

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 2:09-cv-216-FtM-29SPC

JOSEPH A. LEEMON; NATALIE J. LEEMON,

Defendants.

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**OPINION AND ORDER**

This matter comes before the Court on United States' Motion for Summary Judgment (Doc. #36) filed on September 24, 2010. Defendants filed a Responce [sic] For Denial To Summary Judgment (Doc. #37) on October 4, 2010. Upon review, the Court took the opportunity to explain to defendants, since they are proceeding *pro se*, that it was their burden to point to evidence in order to defeat a properly submitted motion for summary judgment and granted defendants additional time in which to do so. (Doc. #47.) Subsequently, the Court granted defendants several continuances so that they could obtain evidence and file an Amended Response. (Docs. ## 53; 55.)

On June 29, 2011, the Court issued an Order granting the motion for summary judgment because defendants failed to file an amended response and therefore failed to overcome the presumption

that the government's records are correct. (Doc. # 56.) On July 11, 2011, the Court vacated its Order after receiving telephonic notification by defendant, Natalie J. Leemon, that she did not receive the June 1, 2011, Order granting an extension of time to respond to the pending summary judgment. The Court noted that the docket failed to reflect that the Clerk's Office mailed a copy of the Order to the *pro se* defendants, and therefore the defendants were not afforded an adequate opportunity to respond, to their detriment. (Doc. # 58.)

Subsequently, on September 30, 2011, defendants filed a Response [sic] to Denie [sic] Summary Judgment (Doc. # 65). The response argues that the Court should deny summary judgment because the case does not have merit. Defendants assert that the Department of Justice ignored paperwork submitted by defendants when assessing the tax liability at issue in this case. Defendants further contend that the case should proceed because they are entitled to a jury trial under the United States Constitution.

Defendants fail to provide any evidence to substantiate their arguments. Although defendants contend that they provided correspondence and paperwork to the Department of Justice, no such documentation was provided to the Court. Although defendants are *pro se*, the undersigned specifically informed defendants that it is their burden to dispute the evidence presented by the government. (See Doc. # 47, p. 2.) Defendants have been provided ample


opportunity to provide the Court with evidence to demonstrate that a genuine issue of material fact exists. However, defendants have failed to provide any evidence to support such a finding. Accordingly, this Court's June 29, 2011, Opinion and Order and Judgment (Docs. ## 56; 57) will be re-issued.

Accordingly, it is now

**ORDERED:**

1. This Courts June 29, 2011, Opinion and Order and Judgment (Docs. ## 56, 57) will be re-issued separately as an Amended Opinion and Order and Amended Judgment.

**DONE AND ORDERED** at Fort Myers, Florida, this 18th day of October, 2011.

  
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**JOHN E. STEELE**  
United States District Judge

Copies:  
Joseph and Natalie Leemon  
Counsel of record