

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

KEARNEY PARTNERS FUND, LLC, by and
through Lincoln Partners Fund, LLC, Tax Matters
Partner,

Plaintiff,

-vs-

Case No. 2:10-cv-153-FtM-36SPC

UNITED STATES OF AMERICA, by and through
its agent, the Internal Revenue Service,

Defendant.

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ORDER

This matter comes before the Court on the Parties, Plaintiffs, Kearney Partners Fund, LLC. And Lincoln Partners Fund, LLC. And the Defendant, The United States of America's Unopposed Motion for Relief for Requirement of Local Rule 9.05(c) (Doc. #84) filed on November 15, 2011. Local Rule 9.05(c) requires that "all parties . . . shall be present at the mediation conference with full authority to negotiate a settlement." In this instance, the individual with the proper settlement authority for the Defendant is the Deputy or Associate Attorney General of the United States. Thus, the Parties move the Court to suspend the requirement that all parties have someone with settlement authority present at the mediation.

The Defendant states that instead it will have trial counsel attend in person accompanied by the line attorney from the IRS Chief Counsel's office most familiar with this case attend in person, unless her attendance becomes impractical, in which case she will participate by telephone. The Defendant further states that it will have available by telephone the Chief of the Office of Review

of the Department of Justice, Tax Division, and the attorney from the IRS Chief Counsel's office authorized to make, on behalf of the Internal Revenue Service, a recommendation on behalf of the IRS.

Given the nature of the individuals that have settlement authority for the Defendant, and the impracticality of having them physically present at the mediation, the Court finds good cause to grant the Motion.

Accordingly, it is now

ORDERED:

The Parties, Plaintiffs, Kearney Partners Fund, LLC. And Lincoln Partners Fund, LLC. And the Defendant, The United States of America's Unopposed Motion for Relief for Requirement of Local Rule 9.05(c) (Doc. #84) is **GRANTED as follows:**

(1) The Deputy or Associate Attorney General of the United States, or Principle Deputy Attorney General with full settlement authority shall be available by phone.

(2) The Defendant shall have trial counsel or representative counsel present at the mediation fully prepared to negotiate in good faith on behalf of the Defendant.

(3) The IRS shall have the attorney from the IRS Chief Counsel's office authorized to make offers on behalf of the IRS present at the mediation.

DONE AND ORDERED at Fort Myers, Florida, this 17th day of November, 2011.


SHERI POLSTER CHAPPELL
UNITED STATES MAGISTRATE JUDGE

Copies: All Parties of Record