

05-1376-CD  
IRS vs Todd D. Gordon

Internal Revenue vs. Todd D. Gordon  
2005-1376-CD

Date: 6/3/2020  
Time: 09:05 AM  
Page 1 of 2

Clearfield County Court of Common Pleas  
ROA Report  
Case: 2005-01376-CD  
Current Judge: Fredric Joseph Ammerman  
Internal Revenue Service vs. Todd D. Gordon

User: KDUNLAP

*All files here  
on base*

Federal Tax Liens

Date		Judge
9/6/2005	New Case Filed.	No Judge
	✓ Filing: Federal Tax Lien Paid by: Internal Revenue Service Receipt number: 1907831 Dated: 09/06/2005 Amount: \$25.00 (Check) Judgment entered in favor of the Plaintiff and against the Defendant in the amount of \$104,962.18. 1CC to IRS.	No Judge
3/6/2008	✓ Filing: Certificate of Subordination of Federal Tax Lien, Paid by: Gordon, Jeffrey M. Receipt number: 1922969 Dated: 3/6/2008 Amount: \$7.00 (Check) 1 Cert. to Atty. Gordon	No Judge
8/1/2019	✓ Petition to strike lien. filed by s/Christopher Mohney, esquire 4cc Atty Mohney	No Judge
8/6/2019	✓ Order of Court. and now this 6th day of August 2019 upon consideration of Fredric Joseph Ammerman foregoing Petition to Strike Lien it is hereby ordered that: 1. A rule is issued upon the Plaintiff to show cause why the moving party is not entitled to the relief requested; 2. The Plaintiff shall file and answer to the motion within 30 days of this date or the court may deem that you have no objections to the relief requested therein and may grant such relief without further notice to you; 3. The petition shall be decided under Pa.R.Civ.P.206.1 3. Argument shall be held on 4. Notice of the entry of this order shall be provided to all parties by the moving party By the Court President Judge FJA 2cc Atty Mohney	
9/27/2019	✓ Petition to strike lien. filed by s/Christopher Mohney, esquire 2cc Atty Mohney	Fredric Joseph Ammerman
9/30/2019	✓ Order, Now, this 30th day of September 2019, upon review of the record; it is ORDERED of this Court that this Court's Order of August 6, 2019 be and is hereby STRICKEN from the record as it contains inappropriate language. By the Court /s/President Judge, FJA 1cc Atty Gordon 1cc Atty Mohney	Fredric Joseph Ammerman
10/3/2019	✓ Amended petition to strike lien. filed by s/Christopher Mohney, esquire 2cc Atty Mohney	Fredric Joseph Ammerman
10/7/2019	✓ Order of Court. And now this 3rd day of October 2019, upon consideration of the foregoing amended petition to strike lien, it is hereby ordered that: 1. A rule is issued upon the Plaintiff to show cause why the moving party is not entitled to the relief requested; 3. The petition shall be decided under Pa.R.Civ.P. 206.1 3. Argument shall be held on November 21, 2019 at 11:00am in Courtroom1; 4. Notice of the entry of this order shall be provided to all parties by the moving party By the Court /s/President Judge FJA 3cc Atty Teufel	Fredric Joseph Ammerman
11/4/2019	✓ United States Notice of Removal. filed by s/Alexander R Kalyniuk nocc ROA for statistical purposes only. NO FURTHER FILING REMOVED TO DISTRICT COURT	Fredric Joseph Ammerman Fredric Joseph Ammerman

Date: 6/3/2020

Time: 09:05 AM

Page 2 of 2

**Clearfield County Court of Common Pleas**

User: KDUNLAP

**ROA Report**

Case: 2005-01376-CD

Current Judge: Fredric Joseph Ammerman

Internal Revenue Service vs. Todd D. Gordon

**Federal Tax Liens**

Date	Judge
11/18/2019	✓ Order, NOW, this 15th day of November, 2019, upon receipt and review of the United States' Notice of Removal of this case to Federal Court; it is the ORDER of this Court that the hearing scheduled on November 21, 2019 at 11:00 a.m. be and is hereby CANCELED. By the Court, /s/FJA, President Judge 2cc Atty Mohney 2cc Atty Gordon
2/18/2020	✓ Memorandum Opinion Filed by Western District Court no cc
3/30/2020	✓ Order, NOW, this 30th day of March, 2020; it is the ORDER of this Court that a status conference in the above-captioned case be and is hereby scheduled for Thursday, May 21, 2020, commencing at 9:00 am in Judge's Chambers, Clearfield County Courthouse. Thirty minutes has been reserved for this status conference. By the Court, /s/FJA, President Judge 1cc Atty Mohney 1cc Atty Gordon
4/9/2020	✗ Second petition to strike lien. filed by s/Gregory Teufel. no cc
4/13/2020	✗ Order of Court. And now this 9th day of April 2020, upon consideration of foregoing petition to strike lien, it is hereby ordered that: 1. A rule is issued upon the Plaintiff to show cause why the moving party is not entitled to the relief requested. 2. The Plaintiff shall file an answer to the amended petition within 30 days of this date, or the court may deem that you have no objection to the relief requested therein and may grant such relief without further notice to you; 3. the petition shall be decided under P.A.R.C.P. 206.1 3. The argument shall be held on May 21, 2020 at 9:00am in Courtroom 1 4. notice of the entry of this order shall be provided to all parties by the moving party By the Court PResident Judge FJA 6cc Atty Mohney
4/30/2020	✗ Letter by U.S. Department of Justice no cc
5/1/2020	✓ Order of Court, AND NOW, to wit, this 30th day of April, 2020, due to a conflict in the court calendar, it is the ORDER of this Court that the Status Conference and Argument on Defendant's Second Petition to Strike Lien shall be and is hereby rescheduled for Friday, June 12, 2020, at 2:30 P.M. in Courtroom No. 1, 2nd Floor, Clearfield County Courthouse, 230 East Market Street, Clearfield, PA. By the Court, /s/FJA, President Judge 2cc Atty Mohney 2cc Atty Gordon

**Notice of Federal Tax Lien**

Area:  
SMALL BUSINESS/SELF EMPLOYED AREA #3  
Lien Unit Phone: (800) 913-6050

Serial Number

246044805

For Optional Use by Recording Office

2005-1376-C0

**As provided by section 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.**

Name of Taxpayer TODD D GORDON

Residence 233 TREASURE LK  
DU BOIS, PA 15801-9005

**IMPORTANT RELEASE INFORMATION:** For each assessment listed below, unless notice of the lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).

Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
940	12/31/2002	94-3394741	02/28/2005	03/30/2015	
940	12/31/2002	94-3394741	05/02/2005	06/01/2015	2314.61
940	12/31/2003	94-3394741	04/05/2004	05/05/2014	1228.62
941	03/31/2002	94-3394741	06/03/2002	07/03/2012	
941	03/31/2002	94-3394741	08/26/2002	09/25/2012	
941	03/31/2002	94-3394741	02/07/2005	03/09/2015	4207.93
941	06/30/2002	94-3394741	10/14/2002	11/13/2012	
941	06/30/2002	94-3394741	02/07/2005	03/09/2015	3411.03
941	09/30/2002	94-3394741	04/14/2003	05/14/2013	8367.62
941	12/31/2002	94-3394741	03/31/2003	04/30/2013	26735.94
941	03/31/2003	94-3394741	06/30/2003	07/30/2013	32647.59
941	06/30/2003	94-3394741	09/29/2003	10/29/2013	21307.15
941	09/30/2003	94-3394741	12/29/2003	01/28/2014	4741.69

Place of Filing

Clearfield Prothonotary  
Clearfield County  
Clearfield, PA 16830

Total \$ 104962.18

This notice was prepared and signed at PHILADELPHIA, PA, on this,

the 31st day of August, 2005.

Signature Susan A. Hansen  
for ROBERT T MILLER

Title  
REVENUE OFFICER  
(814) 533-4214

23-06-1910

(NOTE: Certificate of officer authorized by law to take acknowledgment is not essential to the validity of Notice of Federal Tax Lien  
Rev. Rul. 71-466, 1971 - 2 C.B. 409)

**FILED**  
SEP 06 2005  
William A. Shaw  
Prothonotary Clerk of Courts

TODD D GORDON Of 233 TREASURE LAKE, City of Dubois, County of CLEARFIELD, State of Pennsylvania, is indebted to the United States for unpaid Internal Revenue Tax in the sum of ONE HUNDRED FOUR THOUSAND NINE HUNDRED SIXTY TWO DOLLARS AND EIGHTEEN CENTS (\$104,962.18) as evidenced by:

Notice of Federal Tax Lien Serial Number (a)	Recording Information (b)	Date Recorded (c)	Taxpayer Identification Number (d)	Amount Shown on Lien (e)
246044805	2005-1376-CD	09/06/2005	94-3394741	\$104,962.18

*S FILED  
MAR 06 2008  
MAY 11 2008  
William A. Shaw  
Prothonotary/Clerk of Courts  
I CANT TO ATT  
J. Gordon*

A lien attaching to all the property of the taxpayer was filed to secure the amount owed. The notice of lien was filed with the PROTHONOTARY, for the COUNTY OF CLEARFIELD, in accordance with the applicable provisions of law.

The lien listed above is attached to certain property described as:

All that certain tract of land deisgnated as Section 13A, Lot 156 in the Treasure Lake Subdivision in Sandy Township, Clearfield County, Pennsylvania, recorded in the Recorder of Deeds Office in Misc. Docket Map File No. 25.

Excepting and Reserving therefrom and subject to:

1. All easements, rights of way, reservations, restrictions and limitations shown or contained in prior instruments of record and in the aforesaid recorded plan.

2. The Declaration of Restrictions, Treasurer Lake, Inc., recorded in Misc. Book Vol. 146, p. 476; all of said restrictions being covenants which run with the land.

3. All minerals and mining rights of every kind and nature.

4. A lien for all unpaid charges or assessments as may be made by Treasure Lake, Inc., or Treasure Lake Property Owners Association, Inc.; which lien shall run with the land and be an encumbrance against it.

Being designated as Sandy Township Map No. 128-C02-13S-00156.

Being known as 848 Treasure Lake, Dubois, PA 15801.

Being the same property which Rocco Latorre, II, et.ux., by their deed dated February 7, 2004, and to be recorded in the Recorder's Office of Clearfield County, Pennsylvania, concurrently herewith, granted and conveyed unto the Grantor herein.

(Use this space for continued description of property)

Under provisions of Internal Revenue code section 6325(d)(1) and/or section 6325(d)(2), the Internal Revenue Service  
subordinates the lien on the property described above to (FIRST COMMONWEALTH HOME MORTGAGE LLC- 200719196).  
However, the lien remains in effect for all other property, or rights to property, to which the lien is attached.

Signature	Title	Date
EUGENE V BATDORF	ADVISORY GROUP MANAGER	2/21/2008

(Note: Certificate of officer authorized by law to take acknowledgements is not essential to the validity of Discharge of  
Federal Tax Lien. Rev. Rul. 71-466, 1971-2, C.B. 409.)

**FILED**

**MAR 06 2008**

**William A. Shaw  
Prothonotary/Clerk of Courts**

# Jeffrey M. Gordon

## Attorney at Law

(814) 849-6800 ♦ Fax (814) 849-6363



152 Jefferson Street, Brookville, PA 15825

March 4, 2008

Mr. William Shaw  
Prothonotary  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830

Re: *Certificate of Subordination of Federal Tax Lien - Todd D. Gordon*

Dear Mr. Shaw:

Please accept for filing a Certificate of Subordination of Federal Tax Lien regarding the above-referenced matter. Also, enclosed is a check in the amount of \$7.00 for the filing fee.

Kindly affix your time-stamp to the enclosed copy and return the same to my office in the enclosed self-addressed, stamped envelope.

I thank you for your anticipated assistance. Should you have any questions, please feel free to contact me.

Sincerely,

Jeffrey M. Gordon

JMG/mac

Enclosures

**IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY,  
PENNSYLVANIA**

INTERNAL REVENUE SERVICE,

CIVIL DIVISION

Plaintiff,

No. 2005-01376-CD

v.

TODD D. GORDON,

**PETITION TO STRIKE LIEN**

Defendant.

Filed on behalf of Defendant  
Todd D. Gordon

Counsel of Record:

Gregory H. Teufel, Esquire  
Pa. Id. No. 73062  
Carter C. Hoel, Esquire  
Pa. Id. No. 316880

OGC Law, LLC  
1575 McFarland Road, Suite 201  
Pittsburgh, PA 15216  
(412) 253-4622  
(412) 253-4623 (facsimile)

Christopher E. Mohney, Esquire  
Pa. I.D. No. 63494  
51 Beaver Drive, Suite 1  
DuBois, PA 15801  
(814) 375-1044  
(814) 375-1088 (facsimile)

(AP) *s*  
FILED  
01:24pm1AC  
AUG 01 2019  
4cc atty Mohney  
BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA**

INTERNAL REVEUNE SERVICE,

CIVIL DIVISION

Plaintiff,

No. 2005-01376-CD

v.

TODD D. GORDON,

Defendant.

**PETITION TO STRIKE LIEN**

AND NOW, comes Defendant Todd D. Gordon, by and through his attorneys, and hereby files the following Petition to Strike Lien, in support thereof, Defendant avers as follows:

1. Plaintiff, the Internal Revenue Service, initiated this action by filing a Notice of Federal Tax Lien on or about September 6, 2005. A true and correct copy of Plaintiff's Notice of Federal Tax Lien is attached hereto as Exhibit A.

