

Date: 6/3/2020

Clearfield County Court of Common Pleas

User: KDUNLAP

Time: 09:05 AM

ROA Report

Page 1 of 2

Case: 2005-01376-CD

*All files here
on base*

Current Judge: Fredric Joseph Ammerman

Internal Revenue Service vs. Todd D. Gordon

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 Mohny, esquire 4cc Atty Mohny	No Judge
8/6/2019	✓ Order of Court. and now this 6th day of August 2019 upon consideration of foregoing Petition to Strike Lien it is hereby ordered that: 1. A rule is issued upon the Plff to show cause why the moving party is not entitled to the relief requested; 2. The plff shall file and answer to the motion within 30 days of this date or the court may deem that ou have no objections to the relief requested therein and may grant such relief without futher notice to you; 3. The petition shall be decided uner 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 Mohny	Fredric Joseph Ammerman
9/27/2019	✓ Petition to strike lien. filed by s/Christopher Mohny, esquire 2cc Atty Mohny	Fredric Joseph Ammerman
9/30/2019	✓ Order, Now, this 30th 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 /s/President Judge, FJA 1cc Atty Gordon 1cc Atty Mohny	Fredric Joseph Ammerman
10/3/2019	✓ Amended petition to strike lien. filed by s/Christopher Mohny, esquire 2cc Atty mohny	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 Plff 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 Fredric Joseph Ammerman

Date: 6/3/2020

Clearfield County Court of Common Pleas

User: KDUNLAP

Time: 09:05 AM

ROA Report

Page 2 of 2

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	Fredric Joseph Ammerman
2/18/2020	✓ Memorandum Opinion Filed by Western District Court no cc	Fredric Joseph Ammerman
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	Fredric Joseph Ammerman
4/9/2020	✓ Second petition to strike lien. filed by s/Gregory Teufel. no cc	Fredric Joseph Ammerman
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 PA.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	Fredric Joseph Ammerman
4/30/2020	▶ Letter by U.S. Department of Justice no cc	Fredric Joseph Ammerman
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	Fredric Joseph Ammerman

Form 668 (Y)(c) (Rev. February 2004)	1872 Department of the Treasury - Internal Revenue Service Notice of Federal Tax Lien
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Area: SMALL BUSINESS/SELF EMPLOYED AREA #3 Lien Unit Phone: (800) 913-6050	Serial Number 246044805	For Optional Use by Recording Office
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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).

2005-1376-CD

FILED

SEP 06 2005

W/2:30/4
William A. Shaw

Prothonotary/Clerk of Courts

1 copy to Dug

PA 25-

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
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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 60025X

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
William A. Shaw
Prothonotary/Clerk of Courts
1 cert to Arty
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 designated 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
EUGENE V BATDORF

Title
ADVISORY GROUP MANAGER

Date
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,

A handwritten signature in cursive script that reads "Jeffrey M. Gordon".

Jeffrey M. Gordon

JMG/mac

Enclosures

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

INTERNAL REVENUE SERVICE,

Plaintiff,

v.

TODD D. GORDON,

Defendant.

CIVIL DIVISION

No. 2005-01376-CD

PETITION TO STRIKE LIEN

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

5
FILED
01/12/24pm
AUG 01 2019
4cc atty Mohnhey
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 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 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.

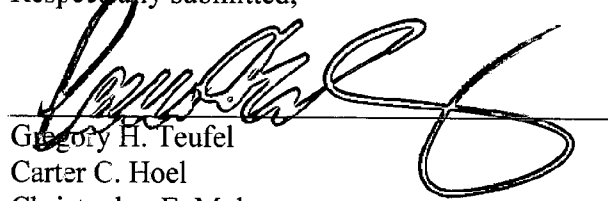
6. Plaintiff has failed to refile any assessment identified in the Notice of Federal Tax Lien.

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

A handwritten signature in black ink, appearing to read 'Gregory H. Teufel', is written over a horizontal line.

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

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
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Area: SMALL BUSINESS/SELF EMPLOYED AREA #3 Lien Unit Phone: (800) 913-6050	Serial Number 246044805	For Optional Use by Recording Office
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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.

