

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

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U.S. COURT OF APPEALS

JUN 03 2021

FILED _____
Docketed _____
DATE _____ INITIAL _____

APRIL MOTTAHEDEH,

Petitioner - Appellant,

v.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent - Appellee.

No. 19-71410

Tax Ct. No. 22039-11

United States Tax Court

**APPELLANT'S UNOPPOSED MOTION TO TRANSFER THIS CASE TO
THE ELEVENTH CIRCUIT COURT OF APPEALS**

COMES NOW, Appellant April Mottahedeh and makes this unopposed motion to transfer this case to the Eleventh Circuit Court of Appeals, where Appellee's counsel has informed Appellant that Appellee "takes no position" with regards to the instant motion of Appellant and Appellant has an Attorney to represent Appellant.

When this tax case was initiated, Appellant lived in California. Soon after the tax court trial was over, Appellant moved to Florida, where Appellant still lives today. This appeal was originally filed in the Eleventh Circuit by Appellant.

On May 6, 2019, Appellee made a Motion to Change Venue from the Eleventh Circuit to the Ninth Circuit which the court granted. Appellant has not lived in the Ninth Circuit Jurisdiction (State of California) since December 2013.

Appellant is acting *Pro Se*, Appellant needs to find competent counsel to represent Appellant. It is a great hardship for Appellant to travel to California to visit Attorneys that may be able to effectively represent Appellant in this Appeal.

The Coronavirus lockdowns and social distancing requirements made it even more difficult for Appellant to be able to find competent counsel who is licensed to practice in the Ninth Circuit.

Appellant had interviewed potential Attorneys in California and other West Coast States since the Eleventh Circuit Court granted Appellee's Motion to Change Venue to the Ninth Circuit. Finding Competent Counsel in California or other parts of the West Coast to conduct Appellant's appeal, while Appellant lives in Florida, is much harder than finding a local Attorney.

This is an appeal from a Tax Court trial taking four full days (which as the Court knows is very uncommon for tax trials to be so long), with about 30 exhibits that added up to a stack of almost two feet of paperwork. Appellant does not have

an electronic version of these exhibits. It has been quite time-consuming and challenging for Petitioner to:

- 1) find long-distance, from Central Florida, an Attorney on the West Coast who handles tax cases,
- 2) who handles Tax Court work,
- 3) who handles Tax Court appeals,
- 4) and is licensed to practice in the Ninth Circuit Court of Appeal.

In addition, this case involves the use of Bureau of Labor Statistics (hereafter, “BLS”) by the IRS against Appellant. Appellant has been unable to find a tax Attorney who has any familiarity or experience with the use of BLS in tax cases.

Earlier this year, Appellant obtained attorney Peter Gibbons to represent Appellant, but Mr. Gibbons recently asked the Court to be removed from this case and his motion was granted by this court. At this point Appellant is again a *pro se* appellant.

Attorney Lowell H. BeCraft, a tax attorney of over 30 years, who handled the last part of the Tax Court trial of this case, who is licensed to practice in the Eleventh Circuit Court of Appeals is willing to take up this appeal as soon as it gets transferred back to the Eleventh Circuit.

Appellant contacted counsel of Appellee and expressed her frustration with not being able to find an Attorney who can conduct this appeal in the Ninth Circuit, while in the Eleventh Circuit Mr. BeCraft is ready to take up Appellant's appeal.

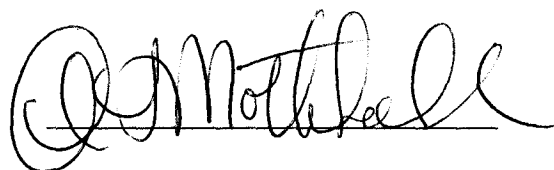
Appellee's Attorney also expressed his frustration that in 2 years this appeal has not been briefed yet. Appellee's Attorney informed Appellee that if Appellant files the instant motion to transfer this appeal back to the Eleventh Circuit Court of Appeals that Appellee's counsel will "take no position" with regard to this motion; in other words, Appellee will not oppose the transfer of this case to the Eleventh Circuit.

Transfer of this unopposed motion to the Eleventh Circuit will lessen the workload of the overburdened Ninth Circuit, which due to continuing lockdown and social distancing requirements has been overwhelmed with a backlog of cases, as well as bring this case to a final, timely appeal at an appeal venue (the Eleventh Circuit), where Appellant will have Mr. BeCraft represent Appellant in this appeal.

Wherefore, Appellant prays that the Court will grant Appellant's request to transfer this appeal back to the Eleventh Circuit,

Dated: May 24, 2021

Respectfully,

A handwritten signature in black ink, appearing to read "April Mottahedeh", written over a horizontal line.

April Mottahedeh, *Pro Se*

P.O. Box 10599
Brooksville, FL 34603

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing:

**APPELLANT'S UNOPPOSED MOTION TO TRANSFER THIS CASE TO
THE ELEVENTH CIRCUIT COURT OF APPEALS**

was served on Appellee by mailing the above-described document on

May 24, 2021, by First Class US Mail addressed as follows:

CURTIS C PETT, Attorney
United States Department of Justice Tax Division
Appellate Section
P.O. Box 502
Washington, D.C. 20044

Dated: May 24, 2021



April Mottahedeh, *Pro se*
P.O. Box 10599
Brooksville, FL 34603