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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

 Petitioner,

 v.

RAGHVENDRA SINGH,

 Respondent.

No. 2:15-cv-287-TLN-EFB PS

FINDINGS AND RECOMMENDATIONS

This petition to enforce an IRS summons is currently before the court on the government’s motion for compensatory sanctions (ECF No. 74) and respondent Raghvendra Singh’s motions to quash the summons (ECF No. 71) and to have his taxes reassessed (ECF No. 79).¹ For the following reasons, it is recommended that the government’s motion be granted and Singh’s motions be denied.²

I. Background

On February 4, 2015, the United States filed a petition to enforce an IRS summons. ECF No. 1. According to the petition, Revenue Agent David Palmer was assigned to collect the

¹ The case is before the undersigned pursuant to Eastern District of California Local Rule 302(c)(9). See 28 U.S.C. § 636(b)(1).

² The court determined that oral argument would not materially assist in the resolution of the motions, and the matters were ordered submitted on the briefs. See E.D. Cal. 230(g).

1 assessed federal income tax liabilities for Mr. Raghvendra Singh and his spouse, Ms. Rawat, for
2 tax years 2008, 2009, and 2010. *Id.* ¶ 4. Agent Palmer issued an Internal Revenue Service
3 summons directing Singh to appear before the agent to give testimony and produce for
4 examination books, papers, records or other data relevant to Singh and Rawat's assessed tax
5 liabilities. *Id.* ¶¶ 5, 8. Singh attended the scheduled hearing before Agent Palmer, but refused to
6 provide any information or testimony. *Id.* ¶ 11.

7 On July 21, 2015, the court enforced the IRS summons and ordered Singh to appear
8 before Agent Palmer to give testimony and produce documents for examination. ECF No. 32.
9 Singh, however, continued to resist compliance with the IRS summons, which resulted in the
10 court granting the government's application for an order directing Singh to appear before the
11 court to show cause why he should not be held in contempt for failure to comply with the court's
12 July 21, 2015 order.

13 After the hearing on the government's application, the undersigned issued Findings and
14 Certification re: Civil Contempt, finding that Singh was in civil contempt of the court's July 21,
15 2015 order, and Singh was ordered to appear before the assigned district judge, Judge Nunley, to
16 show cause why he should not be incarcerated for civil contempt until he fully complied with the
17 court's July 21, 2015 order. ECF No. 48. The undersigned also found that an award of attorney's
18 fees as a remedial measure was appropriate to compensate the government for Singh's deliberate
19 disregard, but that the determination of the amount to be awarded should be deferred until after
20 the contempt proceedings concluded. *Id.* at 9-10.

21 Singh appeared before Judge Nunley on April 7, 2016, ECF No. 54, and was found to be
22 in civil contempt. ECF No. 64. He was ordered remanded into the custody of the United States
23 Marshal until he complied with the court's order. Singh remained incarcerated until May 5, 2016,
24 at which time he was released at the government's request to help facilitate complete compliance
25 with the summons. ECF No. 64. On May 19, 2016, the court found that Singh was no longer in
26 contempt. ECF No. 70.

27 The government now brings a motion for compensatory sanctions, which seeks \$8,149.61
28 in costs and attorneys' fees expended by the government in its efforts to secure Singh's

1 compliance with the court’s July 21, 2015 order. ECF No. 74. Also pending are Singh’s motion
2 to quash a summons (ECF No. 71) and motion “for an order requiring reconsideration of Taxes”
3 (ECF No. 79).