2. The Notice of Federal Tax Lien includes the following provision:

**IMPORTANT RELEASE INFORMATION:** For each assessment listed below, unless notice of the lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a). (emphasis in original).

3. The "Last Day for Refiling" each assessment is listed in column (e).

4. The dates in column (e) range from July 3, 2012 through June 1, 2015.

5. There has been no activity in this case since Defendant filed a Certificate of Subordination on or about March 6, 2008. A true and correct copy of the docket is attached hereto as Exhibit B.

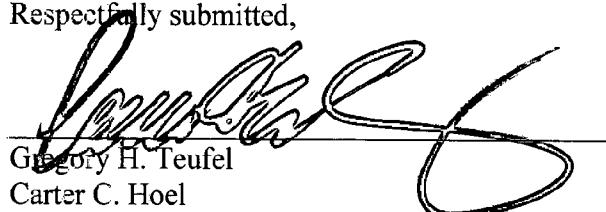
6. Plaintiff has failed to refile any assessment identified in the Notice of Federal Tax Lien.

7. All of the assessments identified in the Notice of Federal Tax Lien have become legally unenforceable pursuant to Internal Revenue Code § 6325(a)(1).

WHEREFORE, Defendant Todd D. Gordon respectfully requests that this Honorable Court strike the lien in the above captioned matter.

Respectfully submitted,

Dated: August 1, 2019

  
\_\_\_\_\_  
Gregory H. Teufel  
Carter C. Hoel  
Christopher E. Mohney

*Attorneys for Defendant Todd D. Gordon*

1872		Department of the Treasury - Internal Revenue Service <b>Notice of Federal Tax Lien</b>			
<b>Form 668 (Y)(c)</b> (Rev. February 2004)		Area: SMALL BUSINESS/SELF EMPLOYED AREA #3 Lien Unit Phone: (800) 913-6050		Serial Number 246044805	For Optional Use by Recording Office 2005-1376-C0
<p><b>As provided by section 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.</b></p>					
Name of Taxpayer <b>TODD D GORDON</b>					
Residence <b>233 TREASURE LK DU BOIS, PA 15801-9005</b>					
<p><b>IMPORTANT RELEASE INFORMATION:</b> For each assessment listed below, unless notice of the lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).</p>					
Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiled (e)	Unpaid Balance of Assessment (f)
940	12/31/2002	94-3394741	02/28/2005	03/30/2015	
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940	12/31/2003	94-3394741	04/05/2004	05/05/2014	1228.62
941	03/31/2002	94-3394741	06/03/2002	07/03/2012	
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941	09/30/2002	94-3394741	04/14/2003	05/14/2013	8367.62
941	12/31/2002	94-3394741	03/31/2003	04/30/2013	26735.94
941	03/31/2003	94-3394741	06/30/2003	07/30/2013	32647.59
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941	09/30/2003	94-3394741	12/29/2003	01/28/2014	4741.69
<p>Place of Filing <b>Clearfield Prothonotary Clearfield County Clearfield, PA 16830</b></p>					
					Total \$ 104962.18

This notice was prepared and signed at **PHILADELPHIA, PA**, on this,

the 31st day of August, 2005.

Signature <i>Susan A. Hansen</i> for ROBERT T MILLER	Title REVENUE OFFICER (814) 533-4214	23-06-1910
--	--	------------

(NOTE: Certificate of officer authorized by law to take acknowledgment is not essential to the validity of Notice of Federal Tax Lien  
Rev. Rul. 71-466, 1971-2 C.B. 409)

Part 1 - Kept By Recording Office

Form 668(Y)(c) (Rev. 2-2004)  
CAT. NO. 80025X

**EXHIBIT A**

Date: 7/9/2019  
Time: 10:51 AM  
Page 1 of 1

**Clearfield County Court of Common Pleas**  
ROA Report  
Case: 2005-01376-CD  
Current Judge: No Judge

User: PUBLIC

Internal Revenue Service vs. Todd D. Gordon

**Federal Tax Liens**

Date		Judge
9/6/2005	New Case Filed:  Filing: Federal Tax Lien Paid by: Internal Revenue Service Receipt number: 1907831 Dated: 09/06/2005 Amount: \$25.00 (Check) Judgment entered in favor of the Plaintiff and against the Defendant in the amount of \$104,962.18. 1CC to IRS.	No Judge No Judge
3/6/2008	Filing: Certificate of Subordination of Federal Tax Lien, Paid by: Gordon, Jeffrey M. Receipt number: 1922969 Dated: 3/6/2008 Amount: \$7.00 (Check) 1 Cert. to Atty. Gordon	No Judge

**EXHIBIT B**

Date: 7/9/2019  
Time: 09:34 AM  
Page 1 of 1

**Clearfield County Court of Common Pleas**

User: PUBLIC

**PARTY HISTORY**

**Civil Dispositions**

**Gordon, Todd D.**

Case	Role	Filing Date	Disposition Date	In Favor Of
		Disposition Type	Judgment Type	Judgment
2005-01376-CD	Defendant	9/6/2005	9/6/2005	Plaintiff
	Internal Revenue Service vs. Todd D. Gordon	Open		IRS Lien
	104,962.18 (Certificate of Subordination of F.T.L. filed 3-06-08)			

**1 Case**

**EXHIBIT B**

Date: 7/9/2019  
Time: 09:33 AM  
Page 1 of 1

**Clearfield County Court of Common Pleas**

User: PUBLIC

**PARTY HISTORY**

**Cases**

Gordon, Todd D.

Filing Date Range: ALL Case Types: ALL Party Role: ALL

Case	Role	Status	Violation / Filing Date	Restitution Balance	Balance Due
2005-01376-CD	Defendant Internal Revenue Service vs. Todd D. Gordon	Judgment Entered	Filing date: 9/6/2005		

*Recd*

1 Case

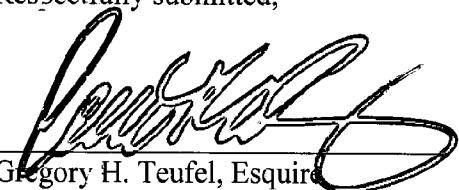
**EXHIBIT B**

**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully submitted,

August 1, 2019

  
Gregory H. Teufel, Esquire  
Pa. Id. No. 73062  
Carter C. Hoel, Esquire  
Pa. Id. No. 316880  
Christopher E. Mohney, Esquire  
Pa. I.D. No. 63494

9

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

INTERNAL REVEUNE SERVICE,

CIVIL DIVISION

Plaintiff,

No. 2005-01376-CD

v.

TODD D. GORDON,

Defendant.

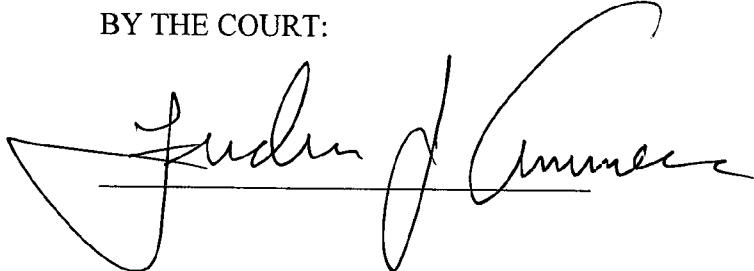
FILED  
OCT 1 2019  
AUG 06 2019  
ACCOTTY MUNNEY  
BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURT

**ORDER OF COURT**

AND NOW, this 6<sup>th</sup> day of August, 2019, upon consideration of foregoing Petition to Strike Lien, it is hereby ordered that:

- (1) a rule is issued upon the Plaintiff to show cause why the moving party is not entitled to the relief requested;
- (2) the Plaintiff shall file an answer to the motion within 30 days of this date, or the Court may deem that you have no objection to the relief requested therein and may grant such relief without further notice to you (I took artistic liberty and threw in this language, the Judge signed it);
- (3) the Petition shall be decided under Pa.R.Civ.P. 206.1;
- (3) argument shall be held on \_\_\_\_\_, \_\_\_\_ 201\_\_ in the Clearfield County Courthouse, Clearfield, Pennsylvania, in Courtroom No. 1; and
- (4) notice of the entry of this order shall be provided to all parties by the moving party.

BY THE COURT:



FILED  
01:10PM 02  
SEP 27 2019  
Christopher Mohney  
BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS

**IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY,  
PENNSYLVANIA**

INTERNAL REVENUE SERVICE,

CIVIL DIVISION

Plaintiff,

No. 2005-01376-CD

v.

TODD D. GORDON,

**PETITION TO STRIKE LIEN**

Defendant.

Filed on behalf of Defendant  
Todd D. Gordon

Counsel of Record:

Gregory H. Teufel, Esquire  
Pa. Id. No. 73062  
Carter C. Hoel, Esquire  
Pa. Id. No. 316880  
OGC Law, LLC  
1575 McFarland Road, Suite 201  
Pittsburgh, PA 15216  
(412) 253-4622  
(412) 253-4623 (facsimile)

Christopher E. Mohney, Esquire  
Pa. I.D. No. 63494  
51 Beaver Drive, Suite 1  
DuBois, PA 15801  
(814) 375-1044  
(814) 375-1088 (facsimile)

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA**

INTERNAL REVEUNE SERVICE,

CIVIL DIVISION

Plaintiff,

No. 2005-01376-CD

v.

TODD D. GORDON,

Defendant.

**PETITION TO STRIKE LIEN**

AND NOW, comes Defendant Todd D. Gordon, by and through his attorneys, and hereby files the following Petition to Strike Lien, in support thereof, Defendant avers as follows:

1. Plaintiff, the Internal Revenue Service, initiated this action by filing a Notice of Federal Tax Lien on or about September 6, 2005.

2. The Notice of Federal Tax Lien includes the following provision:

**IMPORTANT RELEASE INFORMATION:** For each assessment listed below, unless notice of the lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a). (emphasis in original).

3. The "Last Day for Refiling" each assessment is listed in column (e).

4. The dates in column (e) range from July 3, 2012 through June 1, 2015.

5. There has been no activity in this case since Defendant filed a Certificate of Subordination on or about March 6, 2008.

6. Plaintiff has failed to refile any assessment identified in the Notice of Federal Tax Lien.

7. All of the assessments identified in the Notice of Federal Tax Lien have become legally unenforceable pursuant to Internal Revenue Code § 6325(a)(1).

8. Defendant filed a Petition to Strike the Lien on or about August 1, 2019.
9. This Honorable Court entered an Order of Court on or about August 6, 2019. A true and correct copy of the August 6, 2019 Order of Court is Attached hereto as Exhibit A.

10. Paragraph 2 of the Order of Court states, "The Plaintiff shall file an answer to the motion within 30 days of this date, or the Court may deem that you have no objection to the relief requested therein and may grant such relief without further notice to you."

11. Counsel for the Defendant served copies of the August 6, 2019 Order of Court on the Plaintiff.

12. Plaintiff failed to file an answer or otherwise respond within the thirty (30) day period as required by Paragraph 2 of the August 6, 2019 Order of Court.

WHEREFORE, Defendant Todd D. Gordon respectfully requests that this Honorable Court strike the lien in the above captioned matter.

Respectfully submitted,

Gregory H. Teufel  
Carter C. Hoel  
Christopher E. Mohney

Dated: September 27, 2019

*Attorneys for Defendant Todd D. Gordon*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

INTERNAL REVEUNE SERVICE,

CIVIL DIVISION

Plaintiff,

No. 2005-01376-CD

v.

TODD D. GORDON,

Defendant.

A TRUE COPY  
ATTEST: *Dick Sme*  
PROTHONOTARY-CLERK

AUG 06 2019

I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

**ORDER OF COURT**

AND NOW, this 10<sup>th</sup> day of August, 2019, upon consideration of foregoing Petition  
to Strike Lien, it is hereby ordered that:

- (1) a rule is issued upon the Plaintiff to show cause why the moving party is not entitled to the relief requested;
- (2) the Plaintiff shall file an answer to the motion within 30 days of this date, or the Court may deem that you have no objection to the relief requested therein and may grant such relief without further notice to you (I took artistic liberty and threw in this language, the Judge signed it);
- (3) the Petition shall be decided under Pa.R.Civ.P. 206.1;
- (3) argument shall be held on September, 201 in the Clearfield County Courthouse, Clearfield, Pennsylvania, in Courtroom No. 1; and
- (4) notice of the entry of this order shall be provided to all parties by the moving party.

BY THE COURT:

*/s/Fredric J. Ammerman*

**EXHIBIT A**

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Petition to Strike Lien has been served upon the following counsel of record by first class U.S. mail this 27<sup>th</sup> day of September, 2019.

Robert T. Miller  
600 Arch St.  
Philadelphia, PA 19106

Internal Revenue Service  
Attn: Advisory  
1000 Liberty Avenue, Room 704  
Pittsburgh, PA 15222

\_\_\_\_\_  
Gregory H. Teufel  
Carter C. Hoel  
Christopher E. Mohney

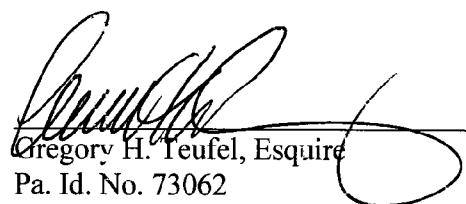
*Attorneys for Defendant, Todd D. Gordon*

**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully submitted,

September 27, 2019



Gregory H. Teufel, Esquire  
Pa. Id. No. 73062  
Carter C. Hoel, Esquire  
Pa. Id. No. 316880  
Christopher E. Mohney, Esquire  
Pa. I.D. No. 63494

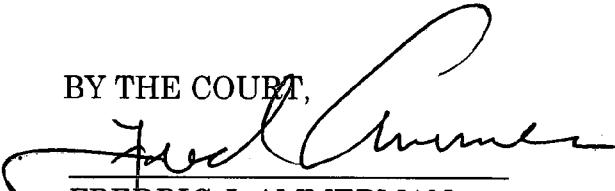
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

INTERNAL REVENUE SERVICE \* NO. 2005-1376-CD  
vs. \*  
TODD D. GORDON \*

O R D E R

NOW, this 30<sup>th</sup> day of September 2019, upon review of the record; it is the  
ORDER of this Court that this Court's Order of August 6, 2019 be and is hereby  
STRICKEN from the record as it contains inappropriate language.

