

UNITED STATES TAX COURT  
 WASHINGTON, DC 20217

BARRY M. SMITH & ROCHELLE SMITH, )  
 )  
 Petitioner(s), )  
 )  
 v. ) Docket No. 14900-15.  
 )  
 COMMISSIONER OF INTERNAL REVENUE, )  
 )  
 Respondent )

**ORDER**

On April 10, 2017, the Court held a conference call with the parties. The parties had requested that call after counsel for respondent raised concerns about potential conflicts of interest. During the call the Court directed counsel for petitioners to obtain written waivers from both petitioners, expressing their agreement to waive any potential conflicts of interest arising from their joint representation in the case. The Court also suggested that counsel for petitioners provide copies of the waiver agreements to respondent’s counsel. Counsel for petitioners have since obtained from petitioners written waivers and consents to the joint representation.

On May 23, 2017, petitioners filed a Motion for Reconsideration of Order, which the Court believes should properly be characterized as a status report. In that status report counsel for petitioners represent that the waiver agreements executed by petitioners include confidential information concerning legal advice and potential risks regarding the representation that is protected by attorney-client privilege. Counsel for petitioners accordingly submit that it would be inappropriate to disclose these documents to counsel for respondent.

Rule 24(g) provides (among other things) that if counsel of record “represents more than one person with differing interests with respect to any issue in a case,” such counsel must either secure informed consent from the clients or take whatever steps are necessary (including withdrawal) to eliminate the conflict. We accept the representations of petitioners’ counsel that they have secured the necessary consents and have thus complied with the requirements of Rule 24(g). Given

the manner in which these waiver agreements have apparently been drafted, we do not believe it necessary that copies be supplied to respondent's counsel.

To reflect the foregoing, it is

ORDERED that petitioners' Motion for Reconsideration of Order, filed May 23, 2017, is recharacterized as Petitioners' Status Report. It is further

ORDERED that counsel for petitioners are not required to provide to respondent's counsel copies of the written waivers and consents obtained from their clients.

**(Signed) Albert G. Lauber  
Judge**

Dated: Washington, D.C.  
June 1, 2017