

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Adam Steele, Brittany Montrois, and)
Joseph Henchman, on behalf of)
themselves and all others similarly)
situated,)
Plaintiffs,)
)
v.)
)
United States of America,)
Defendant.)
_____)

Civil Action No.: 1:14-cv-01523-RCL

**JOINT MOTION FOR
SCHEDULING ORDER**

The parties jointly move the Court to enter a scheduling order in accordance with the March 1, 2019 order from the United States Court of Appeals for the District of Columbia Circuit. The parties have met and conferred and have agreed to the below schedule for the remainder of the case, and submit it to this Court for approval.

Background and Procedural Posture

This class action challenges fees the Internal Revenue Service imposes on tax preparers to obtain a preparer tax identification number (or PTIN). Plaintiffs challenged the legality of the fees on two grounds. The first was that the IRS had no authority to charge any PTIN fees because tax-return preparers receive no “service or thing of value” in return for them. 31 U.S.C. § 9701(a). The second is that, even if the IRS is authorized to charge the PTIN fees, “the fees charged for the issuance or renewal of a PTIN do not reasonably reflect the cost of the services performed by the IRS.” (Doc. 41, ¶ 47.) The parties agreed to litigate the case in two phases. The first phase would decide the question of whether the IRS was authorized to charge any PTIN fee, and if the fee was found to be permissible, the second phase would determine whether the fee charged was excessive. Both parties filed motions for summary judgment in the first phase.

On June 1, 2017, the Court granted Plaintiffs' motion for summary judgment in part, holding that the IRS may require the use of PTINs, but may not charge fees under the Independent Offices Appropriations Act ("IOAA") for PTINs. *See* ECF No. 79. The government appealed that decision. *See* ECF No. 90.

On March 1, 2019, the United States Court of Appeals for the District of Columbia Circuit vacated the judgment, finding "that the IRS acted within its authority under the [IOAA] in charging tax-return preparers a fee to obtain and renew PTINs." *Montrois v. United States*, 916 F.3d 1056, 1058 (D.C. Cir. 2019). The Court remanded the action "for further proceedings, including an assessment of whether the amount of the PTIN fee unreasonably exceeds the costs to the IRS to issue and maintain PTINs." *Id.* Since then, the parties have met and conferred several times on discovery issues and a schedule for the second phase of the case, and have agreed to the below schedule.

Proposed Schedule

The parties request that the following schedule be entered by the Court:

Close of fact discovery	November 29, 2019
Opening expert reports	December 20, 2019
Responsive expert reports (if any)	February 3, 2020
Rebuttal expert reports (if any)	March 2, 2020
Expert discovery close	March 27, 2020
Summary judgment and Daubert motions	30 days after close of expert discovery, or if no expert reports, January 3, 2020
Summary judgment and Daubert oppositions	30 days after filing of motion
Summary judgment and Daubert replies	15 days after filing of opposition
Case will be trial-ready after the close of discovery unless expert reports are submitted and/or motions for summary judgment are	

made, in which circumstance the case will be trial-ready upon the completion of expert reports or summary judgment proceedings, as appropriate.	

Conclusion

The parties respectfully request that the Court grant this joint motion to enter a schedule in this action as set forth above. The parties are available for a telephonic or in-person status conference at the Court's convenience to address any questions the Court may have or to discuss this proposal in more detail.

Dated: April 22, 2019

Respectfully submitted,

By: /s/ William H. Narwold
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CERTIFICATE OF SERVICE

I, William H. Narwold, declare that I am over the age of eighteen (18) and not a party to the entitled action. I am a member of the law firm MOTLEY RICE LLC, and my office is located at 20 Church Street, 17th Floor, Hartford, CT 06103.

On April 22, 2019, I caused to be filed the following in the above-captioned case:

Joint Motion for Scheduling Order

with the Clerk of Court using the Official Court Electronic Document Filing System, which served copies on all interested parties registered for electronic filing.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 22, 2019

By: /s/ William H. Narwold
MOTLEY RICE LLC