BY THE COURT,

  
FREDRIC J. AMMERMAN  
President Judge

S  
④ FILED  
013:55PM19  
SEP 30 2019  
ICC Atty J. Gordon  
BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS  
ICC Atty Mohney

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY,  
PENNSYLVANIA

INTERNAL REVENUE SERVICE,

CIVIL DIVISION

Plaintiff,

No. 2005-01376-CD

v.

TODD D. GORDON,

Defendant.

Filed on behalf of Defendant  
Todd D. Gordon

Counsel of Record:

Gregory H. Teufel  
Pa. Id. No. 73062  
Carter C. Hoel  
Pa. Id. No. 316880  
OGC Law, LLC  
1575 McFarland Road, Suite 201  
Pittsburgh, PA 15216  
(412) 253-4622  
(412) 253-4623 (facsimile)

Christopher E. Mohney  
Pa. Id. No. 63494  
51 Beaver Drive, Suite 1  
DuBois, PA 15801  
(814) 375-1044  
(814) 375-1088 (facsimile)

(A)

FILED

0112:55pm/RE  
OCT 03 2019

Christopher Mohney

ERIAN K. SPENCER

PROTHONOTARY & CLERK OF COURTS  
AMENDED PETITION TO STRIKE LIEN

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA**

INTERNAL REVEUNE SERVICE,

CIVIL DIVISION

Plaintiff,

No. 2005-01376-CD

v.

TODD D. GORDON,

Defendant.

**AMENDED PETITION TO STRIKE LIEN**

AND NOW, comes Defendant Todd D. Gordon, by and through his attorneys, and hereby files the following Amended Petition to Strike Lien, in support thereof, Defendant avers as follows:

1. Plaintiff, the Internal Revenue Service, initiated this action by filling a Notice of Federal Tax Lien on or about September 6, 2005. A true and correct copy of Plaintiff's Notice of Federal Tax Lien is attached hereto as Exhibit A.

2. The Notice of Federal Tax Lien includes the following provision:

**IMPORTANT RELEASE INFORMATION:** For each assessment listed below, unless notice of the lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a). (emphasis in original).

3. The "Last Day for Refiling" each assessment is listed in column (e).

4. The dates in column (e) range from July 3, 2012 through June 1, 2015.

5. There was no activity in this case since Defendant filed a Certificate of Subordination on or about March 6, 2008. A true and correct copy of the docket is attached hereto as Exhibit B.

6. Plaintiff filed a Petition to Strike Lien.

7. This Honorable Court entered an Order on August 6, 2019 issuing a rule upon the Plaintiff to show cause.

8. This Honorable Court entered an Order on September 30, 2019 striking the August 6, 2019 Order for containing inappropriate language.

9. Defendant files this Amended Petition, requesting the same relief and removing the inappropriate language in the August 6, 2019 Order of Court.

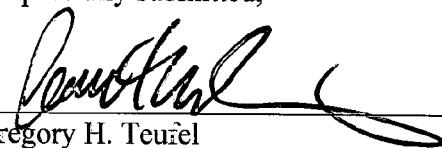
10. At all times, Plaintiff has failed to refile any assessment identified in the Notice of Federal Tax Lien.

11. All of the assessments identified in the Notice of Federal Tax Lien have become legally unenforceable pursuant to Internal Revenue Code § 6325(a)(1).

WHEREFORE, Defendant Todd D. Gordon respectfully requests that this Honorable Court strike the lien in the above captioned matter.

Respectfully submitted,

Dated: October 3, 2019

  
\_\_\_\_\_  
Gregory H. Teufel  
Carter C. Hoel  
Christopher E. Mohney

*Attorneys for Defendant Todd D. Gordon*

**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully submitted,



October 3, 2019

Gregory H. Teufel  
Pa. Id. No. 73062  
Carter C. Hoel  
Pa. Id. No. 316880  
Christopher E. Mohney  
Pa. Id. No. 63494

Form 668 (Y)(c)  
(Rev. February 2004)

1872

Department of the Treasury - Internal Revenue Service  
Notice of Federal Tax Lien

Area:  
SMALL BUSINESS/SELF EMPLOYED AREA #3  
Lien Unit Phone: (800) 913-6050

Serial Number

For Optional Use by Recording Office

246044805

2005-1376-C0

As provided by section 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.

Name of Taxpayer TODD D GORDON

Residence 233 TREASURE LK  
DU BOIS, PA 15801-9005

**IMPORTANT RELEASE INFORMATION:** For each assessment listed below, unless notice of the lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).

FILED

SEP 06 2005

W/ 11-30-05

William A. Shaw

Prothonotary/Clerk of Courts

1 CPM TO ING

PA 25-

Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiled (e)	Unpaid Balance of Assessment (f)
940	12/31/2002	94-3394741	02/28/2005	03/30/2015	
940	12/31/2002	94-3394741	05/02/2005	06/01/2015	2314.61
940	12/31/2003	94-3394741	04/05/2004	05/05/2014	1228.62
941	03/31/2002	94-3394741	06/03/2002	07/03/2012	
941	03/31/2002	94-3394741	08/26/2002	09/25/2012	
941	03/31/2002	94-3394741	02/07/2005	03/09/2015	
941	06/30/2002	94-3394741	10/14/2002	11/13/2012	4207.93
941	06/30/2002	94-3394741	02/07/2005	03/09/2015	3411.03
941	09/30/2002	94-3394741	04/14/2003	05/14/2013	8367.62
941	12/31/2002	94-3394741	03/31/2003	04/30/2013	26735.94
941	03/31/2003	94-3394741	06/30/2003	07/30/2013	32647.59
941	06/30/2003	94-3394741	09/29/2003	10/29/2013	21307.15
941	09/30/2003	94-3394741	12/29/2003	01/28/2014	4741.69

Place of Filing

Clearfield Prothonotary  
Clearfield County  
Clearfield, PA 16830

Total \$ 104962.18

This notice was prepared and signed at PHILADELPHIA, PA, on this,

the 31st day of August 2005

Signature  
for ROBERT T MILLER

Title  
REVENUE OFFICER  
(814) 533-4214

23-06-1910

(NOTE: Certificate of officer authorized by law to take acknowledgment is not essential to the validity of Notice of Federal Tax lien.  
Rev. Rul. 71-466, 1971 - 2 C.B. 409)

Part 1 - Kept By Recording Office

Form 668(Y)(c) (Rev. 2-2004)  
CAT. NO. 80025X

EXHIBIT A

Date: 7/9/2019  
Time: 10:51 AM  
Page 1 of 1

**Clearfield County Court of Common Pleas**  
ROA Report  
Case: 2005-01376-CD  
Current Judge: No Judge  
Internal Revenue Service vs. Todd D. Gcrdon

User: PUBLIC

**Federal Tax Liens**

Date		Judge
9/6/2005	New Case Filed.  Filing: Federal Tax Lien Paid by: Internal Revenue Service Receipt number: 1907831 Dated: 09/06/2005 Amount: \$25.00 (Check) Judgment entered in favor of the Plaintiff and against the Defendant in the amount of \$104,962.18. 1CC to IRS.	No Judge No Judge
3/6/2008	Filing: Certificate of Subordination of Federal Tax Lien, Paid by: Gordon, Jeffrey M. Receipt number: 1922969 Dated: 3/6/2008 Amount: \$7.00 (Check) 1 Cert. to Atty. Gordon	No Judge

**EXHIBIT B**

Date: 7/9/2019  
Time: 09:34 AM  
Page 1 of 1

**Clearfield County Court of Common Pleas**

User: PUBLIC

PARTY HISTORY  
Civil Dispositions  
Gordon, Todd D.

Case	Role	Filing Date	Disposition Date	In Favor Of	Judgment
		Disposition Type	Judgment Type		
2005-01376-CD	Defendant	9/6/2005	9/6/2005	Plaintiff	
	Internal Revenue Service vs. Todd D. Gordon	Open		IRS Lien	
	104,962.18 (Certificate of Subordination of F.T.L. filed 3-06-08)				

1 Case

**EXHIBIT B**

Date: 7/9/2019  
Time: 09:33 AM  
Page 1 of 1

**Clearfield County Court of Common Pleas**

User: PUBLIC

**PARTY HISTORY**

**Cases**

Gordon, Todd D.

Filing Date Range: ALL Case Types: ALL Party Role: ALL

Case	Role	Status	Violation / Filing Date	Restitution Balance Balance Due
2005-01376-CD	Defendant Internal Revenue Service vs. Todd D. Gordon	Judgment Entered	Filing date: 9/6/2005	<i>Recd</i>

1 Case

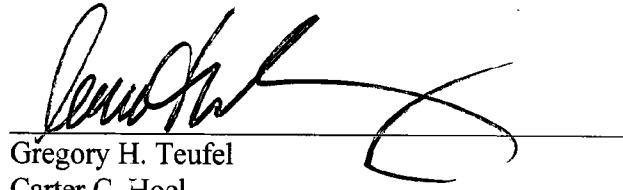
**EXHIBIT B**

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Amended Petition to Strike Lien has been served upon the following counsel of record by first class U.S. mail this 3<sup>rd</sup> day of October, 2019.

Robert T. Miller  
600 Arch St.  
Philadelphia, PA 19106

Internal Revenue Service  
Attn: Advisory  
1000 Liberty Avenue, Room 704  
Pittsburgh, PA 15222



\_\_\_\_\_  
Gregory H. Teufel  
Carter C. Hoel  
Christopher E. Mohney

*Attorneys for Defendant, Todd D. Gordon*

cA

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA**

INTERNAL REVEUNE SERVICE,

CIVIL DIVISION

Plaintiff,

No. 2005-01376-CD

v.

TODD D. GORDON,

Defendant.

S

**FILED**  
01 Jm/3pm  
**OCT 07 2019**  
3cc: ATTY FEUFEL  
**BRIAN K. SPENCER**  
**PROTHONOTARY & CLERK OF COURTS**

**ORDER OF COURT**

AND NOW, this 3<sup>rd</sup> day of October, 2019, upon consideration of foregoing Amended Petition to Strike Lien, it is hereby ordered that:

(1) a rule is issued upon the Plaintiff to show cause why the moving party is not entitled to the relief requested;

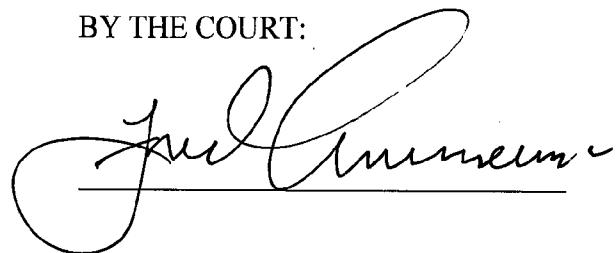
~~(2) the Plaintiff shall file an answer to the Amended Petition within \_\_\_\_\_ days of this date, or the Court may deem that you have no objection to the relief requested therein and may grant such relief without further notice to you;~~

(3) the Petition shall be decided under Pa.R.Civ.P. 206.1;

(3) argument shall be held on November 21, 2019 in the Clearfield County Courthouse, Clearfield, Pennsylvania, in Courtroom No. 1; at 11:00 AM, Courtroom 1;

(4) notice of the entry of this order shall be provided to all parties by the moving party.

BY THE COURT:



Alexander R. Kalyniuk  
Virginia State Bar Number: 92325  
Trial Attorney, Tax Division  
U.S. Department of Justice  
Post Office Box 227, Ben Franklin Station  
Washington, D.C. 20044  
Telephone: (202) 616-3309  
Facsimile: (202) 514-6866  
E-Mail: Alexander.R.Kalyniuk@usdoj.gov

*(Handwritten Mark)* S  
**FILED**  
01/10/2019  
**NOV 04 2019**  
**NOCC**  
**BRIAN K. SPENCER**  
**PROTHONOTARY & CLERK OF COURTS**

*Counsel for the United States of America*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
JOHNSTOWN DIVISION**

<b>TODD D. GORDON,</b>	)	Case No. 2005-1376-CD (Related to the Amended Petition to Strike Lien No. 2005-01376-CD pending before the Court of Common Pleas of Clearfield, Pennsylvania)
Plaintiff,	)	
v.	)	
<b>UNITED STATES OF AMERICA,</b>	)	
Defendant.	)	

**UNITED STATES' NOTICE OF REMOVAL**

The United States of America (the “United States”), at the request of the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and at the direction of the Attorney General of the United States, files this Notice of Removal (the “**Notice of Removal**”) pursuant to 28 U.S.C. §§ 1441, 1442, 1444, and 1446, and in supports states as follows:

1. On October 3, 2019, Todd D. Gordon filed an Amended Petition to Strike Lien (the “**Amended Petition**”) regarding a notice of federal tax lien docketed as number 2005-01376-CD in the Clearfield Prothonotary, Clearfield County, Clearfield, Pennsylvania, which is now pending before the Court of Common Pleas of Clearfield, Pennsylvania (the “**State Court**”). A true and correct copy of the Amended Petition is attached hereto as **Exhibit A**. The State Court is within the territorial bounds of the U.S. District Court for the Western District of Pennsylvania.

