

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

FRITZ STEVEN SCHWAGER,	)	
	)	
Petitioner(s),	)	
	)	
v.	)	Docket No. 17954-18 L.
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent	)	
	)	
	)	
	)	
	)	
	)	

**ORDER**

This case is currently calendared for trial at the Court’s session in Detroit, Michigan, which is scheduled to begin September 23, 2019. On October 22, 2018, the Court received a document from petitioner Fritz Steven Schwager styled as “petitioner’s attorney in fact appearance.” That document purported to be an entry of appearance by Edwin Victor Nassar, who is not an attorney, on behalf of Mr. Schwager to act as Mr. Schwager’s representative in this case.

Rule 24(a) of the Tax Court Rules of Practice and Procedure governs entries of appearance in this Court. Rule 24(a)(4) provides that, barring special dispensation from the Court, “[n]o entry of appearance by counsel not admitted to practice before this Court will be effective until counsel shall have been admitted” to practice before us. This leads to Rule 200, which requires, *inter alia*, that an applicant for admission to practice “establish to the satisfaction of the Court that the applicant is of good moral and professional character and possesses the requisite qualifications to provide competent representation before the Court.”

In this case, the Court examined its records and determined that Mr. Nassar has not been admitted to practice before this Court. Accordingly, on November 7, 2018, the Court returned Mr. Schwager’s October 2018 document. Enclosed with

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that return mail was a cover sheet specifying that the document was being returned because Mr. Schwager's representative was not admitted to practice.

In three filings (of December 2018, January 2019, and May 2019), Mr. Schwager asserted that he had a constitutional right to counsel of his choice, that he was confident in Mr. Nassar's ability to represent him, and that our decision worked a deprivation of his due process rights.

Mr. Schwager's arguments are meritless. The Sixth Amendment right to counsel does not extend to Tax Court proceedings. See, e.g., Cupp v. Commissioner, 65 T.C. 68, 85-86 (1975), aff'd without published opinion, 559 F.2d 1207 (3d Cir. 1977); Masters v. Commissioner, T.C. Memo. 1985-116, 49 T.C.M. (CCH) 961, 962 (1985) (same), aff'd without published opinion, 791 F.2d 937 (9th Cir. 1986); Telfeyan v. Commissioner, T.C. Memo. 1988-425, 56 T.C.M. (CCH) 96, 97-99 (1988), aff'd without published opinion, 881 F.2d 1086 (11th Cir. 1989).

Moreover, Congress has explicitly equipped this Court with the authority to govern those who practice before it. See sec. 7452 (providing that the representation of taxpayers before this Court is to be conducted "in accordance with the rules of practice prescribed by the Court"). This statutory provision comes against the backdrop of federal courts' broad (and oft-recognized) authority to regulate those before them. See, e.g., Goldsmith v. U.S. Bd. of Tax Appeals, 270 U.S. 117, 122-123 (1926) (concluding that predecessor to the Tax Court possessed the implied authority to regulate the admission to practice before it); Pappas v. Philip Morris, Inc., 915 F.3d 889, 894-895 (2d Cir. 2019) (noting that "[f]ederal courts have discretion to adopt such rules as are necessary to carry out the business of the courts \* \* \* includ[ing] the regulation of admissions to a court's own bar"); Matter of Abrams, 521 F.2d 1094, 1099 (3d Cir. 1975) (discussing the "unquestioned principle" that federal courts have the power "to prescribe requirements for admission to practice before that court").

As we have explained before, "the requirement that only qualified persons are permitted to represent litigants before this Court is for the protection of litigants by insuring that only persons able to properly represent a party appear for him." Cupp v. Commissioner, 65 T.C. at 85. See also Masters v. Commissioner, 49 T.C.M. (CCH) at 962. Mr. Schwager will have a full opportunity to be heard. But because Mr. Nassar has not been admitted to practice in this Court, he cannot serve as Mr. Schwager's representative in this case.

Having concluded that Mr. Nassar is presently ineligible to represent Mr. Schwager in this case, we briefly address a recent May 20, 2019, filing by Mr. Nassar styled as a “question of jurisdiction to both U.S.T.C. and IRS.” Unlike the previous filings, this document bears only Mr. Nassar’s signature. The filing thus is improper, and we will strike it from our record. In doing so, we wish to make clear that Mr. Schwager is not prohibited from filing documents in this case on his own behalf.

In view of the foregoing, it is

ORDERED that Petitioner’s Constitutional Rights to Due Process and Representative of Petitioner’s Choosing, filed May 13, 2019, shall be stricken from the Court’s record. It is further

ORDERED that the “question of jurisdiction to both U.S.T.C. and IRS,” filed May 20, 2019, shall be stricken from the Court’s record.

**(Signed) Patrick J. Urda  
Judge**

Dated: Washington, D.C.  
May 31, 2019