

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

CHAD HENDERSON & SHARON HENDERSON,)	
)	
)	
Petitioners,)	CT
)	
v.)	Docket No. 14187-16L.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER

This case was commenced in response to a notice of determination concerning collection action under Section 6330. The petitioners alleged in their petition that they are seeking relief for the “correct tax” during the years in issue. The petition reflected an Anaheim, California, address; and San Diego, California, was requested as the place of trial.

By notice served November 21, 2016, the case was set for trial in San Diego, California, on April 17, 2017. On February 16, 2017, respondent filed a Motion for Summary Judgment and a supporting Declaration of Lynette Dallam in Support of Motion for Summary Judgment. Respondent asserts that a statutory notice of deficiency was sent to petitioners with respect to the underlying liabilities and that they did not file a petition with the Court with respect to that notice, which they acknowledge receiving. Petitioners are therefore precluded from consideration of the underlying liabilities in this action by reason of Internal Revenue Code Section 6330(c)(2)(B). Respondent also alleged that petitioners failed to respond to requests for information and were not compliant with their current filing obligations. Although alleging compliance with requirements of law and administrative procedures in general terms, respondent does not specifically address all requirements that may appropriately be considered. See, e.g., Graev v. Commissioner, 147 T.C. No. 16 (Nov. 30, 2016); see also Chai v. Commissioner, ___ F.3d ___, 2017 WL 1046108 (2d Cir. Ct. App. Mar. 20, 2017), aff’g in part, rev’g in part T.C. Memo. 2015-42.

Petitioners were ordered to respond to the motion by March 16, 2017. Rule 121(d), Tax Court Rules of Practice and Procedure, requires that a party opposing summary judgment “must set forth specific facts showing that there is a genuine dispute for trial.” Petitioners’ response to respondent’s motion was received (by forwarding from the Internal Revenue Service) on March 20, 2017. That response was inadequate to show any genuine dispute for trial. The response showed a return address in Alpine, Utah, although petitioners state that they wish to appear in San Diego on April 17, 2017, and to “present testimony and other information.” Petitioners will not be permitted at any hearing on respondent’s motion to present additional testimony

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concerning the underlying liability or to present arguments not presented to the Office of Appeals prior to the notice of determination. However, the Court acknowledges their willingness to appear and will hear appropriate argument with respect to the motion.

Upon due consideration and for cause, it is hereby

ORDERED that on or before April 17, 2017, petitioners shall file with the Court a statement of their current address, i.e., whether their correct address for purposes of service of documents in this case is the Anaheim, California address or the Alpine, Utah address. It is further

ORDERED that on or before April 10, 2017, respondent may supplement the motion for summary judgment with any additional affidavit or argument concerning compliance with the requirements of law and administrative procedures supporting the notice of determination in this case, specifically with respect to compliance with Internal Revenue Code Section 6751(b)(1). It is further

ORDERED that respondent's motion for summary judgment filed February 16, 2017, is set for hearing at the trial session of the Court heretofore scheduled to commence at 10:00 a.m. on April 17, 2017, in Room 4228, Federal Building, 880 Front Street, San Diego, California. It is further

ORDERED that in addition to service on petitioners at their address of record in this case, the Clerk of the Court shall serve this Order on petitioners at the Utah address shown on their response to the motion for summary judgment.

**(Signed) Mary Ann Cohen
Judge**

Dated: Washington, D.C.
March 22, 2017