2005-1376-CD

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 refilled 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
William A. Shaw
Prothonotary/Clerk of Courts

ICPA to Ing

PA 25-

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
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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 <i>Susan A. Hansen</i> for ROBERT T MILLER	Title REVENUE OFFICER (814) 533-4214	23-06-1910
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(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. 60025X

EXHIBIT A

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

Clearfield County Court of Common Pleas

User: PUBLIC

ROA Report

Case: 2005-01376-CD

Current Judge: No Judge

Internal Revenue Service vs. Todd D. Gordon

Federal Tax Liens

Date		Judge
9/6/2005	New Case Filed:	No Judge
	Filing: Federal Tax Lien Paid by: Internal Revenue Service Receipt number: 1307831 Dated: 09/06/2005 Amount: \$25.30 (Check)	No Judge
	Judgment entered in favor of the Plaintiff and against the Defendant in the amount of \$104,962.18. 1CC to IRS.	
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

Clearfield County Court of Common Pleas

User: PUBLIC

Time: 09:34 AM

PARTY HISTORY

Page 1 of 1

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

Clearfield County Court of Common Pleas

User: PUBLIC

Time: 09:33 AM

PARTY HISTORY

Page 1 of 1

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		
Internal Revenue Service vs. Todd D. Gordon			Filing date: 9/6/2005	

1 Case

Red

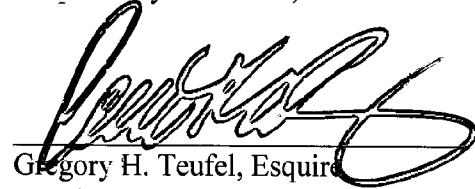
EXHIBIT B

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.

August 1, 2019

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Gregory H. Teufel', written over a horizontal line.

Gregory H. Teufel, Esquire

Pa. Id. No. 73062

Carter C. Hoel, Esquire

Pa. Id. No. 316880

Christopher E. Mohnhey, Esquire

Pa. I.D. No. 63494

9

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

INTERNAL REVEUNE SERVICE,

Plaintiff,

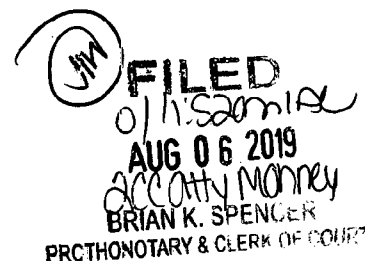
v.

TODD D. GORDON,

Defendant.

CIVIL DIVISION

No. 2005-01376-CD



ORDER OF COURT

AND NOW, this 6th 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:

A large, stylized handwritten signature in black ink, appearing to read "Judge J. Ammer", written over a horizontal line.

FILED
011:10pm
SEP 27 2019
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY,
PENNSYLVANIA

INTERNAL REVENUE SERVICE,

Plaintiff,

v.

TODD D. GORDON,

Defendant.

CIVIL DIVISION

No. 2005-01376-CD

PETITION TO STRIKE LIEN

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. Mohny, 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 filling 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."

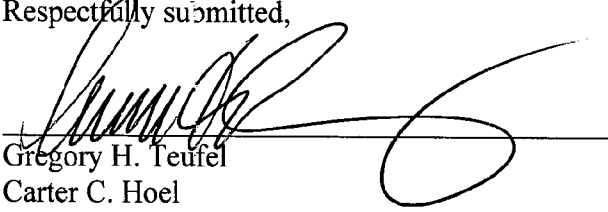
11. Counsel for the Defendant served copies of the August 6, 2019 Order of Court on the Plaintiff.

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,

Dated: September 27, 2019



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

Attorneys for Defendant Todd D. Gordon

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

INTERNAL REVEUNE SERVICE,

Plaintiff,

v.

TODD D. GORDON,

Defendant.

