

**Pursuant to Tax Court Rule 50(f), orders shall not be treated as precedent, except as otherwise provided.**

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

**ORDER AND DECISION**

On February 4, 2013, the Court issued a memorandum opinion in this case. In that opinion, we found that the Appeals officer assigned to Jurate Antioco's appeal, Alan Owyang, abused his discretion in a collection due process (CDP) hearing. The Commissioner admitted that Mr. Owyang did abuse his discretion, but argued that the supplemental notice of deficiency should be sustained for various reasons. We found that we could not sustain the Commissioner's supplemental notice of deficiency on any of the grounds given. The case was remanded to Appeals to consider Antioco's proposed installment agreement, as well as her financial information including any special circumstances such as economic hardship.

Following the remand, on February 28, 2013, Antioco moved for litigation and administrative costs under Rule 231. Antioco later filed a supplemental motion, the Commissioner responded, and responses to the Commissioner's response followed.

The Court has already detailed the poor conduct of the Commissioner and his agent Mr. Owyang, and we decline to rehash the history in full. Suffice it to say that Mr. Owyang behaved very badly. His behavior included intimidating and berating Ms. Antioco, a 72 year old woman who cares for her 97 year old mother, as well as disregarding instructions from this Court following a remand to Appeals. After dealing with the IRS for about two years on her own, Ms. Antioco was scared enough by Mr. Owyang to hire an attorney, Steven Walker, to represent her. She alleges that because the Commissioner lost on the CDP issue, and because the Commissioner didn't have a good reason for his behavior, she ought to receive money to pay her attorney, whom she wouldn't have needed if Mr. Owyang had acted properly.

Section 7430 is the mechanism by which she made her request. Yet despite having won on the merits, and while this post-opinion motion was under consideration, the United States Government filed a complaint in U.S. District Court on July 14, 2014 to reduce to judgment the assessed tax debt that was the subject of the CDP proceeding under review which again threatened to put her home in jeopardy. Antioco moved to dismiss this complaint.

The District Court granted this motion (which by then the government did not object to) on September 22, 2014. This seems to have triggered an urge to put everything in this troubling case to rest and on October 5, 2014, the Commissioner and Antioco stipulated that we should grant the pending motion and award \$40,675.40 in attorney's fees and \$1,523.20. We will now do so.

It is therefore

ORDERED that petitioner's motion for award of litigation and administrative costs as supplemented is granted. It is also

ORDERED and DECIDED that the IRS pay to Jurate Antioco \$40,675.40 in attorney's fees and \$1,523.20 in costs as an award under section 7430 of the Internal Revenue Code. It is also

ORDERED and DECIDED that respondent may not proceed with the collection of petitioner's federal income tax liability for the tax years 2006 and 2007 as described in the Notice of Determination Concerning Collection Action(s) under Section 6320 and/or 6330, dated May 12, 2011.

(Signed) Mark V. Holmes  
Judge

ENTERED: NOV 17 2014