu of attorney's fees.
- G. Patriot's out-of-pocket expenses in lieu of Attorney's fees.
- H. \$100,000 actual damages for lost of use of his money, mental anguish, mental distress for him and his family, extra interest and penalties for missing payments, etc.
- I. Punishment damages against the government for its manifest wrongdoing in this case.
- J. Patriot expended a large amount of money and time pleading with the IRS to remove the improper levy and should be reimbursed for his administrative efforts.

Other Grounds

7. Plaintiff, by certified mail on June 6, 22007 mailed to four different locations to reach defendant, a 13 page NOTICE OF DESIGNATION UNDER LOCAL RULE 3.05 by Deputy Clerk Leigh-Martin as a TRACH TWO case. Under this rule, the parties shall meet within sixty days after service of the complaint for purpose of preparing and filing a case Management Report. Plaintiff is patiently waiting for defendant counsel to contact him. On July 31, 2007 plaintiff received a letter with the United States of America's motion to dismiss. This for the first time informed him of the name and contact of counsel on record.

Procedural History

8. IRS illegally entered on plaintiff's record two identical assessments of \$11,169.00 against him. When they abated one after plaintiff petitioned the tax court, the other was still there to harass plaintiff. IRS tried to collect again by issuing notice of levy on a third party. Plaintiff filed for a collection hearing. IRS disregarded plaintiff's request and collected \$5,387.11

This left plaintiff with \$315.00 biweekly to feed his two daughters ages 6 and 7 then plus ailing, not working wife.

9. This illegal IRS action placed a pecuniary injury upon plaintiff and his family. IRS stopped illegal collection after plaintiff filed action in US District court for the Middle District of Florida. See case No: 8:05-cv-2019-JDW-MAP. IRS suspended the levy but the court took no further action after defendant claimed that plaintiff did not exhaust administrative remedy.

Then, Plaintiff filed his administrative claim for unauthorized collection actions under IRC section 7433 and 26 CFR 301.7433.1 See exhibit B attached to his lawsuit.

10. Plaintiff incurred much work like writing letters to countless IRS departments, the Taxpayers Advocate, FOIA requests, senators and Representatives, seeking legal advice, travel, phone conversations, plus costs associated with these activities.

This Court has subject matter jurisdiction and plaintiff is entitled \$100,000 for actual damages inflicted by IRS illegal collection by levy and entering two assessments on plaintiff record.

11. In conclusion, Plaintiff is entitled to true and correct record from his government as required by law. Plaintiff took many steps to correct his record. Each time plaintiff encountered stonewalling, secrecy. Plaintiff spent so much time, energy and funds to compel his government to obey the rule of law.

CERTIFICATE OF SERVICE: I hereby certify that on or about this date, I mailed properly a copy of this pleading to all parties at their proper addresses, postage pre-paid.

August 21, 2007

Valdy Patriot, Pro Se
North Port, Fl 34286