CIVIL DIVISION

No. 2005-01376-CD

ATTEST: *Pat Syde*
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 6th 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:

/s/Fredric J. Ammerman

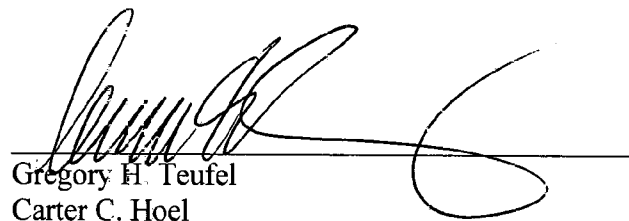
EXHIBIT A

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 27th 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

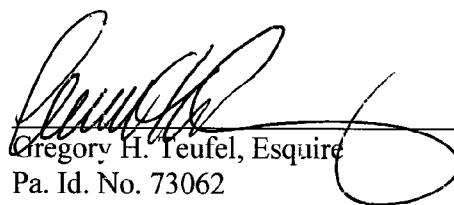
Attorneys for Defendant, Todd D. Gordon

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. Mohnhey, Esquire
Pa. I.D. No. 63494

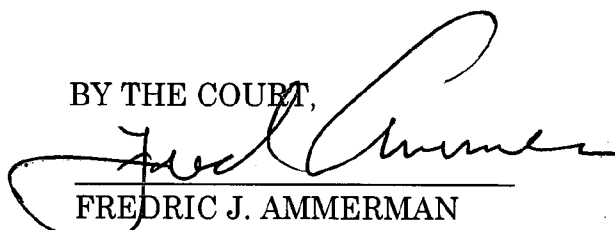
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

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

ORDER

NOW, this 30th 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
FILED
013:050112
SEP 30 2019
lcc Atty J. Gordon
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS
lcc Atty Mohney

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY,
PENNSYLVANIA

INTERNAL REVENUE SERVICE,

Plaintiff,

v.

TODD D. GORDON,

Defendant.

CIVIL DIVISION

No. 2005-01376-CD

AMENDED PETITION TO STRIKE LIEN

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

S
FILED
01/12/2019 3:55pm LR
OCT 03 2019
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.

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 refute 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.

Dated: October 3, 2019

Respectfully submitted,



Gregory H. Teufel

Carter C. Hoel

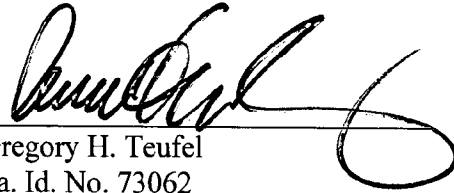
Christopher E. Mohnney

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,

A handwritten signature in black ink, appearing to read 'Gregory H. Teufel', written over a horizontal line.

Gregory H. Teufel

Pa. Id. No. 73062

Carter C. Hoel

Pa. Id. No. 316880

Christopher E. Mohnney

Pa. Id. No. 63494

October 3, 2019

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

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.

2005-1376-CD

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 refilled 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

William A. Shaw
Prothonotary/Clerk of Courts

1 CPA to Eng

PA 25-

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 23-06-1910
(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. 71-456, 1971 - 2 C.B. 409)

Part 1 - Kept By Recording Office

Form 668(Y)(c) (Rev. 2-2004)
CAT. NO. 60025X

EXHIBIT A

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

Clearfield County Court of Common Pleas

User: PUBLIC

ROA Report

Case: 2005-01376-CD

Current Judge: No Judge

Internal Revenue Service vs. Todd D. Gordon

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)	No Judge
	Judgment entered in favor of the Plaintiff and against the Defendant in the amount of \$104,962.18. 1CC to IRS.	
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

Clearfield County Court of Common Pleas

User: PUBLIC

Time: 09:34 AM

PARTY HISTORY

Page 1 of 1

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

Clearfield County Court of Common Pleas

User: PUBLIC

Time: 09:33 AM

PARTY HISTORY

Page 1 of 1

Cases

Gordon, Todd D.

