

United States District Court
For the Northern District of California

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

LES FIELDS/C.C.H.I. INSURANCE SERVICES,

No. C 15-02411 WHA

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

**ORDER DENYING
PLAINTIFF’S MOTION
FOR JOINDER,
LEAVE TO AMEND,
AND INJUNCTIVE RELIEF**

INTRODUCTION

In this action for a tax refund, plaintiff has moved for an order compelling joinder of certain individuals, for leave to file an amended complaint and to enjoin the parties herein from defending related actions in the United States Tax Court. For the reasons stated below, plaintiff’s motion is **DENIED**.

STATEMENT

Plaintiff Les Fields/C.C.H.I. Insurance Services is a California corporation that provides risk management and administrative services to self-funded health and welfare plans, which includes transferring risk to reinsurers. In 2009 and 2010, the United States Internal Revenue Service conducted an audit of C.C.H.I.’s federal income tax returns, as well as those of C.C.H.I.’s president, Leslie C. Fields (Les), and his wife, Gaelen C. Fields. Following the audit, the IRS issued a “worker notice” that classified Les Fields as an employee of C.C.H.I., not as an independent contractor, as C.C.H.I. had indicated in its tax filings. The IRS assessed

1 corporate income taxes and employment taxes against C.C.H.I., and individual income taxes
2 against Les and Gaelen Fields.

3 In December 2014, C.C.H.I. filed an action in the United States Tax Court to challenge
4 the corporate income tax liabilities. *Les Fields/C.C.H.I. Insurance Services v. Commissioner of*
5 *Internal Revenue*, No. 31090-14 (T.C.). Les Fields also commenced two actions in the United
6 States Tax Court challenging his individual income tax liabilities, one for tax year 2009, the
7 other for 2010 (which he filed jointly with his wife, Gaelen). *Les Fields v. Commissioner of*
8 *Internal Revenue*, No. 31092-14 (T.C.); *Les Fields and Gaelen Fields v. Commissioner of*
9 *Internal Revenue*, No. 31091-14 (T.C.). A trial for all three tax-court cases is scheduled for
10 April 25, 2016.

11 C.C.H.I. commenced this action here in the district court to challenge the employment
12 taxes assessed against it, specifically based on the contention that the IRS erroneously classified
13 Les Fields as an employee, not an independent contractor. C.C.H.I. now moves for an order
14 compelling the joinder of Les and Gaelen Fields as plaintiffs in this action, for leave to file an
15 amended complaint to include the additional plaintiffs, and for an injunction against all parties
16 to this action preventing them from proceeding with the litigation in the tax court and requiring
17 the United States to file a counterclaim in this action for any deficiencies in the taxes paid by
18 C.C.H.I., Les Fields, or Gaelen Fields. Ultimately, C.C.H.I.'s goal is to have a single jury trial
19 in the district court to adjudicate all of the pending federal tax controversies involving C.C.H.I.,
20 Les Fields, and Gaelen Fields. The trial in this matter is scheduled for September 12, 2016.

21 This order follows full briefing and oral argument at which plaintiff did not appear.

22 **ANALYSIS**

23 Section 6512(a) of Title 26 of the United States Code provides that once a taxpayer files
24 a petition with the Tax Court, "no credit or refund of income tax for the same taxable year . . . in
25 respect of which the Secretary has determined the deficiency shall be allowed or made and no
26 suit by the taxpayer for the recovery of any part of the tax shall be instituted" with the exception
27 of certain circumstances not applicable here. Indeed, our court of appeals recognized "that if
28 the taxpayer files a petition with the tax court, the mere filing of the petition operates to deprive

1 the district court of jurisdiction to entertain a subsequent suit for refund.” *First National Bank*
2 *of Chicago v. United States*, 792 F.2d 954, 955–56 (9th Cir. 1986) (quoting *United States v.*
3 *Wolf*, 238 F.2d 447, 449 (9th Cir. 1956)). Section 7459(d) provides that an order of the Tax
4 Court dismissing a petition for redetermination of a deficiency for reasons other than lack of
5 jurisdiction “shall be considered as its decision that the deficiency is the amount determined by
6 the Secretary.” Accordingly, this Court lacks jurisdiction over the matters currently proceeding
7 before the Tax Court, and C.C.H.I., Les Fields, and Gaelen Fields cannot voluntarily dismiss
8 those actions in order to re-file them here.

9 C.C.H.I. does not deny that it faces these procedural obstacles. Instead, it proposes a
10 convoluted patchwork procedure to wrest jurisdiction from the Tax Court in order to
11 consolidate all tax litigation brought by C.C.H.I., its president, Les Fields, and Les’s wife,
12 Gaelen Fields, in a single proceeding. Specifically, C.C.H.I. seeks an order joining the
13 individuals Les and Gaelen Fields in this action, enjoining the United States from defending the
14 pending Tax Court proceedings, and requiring the United States to bring counterclaims in this
15 action for the taxes that are the subject of the pending Tax Court actions.

16 Plainly, this Court will not use an injunction to manufacture subject-matter jurisdiction
17 that Congress has vested exclusively in the Tax Court, so C.C.H.I.’s motion must be denied.
18 Indeed, even if such a procedure could be employed, sovereign immunity precludes a suit
19 against the United States for income taxes that have not been paid in full (such as those at issue
20 in the Tax Court cases). *See Boynton v. United States*, 566 F.2d 50, 52 (9th Cir. 1977) (citing
21 *Flora v. United States*, 362 U.S. 145 (1960)). Accordingly, the proposed injunction would not
22 accomplish C.C.H.I.’s goal.

23 Moreover, C.C.H.I. has failed to demonstrate that it would suffer any irreparable harm if
24 it is forced to litigate in two fora, so it is not entitled to an injunction. The only harm it alleges
25 is the burden of litigating separate tax claims — a situation it brought upon itself by filing this
26 action in district court. To the extent C.C.H.I. incurs additional expenses as a result of parallel
27 litigation, such expenses could be recoverable pursuant to the attorney’s fees provision of the
28 Tax Code, to the extent applicable. *See* 26 U.S.C. 7430. C.C.H.I. has failed to demonstrate that

1 it is entitled to the injunction that is the lynchpin of its proposed mechanism to undermine the
2 Tax Court's exclusive jurisdiction.

3 What really seems to be going on here is that C.C.H.I. no longer wants to litigate in the
4 Tax Court (despite its having sued there) and is looking for a way to start all over somewhere
5 else, now that the Tax Court case is near trial. This lawsuit seems to be just a gimmick.


6 **CONCLUSION**

7 For the reasons stated above, C.C.H.I.'s motion for joinder, leave to amend, and an
8 injunction is **DENIED**.

9 The Court believes the instant case should be stayed pending the outcome of the April
10 trial in the Tax Court, whose resolution may control, if not shed light, on the employment tax
11 issue tendered here. By **JANUARY 18**, both sides should **SHOW CAUSE** why a stay should not
12 issue.

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14 **IT IS SO ORDERED.**

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16 Dated: January 7, 2016.

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19 WILLIAM ALSUP
20 UNITED STATES DISTRICT JUDGE
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