

UNITED STATES TAX COURT
Washington, D.C. 20217

MICHAEL SHAMROCK & VICTORIA BIGG,)
)
 Petitioners,)
)
 v.)
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent)

Rm
Docket No. 28725-11

ORDER

On January 27, 2015, petitioners filed a motion for recusal of Judge (petitioners' motion). In petitioners' motion, petitioners assert, inter alia, that Judge Chiechi "is not following the mandate of the Seventh Circuit". As we understand their position in that motion, petitioners do not believe that the Court's order dated January 15, 2015 (January 15, 2015 order), in which Judge Chiechi set this case for evidentiary hearing with respect to whether to set aside the stipulation of settled issues and the supplemental stipulation of settled issues that the parties filed with the Court on February 28, 2013, and October 28, 2013, respectively, is consistent with the order of the U.S. Court of Appeals for the Seventh Circuit (Court of Appeals) filed on September 22, 2014, its judgment entered on September 23, 2014, and its mandate issued on November 17, 2014, remanding this case for further proceedings in accordance with that order and that judgment.

It is obvious to the Court that petitioners consider the January 15, 2015 order with which they do not agree as a ruling that is adverse to them. The January 15, 2015 order was not based on any extrajudicial information. That order was based upon a deliberative process of determining what the Court should do on remand from the Court of Appeals in order to comply with that Court's order, judgment, and mandate. As part of that deliberative process, the Court issued an order dated November 25, 2014 (November 25, 2014 order). In that order, the Court ordered the parties to file a status report in which they were to indicate what they believed the Court should do on remand from the Court of Appeals in order to comply with the order and the judgment of that Court. On December 11, 2014, the parties filed a joint status report in response to the Court's November 25, 2014 order. That joint status report sets forth the parties' respective views on what they believe the Court should do on remand in order to comply with the order and the judgment of the Court of Appeals.

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In the joint status report, petitioners stated in pertinent part:

Based upon the facts and law cited by the Court of Appeals, a hearing on this matter is unnecessary because the facts in this case are self evident. Asking the taxpayers or Mr. Niehus about this matter in a hearing does not change the fact that Niehus falsely represented to taxpayers, the Commissioner, and this Court that he was unqualified [sic] to practice and indeed gave the taxpayers clearly erroneous advice.

In the joint status report, respondent asked the Court to set this case for an evidentiary hearing in order to determine whether petitioners should be relieved from the stipulation of settled issues and the supplemental stipulation of settled issues that the parties filed with the Court on February 28, 2013, and October 28, 2013, respectively.

Adverse rulings of the Court are not indications of bias or grounds for disqualification of a judge. See, e.g., Liteky v. United States, 510 U.S. 540, 555 (1994); United States v. Grinnell Corp., 384 U.S. 563, 583 (1966); United States v. Conforte, 624 F.2d 869, 882 (9th Cir. 1980); United States v. Azhocar, 581 F.2d 735, 738-739 (9th Cir. 1978); United States v. Carroll, 567 F.2d 955, 958 (10th Cir. 1977); United States v. Schwartz, 535 F.2d 160, 165 (2d Cir. 1976).

After due consideration and for cause, it is

ORDERED that petitioners' motion is denied.

(Signed) Michael B. Thornton
Chief Judge

(Signed) Carolyn P. Chiechi
Judge

Dated: Washington, D.C.
January 30, 2015