

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Small Claims
Income Tax

JOHN E. BURAS,)	
)	
Plaintiff,)	TC-MD 050816A
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION and JUDGMENT

Plaintiff appealed Defendant’s assessment of personal income tax for the 2001 tax year. Plaintiff first attempted to proceed using Linwood E. Tracy, Jr. as his representative (Tracy). Tracy had previously been admonished by the Oregon State Bar for engaging in the unlawful practice of law.

On January 17, 2006, the court filed a Journal Entry. The Journal Entry made clear the court would not allow Tracy to act as Plaintiff’s representative. The Journal Entry went on to request that Plaintiff advise the court of his choice for the manner of proceeding. Plaintiff subsequently agreed to resolve the case on the basis of written submissions. Those include: Plaintiff’s Original and Amended Complaints, Plaintiff’s response to the court’s notice of filing, a Motion to Vacate, a rebuttal to Defendant’s Response to Plaintiff’s Motion to Vacate, a Motion for Counsel of Choice Who Is Not a Member of the State Bar Association But a Public Minister, and a Motion to Demand Jury Trial.

In its review of those materials, the court has not discovered any grounds that would allow it to grant Plaintiff the relief he requests. This court has previously found against Plaintiff on his reasoning that he is exempt from Oregon income tax for his pension receipts because of
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his status as a minister in the Church of God. *See Buras v. Dept. of Rev.*, 17 OTR 282 (2004).

Those conclusions hold true for the 2001 tax year as well.

The assessment is affirmed. Defendant is entitled to damages pursuant to ORS 305.437.¹ Those damages are set in the amount of \$1,000, on the reasoning that Plaintiff's unsuccessful previous litigation of these same issues establishes that their current character is frivolous. The court denies Defendant's motion that it be allowed attorney fees and costs pursuant to ORS 20.105.

Now, therefore,

IT IS ADJUDGED that this appeal is denied; and

IT IS FURTHER ADJUDGED that Defendant's damages are set at \$1,000; or stated in the alternative, the sum Plaintiff is required to pay to Defendant as compensation, in addition to any tax, interest, and penalties, is \$1000.

Dated this _____ day of May 2006.

SCOT A. SIDERAS
MAGISTRATE

THIS DOCUMENT IS FINAL AND MAY NOT BE APPEALED. ORS 305.514.

This document was signed by Magistrate Scot A. Sideras on May 11, 2006 . The Court filed this document on May 11, 2006.

¹All references to the Oregon Revised Statutes (ORS) are to 2005.