2. The Amended Petition attempts to strike the United States' lien regarding real property located in Clearfield County, Pennsylvania.

3. On October 8, 2019, the Internal Revenue Service Office in Pittsburgh, Pennsylvania received the Amended Petition.<sup>1</sup>

#### **LEGAL STANDARD**

4. Under 28 U.S.C. § 2410(a)(1), the United States may be named a party in a civil action for matters affecting property on which the United States has a lien, including any action to quiet title to any real or personal property on which the United States has a lien.

5. Under 28 U.S.C. § 1441, "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending."

6. Under 28 U.S.C. § 1442(a)(1), "[a] civil action or criminal prosecution that is commenced in a State court and that is against or directed to any of the following may be removed by them to the district court of the United States for the district and division embracing the place wherein it is pending: (1) [t]he United States or any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, in an official or individual capacity, for or relating to any act under color of such office or on account of any right, title or

---

<sup>1</sup> The United States considers the Amended Petition to be considered a "civil action" against the United States as it is an initial pleading and sets forth a claim for relief. See *Christian, Klein & Cogburn v. NASD*, 970 F. Supp. 276, 278 (S.D.N.Y. 1997) (quoting *Universal Motors Group, Inc. v. Wilkerson*, 674 F. Supp. 1108, 1112 (S.D.N.Y. 1987)) ("An initial document, by whatever name, which contains enough information to allow [a] defendant to intelligently ascertain removability qualifies as an initial pleading."). Service upon the United States does not appear to be proper. The United States reserves all its rights, claims, objections, and defenses.

authority claimed under any Act of Congress for the apprehension or punishment of criminals or the collection of the revenue.”

7. Under 28 U.S.C. § 1444, “[a]ny action brought under section 2410 of this title against the United States in any State court may be removed by the United States to the district court of the United States for the district and division in which the action is pending.”

8. Under 28 U.S.C. § 1446, a notice of removal must be filed in the district court of the United States for the district and division within which such action is pending “within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based.”<sup>2</sup> Further, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.” 28 U.S.C. § 1446(b)(3).

#### GROUND FOR REMOVAL

9. First, the United States District Court for the Western District of Pennsylvania has original jurisdiction over this matter as it is a civil action that concerns the laws of the United States under 28 U.S.C. § 1331, thus, the United States may remove this action under 28 U.S.C. § 1441.

10. Second, the Amended Petition constitutes a civil action that was commenced in a State court and that is against the United States, which may be removed by the United States to

---

<sup>2</sup> As service of process has not been effectuated, the 30-day clock has not begun to run. *See Calhoun v. Murray*, 507 Fed. Appx. 251, 259 (3d Cir. 2012) (“The Supreme Court has recognized that ‘[a] named defendant’s time to remove is triggered by simultaneous service of the summons and complaint, or receipt of the complaint, through service or otherwise, after and apart from service of the summons, but not by mere receipt of the complaint unattended by any formal service.’”) (quoting *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347–48 (1999)).

the district court of the United States for the district and division embracing the place wherein it is pending pursuant to 28 U.S.C. § 1442.

11. Third, the Amended Petition attempts to strike the United States' lien in real property located in Clearfield County, Pennsylvania, which, in essence, constitutes an attempt to quiet title as to real property on which the United States has a lien subject to 28 U.S.C. § 2410(a)(1). Thus, the Amended Petition is considered a removable pleading under 28 U.S.C. § 1444.

12. Accordingly, there exists at least three (3) grounds to remove the Amended Petition to the U.S. District Court for the Western District of Pennsylvania subject to 28 U.S.C. §§ 1441, 1442, 1444, and 1446.

13. In accordance with 28 U.S.C. § 1446(a) and (c), the Amended Petition is attached to this Notice of Removal.

14. Pursuant to 28 U.S.C. § 1446(d), this Notice of Removal is being given to all parties to this action. Notice will also be provided to the state court.

15. By filing this Notice of Removal, the United States does not waive any claims, rights, defenses, or objections.

*[Remainder of Page Left Intentionally Blank]*

**CONCLUSION**

**WHEREFORE**, the Amended Petition pending before the Court of Common Pleas of Clearfield, Pennsylvania is hereby **MOVED** to the United States District Court for the Western District of Pennsylvania.

DATED: November 1, 2019

**SCOTT W. BRADY**

United States Attorney

/s/ Alexander R. Kalyniuk

Alexander R. Kalyniuk  
Virginia State Bar Number: 92325  
Trial Attorney, Tax Division  
U.S. Department of Justice  
Post Office Box 227, Ben Franklin Station  
Washington, D.C. 20044  
Telephone: (202) 616-3309  
Facsimile: (202) 514-6866  
E-Mail: Alexander.R.Kalyniuk@usdoj.gov

*Counsel for the United States of America*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 1st day of November, 2019, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system in the U.S. District Court for the Western District of Pennsylvania. Additionally, I hereby certify that on this 1st day of November, 2019, I sent a true and correct copy of the foregoing Notice of Removal to the following addresses via first-class, U.S. mail:

**Todd D. Gordon**  
c/o Gregory H. Teufel, Esq.  
1575 McFarland Road, Suite 201  
Pittsburgh, Pennsylvania 15216

**Clerk of Court**  
Court of Common Pleas of Clearfield, Pennsylvania  
Clearfield County Courthouse  
1 N. Second Street  
Clearfield, Pennsylvania 16830

*/s/ Alexander R. Kalyniuk*  
\_\_\_\_\_  
ALEXANDER R. KALYNIUK  
Trial Attorney  
United States Department of Justice, Tax Division

**IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY,  
PENNSYLVANIA**

INTERNAL REVENUE SERVICE,

CIVIL DIVISION

Plaintiff,

No. 2005-01376-CD

v.

**AMENDED PETITION TO STRIKE LIEN**

TODD D. GORDON,

Filed on behalf of Defendant  
Todd D. Gordon

Defendant.

Counsel of Record:

Gregory H. Teufel  
Pa. Id. No. 73062  
Carter C. Hoel  
Pa. Id. No. 316880  
OGC Law, LLC  
1575 McFarland Road, Suite 201  
Pittsburgh, PA 15216  
(412) 253-4622  
(412) 253-4623 (facsimile)

Christopher E. Mohney  
Pa. Id. No. 63494  
51 Beaver Drive, Suite 1  
DuBois, PA 15801  
(814) 375-1044  
(814) 375-1088 (facsimile)

I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

OCT 03 2019

A TRUE COPY  
ATTEST: Dick. Spurz  
PROTHONOTARY-CLERK

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

INTERNAL REVEUNE SERVICE,

CIVIL DIVISION

Plaintiff,

No. 2005-01376-CD

v.

TODD D. GORDON,

Defendant.

**AMENDED PETITION TO STRIKE LIEN**

AND NOW, comes Defendant Todd D. Gordon, by and through his attorneys, and hereby files the following Amended Petition to Strike Lien, in support thereof, Defendant avers as follows:

1. Plaintiff, the Internal Revenue Service, initiated this action by filing a Notice of Federal Tax Lien on or about September 6, 2005. A true and correct copy of Plaintiff's Notice of Federal Tax Lien is attached hereto as Exhibit A.

2. The Notice of Federal Tax Lien includes the following provision:

**IMPORTANT RELEASE INFORMATION:** For each assessment listed below, unless notice of the lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a). (emphasis in original).

3. The "Last Day for Refiling" each assessment is listed in column (e).

4. The dates in column (e) range from July 3, 2012 through June 1, 2015.

5. There was no activity in this case since Defendant filed a Certificate of Subordination on or about March 6, 2008. A true and correct copy of the docket is attached hereto as Exhibit B.

6. Plaintiff filed a Petition to Strike Lien.

7. This Honorable Court entered an Order on August 6, 2019 issuing a rule upon the Plaintiff to show cause.

8. This Honorable Court entered an Order on September 30, 2019 striking the August 6, 2019 Order for containing inappropriate language.

9. Defendant files this Amended Petition, requesting the same relief and removing the inappropriate language in the August 6, 2019 Order of Court.

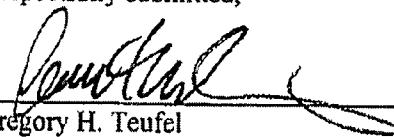
10. At all times, Plaintiff has failed to refile any assessment identified in the Notice of Federal Tax Lien.

11. All of the assessments identified in the Notice of Federal Tax Lien have become legally unenforceable pursuant to Internal Revenue Code § 6325(a)(1).

WHEREFORE, Defendant Todd D. Gordon respectfully requests that this Honorable Court strike the lien in the above captioned matter.

Respectfully submitted,

Dated: October 3, 2019

  
\_\_\_\_\_  
Gregory H. Teufel  
Carter C. Hoel  
Christopher E. Mohney

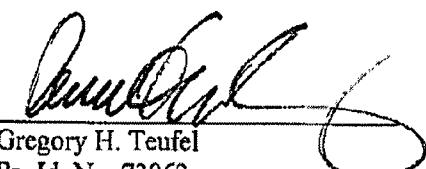
*Attorneys for Defendant Todd D. Gordon*

**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully submitted,

October 3, 2019

  
Gregory H. Teufel  
Pa. Id. No. 73062  
Carter C. Hoel  
Pa. Id. No. 316880  
Christopher E. Mohney  
Pa. Id. No. 63494

Form 668 (Y)(c) (Rev. February 2004)	<b>1872</b> <b>Department of the Treasury - Internal Revenue Service</b> <b>Notice of Federal Tax Lien</b>				
Area: <b>SMALL BUSINESS/SELF EMPLOYED AREA #3</b> Lien Unit Phone: (800) 913-6050	Serial Number <b>246044805</b>		For Optional Use by Recording Office <b>2005-1376-C0</b>		
<p>As provided by section 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.</p>					
Name of Taxpayer <b>TODD D GORDON</b>					
Residence <b>233 TREASURE LK DU BOIS, PA 15801-9005</b>					
<b>IMPORTANT RELEASE INFORMATION:</b> For each assessment listed below, unless notice of the lien is filed by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6326(a).					
Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
940	12/31/2002	94-3394741	02/28/2005	03/30/2015	
940	12/31/2002	94-3394741	05/02/2005	06/01/2015	2314.61
940	12/31/2003	94-3394741	04/05/2004	05/05/2014	1228.62
941	03/31/2002	94-3394741	06/03/2002	07/03/2012	
941	03/31/2002	94-3394741	08/26/2002	09/25/2012	
941	03/31/2002	94-3394741	02/07/2005	03/09/2015	4207.93
941	06/30/2002	94-3394741	10/14/2002	11/13/2012	
941	06/30/2002	94-3394741	02/07/2005	03/09/2015	3411.03
941	09/30/2002	94-3394741	04/14/2003	05/14/2013	8367.52
941	12/31/2002	94-3394741	03/31/2003	04/30/2013	26735.94
941	03/31/2003	94-3394741	06/30/2003	07/30/2013	32647.59
941	06/30/2003	94-3394741	09/29/2003	10/29/2013	21307.15
941	09/30/2003	94-3394741	12/29/2003	01/28/2014	4741.69
Place of Filing Clearfield Prothonotary Clearfield County Clearfield, PA 16830					
					Total \$ <b>104962.18</b>

This notice was prepared and signed at **PHILADELPHIA, PA**, on this,

the **31st** day of **August** **2005**,

Signature <i>Susan A. Hansen</i> for ROBERT T. MILLER	Title <b>REVENUE OFFICER</b> (814) 533-4214	<b>23-06-1910</b>
---	---	-------------------

(NOTE: Certificate of officer authorized by law to take acknowledgment is not essential to the validity of Notice of Federal Tax Lien  
Rev. Rul. 71-486, 1971-2 C.B. 409)

Part 1 - Kept By Recording Office

Form 668(Y)(c) (Rev. 2-2004)  
CAT NO. 60075X

**EXHIBIT A**

Date: 7/9/2019  
Time: 10:51 AM  
Page 1 of 1

Clearfield County Court of Common Pleas  
ROA Report  
Case: 2005-01376-CD  
Current Judge: No Judge  
Internal Revenue Service vs. Todd D. Gordon

User: PUBLIC

Federal Tax Liens

Date		Judge
9/6/2005	New Case Filed.  Filing: Federal Tax Lien Paid by: Internal Revenue Service Receipt number: 1907831 Dated: 09/06/2005 Amount: \$25.00 (Check) Judgment entered in favor of the Plaintiff and against the Defendant in the amount of \$104,962.18. 1CC to IRS.	No Judge No Judge
3/6/2008	Filing: Certificate of Subordination of Federal Tax Lien; Paid by: Gordon, Jeffrey M. Receipt number: 1922969 Dated: 3/6/2008 Amount: \$7.00 (Check) 1 Cert. to Atty. Gordon	No Judge

**EXHIBIT B**

Date: 7/9/2019  
Time: 09:34 AM  
Page 1 of 1

**Clearfield County Court of Common Pleas**

User: PUBLIC

**PARTY HISTORY**  
**Civil Dispositions**  
**Gordon, Todd D.**

Case	Role	Filing Date	Disposition Date	In Favor Of	Judgment
		Disposition Type	Judgment Type		
2005-01376-CD	Defendant	9/6/2005	9/6/2005	Plaintiff	
	Internal Revenue Service vs. Todd D. Gordon	Open		IRS Lien	

**1 Case**

**EXHIBIT B**

Date: 7/9/2019

Time: 09:33 AM

Page 1 of 1

**Clearfield County Court of Common Pleas**

User: PUBLIC

**PARTY HISTORY**

**Cases**

Gordon, Todd D.

