

In re: JOHN W. WOOD, JR., and MAGDELENA WOOD

JOHN W. WOOD, JR., Plaintiff.

v.

COMMISSIONER, INTERNAL REVENUE SERVICE, Defendant.

Case No.: 94-31415-BKC-PGH

Adv. No.: 04-3267-BKC-PGH

The Plaintiff initiated an adversary proceeding against the Defendant, alleging intentional violations of the automatic stay, violations of the Bankruptcy Court's jurisdiction, violations of the IRS's internal policies and procedures, and violations of due process in seizing the Plaintiff's tax refunds and commencing United States Tax Court proceedings against the Plaintiff. The Defendant moved to dismiss the adversary complaint for failure to name the United States as the proper defendant. The Defendant also moved to dismiss the complaint because the Plaintiff's tax liabilities were not discharged by the Plaintiff's bankruptcy plan, and collateral estoppel barred relitigating the allegations that the Defendant violated the automatic stay because the United States Tax Court previously denied that the Defendant violated the automatic stay.

The Court dismissed the complaint without prejudice for failure to name the proper defendant because the Plaintiff must sue the United States directly. The Court also dismissed with prejudice those counts of the complaint that alleged violations of the automatic stay, violations of due process, violations of the Bankruptcy Court's jurisdiction, and violations of the IRS's policies and procedures, regarding the Plaintiff's postpetition tax deficiencies. The Plaintiff was ordered to file an amended complaint within ten days of the filing of the Order granting the Defendant's motion.