

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Income Tax

CALVIN G. HUSBANDS	)	
and TINEY M. HUSBANDS,	)	
	)	
Plaintiffs,	)	TC-MD 170150N
	)	
v.	)	
	)	
DEPARTMENT OF REVENUE,	)	
State of Oregon,	)	
	)	
Defendant.	)	<b>FINAL DECISION OF DISMISSAL<sup>1</sup></b>

This matter came before the court on its own motion to dismiss this case for lack of prosecution.

During a case management conference on June 8, 2017, Plaintiffs agreed to file a written response to Defendant’s Motion to Dismiss and an Authorization to Represent form designating their daughter as their authorized representative. The court entered a Journal Entry memorializing the parties’ agreement and the response deadline of August 7, 2017. Having received no response from Plaintiffs, the court entered an Order on August 15, 2017, requiring Plaintiffs to file by August 29, 2017, a response to Defendant’s Motion to Dismiss and an Authorization to Represent form, if Plaintiffs intended to designate an authorized representative. On August 29, 2017, the court received several documents, including an Authorization to Represent form naming Plaintiffs’ daughter, Lucille Simpson (Simpson), as Plaintiffs’ authorized representative; a letter from Simpson; and other documents. Those documents were not

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<sup>1</sup> This Final Decision of Dismissal incorporates without change the court’s Decision of Dismissal, entered October 16, 2017. The court did not receive a statement of costs and disbursements within 14 days after its Decision of Dismissal was entered. *See* Tax Court Rule–Magistrate Division (TCR–MD) 16 C(1).

accompanied by “a certificate of service or other evidence they were provided to all parties.”

Tax Court Rule-Magistrate Division (TCR-MD) 5.

Court staff left two voice messages for Simpson explaining that the documents received by the court on August 29, 2017, would not be filed unless the court received evidence they were provided to Defendant. Simpson called the court on August 31, 2017, and told court staff that she had provided copies of the documents to Defendant and that she would submit a certificate of service to the court. No response was received from Plaintiffs to the court’s Order of August 15, 2017.

On September 15, 2017, the court issued another Order giving Plaintiffs a deadline of September 29, 2017, to comply with TCR-MD 5 by submitting a certificate of service or other evidence that the documents received by the court on August 29, 2017, were also provided to Defendant. That Order warned that failure to comply with the deadlines set forth therein might result in dismissal of Plaintiffs’ appeal.

Plaintiffs’ deadline has passed and the court has not received Plaintiffs’ certificate of service or any further communication from Plaintiffs. Under such circumstances, the court finds the appeal must be dismissed for lack of prosecution. Now, therefore,

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IT IS THE DECISION OF THIS COURT that Plaintiffs' appeal is dismissed.

Dated this \_\_\_\_ day of November, 2017.

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ALLISON R. BOOMER  
MAGISTRATE

***If you want to appeal this Final Decision of Dismissal, file a complaint in the Regular Division of the Oregon Tax Court, by mailing to: 1163 State Street, Salem, OR 97301-2563; or by hand delivery to: Fourth Floor, 1241 State Street, Salem, OR.***

***Your complaint must be submitted within 60 days after the date of the Final Decision of Dismissal or this Final Decision of Dismissal cannot be changed. TCR-MD 19 B.***

***This document was signed by Magistrate Boomer and entered on November 2, 2017.***