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

Case	Role	Status	Violation / Filing Date	Restitution Balance Balance Due
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2005-01376-CD

Defendant

Judgment Entered

Internal Revenue Service vs. Todd D. Gordon

Filing date: 9/6/2005

1 Case

Red

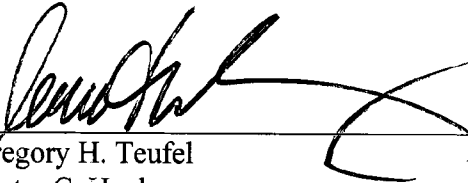
EXHIBIT B

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 3rd 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

A handwritten signature in black ink, appearing to read 'Gregory H. Teufel', is written over a horizontal line.

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

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
JM FILED
01 JM/3pm
OCT 07 2019
3cc ATTY Feitel
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

ORDER OF COURT

AND NOW, this 3rd 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;

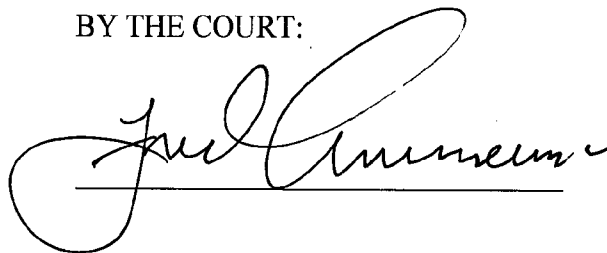
~~FSA (2) the Plaintiff shall file an answer to the Amended Petition within _____ days of this date, or the Court may deem that you have no objection to the relief requested therein and may grant such relief without further notice to you;~~


(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:





FILED

 o/jomikar

NOV 04 2019

 NBCC

BRIAN K. SPENCER

PROTHONOTARY & CLERK OF COURTS

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

Defendant.

(Related to the Amended Petition to
Strike Lien No. 2005-01376-CD pending
before the Court of Common Pleas of
Clearfield, Pennsylvania)

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 support 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.¹

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

¹ 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.”² 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

² 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 **REMOVED** 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,

Plaintiff,

v.

TODD D. GORDON,

Defendant.

CIVIL DIVISION

No. 2005-01376-CD

AMENDED PETITION TO STRIKE LIEN

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
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(412) 253-4623 (facsimile)

Christopher E. Mohny
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: Pat K. Spade
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 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.

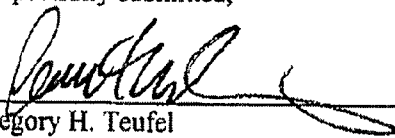
10. At all times, Plaintiff has failed to refile any assessment identified in the Notice of Federal Tax Lien.

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

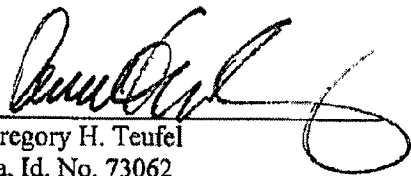
Attorneys for Defendant Todd D. Gordon

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. Mohnhey
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 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 refilled 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 8325(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	
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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
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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

FILED

SEP 06 2005

 William A. Shaw
 Prothonotary/Clerk of Courts
 1000 N. 10th St.
 PA 16801

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

 the 31st day of August, 2005,

Signature <u>Susan A. Hansen</u> 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. 71-486, 1971-2 C.B. 408)

Part 1 - Kept By Recording Office

 Form 668(Y)(c) (Rev. 2-2004)
 CAT NO. 60026X
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.	No Judge
	Filing: Federal Tax Lien Paid by: Internal Revenue Service Receipt number: 1907831 Dated: 09/06/2005 Amount: \$25.00 (Check)	No Judge
	Judgment entered in favor of the Plaintiff and against the Defendant in the amount of \$104,962.18. 1CC to IRS.	
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

Clearfield County Court of Common Pleas

User: PUBLIC

Time: 09:34 AM

PARTY HISTORY

Page 1 of 1

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	Judgment Entered		
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Internal Revenue Service vs. Todd D. Gordon

Filing date: 9/6/2005

1 Case

Recd

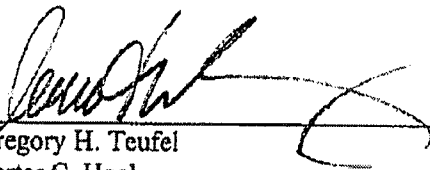
EXHIBIT B

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 3rd 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. Mohnney

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

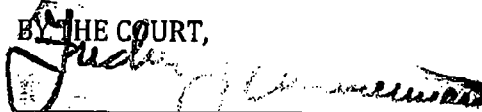
*
*
*
*
*

NO. 2005-1376-CD

ORDER

NOW, this 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,



FREDRIC J. AMMERMAN
PRESIDENT JUDGE

FILED
11/15/2019
NOV 15 2019
2ccatty Whney
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.)	

