

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**
Case No. 9:21-82056-CIV-CANNON

CELIA R. CLARK,

Plaintiff,

v.

UNITED STATES OF AMERICA; THE
INTERNAL REVENUE SERVICE,

Defendants.

**JOINT MOTION FOR ENTRY OF CONSENT JUDGMENT IN FAVOR OF THE
UNITED STATES ON COUNT I OF CLARK’S COMPLAINT AND THE UNITED
STATES’ COUNTERCLAIM**

Plaintiff Celia R. Clark (“Clark”) and the Defendants the United States of America and Internal Revenue Service¹, having reached a settlement of this matter and, consistent with the terms thereof, respectfully request an order directing entry of a consent judgment in favor of the United States and against Clark on Count I of Clark’s Complaint and the United States’ Counterclaim.

The Parties request the Court grant this motion for the reasons set forth below:

1. Clark brought claims against the United States for a refund of tax penalties paid under 26 U.S.C. § 6703 (Count I), and for disclosure of tax information in violation of 26 U.S.C. § 7431 (Count II). The Government filed a counterclaim to reduce Clark’s unpaid tax penalty amount to judgment.

2. On January 29, 2024, this Court entered final judgment in favor of the United States as to Count II of Clark’s complaint. *See* ECF No. 152.

¹ In the posture of this case, a suit against the IRS is deemed to be a suit against the United States, *Abell v. Sothen*, 214 Fed. Appx. 743, 750–51 (10th Cir. 2007).

3. Clark now voluntarily consents to entry of judgment against her on Count I of the Complaint and the United States' Counterclaim in the amount of \$11,636,919. Upon full satisfaction of the terms of the settlement agreement between the parties, the United States will file a Satisfaction of Judgment. These terms include Clark's payment of \$5,200,000, inclusive of payments already made,² for the resolution of the remaining claims in this case.

4. The parties have agreed to the proposed Order and Consent Judgment for entry by the Court attached hereto as Exhibit 1 and respectfully request the Court to enter the Order and Consent Judgment. The Order includes language stating that this Court retains jurisdiction to enforce the Parties' settlement agreement. If the Court is not inclined to retain jurisdiction, the Parties ask the Court to enter the attached consent judgment with that language removed.

5. The proposed Order and Consent Judgment will fully resolve the outstanding issues before the Court.

6. The parties have agreed to bear their own costs and expenses incurred in this action, including possible attorneys' fees.

WHEREFORE, the Parties Jointly move for entry of the attached Consent Judgment consistent with this Motion.

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² Clark paid \$1,745,544 towards the 26 U.S.C. § 6700 penalty assessments made against her for the tax years 2008-2016. Moreover, the IRS applied three overpayments to the penalty assessment for 2008 in the amounts of: \$25,769; \$20,614; and \$11,704.

Dated: April 15, 2024

DAVID A. HUBBERT
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/s/ Virginia Giannini

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Respectfully submitted,

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Counsel for Celia R. Clark

CERTIFICATE OF SERVICE

I certify that on April 15, 2024, I caused the foregoing document to be filed with this Court's CM/ECF electronic filing system, which has caused electronic service to be made upon all counsel of record.

/s/ Derick Vollrath