Filing Date Range: ALL Case Types: ALL Party Role: ALL

<u>Case</u>	<u>Role</u>	<u>Status</u>	<u>Violation / Filing Date</u>	<u>Restitution Balance</u>	<u>Balance Due</u>
2005-01376-CD	Defendant	Judgment Entered			
	Internal Revenue Service vs. Todd D. Gordon		Filing date: 9/6/2005		

1 Case

*Recd*

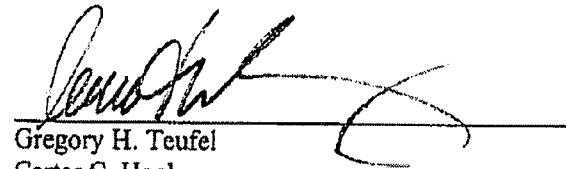
**EXHIBIT B**

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Amended Petition to Strike Lien has been served upon the following counsel of record by first class U.S. mail this 3<sup>rd</sup> day of October, 2019.

Robert T. Miller  
600 Arch St.  
Philadelphia, PA 19106

Internal Revenue Service  
Attn: Advisory  
1000 Liberty Avenue, Room 704  
Pittsburgh, PA 15222



\_\_\_\_\_  
Gregory H. Teufel  
Carter C. Hoel  
Christopher E. Mohney

*Attorneys for Defendant, Todd D. Gordon*

# COPY

## IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

INTERNAL REVENUE SERVICE  
Plaintiff

vs.

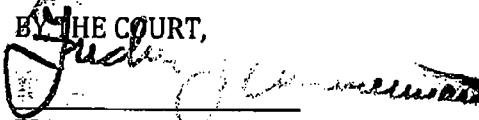
TODD R. GORDON  
Defendant

\* NO. 2005-1376-CD

\*  
\*  
\*  
\*

### ORDER

NOW, this 15<sup>th</sup> day of November, 2019, upon receipt and review of the United States' Notice of Removal of this case to Federal Court; it is the ORDER of this Court that the hearing scheduled on November 21, 2019 at 11:00 a.m. be and is hereby CANCELED.

BY THE COURT,  
  
FREDRIC J. AMMERMAN  
PRESIDENT JUDGE

FILED  
OCT 15 2019  
NOV 15 2019  
2ccatty Nalley  
BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS  
2ccatty Gordon

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

TODD D. GORDON,

CASE NO. 3:19-cv-187

2005-1376-CD

JUDGE KIM R. GIBSON

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

MEMORANDUM OPINION

*S*  
JAN 16 2020  
FEB 18 2020  
m/jm/q:u2  
No CC  
BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS

**I. Introduction**

Todd Gordon, a homeowner, filed a Petition to Strike Lien in the Court of Common Pleas of Clearfield County, stemming from a Notice of Federal Tax Lien ("NFTL") the IRS filed against him in 2005. Gordon alleges that Defendant United States of America (the "USA") improperly retains a judgment against his property in Clearfield County. The USA removed the action, then moved to dismiss, arguing that the case is moot and that sovereign immunity bars Gordon's action. The USA's Motion to Dismiss for Lack of Jurisdiction (ECF No. 2) is fully briefed (ECF Nos. 3, 4) and ripe for disposition.

The Court holds that it lacks jurisdiction over the action. Accordingly, the Court **GRANTS** the Motion and **REMANDS** the case to the Court of Common Pleas.

**II. Venue**

Venue is proper in the Western District of Pennsylvania because the USA removed the case from the Court of Common Pleas of Clearfield County, which this district embraces. 28

U.S.C. § 1441. Additionally, the USA may remove any action commenced against it in state court. 28 U.S.C. § 1442(a)(1).

### III. Factual and Procedural Background<sup>1</sup>

This case arises from the Internal Revenue Service's ("IRS") filing of a NFLT against Gordon on September 6, 2005. (ECF No. 1-1 ¶ 1.) On the day of filing of the NFLT, the Court of Common Pleas entered judgment in favor of the USA, although the USA never sought judgment or further acted upon the liens; this may have been the result of a clerical error at the Court of Common Pleas. (ECF No. 1-1 at 6, 8; ECF No. 11.) The NFLT provides that, unless the IRS refiles the NFLT, after a certain period, usually ten years, the NFLT expires and becomes a certificate of release pursuant to 26 U.S.C. § 6325.<sup>2</sup> (ECF No. 1-1 ¶¶ 2-4.) The IRS never refiled the NFLT and the lien expired in 2015. (*Id.* ¶¶ 5, 10; ECF No. 3 ¶ 4.) Pursuant to Section 6325, the lien is now unenforceable. (ECF No. 1-1 ¶ 11.)

Sometime in 2019—the date does not appear in the record—Gordon filed a Petition to Strike Lien, after which the Court of Common Pleas issued an order directing the USA to show cause. (*Id.* ¶¶ 6-7.) The Court of Common Pleas then struck the show cause order and on October 3, 2019, Gordon filed an Amended Petition, again requesting the Court of Common Pleas to strike the lien. (*Id.* 8-9.) On November 1, 2019, the USA removed the case to this Court. (ECF No. 1.)

---

<sup>1</sup> The Court derives the following facts from the USA's Notice of Removal and its attachments (ECF No. 1), the USA's Motion to Dismiss and Brief in Support (ECF Nos. 2, 3), and Gordon's Response in Opposition. (ECF No. 4.) The Court also recounts certain facts presented to it at a case management conference on February 10, 2020. All citations to facts presented at that conference will be to "(ECF No. 11)."'

<sup>2</sup> The NFLT states that, if the IRS does not refile the lien by a certain time, the lien expires and is no longer enforceable. This is what is meant by a "certificate of release"

On November 8, 2019, the USA moved to dismiss the case for lack of subject matter jurisdiction and failure to state a claim. (ECF No. 2.) Gordon responded in opposition on November 29, 2019. (ECF No. 4.)

#### **IV. Legal Standard**

Rule 12 provides that a party may move to dismiss a case on the basis that the court lacks subject matter jurisdiction. Fed. R. Civ. P. 12(b)(1). At issue in a Rule 12(b)(1) motion is the court's "very power to hear the case." *Petruska v. Gannon Univ.*, 462 F.3d 294, 302 (3d Cir. 2006). Consequently, a court must grant a motion to dismiss under Rule 12(b)(1) if it lacks subject matter jurisdiction to hear a claim. *In re Schering-Plough Corp. Intron/Temodar Consumer Class Action*, 678 F.3d 235, 243 (3d Cir. 2012). In evaluating such a motion, a court must first determine whether the movant presents a facial or factual challenge. *Id.* A facial attack argues that the allegations contained in a claim are, on their face, insufficient to invoke this Court's subject matter jurisdiction; in contrast, a factual attack contends that there can be no subject matter jurisdiction because the facts of the case do not support it. *GBForefront, L.P. v. Forefront Mgmt. Grp., LLC*, 888 F.3d 29, 35 (3d Cir. 2018). By way of example, in a factual challenge, a complaint might properly allege diversity of citizenship, but the defendant can submit proof to show that the court lacks jurisdiction. *Id.* Once the defendant raises a factual challenge to jurisdiction, the plaintiff bears the burden of establishing jurisdiction. *Id.*

## V. Discussion

### A. The Parties' Arguments

The USA mounts a factual challenge to this Court's jurisdiction, arguing that it lacks jurisdiction because: (1) the case is moot; and (2) sovereign immunity bars the suit.<sup>3</sup>

The USA argues that the case is moot<sup>4</sup> because the NFLT no longer operates as a lien on Gordon's property; rather, it is, by its terms, a certificate of release. (ECF No. 3 at 3-4.) Gordon's petition seeks to strike the NFLT, but all parties agree that the NFLT is no longer active, and therefore there is no active controversy over which this Court has jurisdiction. (*Id.*)

Gordon responds that there remains an active controversy in this case because the judgment entered by the Court of Common Pleas remains on the docket and that docket indicates that the case remains open. (ECF No. 4 at 5.) Because there is an active controversy, the Court should deny the Motion to Dismiss and remand the case to the Court of Common Pleas. (*Id.*)

---

<sup>3</sup> In addition, the USA argues that the Tax Anti-Injunction Act, codified at 26 U.S.C. §7421 bars this suit to the extent that Gordon seeks to restrain collection of taxes. (ECF No. 3 at 5.) As the parties agree that the NFLT is unenforceable, and Gordon does not appear to be seeking to restrain collection of taxes, the Court will not address this argument further. (*See* ECF No. 11.) The USA also moved to dismiss the case for failure to state a claim. In light of this Court's resolution of the issues on the grounds of subject matter jurisdiction, the Court declines to address these arguments.

<sup>4</sup> The USA also contends that the doctrine of sovereign immunity bars this action. (ECF No. 3 at 4.) The ordinary federal question jurisdiction granted by 28 U.S.C. § 1331 is insufficient to waive sovereign immunity and the plaintiff must identify a specific waiver. (*Id.*) Gordon has not identified a specific waiver that permits this action, except to the extent he seeks to quiet title, a moot claim. (*Id.*) Gordon argues that sovereign immunity does not bar the action because he has not sued the USA; rather, he filed the Amended Petition as a secondary filing in the case initiated by the IRS' filing of the NFLT against him. (ECF No. 4 at 6.) As the Court disposes of the case on mootness grounds, it expresses no view on the issues of sovereign immunity this case presents.

## **B. The Case Is Moot and the Court Lacks Subject Matter Jurisdiction**

In order for a federal court to have jurisdiction over an action, there must be a “case” or “controversy.” *See* U.S. Const. Art. III. When a case becomes moot, there is no longer a case or controversy, and the Court no longer has jurisdiction. A case becomes moot when there are no longer live issues in the case or when the parties no longer possess cognizable interests in the outcome. *Utd. Steel Paper & Forestry Rubber Mfg. Allied Indus. & Serv. Workers Int'l Union AFL-CIO-CLC v. Virgin Islands*, 842 F.3d 201, 208 (3d Cir. 2016). The central question in this inquiry is whether the circumstances of the litigation have changed so as to render relief meaningless. *Id.*

A case may be rendered moot where the defendant has granted the plaintiff the relief sought by complying with the plaintiff’s request. *Friends of the Earth v. Laidlaw Env'tl Servs. (TOC), Inc.*, 528 U.S. 167, 189 (2000). In such circumstances, a case may become moot if succeeding events make it “absolutely clear” that there is no reasonable expectation that the complained-of behavior will recur. *Id.*

Here, this case is moot because there are no longer live issues before this Court and it is unable to effectively render relief. The USA has also granted Gordon the relief he seeks to the extent that it can. The Parties agree that the NFLT is no longer in force, and that it operates solely as certificate of release of the original lien. (See ECF No. 3 at 3–4.) The only dispute remaining in this case is the outstanding judgment against Gordon, filed in error by either the Court of Common Pleas or the Prothonotary of Clearfield County. This Court is unable to order

either entity to remove that judgment and therefore cannot afford effective relief in this action and there is therefore no case or controversy in this action.<sup>5</sup>

### **C. The Court Remands the Case To The Court of Common Pleas**

In cases removed from state courts, a motion to remand generally must be made within thirty days of removal. 28 U.S.C. § 1447(c). However, if a district court determines, at any time prior to final judgment, that it lacks subject matter jurisdiction, the court must remand the action to state court. *Id.*

With no case or controversy before it, the Court lacks subject matter jurisdiction and will accordingly remand the case to the Clearfield County Court of Common Pleas.<sup>6</sup>

### **VI. Conclusion**

For the foregoing reasons, the Court grants the Motion and remands the action to the Court of Common Pleas of Clearfield County.

A corresponding order follows.

---

<sup>5</sup> To the extent that this Court's determination that there is no case or controversy implicates other doctrines of justiciability, such as standing, the Court's reasoning should be construed to cover those doctrines as well. For instance, Gordon arguably lacks standing. The Court cannot remedy any injury he has suffered as a result of the IRS' actions because the Court of Common Pleas and the Clearfield County Prothonotary retain the ability to remove the extant judgment in the state court case, not this Court. Accordingly, Gordon arguably lacks one of the three critical elements of standing. *See Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016).

<sup>6</sup> Additionally, the Court notes that, at the case management conference on February 10, 2020, the USA raised the issue that Gordon had failed to exhaust his administrative remedies by filing a form to ask the IRS to remove the NFTL, rather than leaving it extant as a release. (ECF No. 11.) That issue was not briefed by the parties, and the Court therefore expresses no view on it. However, exhaustion may be an appropriate subject for the Court of Common Pleas to address on remand.

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

TODD D. GORDON,

CASE NO. 3:18-cv-153  
*19-187*

Plaintiff,

JUDGE KIM R. GIBSON

v.

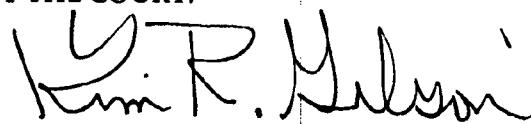
UNITED STATES OF AMERICA

Defendant.

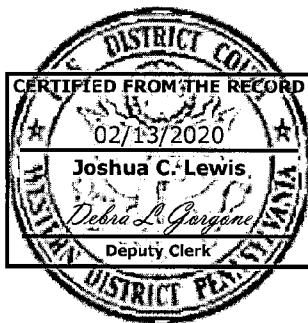
ORDER

AND NOW, this 13<sup>th</sup> day of February, 2020, upon consideration of the USA's Motion to Dismiss for Lack of Subject Matter Jurisdiction (ECF No. 2), IT IS HEREBY ORDERED that the Motion is GRANTED. IT IS FURTHER ORDERED that the case is REMANDED to the Court of Common Pleas of Clearfield County.

