

Parties.

2. The Petitioner in this action is April Mottahedeh (hereinafter, "Mrs. Mottahedeh"). Mrs. Mottahedeh's mailing address is 9582 Buttemere Road, Phelan, California 92371.
3. The Respondents in this action are the United States of America, the Internal Revenue Service, and Revenue Agent Christine Thai of the IRS. Revenue Agent Thai's mailing address is 501 W. Ocean Blvd., Room 6470, Long Beach, CA 90802.
4. The third party from whom records are sought, is Eastern Financial Florida Credit Union (hereinafter "Credit Union"), located at 3700 Lakeside Drive, Miramar, Florida 33027.

Facts.

5. The issuing officer of the Summons in question is Christine Thai (hereinafter, "Agent Thai"), IRS Revenue Agent. The alleged Summons indicates an issuance date of May 12, 2008. The envelope the alleged Summons was mailed in, is postmarked May 12, 2008 and was served on Mrs. Mottahedeh on May 14, 2008.
6. The alleged Summons indicates, at the top of the first page, that the subject of this investigation is Mrs. Mottahedeh. However, it appears that the real subject of the investigation is Peymon Mottahedeh ("Mr. "Mottahedeh"),

Mrs. Mottahedeh's husband.

7. Mr. Mottahedeh is politically active, has run for public office in the past, is critical of IRS' practices, policies and procedures and sometimes espouses views that are not popular with the IRS and the Federal Government, generally. Respondents are trying to suppress Mr. Mottahedeh's exercise of his 1st Amendment rights, and are abusing their Summons powers towards that effort, by issuing First and Third party Summonses to Mrs. Mottahedeh. It seems as if the Summons was issued for the purpose of investigating, curtailing and discouraging Mr. Mottahedeh's exercise of his First Amendment activities, which are critical to IRS' practices, policies and procedures. There are other instances where the same IRS investigators have abused their Summonsing powers and have used the Summons of Mrs. Mottahedeh as a means of harassing and intimidating Mr. Mottahedeh's above described First Amendment activities.
8. The IRS has labeled Mr. Mottahedeh with labels which are equivalent to the that of a "Tax Protester". Therefore, the IRS has failed to meet the "GOOD FAITH" requirement of the Powell standard.¹
9. The items in the Summons that Agent Thai requests from the Credit Union include "missing bank statements for a/c#94036927 from 2/26/05 to

¹ UNITED STATES v. POWELL, 379 U.S. 48 (1964)

6/21/05.” If the IRS is “missing” from the records these bank statements meaning that the IRS had at one time had possession of these bank statements, the IRS lacks the authority to summons these items yet again, for they should already be in its possession of the IRS. In this case the IRS has violated the Powell standard by seeking records that the IRS already has in its possession

10. If the documents referred to in preceding paragraph were summonsed on a previous occasion and some of the requested documents were not turned over to the IRS (therefore missing from previously disclosed material), then the IRS violated by the law by failing to give Mrs. Mottahedeh notice of the previous third party summons for said records, so Mrs. Mottahedeh could have availed herself of the opportunity to quash the summons, as was her right. In addition, the IRS failed to meet the “GOOD FAITH” requirement of the Powell Standard by not having served a copy of the previous Summons on Mrs. Mottahedeh.
11. The Summons also indicates that the Credit Union must turn over documents pertaining to parties other than Mrs. Mottahedeh, such as trusts. If any trusts or other third parties are the subject of Ms. Thai’s investigation, then it is an abuse of process to obtain any such information under the pretense of an investigation of Mrs. Mottahedeh.

12. The alleged summons was not verified by a written declaration as per the requirements of 26 U.S.C. § 6065.
13. The alleged summons does not comply with 26 U.S.C. § 7603(a), in that it was not attested.
14. In addition to failing to meet the above mentioned requirements of the Internal Revenue Code, the Summons also fails to meet the requirements of 12 U.S.C. Ch. 35, § 3403 and §3405.
15. For the reasons set forth in paragraphs 1 through 15, the alleged summons issued by Revenue Agent Christine Thai should be quashed².

Prayer for relief.

Petitioner respectfully requests that this Court quash the alleged third party administrative summons dated May 12, 2008, directed to the Credit Union, for the records pertaining April Mottahedeh, and the other records also sought by the IRS.

Respectfully submitted this 30th day of May, 2008.



April Mottahedeh
9582 Buttemere Rd.
Phelan, CA 92371

² According to United States v. Powell, 379 U.S. 48, it is required that a summons should be quashed when it is clear that it was issued in bad faith or the IRS has possession of material they are requesting

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

APRIL MOTTAHEDEH

(b) County of Residence of First Listed Plaintiff BROWARD
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
pro se
9582 Buttemere Rd.
Phelan, CA 92371

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input checked="" type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY					
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property					

V. ORIGIN

- (Place an "X" in One Box Only)
- 1 Original Proceeding
 - 2 Removed from State Court
 - 3 Remanded from Appellate Court
 - 4 Reinstated or Reopened
 - 5 Transferred from another district (specify)
 - 6 Multidistrict Litigation
 - 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION
 Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
26 USC 7609
 Brief description of cause:
Petition to quash IRS summons

VII. REQUESTED IN COMPLAINT:
 CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____
 CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):
 JUDGE _____ DOCKET NUMBER _____

DATE: 05/30/2008
 SIGNATURE OF ATTORNEY OF RECORD: *April Mottaheh*

FOR OFFICE USE ONLY
 RECEIPT # 543264 AMOUNT 3900 APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____