

UNITED STATES TAX COURT
WASHINGTON, DC 20217

PA

D & K CARE SERVICE, INC.,)
)
 Petitioner(s),)
)
 v.) Docket No. 20661-17 L.
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent)

ORDER OF DISMISSAL

The petition in this case was filed on October 2, 2017. By notice served September 18, 2018, it was set for trial in Mobile, Alabama, on February 13, 2019. On October 3, 2018, petitioner filed a Motion to Dismiss.

Filing the petition resulted in a suspension of collection activities under Internal Revenue Code section 6330(e). The Court observed a pattern in nine cases on the February 13, 2019, calendar, 25 cases on the January 31, 2018, calendar, and eight cases on the April 26, 2017, calendar in Mobile, all filed by the same counsel. Thus the Court ordered petitioner to supplement their motion and respondent to report with respect to the perceived pattern, raising the consideration of section 6673 and a penalty for cases instituted primarily for delay.

Respondent's response to the Court's order was filed on November 7, 2018, and confirmed the pattern observed by the Court. Petitioner's response was filed November 9, 2018. Petitioner's counsel argues that his conduct is not as bad as other situations where penalties have been imposed and that the motion to dismiss avoided further activity in this case. His arguments do not overcome the inference that this case was instituted primarily for delay. Counsel argues that in 36 years of practice he has never been sanctioned, warned or admonished. He has now been warned and admonished that if this perceived pattern continues, he and/or his client may face sanctions. Upon due consideration and for cause, it is hereby

ORDERED that this case is stricken from the calendar for the Court's session in Mobile, Alabama, on February 13, 2019. It is further

SERVED Nov 16 2018

ORDERED that petitioner's Motion to Dismiss filed October 3, 2018, is granted and this case is dismissed. It is further

ORDERED that in addition to regular service, the Clerk of the Court shall serve a copy of this Order on petitioner at their address of record.

**(Signed) Mary Ann Cohen
Judge**

ENTERED: **NOV 16 2018**