

UNITED STATES TAX COURT
WASHINGTON, DC 20217

MARLENE D. MORTEN,)	
)	
Petitioner,)	
)	
v.)	Docket No. 2451-13.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER

Now before the Court is a motion for reconsideration of our order of February 1, 2016, granting, in part, respondent’s motion to compel filed February 1, 2016. We will grant the motion in small part and otherwise deny it.

On December 15, 2015, the IRS had served on Ms. Morten a request for admissions, consisting of 13 assertions of alleged fact. The asserted facts are relevant, discrete, objective, and verifiable or deniable. Ms. Morten has not filed any response to the request for admissions. In view of Ms. Morten's non-response to the requested admissions, the requested admissions of fact were all deemed admitted as of January 14, 2016, the due date of the response, by the operation of Rule 90(c). Ms. Morten has not requested any relief as to the deemed admission.

Also on December 15, 2015, the IRS served on Ms. Morten two interrogatories: Interrogatory No. 1 requested information with respect to any of the requested admissions that were not admitted. Since all the requested admissions are deemed admitted, the interrogatory is moot.

Interrogatory No. 2 requested the name and contact information of each witness that Ms. Morten expects to call at the trial of this case.

On February 1, 2016, the IRS filed a motion to compel responses to the two interrogatories. In our order of that same day, we denied the motion in part as moot with respect to Interrogatory No. 1. We granted the motion in part as to Interrogatory No. 2, and ordered that no later than February 26, 2016, Ms. Morten shall serve on respondent a response providing the information sought in Interrogatory No. 2--i.e., the identities and contact information of the witnesses. We observed that we did need to request from Ms. Morten a response to the motion to compel, since the interrogatory is manifestly proper and seeks relevant information that Ms. Morten ought to be able to provide, now a full three years after she filed her petition.

Ms. Morten's motion for reconsideration "asks the Court to set aside its February 1, 2016 Order and to issue a new Order granting Petitioner 30 days (or until March 17, 2016) to respond to the Government's interrogatories and request for admissions." However, our order that her motion addresses made no ruling whatsoever as to the requested admissions but simply observed the truism that the requested admissions had been deemed admitted by the simple operation of Rule 90. Ms. Morten has made no showing that the deemed admitted facts are not true nor otherwise complied with Rule 90(f). Rather, she has described only the difficulty she has experienced in accessing the filings made in this case.

However, our order of October 23, 2015, illustrated the difficulty that the Court and respondent have had in communicating with Ms. Morten. And as we said in our order of February 1, 2016, "This case was commenced three years ago in January 2013. Ms. Morten is pro se; however, she is an attorney. Her case has been continued three times for her benefit. Trial has now been scheduled to be conducted at the Court's session in Washington, D.C., beginning May 2, 2016, and the case will not be continued but rather will proceed on that schedule." The Court has heretofore made extraordinary accommodations to Ms. Morten in the scheduling of the trial in this case, and those accommodations are at an end. She is not entitled to render herself incommunicado and then to bear no responsibility for the prosecution of this case. Ms. Morten is obliged either to handle her duties under the rules or to hire whatever assistance is needed in order to do so. It is

ORDERED that the motion is granted in part, in that our order of February 1, 2016, is modified to extend until March 17, 2016, the date by which Ms. Morten shall serve on respondent a response providing the information sought in Interrogatory No. 2--i.e., the identities and contact information of the witnesses. It is further

ORDERED that Ms. Morten's motion is denied insofar as it attempts, by requesting reconsideration, to be relieved from deemed admissions.

(Signed) David Gustafson
Judge

Dated: Washington, D.C.
February 19, 2016