

UNITED STATES TAX COURT
WASHINGTON, DC 20217

DRC

MARC L. MANCINI,)	
)	
Petitioner(s),)	
)	
v.)	Docket No. 16975-13.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	
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ORDER

The Court released the opinion in this case, T.C. Memo. 2019-16, on March 4, 2019. Petitioner moved for reconsideration on two grounds -- that the Court incorrectly found that he had failed to substantiate his losses and that the Court erred in its analysis of the requirements for casualty loss.

1. *Substantiation.* Petitioner disagrees first with the Court’s finding in the alternative that he hadn’t substantiated the amount of his casualty loss. This argument depends in part on spreadsheets of uncertain provenance that Mr. Mancini provided to the auditor. We excluded them as irrelevant -- our trials are *de novo* and not retrials of what happened during an audit. As the Court also stated, the evidence does show that Mr. Mancini wagered an enormous amount of his net worth on gambling under the influence of the prescription drug he was on. But neither the amount nor the year it was lost was proven with any reasonable precision. To fix the amount of gambling losses one needs to also know about gambling winnings, and the records from two of the casinos were also not adequately explained at trial. Mr. Mancini had used an expert to reconstruct his losses as part of the lawsuit that he filed against the manufacturer of the drug that caused him to develop impulse control disorder, but that expert did not testify.

2. *Requirements of a casualty loss.* Mr. Mancini also objects to the Court's holding that proof of a casualty loss requires proof of physical damage to a physical asset. Mr. Mancini argues that the Court agreed with him when the case was at the summary-judgment stage, but the Court only ruled that the question was close enough so that ruling on the merits of the Commissioner's motion would unduly delay trial. We don't doubt that the word "property" generally includes intangible assets, but Mr. Mancini still does not point us to any cases that show how intangible property can be the subject of a casualty loss.

It is therefore

ORDERED that petitioner's April 4, 2019 motion for reconsideration is denied. In light of petitioner's counsel's informally disclosed health problems this summer, more time to elicit any comments he has on the Commissioner's computations is reasonable, and it is also

ORDERED that petitioner may submit his own computations under Rule 155 (and include a discussion of any objections to respondent's) on or before October 18, 2019.

(Signed) Mark V. Holmes
Judge

Dated: Washington, D.C.
September 11, 2019