BY THE COURT:



KIM R. GIBSON  
UNITED STATES DISTRICT JUDGE



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

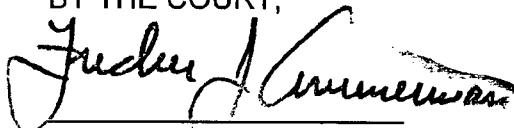
INTERNAL REVENUE SERVICE \* NO. 2005-1376-CD  
Plaintiff \*  
vs. \*  
TODD GORDON \*  
Defendant \*

ORDER

NOW, this 30<sup>th</sup> day of March 2020; it is the ORDER of this Court that a **status conference** in the above-captioned case be and is hereby scheduled for **Thursday, May 21, 2020** commencing at 9:00 am in Judge's Chambers, Clearfield County Courthouse.

Thirty minutes has been reserved for this status conference.

BY THE COURT,



FREDRIC J. AMMERMAN  
President Judge

(625)  
FILED  
01/03/20  
MAR 30 2020  
LCC Atty Mohney  
BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS  
LCC Atty Gordon

**IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY,  
PENNSYLVANIA**

INTERNAL REVENUE SERVICE,

CIVIL DIVISION

Plaintiff,

No. 2005-01376-CD

v.

TODD D. GORDON,

**SECOND PETITION TO STRIKE  
LIEN**

Defendant.

Filed on behalf of Defendant  
Todd D. Gordon

Counsel of Record:

Gregory H. Teufel  
Pa. Id. No. 73062  
Carter C. Hoel  
Pa. Id. No. 316880  
OGC Law, LLC  
1575 McFarland Road, Suite 201  
Pittsburgh, PA 15216  
(412) 253-4622  
(412) 253-4623 (facsimile)

Christopher E. Mohney  
Pa. Id. No. 63494  
51 Beaver Drive, Suite 1  
DuBois, PA 15801  
(814) 375-1044  
(814) 375-1088 (facsimile)

S

(AP)

FILED  
0112pm1AR  
APR 09 2020  
NOCC  
BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA**

INTERNAL REVEUNE SERVICE,

CIVIL DIVISION

Plaintiff

v.

No. 2005-01376-CD

TODD D. GORDON,

Defendant

**SECOND PETITION TO STRIKE LIEN**

AND NOW, comes Defendant Todd D. Gordon, by and through his attorneys, and hereby files the following Second Petition to Strike Lien, in support thereof, Defendant avers as follows:

1. Plaintiff, the Internal Revenue Service, initiated this action by filling a Notice of Federal Tax Lien on or about September 6, 2005. A true and correct copy of Plaintiff's Notice of Federal Tax Lien is attached hereto as Exhibit A.

2. The Notice of Federal Tax Lien includes the following provision:

**IMPORTANT RELEASE INFORMATION:** For each assessment listed below, unless notice of the lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a). (emphasis in original).

3. The "Last Day for Refiling" each assessment is listed in column (e).

4. The dates in column (e) range from July 3, 2012 through June 1, 2015.

5. There was no activity in this case since Defendant filed a Certificate of Subordination on or about March 6, 2008. A true and correct copy of the docket is attached hereto as Exhibit B.

6. Plaintiff filed a Petition to Strike Lien.

7. This Honorable Court entered an Order on August 6, 2019 issuing a rule upon the Plaintiff to show cause.

8. This Honorable Court entered an Order on September 30, 2019 striking the August 6, 2019 Order for containing inappropriate language.

9. Defendant filed an Amended Petition to Strike Lien on October 3, 2019, requesting the same relief and removing the inappropriate language in the August 6, 2019 Order of Court.

10. On November 1, 2019 the United States of America ("USA") removed this case from this Court to the United States District Court for the Western District of Pennsylvania.

11. By Memorandum Opinion and Order dated February 13, 2020, the Honorable Kim R. Gibson, United States District Judge, granted the USA's Motion to Dismiss for Lack of Subject Matter Jurisdiction and remanded this case back to the Court of Common Pleas of Clearfield County. A true and correct copy of the aforementioned Memorandum Opinion and Order is attached hereto as Exhibit C.

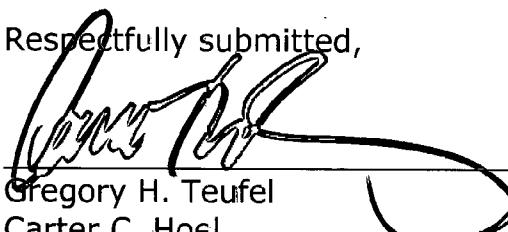
12. By supplemental Order of Judge Gibson dated March 13, 2020 it was clarified and ordered that the USA was dropped as a party. A true and correct copy of the Supplemental Order is attached hereto as Exhibit D.

13. At all times, Plaintiff has failed to refile any assessment identified in the Notice of Federal Tax Lien.

14. All of the assessments identified in the Notice of Federal Tax Lien have become legally unenforceable pursuant to Internal Revenue Code § 6325(a)(1).

WHEREFORE, Defendant Todd D. Gordon respectfully requests that this Honorable Court strike the lien in the above captioned matter.

Respectfully submitted,



\_\_\_\_\_  
Gregory H. Teufel  
Carter C. Hoel  
Christopher E. Mohney

Dated: April 9, 2020

*Attorneys for Defendant Todd D. Gordon*

Form 668 (Y)(c)  
(Rev. February 2004)

1872

Department of the Treasury - Internal Revenue Service

**Notice of Federal Tax Lien**

Area: SMALL BUSINESS/SELF EMPLOYED AREA #3 Lien Unit Phone: (800) 913-6050	Serial Number 246044805	For Optional Use by Recording Office 2005-1376-CD			
<p>As provided by section 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.</p>					
Name of Taxpayer TODD D GORDON					
Residence 233 TREASURE LK DU BOIS, PA 15801-9005					
<p><b>IMPORTANT RELEASE INFORMATION:</b> For each assessment listed below, unless notice of the lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).</p>					
Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
940	12/31/2002	94-3394741	02/28/2005	03/30/2015	
940	12/31/2002	94-3394741	05/02/2005	06/01/2015	2314.61
940	12/31/2003	94-3394741	04/05/2004	05/05/2014	1228.62
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941	03/31/2002	94-3394741	08/26/2002	09/25/2012	
941	03/31/2002	94-3394741	02/07/2005	03/09/2015	4207.93
941	06/30/2002	94-3394741	10/14/2002	11/13/2012	
941	06/30/2002	94-3394741	02/07/2005	03/09/2015	3411.03
941	09/30/2002	94-3394741	04/14/2003	05/14/2013	8367.62
941	12/31/2002	94-3394741	03/31/2003	04/30/2013	26735.94
941	03/31/2003	94-3394741	06/30/2003	07/30/2013	32647.59
941	06/30/2003	94-3394741	09/29/2003	10/29/2013	21307.15
941	09/30/2003	94-3394741	12/29/2003	01/28/2014	4741.69
Place of Filing Clearfield Prothonotary Clearfield County Clearfield, PA 16830		Total \$ 104962.18			

This notice was prepared and signed at PHILADELPHIA, PA, on this,

the 31st day of August 2005

Signature Susan A. Hansen Title REVENUE OFFICER 23-06-1910  
for ROBERT T MILLER (814) 533-4214

(NOTE: Certificate of officer authorized by law to take acknowledgment is not essential to the validity of Notice of Federal Tax Lien  
Rev. Rul. 71-466, 1971-2 C.B. 409)

Part 1 - Kept By Recording Office

Form 668(Y)(c) (Rev. 2-2004)  
CAT. NO. 8002RX

**EXHIBIT A**

Date: 7/9/2019

Time: 10:51 AM

Page 1 of 1

**Clearfield County Court of Common Pleas**

ROA Report

Case: 2005-01376-CD

Current Judge: No Judge

Internal Revenue Service vs. Todd D. Gordon

User: PUBLIC

**Federal Tax Liens**

Date		Judge
9/6/2005	New Case Filed.  Filing: Federal Tax Lien. Paid by: Internal Revenue Service Receipt number: 1907831 Dated: 09/06/2005 Amount: \$25.00 (Check) Judgment entered in favor of the Plaintiff and against the Defendant in the amount of \$104,962.18. 1CC to IRS.	No Judge No Judge
3/6/2008	Filing: Certificate of Subordination of Federal Tax Lien, Paid by: Gordon, Jeffrey M. Receipt number: 1922969 Dated: 3/6/2008 Amount: \$7.00 (Check) 1 Cert. to Atty. Gordon	No Judge

**EXHIBIT B**

Date: 7/9/2019  
Time: 09:34 AM  
Page 1 of 1

Clearfield County Court of Common Pleas

User: PUBLIC

PARTY HISTORY  
Civil Dispositions  
Gordon, Todd D.

Case	Role	Filing Date	Disposition Date	In Favor Of	Disposition Type	Judgment Type	Judgment
2005-01376-CD	Defendant	9/6/2005	9/6/2005	Plaintiff	Open		IRS Lien
	Internal Revenue Service vs. Todd D. Gordon						
	104,962.18 (Certificate of Subordination of F.T.L. filed 3-06-08)						

1 Case

**EXHIBIT B**

Date: 7/9/2019  
Time: 09:33 AM  
Page 1 of 1

Clearfield County Court of Common Pleas

User: PUBLIC

PARTY HISTORY

Cases

Gordon, Todd D.

Filing Date Range: ALL Case Types: ALL Party Role: ALL

Case	Role	Status	Violation / Filing Date	Restitution Balance Balance Due
2005-01376-CD	Defendant	Judgment Entered	Filing date: 9/6/2005	

1 Case

*Recd*

**EXHIBIT B**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

<b>TODD D. GORDON,</b>	)	<b>CASE NO. 3:19-cv-187</b>
	)	
	)	<b>JUDGE KIM R. GIBSON</b>
<b>Plaintiff,</b>	)	
<b>v.</b>	)	
<b>UNITED STATES OF AMERICA,</b>	)	
	)	
	)	
<b>Defendant.</b>	)	

**MEMORANDUM OPINION**

**I. Introduction**

Todd Gordon, a homeowner, filed a Petition to Strike Lien in the Court of Common Pleas of Clearfield County, stemming from a Notice of Federal Tax Lien ("NFTL") the IRS filed against him in 2005. Gordon alleges that Defendant United States of America (the "USA") improperly retains a judgment against his property in Clearfield County. The USA removed the action, then moved to dismiss, arguing that the case is moot and that sovereign immunity bars Gordon's action. The USA's Motion to Dismiss for Lack of Jurisdiction (ECF No. 2) is fully briefed (ECF Nos. 3, 4) and ripe for disposition.

The Court holds that it lacks jurisdiction over the action. Accordingly, the Court **GRANTS** the Motion and **REMANDS** the case to the Court of Common Pleas.

**II. Venue**

Venue is proper in the Western District of Pennsylvania because the USA removed the case from the Court of Common Pleas of Clearfield County, which this district embraces. 28

**EXHIBIT C**

U.S.C. § 1441. Additionally, the USA may remove any action commenced against it in state court. 28 U.S.C. § 1442(a)(1).

### **III. Factual and Procedural Background<sup>1</sup>**

This case arises from the Internal Revenue Service's ("IRS") filing of a NFTL against Gordon on September 6, 2005. (ECF No. 1-1 ¶ 1.) On the day of filing of the NFTL, the Court of Common Pleas entered judgment in favor of the USA, although the USA never sought judgment or further acted upon the liens; this may have been the result of a clerical error at the Court of Common Pleas. (ECF No. 1-1 at 6, 8; ECF No. 11.) The NFTL provides that, unless the IRS refiles the NFTL, after a certain period, usually ten years, the NFTL expires and becomes a certificate of release pursuant to 26 U.S.C. § 6325.<sup>2</sup> (ECF No. 1-1 ¶¶ 2-4.) The IRS never refiled the NFTL and the lien expired in 2015. (*Id.* ¶¶ 5, 10; ECF No. 3 ¶ 4.) Pursuant to Section 6325, the lien is now unenforceable. (ECF No. 1-1 ¶ 11.)

Sometime in 2019—the date does not appear in the record—Gordon filed a Petition to Strike Lien, after which the Court of Common Pleas issued an order directing the USA to show cause. (*Id.* ¶¶ 6-7.) The Court of Common Pleas then struck the show cause order and, on October 3, 2019, Gordon filed an Amended Petition, again requesting the Court of Common Pleas to strike the lien. (*Id.* 8-9.) On November 1, 2019, the USA removed the case to this Court. (ECF No. 1.)

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<sup>1</sup> The Court derives the following facts from the USA's Notice of Removal and its attachments (ECF No. 1), the USA's Motion to Dismiss and Brief in Support (ECF Nos. 2, 3), and Gordon's Response in Opposition. (ECF No. 4.) The Court also recounts certain facts presented to it at a case management conference on February 10, 2020. All citations to facts presented at that conference will be to "(ECF No. 11.)"

<sup>2</sup> The NFTL states that, if the IRS does not refile the lien by a certain time, the lien expires and is no longer enforceable. This is what is meant by a "certificate of release."

On November 8, 2019, the USA moved to dismiss the case for lack of subject matter jurisdiction and failure to state a claim. (ECF No. 2.) Gordon responded in opposition on November 29, 2019. (ECF No. 4.)