S
FILED
mjm/9:42
FEB 18 2020
No cc
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

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

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 Background¹

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. § 6325.² (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.)

¹ 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)."

² 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.³

The USA argues that the case is moot⁴ because the NFTL 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 NFTL, but all parties agree that the NFTL 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.*)

³ 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 NFTL 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.

⁴ 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 NFTL 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.⁵

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.⁶

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.

⁵ 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).

⁶ 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,

Plaintiff,

v.

UNITED STATES OF AMERICA

Defendant.

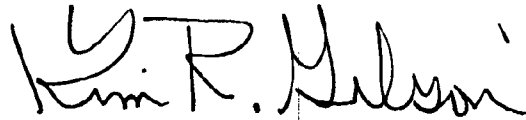
CASEp NO. 3:18-cv-153 ¹⁹⁻¹⁸⁷

JUDGE KIM R. GIBSON

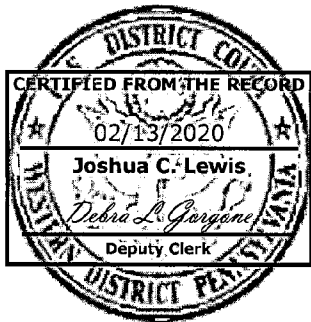
ORDER

AND NOW, this 13th 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
Plaintiff

vs.

TODD GORDON
Defendant

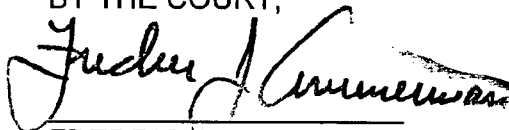
* NO. 2005-1376-CD
*
*
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ORDER

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,



FREDRIC J. AMMERMAN
President Judge

625
FILED
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MAR 30 2020
Kcathy Mahney
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS
ICC Att: Gordon

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

INTERNAL REVENUE SERVICE,

Plaintiff,

v.

TODD D. GORDON,

Defendant.

CIVIL DIVISION

No. 2005-01376-CD

**SECOND PETITION TO STRIKE
LIEN**

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

5

(AP)

FILED

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APR 09 2020

NOCC

BRIAN K. SPENCER

PROTHONOTARY & CLERK OF COURTS

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

INTERNAL REVEUNE SERVICE,

Plaintiff

v.

CIVIL DIVISION

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.

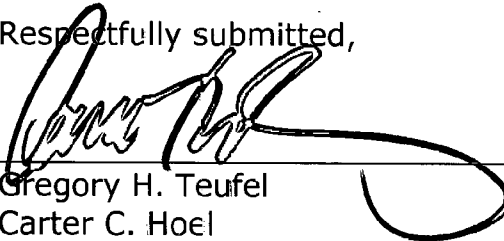
13. At all times, Plaintiff has failed to refile any assessment identified in the Notice of Federal Tax Lien.

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.

Dated: April 9, 2020

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Gregory H. Teufel', is written over a horizontal line. The signature is stylized with a large, sweeping flourish that extends to the right.

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

Attorneys for Defendant Todd D. Gordon

1872
Form 668 (Y)(c)
(Rev. February 2004)

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

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)

Part 1 - Kept By Recording Office

Form 668(Y)(c) (Rev. 2-2004)
CAT. NO. 6002RX

EXHIBIT A

FILED

SEP 06 2005

William A. Shaw
Prothonotary/Clerk of Courts

1 Case to Day
P 125-

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

Clearfield County Court of Common Pleas

User: PUBLIC

ROA Report

Case: 2005-01376-CD

Current Judge: No Judge

Internal Revenue Service vs. Todd D. Gordon

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

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
2005-01378-CD	Defendant	9/8/2005	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	Judgment Entered	Filing date: 9/6/2005	
Internal Revenue Service vs. Todd D. Gordon				

1 Case

Recd

EXHIBIT B

CASE NO. 3:19-cv-187

JUDGE KIM R. GIBSON

UNITED STATES OF AMERICA,

Defendant.