4 II. Government’s Motion for Sanctions

5 As previously explained in the Findings and Certification re: Civil Contempt, “[a]n award
6 of attorney’s fees for civil contempt is within the discretion of the district court.” *Harcourt Brace*
7 *Jovanovich Legal & Prof. Pub., Inc. v. Multistate Legal Studies, Inc.*, 26 F.3d 948, 953 (9th Cir.
8 1994); *see also Perry v. O’Donnell*, 759 F.2d 702, 704-705 (9th Cir. 1985) (holding that “civil
9 contempt need not be willful to justify a discretionary award of fees and expenses as a remedial
10 measure.”). In determining whether a request for attorney’s fees is reasonable, the court employs
11 the “lodestar” method. Under this method, “a district court must start by determining how many
12 hours were reasonably expended on the litigation, and then multiply those hours by the prevailing
13 local rate for an attorney of the skill required to perform the litigation.” *Moreno v. City of*
14 *Sacramento*, 534 F.3d 1106, 1111 (9th Cir. 2008). “In addition to computing a reasonable
15 number of hours, the district court must determine a reasonable hourly rate to use for attorneys
16 and paralegals in computing the lodestar amount.” *Gonzalez v. City of Maywood*, 729 F.3d 1196,
17 1205 (9th Cir. 2013). “The Supreme Court has consistently held that reasonable fees ‘are to be
18 calculated according to the prevailing market rates in the relevant community.’” *Van Skike v.*
19 *Dir. Off. Of Workers’ Comp. Programs*, 557 F.3d 1041, 1046 (9th Cir. 2009).

20 The government seeks an hourly rate of \$189.89 for twenty eight hours of time expended
21 in securing Singh’s compliance with the court’s July 21, 2015 order. In her declaration, Trial
22 Attorney Nithya Senra of the Tax Division of the United States Department of Justice explains
23 that she spent one hour drafting a letter to Singh regarding his failure to comply with the court’s
24 order; six hours preparing the government’s Request for Entry of Order to Show Cause and four
25 hours drafting a reply brief; one hour preparing for and attending the hearing on March 16, 2016;
26 three hours drafting a response to various pleadings filed by Singh in which he argued that he had
27 purged himself of contempt; one hour preparing for and attending the April 7, 2016 hearing
28 before Judge Nunley; six hours preparing three status reports, which detailed the government’s

1 efforts to obtain Singh's compliance while he was imprisoned; and three hours preparing for and
2 attending a May 5 status conference and another 3 hours preparing for and attending a May 19
3 status conference. Declaration of Nithya Senra (ECF No. 73).

4 The hours expended in completing the above tasks were necessary to obtain Singh's
5 compliance with the court's order enforcing the IRS's summons. Indeed, had Singh initially
6 complied with the court's order, none of the tasks would have been necessary. Accordingly, the
7 court finds reasonable the number of hours expended by Ms. Senra.

8 Moreover, the government only seeks the adjusted hourly rate under the Equal Access to
9 Justice Act, which is \$189.89 for work performed in 2015. This amount is reasonable for work
10 performed in this district by an attorney with similar experience to that possessed by Ms. Senra,
11 who has been employed by the Tax Division of the United States Department of Justice since
12 October 2013. *See* ECF No. 73; *see, e.g., Gauchat-Hargis v. Forest River, Inc.*, 2013 WL
13 4828594, at *10 (E.D. Cal. Sep. 9, 2013) (finding a rate of \$200 per hour reasonable for a junior
14 associate); *Lee-Tzu v. Dignity Health-Methodist Hosp. of Sacramento*, 2014 WL 5698448, at *3
15 (E.D. Cal. Nov. 4, 2014) (finding hourly rate of \$200 reasonable for an attorney with
16 approximately 2 years of experience). Accordingly, the government should be awarded
17 \$5,316.92 in attorney's fees.

