

**UNITED STATES TAX COURT
WASHINGTON, DC 20217**

FAITH LYNN BRASHEAR & HENDEL N.)
THISTLETOP,)
)
Petitioners,)
)
v.) Docket No. 13189-13
)
COMMISSIONER OF INTERNAL REVENUE,)
)
Respondent.)

ORDER

Daniel J. Pilla’s motion to withdraw as petitioners’ counsel, filed June 16, 2016, and supplemented on August 17, 2016, and September 23, 2016, was heard in Los Angeles, California, on October 4, 2016. Faith Lynn Brashear appeared on her own behalf. Daniel V. Triplett, Jr. appeared on behalf of respondent. In lieu of attendance at the hearing, Mr. Pilla submitted a written statement, filed September 29, 2016. See Rule 50(c), Tax Court Rules of Practice and Procedure.

Petitioners’ fee dispute with Mr. Pilla forms the basis for their objection to his motion. Otherwise, it is clear from what has been submitted that Mr. Pilla’s representation of petitioners in this case cannot continue given the adversity that currently exists between them.

In support of his motion, Mr. Pilla submitted his time sheet/billing statement, which we have carefully reviewed. While we question the amount of time charged for some of the seemingly routine activities, there is insufficient evidence in that statement, or otherwise in the record, to support a finding that excess billings operate to violate the fiduciary duty owed to petitioners to such an extent so as to allow for an order of disgorgement. See Restatement (Third), Law Governing Lawyers, sec. 37. The fee dispute between petitioners and Mr. Pilla, should either party continue to pursue it, will have to be resolved in a different forum.

Premises considered, it is

ORDERED that Daniel J. Pilla's motion to withdraw, filed June 16, 2016, and supplemented on August 17, 2016, and September 23, 2016, is granted, and he is withdrawn as petitioners representative in this case. Under the circumstances, and because this case involves the substantiation of deductions claimed by petitioners, it is further

ORDERED that within two weeks of service of this order upon him, Daniel J. Pilla return to petitioners any documents provided to him by them that might have any evidentiary value in connection with the disputed issues in this case.

(Signed) Lewis R. Carluzzo
Special Trial Judge

Dated: Washington, D.C.
October 25, 2016