#### **IV. Legal Standard**

Rule 12 provides that a party may move to dismiss a case on the basis that the court lacks subject matter jurisdiction. Fed. R. Civ. P. 12(b)(1). At issue in a Rule 12(b)(1) motion is the court's "very power to hear the case." *Petruska v. Gannon Univ.*, 462 F.3d 294, 302 (3d Cir. 2006). Consequently, a court must grant a motion to dismiss under Rule 12(b)(1) if it lacks subject matter jurisdiction to hear a claim. *In re Schering-Plough Corp. Intron/Temodar Consumer Class Action*, 678 F.3d 235, 243 (3d Cir. 2012). In evaluating such a motion, a court must first determine whether the movant presents a facial or factual challenge. *Id.* A facial attack argues that the allegations contained in a claim are, on their face, insufficient to invoke this Court's subject matter jurisdiction; in contrast, a factual attack contends that there can be no subject matter jurisdiction because the facts of the case do not support it. *GBForefront, L.P. v. Forefront Mgmt. Grp., LLC*, 888 F.3d 29, 35 (3d Cir. 2018). By way of example, in a factual challenge, a complaint might properly allege diversity of citizenship, but the defendant can submit proof to show that the court lacks jurisdiction. *Id.* Once the defendant raises a factual challenge to jurisdiction, the plaintiff bears the burden of establishing jurisdiction. *Id.*

## V. Discussion

### A. The Parties' Arguments

The USA mounts a factual challenge to this Court's jurisdiction, arguing that it lacks jurisdiction because: (1) the case is moot; and (2) sovereign immunity bars the suit.<sup>3</sup>

The USA argues that the case is moot<sup>4</sup> because the NFLT no longer operates as a lien on Gordon's property; rather, it is, by its terms, a certificate of release. (ECF No. 3 at 3-4.) Gordon's petition seeks to strike the NFLT, but all parties agree that the NFLT is no longer active, and therefore there is no active controversy over which this Court has jurisdiction. (*Id.*)

Gordon responds that there remains an active controversy in this case because the judgment entered by the Court of Common Pleas remains on the docket and that docket indicates that the case remains open. (ECF No. 4 at 5.) Because there is an active controversy, the Court should deny the Motion to Dismiss and remand the case to the Court of Common Pleas. (*Id.*)

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<sup>3</sup> In addition, the USA argues that the Tax Anti-Injunction Act, codified at 26 U.S.C. §7421 bars this suit to the extent that Gordon seeks to restrain collection of taxes. (ECF No. 3 at 5.) As the parties agree that the NFLT is unenforceable, and Gordon does not appear to be seeking to restrain collection of taxes, the Court will not address this argument further. (See ECF No. 11.) The USA also moved to dismiss the case for failure to state a claim. In light of this Court's resolution of the issues on the grounds of subject matter jurisdiction, the Court declines to address these arguments.

<sup>4</sup> The USA also contends that the doctrine of sovereign immunity bars this action. (ECF No. 3 at 4.) The ordinary federal question jurisdiction granted by 28 U.S.C. § 1331 is insufficient to waive sovereign immunity and the plaintiff must identify a specific waiver. (*Id.*) Gordon has not identified a specific waiver that permits this action, except to the extent he seeks to quiet title, a moot claim. (*Id.*) Gordon argues that sovereign immunity does not bar the action because he has not sued the USA; rather, he filed the Amended Petition as a secondary filing in the case initiated by the IRS' filing of the NFLT against him. (ECF No. 4 at 6.) As the Court disposes of the case on mootness grounds, it expresses no view on the issues of sovereign immunity this case presents.

**B. The Case Is Moot and the Court Lacks Subject Matter Jurisdiction**

In order for a federal court to have jurisdiction over an action, there must be a "case" or "controversy." *See* U.S. Const. Art. III. When a case becomes moot, there is no longer a case or controversy, and the Court no longer has jurisdiction. A case becomes moot when there are no longer live issues in the case or when the parties no longer possess cognizable interests in the outcome. *Utd. Steel Paper & Forestry Rubber Mfg. Allied Indus. & Serv. Workers Int'l Union AFL-CIO-CLC v. Virgin Islands*, 842 F.3d 201, 208 (3d Cir. 2016). The central question in this inquiry is whether the circumstances of the litigation have changed so as to render relief meaningless. *Id.*

A case may be rendered moot where the defendant has granted the plaintiff the relief sought by complying with the plaintiff's request. *Friends of the Earth v. Laidlaw Env'tl Servs. (TOC), Inc.*, 528 U.S. 167, 189 (2000). In such circumstances, a case may become moot if succeeding events make it "absolutely clear" that there is no reasonable expectation that the complained-of behavior will recur. *Id.*

Here, this case is moot because there are no longer live issues before this Court and it is unable to effectively render relief. The USA has also granted Gordon the relief he seeks to the extent that it can. The Parties agree that the NFTL is no longer in force, and that it operates solely as certificate of release of the original lien. (See ECF No. 3 at 3-4.) The only dispute remaining in this case is the outstanding judgment against Gordon, filed in error by either the Court of Common Pleas or the Prothonotary of Clearfield County. This Court is unable to order

either entity to remove that judgment and therefore cannot afford effective relief in this action and there is therefore no case or controversy in this action.<sup>5</sup>

**C. The Court Remands the Case To The Court of Common Pleas**

In cases removed from state courts, a motion to remand generally must be made within thirty days of removal, 28 U.S.C. § 1447(c). However, if a district court determines, at any time prior to final judgment, that it lacks subject matter jurisdiction, the court must remand the action to state court. *Id.*

With no case or controversy before it, the Court lacks subject matter jurisdiction and will accordingly remand the case to the Clearfield County Court of Common Pleas.<sup>6</sup>

**VI. Conclusion**

For the foregoing reasons, the Court grants the Motion and remands the action to the Court of Common Pleas of Clearfield County.

A corresponding order follows.

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<sup>5</sup> To the extent that this Court's determination that there is no case or controversy implicates other doctrines of justiciability, such as standing, the Court's reasoning should be construed to cover those doctrines as well. For instance, Gordon arguably lacks standing. The Court cannot remedy any injury he has suffered as a result of the IRS' actions because the Court of Common Pleas and the Clearfield County Prothonotary retain the ability to remove the extant judgment in the state court case, not this Court. Accordingly, Gordon arguably lacks one of the three critical elements of standing. See *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016).

<sup>6</sup> Additionally, the Court notes that, at the case management conference on February 10, 2020, the USA raised the issue that Gordon had failed to exhaust his administrative remedies by filing a form to ask the IRS to remove the NFL, rather than leaving it extant as a release. (ECF No. 11.) That issue was not briefed by the parties, and the Court therefore expresses no view on it. However, exhaustion may be an appropriate subject for the Court of Common Pleas to address on remand.

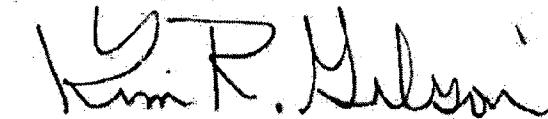
IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

TODD D. GORDON, ) CASE NO. 3:19-cv-187  
 )  
 ) JUDGE KIM R. GIBSON  
Plaintiff, )  
v. )  
 )  
UNITED STATES OF AMERICA )  
 )  
 )  
Defendant. )

ORDER

AND NOW, this 13<sup>th</sup> day of February, 2020, upon consideration of the USA's Motion to Dismiss for Lack of Subject Matter Jurisdiction (ECF No. 2), IT IS HEREBY ORDERED that the Motion is GRANTED. IT IS FURTHER ORDERED that the case is REMANDED to the Court of Common Pleas of Clearfield County.

BY THE COURT:



KIM R. GIBSON  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
JOHNSTOWN DIVISION

TODD D. GORDON,

Plaintiff,

v.

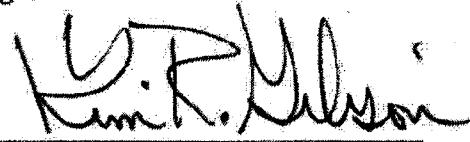
UNITED STATES OF AMERICA,

Defendant.

) Case No. 3:19-cv-00187-KRG

SUPPLEMENTAL ORDER

And now, this 13<sup>th</sup> day of March 2020, upon consideration of the United States of America's *Motion to Clarify* (ECF No. 14), **IT IS HEREBY CLARIFIED AND ORDERED** that the United States of America was dropped as a party to the above-captioned action pursuant to this Court's prior *Order* dated February 13, 2020 (ECF No. 12). All terms of the Court's prior *Order* dated February 13, 2020 (ECF No. 12) remain unchanged.



Kim R. Gibson  
United States District Judge

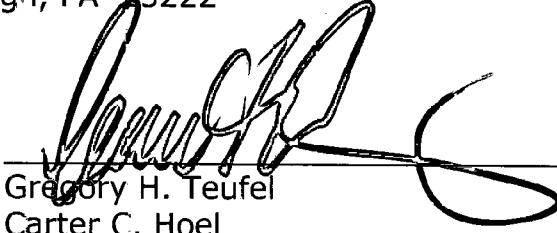
EXHIBIT D

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Second Petition to Strike Lien has been served upon the following counsel of record by first class U.S. mail this 9<sup>th</sup> day of April, 2020.

Alexander R. Kalyniuk  
Trial Attorney, Tax Division  
U. S. Department of Justice  
Post Office Box 227, Ben Franklin Station  
Washington, D.C. 20044

Internal Revenue Service  
ATTN: Advisory  
1000 Liberty Avenue, Room 704  
Pittsburgh, PA 15222



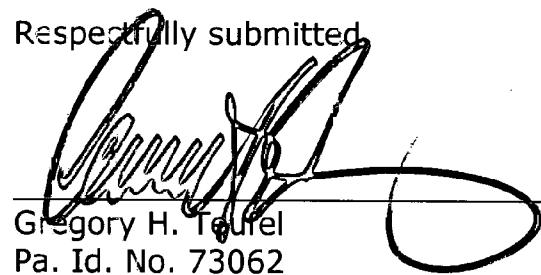
\_\_\_\_\_  
Gregory H. Teufel  
Carter C. Hoel  
Christopher E. Mohney

*Attorneys for Defendant, Todd D. Gordon*

**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully submitted,



\_\_\_\_\_  
Gregory H. Teufel  
Pa. Id. No. 73062  
Carter C. Hoel  
Pa. Id. No. 316880  
Christopher E. Mohney  
Pa. Id. No. 63494

April 9, 2020

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA**

INTERNAL REVENUE SERVICE

CIVIL DIVISION

v.

No. 2005-01376-CD

TODD D. GORDON

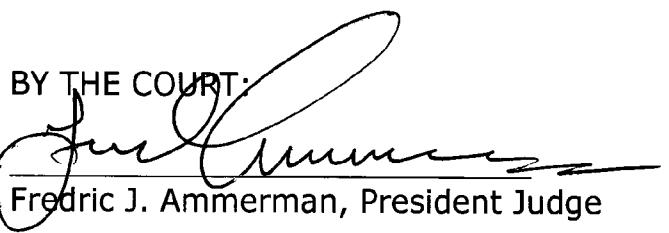
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APR 13 2020  
LCC Atty Monney  
BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS

**ORDER OF COURT**

AND NOW, this 9<sup>th</sup> day of April, 2020, upon consideration of  
foregoing Petition to Strike Lien, it is hereby ordered that:

- (1) a rule is issued upon the Plaintiff to show cause why the moving party  
is not entitled to the relief requested;
- (2) the Plaintiff shall file an answer to the Amended Petition within  
30 days of this date, or the Court may deem that you have no  
objection to the relief requested therein and may grant such relief without  
further notice to you;
- (3) the Petition shall be decided under Pa.R.Civ.P. 206.1;
- (3) argument shall be held on May 21, 2020 at 9:00 a.m. in the Clearfield  
County Courthouse, Clearfield, Pennsylvania, in Courtroom No. 1; and
- (4) notice of the entry of this order shall be provided to all parties by the  
moving party.

BY THE COURT:

  
Fredric J. Ammerman, President Judge



U.S. Department of Justice

REZ:DSM:ARKalyniuk

**Tax Division**  
*Civil Trial Section, Eastern Region*

April 29, 2020

Via FedEx

Clerk of Court  
Court of Common Pleas of Clearfield County, Pennsylvania  
Clearfield County Courthouse  
1 North Second Street  
Clearfield, Pennsylvania 16830

Re: Order of Court dated April 9, 2020  
Civil Division, No. 2005-01376-CD

Dear Clerk of Court:

The undersigned counsel for the United States of America received a copy of the Order of Court dated April 9, 2020 associated with the above-referenced matter, a copy of which is attached hereto for your reference.

Please be advised that the U.S. District Court for the Western District of Pennsylvania has dropped the United States as a party to this action as identified in its memorandum opinion and supplemental order, copies of which are attached hereto for your reference. The United States is not taking any action in this matter because it is no longer a party pursuant to the order from the U.S. District Court for the Western District of Pennsylvania.

