

10-23180.rr

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

Case No. 10-23180 CIV ALTONAGA/BROWN

CLAUDIA ZULOAGA,

Petitioner,

vs.

UNITED STATES OF AMERICA, et al.,

Respondents.

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**REPORT AND RECOMMENDATION**

This Cause is before the Court on the Petitioner Claudia Zuloaga's Petition to Quash 3<sup>rd</sup> Party Summons (D.E. 1), filed September 3, 2010, in which Petitioner petitions the court to quash certain third party summonses issued by the Internal Revenue Service.

**Facts and Discussion**

Although Plaintiff indicates in Certificates of Service attached to her Memorandum of Law (D.E. 2) that she served the Commissioner of Internal Revenue Service, Ricky D. Poole, Revenue Agent, and the persons indicated in the summonses by "mailing" a copy of the Petition, Memorandum and Exhibits thereto, there is no indication in the record that Plaintiff has attempted to serve the Petition pursuant to Fed.R.Civ.P. 4, or that she has also mailed a copy of the Petition by certified or registered mail to the persons summoned and to the IRS, as required by 26 U.S.C. §7609(b)(2)(B).

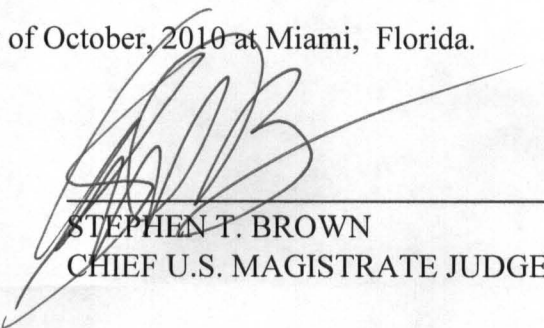
On October 13, 2010, this Court issued an order requiring Petitioner, on or before October 27, 2010, to show cause, in writing, why her Petition should not be denied without prejudice for failure to properly serve same. On October 27, 2010, Petitioner filed a document entitled "For

Order Pursuant to Customer Challenge Provisions of the Right to Financial Privacy Act of 1978 (D.E. 8), apparently in response to this Court's Order. Petitioner again refers to her Certificate of Service discussed above, and states that she "mailed out regular mail." D.E. 2, p. 2. Petitioner fails to address the issue of service pursuant to Rule 4 or the requirements of 26 U.S.C. §7609(b)(2)(B).

Accordingly, this Court respectfully recommends that the Petition to Quash 3<sup>rd</sup> Party Summons be **DENIED** without prejudice.

The parties have fourteen (14) days from the date of this Report and Recommendation within which to serve and file written objections, if any, with the Honorable Cecilia M. Altonaga, United States District Judge for the Southern District of Florida. Failure to file objections timely shall bar the parties from attacking on appeal the factual findings contained herein. LoConte v. Dugger, 847 F.2d 745 (11th Cir. 1988), cert. denied, 488 U.S. 958 (1988).

**DONE AND ORDERED** this 29<sup>th</sup> day of October, 2010 at Miami, Florida.



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STEPHEN T. BROWN  
CHIEF U.S. MAGISTRATE JUDGE

cc: Honorable Cecilia M. Altonaga  
Claudia Zuloaga, pro se