

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**JOHN A. TARPOFF,
Plaintiff,**

v.

**UNITED STATES OF AMERICA,
Defendant.**

No. 09 - CV - 00411 DRH

ORDER

HERNDON, Chief Judge:

This matter is before the Court on defendant United States of America's motion to hold in abeyance plaintiff John A. Tarpoff's motion for judgment on the jury's verdict and for costs and attorney's fees (Doc. 56). A jury trial was held from March 14–16, 2011, to decide whether plaintiff was personally liable under 26 U.S.C. § 6672 for paying certain taxes that his former employer owed the IRS. The jury found for plaintiff (Doc. 48). Plaintiff has since moved for judgment on the jury's verdict and for an award of costs and attorney's fees (Doc. 55).

The instant motion states that defendant will be submitting a renewed motion for judgment as a matter of law pursuant to RULE 50(b) of the FEDERAL RULES OF CIVIL PROCEDURE, as well as an alternative motion for new trial pursuant to RULE 59. A decision in defendant's favor on either forthcoming motion could render plaintiff's motion for judgment and costs moot. Defendant therefore asks the Court to hold

plaintiff's motion in abeyance and to set a new deadline for a response thereto of 14 days after the Court renders a decision on defendant's two forthcoming motions.

While the Court understands that plaintiff has not yet responded to defendant's motion for abeyance, and assumes he will oppose it, the Court determines that it is in the spirit of fairness that defendant's motion be granted so that the Court may consider preliminary motions such as defendant's RULE 50(b) and RULE 59 motions before ruling on plaintiff's chronologically later motion for attorney's fees and costs. Accordingly, the Court hereby **GRANTS** defendant's motion to hold in abeyance plaintiff's motion for judgment on the jury's verdict and for an award of costs and attorney's fees (Doc. 56). Defendant shall have 14 days after the Court renders a decision on the two forthcoming motions to respond to plaintiff's motion.

IT IS SO ORDERED.

Signed this 13th day of April, 2011.



David R.
Herndon
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**Chief Judge
United States District Court**