Sincerely yours,

ALEXANDER KALYNIUK

ALEXANDER R. KALYNIUK  
Trial Attorney  
U.S. Department of Justice, Tax Division  
Civil Trial Section, Eastern Region

Enclosures: as indicated above

Copies to: Christopher E. Mohney, Esq. (via first-class U.S. mail)  
Gregory H. Teufel, Esq. (via e-mail and first-class U.S. mail)

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**FILED**

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**BRIAN K. SPENCER  
PROTHONOTARY &  
CLERK OF COURTS**

## **ENCLOSURE A**

**CHRISTOPHER E. MOHNEY**

ATTORNEY AT LAW

51 BEAVER DRIVE  
SUITE 1

DUBOIS, PENNSYLVANIA 15801

WWW.CHRISTOPHERMOHNEYESQUIRE.COM

TELEPHONE: (814) 375-1044

FACSIMILE: (814) 375-1088

April 15, 2020

Alexander R. Kalyniuk  
Trial Attorney, Tax Division  
U. S. Department of Justice  
Post Office Box 227, Ben Franklin Station  
Washington, D.C. 20044

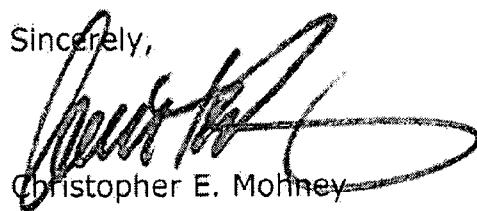
Re: Internal Revenue Service v. Todd D. Gordon  
No. 2005-01376-CD  
Court of Common Pleas of Clearfield County, Pennsylvania

Dear Attorney Kalyniuk:

I hereby serve you on behalf of the United States Department of Justice with a certified true and correct copy of an Order of Court dated April 9, 2020 (filed April 13, 2020). Please direct any questions or concerns to lead counsel for Mr. Gordon, Gregory H. Teufel, Esquire. His contact information is on the pleading cover sheet of the Second Petition to Strike Lien which I served on you last week via the United States Postal Service mail.

Thank you.

Sincerely,



Christopher E. Mohney

Enclosure

Copy to: Gregory H. Teufel, Esquire

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA**

INTERNAL REVENUE SERVICE

CIVIL DIVISION

v.

No. 2005-01376-CD

TODD D. GORDON

A TRUE COPY  
ATTEST: *Pat. Syle*  
PROTHONOTARY-CLERK

APR 13 2020

I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

**ORDER OF COURT**

AND NOW, this 9<sup>th</sup> day of April, 2020, upon consideration of foregoing Petition to Strike Lien, it is hereby ordered that:

(1) a rule is issued upon the Plaintiff to show cause why the moving party is not entitled to the relief requested;

(2) the Plaintiff shall file an answer to the Amended Petition within 30 days of this date, or the Court may deem that you have no ~~cause~~ objection to the relief requested therein and may grant such relief without further notice to you;

(3) the Petition shall be decided under Pa.R.Civ.P. 206.1;

(3) argument shall be held on May 21, 2020 at 9:00 a.m. in the Clearfield County Courthouse, Clearfield, Pennsylvania, in Courtroom No. 1; and

(4) notice of the entry of this order shall be provided to all parties by the moving party.

BY THE COURT:

*/s/Fredric J. Ammerman*

---

Fredric J. Ammerman, President Judge

**CHRISTOPHER E. MOHNEY**

ATTORNEY AT LAW

51 BEAVER DRIVE

SUITE 1

DUBOIS, PENNSYLVANIA 15801

WWW.CHRISTOPHERMOHNEYESQUIRE.COM

TELEPHONE: (814) 375-1044

FACSIMILE: (814) 375-1088

April 15, 2020

Internal Revenue Service  
ATTN: Advisory  
1000 Liberty Avenue, Room 704  
Pittsburgh, PA 15222

Re: Internal Revenue Service v. Todd D. Gordon  
No. 2005-01376-CD  
Court of Common Pleas of Clearfield County, Pennsylvania

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

INTERNAL REVENUE SERVICE

CIVIL DIVISION

v.

No. 2005-01376-CD

TODD D. GORDON

TRUE COPY  
TEST: *Pat. S. G.*  
PROTHONOTARY-CLERK

APR 13 2020

I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

ORDER OF COURT

AND NOW, this 9<sup>th</sup> day of April, 2020, upon consideration of  
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30 days of this date, or the Court may deem that you have no  
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BY THE COURT:

*/s/Fredric J. Ammerman*

Fredric J. Ammerman, President Judge

## **ENCLOSURE B**

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FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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	)	
	)	JUDGE KIM R. GIBSON
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	)	
UNITED STATES OF AMERICA,	)	
	)	
	)	
Defendant.	)	

MEMORANDUM OPINION

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<sup>3</sup> In addition, the USA argues that the Tax Anti-Injunction Act, codified at 26 U.S.C. §7421 bars this suit to the extent that Gordon seeks to restrain collection of taxes. (ECF No. 3 at 5.) As the parties agree that the NFLT is unenforceable, and Gordon does not appear to be seeking to restrain collection of taxes, the Court will not address this argument further. (*See* ECF No. 11.) The USA also moved to dismiss the case for failure to state a claim. In light of this Court's resolution of the issues on the grounds of subject matter jurisdiction, the Court declines to address these arguments.

<sup>4</sup> The USA also contends that the doctrine of sovereign immunity bars this action. (ECF No. 3 at 4.) The ordinary federal question jurisdiction granted by 28 U.S.C. § 1331 is insufficient to waive sovereign immunity and the plaintiff must identify a specific waiver. (*Id.*) Gordon has not identified a specific waiver that permits this action, except to the extent he seeks to quiet title, a moot claim. (*Id.*) Gordon argues that sovereign immunity does not bar the action because he has not sued the USA; rather, he filed the Amended Petition as a secondary filing in the case initiated by the IRS' filing of the NFLT against him. (ECF No. 4 at 6.) As the Court disposes of the case on mootness grounds, it expresses no view on the issues of sovereign immunity this case presents.

**B. The Case Is Moot and the Court Lacks Subject Matter Jurisdiction**

In order for a federal court to have jurisdiction over an action, there must be a “case” or “controversy.” *See* U.S. Const. Art. III. When a case becomes moot, there is no longer a case or controversy, and the Court no longer has jurisdiction. A case becomes moot when there are no longer live issues in the case or when the parties no longer possess cognizable interests in the outcome. *Utd. Steel Paper & Forestry Rubber Mfg. Allied Indus. & Serv. Workers Int'l Union AFL-CIO-CLC v. Virgin Islands*, 842 F.3d 201, 208 (3d Cir. 2016). The central question in this inquiry is whether the circumstances of the litigation have changed so as to render relief meaningless. *Id.*

A case may be rendered moot where the defendant has granted the plaintiff the relief sought by complying with the plaintiff’s request. *Friends of the Earth v. Laidlaw Envt'l Servs. (TOC), Inc.*, 528 U.S. 167, 189 (2000). In such circumstances, a case may become moot if succeeding events make it “absolutely clear” that there is no reasonable expectation that the complained-of behavior will recur. *Id.*

Here, this case is moot because there are no longer live issues before this Court and it is unable to effectively render relief. The USA has also granted Gordon the relief he seeks to the extent that it can. The Parties agree that the NFTL is no longer in force, and that it operates solely as certificate of release of the original lien. (See ECF No. 3 at 3-4.) The only dispute remaining in this case is the outstanding judgment against Gordon, filed in error by either the Court of Common Pleas or the Prothonotary of Clearfield County. This Court is unable to order

either entity to remove that judgment and therefore cannot afford effective relief in this action and there is therefore no case or controversy in this action.<sup>5</sup>

**C. The Court Remands the Case To The Court of Common Pleas**

In cases removed from state courts, a motion to remand generally must be made within thirty days of removal. 28 U.S.C. § 1447(c). However, if a district court determines, at any time prior to final judgment, that it lacks subject matter jurisdiction, the court must remand the action to state court. *Id.*

With no case or controversy before it, the Court lacks subject matter jurisdiction and will accordingly remand the case to the Clearfield County Court of Common Pleas.<sup>6</sup>

**VI. Conclusion**

For the foregoing reasons, the Court grants the Motion and remands the action to the Court of Common Pleas of Clearfield County.

A corresponding order follows.

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<sup>5</sup> To the extent that this Court's determination that there is no case or controversy implicates other doctrines of justiciability, such as standing, the Court's reasoning should be construed to cover those doctrines as well. For instance, Gordon arguably lacks standing. The Court cannot remedy any injury he has suffered as a result of the IRS' actions because the Court of Common Pleas and the Clearfield County Prothonotary retain the ability to remove the extant judgment in the state court case, not this Court. Accordingly, Gordon arguably lacks one of the three critical elements of standing. *See Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016).

<sup>6</sup> Additionally, the Court notes that, at the case management conference on February 10, 2020, the USA raised the issue that Gordon had failed to exhaust his administrative remedies by filing a form to ask the IRS to remove the NFTL, rather than leaving it extant as a release. (ECF No. 11.) That issue was not briefed by the parties, and the Court therefore expresses no view on it. However, exhaustion may be an appropriate subject for the Court of Common Pleas to address on remand.

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

TODD D. GORDON,

CASE NO. 3:18-cv-153  
*19-187*

)

)

JUDGE KIM R. GIBSON

Plaintiff,

)

v.

)

UNITED STATES OF AMERICA

)

)

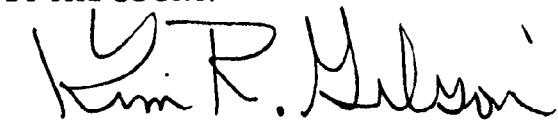
)

Defendant.

ORDER

AND NOW, this 13<sup>th</sup> day of February, 2020, upon consideration of the USA's Motion to Dismiss for Lack of Subject Matter Jurisdiction (ECF No. 2), IT IS HEREBY ORDERED that the Motion is GRANTED. IT IS FURTHER ORDERED that the case is REMANDED to the Court of Common Pleas of Clearfield County.

BY THE COURT:



KIM R. GIBSON  
UNITED STATES DISTRICT JUDGE

## **ENCLOSURE C**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
JOHNSTOWN DIVISION

TODD D. GORDON, )  
Plaintiff, ) Case No. 3:19-cv-00187-KRG  
v. )  
UNITED STATES OF AMERICA, )  
Defendant. )

SUPPLEMENTAL ORDER

And now, this 13<sup>th</sup> day of March 2020, upon consideration of the United States of America's *Motion to Clarify* (ECF No. 14), **IT IS HEREBY CLARIFIED AND ORDERED** that the United States of America was dropped as a party to the above-captioned action pursuant to this Court's prior *Order* dated February 13, 2020 (ECF No. 12). All terms of the Court's prior *Order* dated February 13, 2020 (ECF No. 12) remain unchanged.



Kim R. Gibson  
United States District Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

INTERNAL REVENUE SERVICE, Plaintiff  
Vs. No. 2005-01376-CD  
TODD D. GORDON, Defendant.

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**MAY 01 2020**

cc: Atty Mohr

BRIAN K. SPENCER

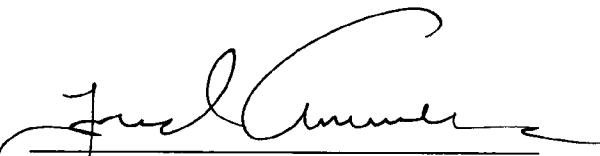
PROTHONOTARY & CLERK OF COURTS

cc: Atty Gordon

**ORDER OF COURT**

AND NOW, to wit, this 30th day of April, 2020, due to a conflict in the court calendar, it is the ORDER of this Court that the Status Conference and Argument on Defendant's Second Petition to Strike Lien shall be and is hereby rescheduled for Friday, June 12, 2020, at 2:30 P.M. in Courtroom No. 1, 2<sup>nd</sup> Floor, Clearfield County Courthouse, 230 East Market Street, Clearfield, PA.

BY THE COURT:

  
FREDRIC J. AMMERMAN

PRESIDENT JUDGE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

INTERNAL REVEUNE SERVICE,

CIVIL DIVISION

Plaintiff,

No. 2005-01376-CD

v.

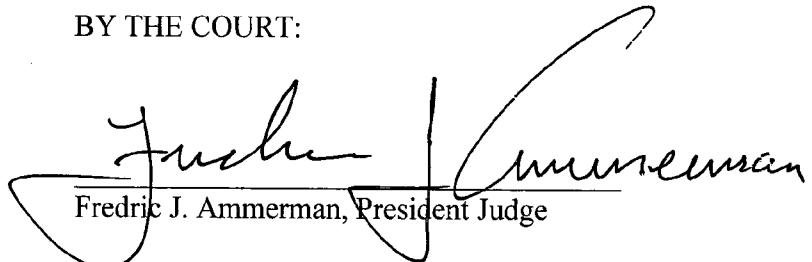
TODD D. GORDON,

Defendant.

**ORDER OF COURT**

AND NOW, this 12th day of June, 2020, upon consideration of foregoing Second Amended Petition to Strike Lien, it is hereby ORDERED, ADJUDGED, AND DECREED that Defendant's Second Amended Petition to Strike Lien is GRANTED. The September 6, 2005 Notice of Federal Tax Lien is hereby STRICKEN and the Prothonotary is ordered to strike the judgment entered erroneously on September 6, 2005.

BY THE COURT:



Fredric J. Ammerman, President Judge

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4CC ATTY Mohney  
BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

INTERNAL REVENUE SERVICE

\* NO. 2005-1376-CD

Plaintiff

\*

vs.

\*

TODD R. GORDON

\*

Defendant

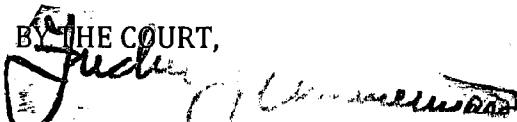
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ORDER

NOW, this 15<sup>th</sup> day of November, 2019, upon receipt and review of the United States' Notice of Removal of this case to Federal Court; it is the ORDER of this Court that the hearing scheduled on November 21, 2019 at 11:00 a.m. be and is hereby CANCELED.

BY THE COURT,  
  
FREDRIC J. AMMERMAN  
PRESIDENT JUDGE

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2ccatty Wherry  
BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS  
2ccatty Gordon