I. Introduction

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.

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 Background¹

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. § 6325.² (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.)

¹ 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)."

² 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.³

The USA argues that the case is moot⁴ because the NFTL 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 NFTL, but all parties agree that the NFTL 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.*)

³ 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 NFTL 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.

⁴ 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 NFTL 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 Envi'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.⁵

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.⁶

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.

⁵ 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).

⁶ 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,

Plaintiff,

v.

UNITED STATES OF AMERICA

Defendant.

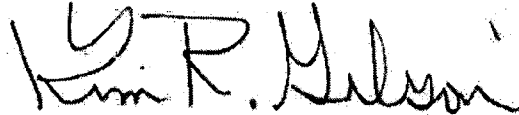
CASEp NO. 3:19-cv-163

JUDGE KIM R. GIBSON

ORDER

AND NOW, this 13th 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 13th 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

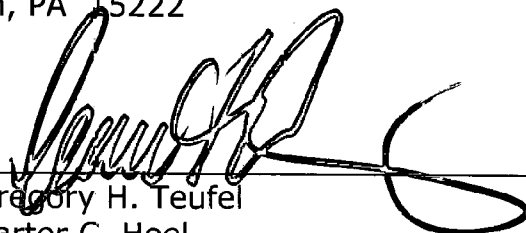
EXHIBIT D

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 9th 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



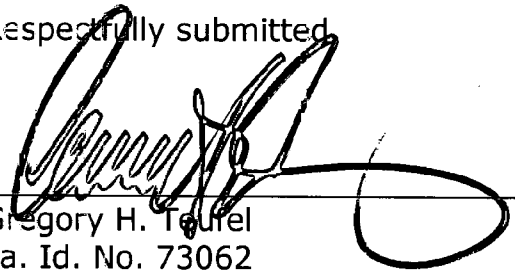
Gregory H. Teufel
Carter C. Hoel
Christopher E. Mohnhey

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,

A handwritten signature in black ink, appearing to read 'Gregory H. Trefel', is written over a horizontal line. The signature is stylized with a large, sweeping loop at the end.

Gregory H. Trefel
Pa. Id. No. 73062
Carter C. Hoel
Pa. Id. No. 316880
Christopher E. Mohnhey
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

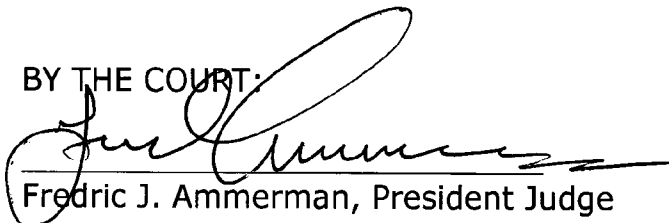
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FILED
01/09/2020
APR 13 2020
WCC City Monney
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

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 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

Tax Division

Civil Trial Section, Eastern Region

REZ:DSM:ARKalyniuk

P.O. Box 227
Washington, D.C. 20044

Telephone: 202-598-7048
Telecopier: 202-514-6866

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

5
FILED
M/KD/11:3AM
APR 30 2020
No. 2
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

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,

ALEXANDE
R KALYNIUK

Digitally signed by ALEXANDER KALYNIUK
DN: cn=US, o=U.S. Government, ou=Dept of
Justice, ou=ITAC, cn=ALEXANDER KALYNIUK,
6.5.2.342.19200300.100.1.1=15061063834526
Date: 2020.04.29 11:40:39 -0400

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. Mohny, Esq. (via first-class U.S. mail)
Gregory H. Teufel, Esq. (via e-mail and first-class U.S. mail)