18 The government also seeks \$2,832.69 in costs associated with attending hearings on
19 March 16, April 7, May 5, and May 19, 2016. The expenses for attending these hearings include
20 airfare, rental car/taxi fee, fuel, parking, lodging, and meals and incidentals. *See* ECF No. 73-1.
21 Such expenses are reimbursable as costs. *See, e.g., Gibbs v. River Transp. Group, Inc.*, 2014 WL
22 204928, at *4 (D. Nev. Jan. 17, 2014) (awarding government costs for travel, lodging, and meals
23 and incidental expenses). Not only were these costs reasonably expended, they were necessitated
24 by Singh's disregard of the court's order enforcing the IRS's summons. Therefore, the
25 government should also be awarded costs in the amount of \$2,832.69, for a total award of
26 \$8,149.61.³

27
28 ³ Singh does not challenge the reasonableness of the requested fees. Instead, in a
hyperbole filled opposition—which the court has become accustomed to receiving from Singh—

1 III. Singh's Motion to Quash

2 Singh filed a "Motion to Quash Summons," which argues that the "IRS should not issue
3 summons again and again for the same information which is already provided" ECF No. 71.
4 But another summons has not been issued. The government explains that the summons at issue in
5 this action has already been enforced, and thus it is not clear what relief Singh's motion seeks.
6 ECF No. 75 at 1.

7 Singh did not submit a copy of the purported summons he seeks to quash, and the court
8 has already determined that he has now, sufficiently but belatedly complied with the IRS's
9 summons to purge his contempt. As Singh has failed to demonstrate any basis for quashing a
10 summons, his motion must be denied.

11 IV. Singh's Motion to Reconsider Tax Assessment

12 Singh also filed a motion entitled "Motion for an order requiring reconsideration of
13 Taxes." ECF No. 79. In his motion Singh argues that the IRS is attempting to collect \$500,000
14 in tax liabilities from him, and that reconsideration of his tax liabilities is necessary to show that
15 he owes a lesser amount. *Id.* at 1.

16 This is not Singh's first attempt to litigate his tax liabilities in this court. He previously
17 filed an action in this court against the United States of America, seeking to challenge the IRS's
18 assessment of his tax liabilities for multiple years. *See Singh v. United States*, 2:13-cv-780-TLN-
19 EFB PS, ECF No. 36 (First Am. Compl.). In that case, Singh's claims were dismissed as barred
20 by the Anti-Injunction Act. *Id.*, ECF Nos. 73, 84.

21 As was previously explained to Singh, "[a]ctions to enjoin the assessment of taxes by the
22 IRS are narrowly limited by the Anti-Injunction Act." *Elias v. Connett*, 908 F.2d 521, 523 (9th
23 Cir. 1990). The Anti-Injunction Act provides that "no suit for the purpose of restraining the
24 assessment or collection of any tax shall be maintained in any court by any person, whether or not
25 such person is the person against whom such tax was assessed." 26 U.S.C. § 7421(a). Where the
26 plaintiff's claims are barred by the Anti-Injunction Act, the court is without jurisdiction to hear

27 he argues that the contempt proceedings were illegal. ECF No. 77. Singh, however, fails to
28 demonstrate any error by this court.

1 the plaintiff's claims or grant relief. *Life Science Church v. Internal Revenue Service*, 525 F.
2 Supp. 399, 404 (N.D. Cal. 1981).

3 As Singh by now should know, this court is without jurisdiction to order the IRS to
4 reassess his taxes. Accordingly, Singh's motion must be denied.

5 V. Conclusion

6 Accordingly, it is hereby RECOMMENDED that:

7 1. The government's motion for compensatory sanctions (ECF No. 74) be granted and the
8 government be awarded \$5,316.92 in attorney's fees and \$2,832.69 in costs, for a total award of
9 \$8,149.61.

10 2. Singh's motion to quash (ECF No. 71) be denied;

11 3. Singh's motion for an order requiring reconsideration of taxes (ECF No. 79) be denied;

12 and

13 4. The Clerk be directed to close this case.

14 These findings and recommendations are submitted to the United States District Judge
15 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
16 after being served with these findings and recommendations, any party may file written
17 objections with the court and serve a copy on all parties. Such a document should be captioned
18 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections
19 within the specified time may waive the right to appeal the District Court's order. *Turner v.*
20 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

21 DATED: March 2, 2017.

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23 EDMUND F. BRENNAN
24 UNITED STATES MAGISTRATE JUDGE
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