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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

No. 2:11-cv-1187 JAM JFM

vs.

KENNETH J. MALINOWSKI, *et al.*,

Defendants.

ORDER

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This matter is before the court on defendants’ motion to compel. The court has determined that the matter shall be submitted upon the record and briefs on file and accordingly, the date for hearing of this matter shall be vacated. Local Rule 230.

RELEVANT FACTUAL AND PROCEDURAL BACKGROUND

On November 10, 2010, the United States filed this action seeking to reduce to judgment certain federal tax assessments made against Kenneth and Patricia Malinowski (“defendants”), as well as to foreclose federal tax liens on the property of defendants, including real property located in Citrus Heights, CA (“the subject property”).

On August 10, 2011, the Honorable John A. Mendez issued a scheduling order, in which he set June 29, 2012 as the discovery completion date.

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1 entered in this case; (3) defendants failed to comply with Local Rule 251 and FRCP 37(a)(1)  
2 regarding the requirement to meet and confer prior to court intervention; (4) the majority of the  
3 discovery requests were sent to individuals and entities not involved in this litigation and over  
4 which this court has no authority; (5) even if the court considers the merits of defendants'  
5 motion, the United States properly responded to the request; and (6) defendants do not identify  
6 any particular response that is insufficient. The government's points are well-taken. It is  
7 without question that the instant motion is untimely and procedurally improper. Moreover, the  
8 defendants' only assertion as to the government is that it failed to respond at all to defendants'  
9 discovery requests. The record, however, proves otherwise.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. The October 25, 2012 hearing on this matter is vacated; and
- 12 2. Defendants' motion to compel is denied.

13 DATED: October 24, 2012.

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16 UNITED STATES MAGISTRATE JUDGE

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