FILED

2020 APR 30 P 11:06

DRIAN K. SPENCER
PROTHONOTARY &
CLERK OF COURTS

ENCLOSURE A

CHRISTOPHER E. MOHNEY

ATTORNEY AT LAW

51 BEAVER DRIVE

SUITE 1

DUBOIS, PENNSYLVANIA 15801

WWW.CHRISTOPHEREMOHNEYESQUIRE.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

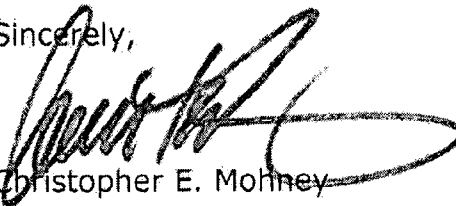
Re: Internal Revenue Service v. Todd D. Gordon
No. 2005-01376-CD
Court of Common Pleas of Clearfield County, Pennsylvania

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

APR 13 2020

A TRUE COPY
ATTEST: *[Signature]*
PROTHONOTARY-CLERK

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 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 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

TELEPHONE: (814) 375-1044

WWW.CHRISTOPHEREMOHNEYESQUIRE.COM

FACSIMILE: (814) 375-1088

April 15, 2020

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

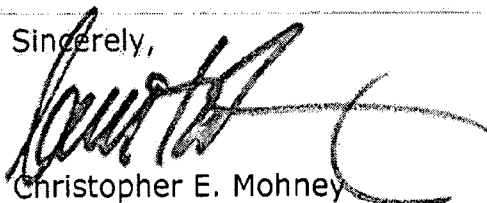
Re: Internal Revenue Service v. Todd D. Gordon
No. 2005-01376-CD
Court of Common Pleas of Clearfield County, Pennsylvania

Dear Madam or Sir:

I hereby serve the Internal Revenue Service 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,

A handwritten signature in black ink, appearing to read "Christopher E. Mohney", written over a horizontal line.

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

APR 13 2020

A TRUE COPY
TESTED: *[Signature]*
PROTHONOTARY-CLERK

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 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;
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- (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

ENCLOSURE B

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.)	

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

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 Background¹

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. § 6325.² (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.)

¹ 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)."

² 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.³

The USA argues that the case is moot⁴ because the NFTL 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 NFTL, but all parties agree that the NFTL 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.*)

³ 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 NFTL 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.

⁴ 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 NFTL 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.⁵

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.⁶

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.

⁵ 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).

⁶ 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,

Plaintiff,

v.

UNITED STATES OF AMERICA

Defendant.

CASEp NO. 3:19-cv-153

JUDGE KIM R. GIBSON

ORDER

AND NOW, this 13th 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

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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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2cc Abby Mohr

BRIAN K. SPENCER


PROTHONOTARY & CLERK OF COURTS

2cc Abby 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, 2nd 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.

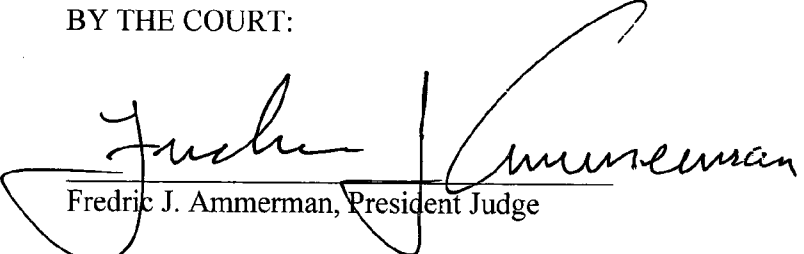
TODD D. GORDON,

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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BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

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

INTERNAL REVENUE SERVICE
Plaintiff

vs.

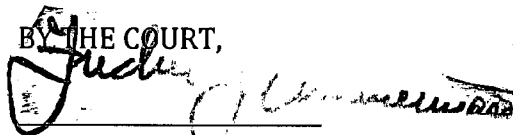
TODD R. GORDON
Defendant

* NO. 2005-1376-CD
*
*
*
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*

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,



FREDRIC J. AMMERMAN
PRESIDENT JUDGE

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