

In the United States Court of Federal Claims

No. 06-230 T
(Filed July 20, 2006)

WILLIAM A. SUMNER and *
CECILE D. SUMNER, *
Plaintiffs, *
v. *
THE UNITED STATES, *
Defendant. *

ORDER

On July 18, 2006, the clerk’s office received a “Request for Clarification of the Court’s Order of Dismissal” signed by William A. Sumner and Cecile D. Sumner. As the document lacked the proof of service required by the Rules of the Court of Federal Claims 5.1 (“RCFC”) and copies required by RCFC 5.3(d), it was forwarded to chambers for a ruling as to its filing.

The Request for Clarification cites two aspects of the Opinion filed on June 23, 2006. The Federal Tort Claims Act, 28 U.S.C. § 1346(b), provides that tort claims against the United States are filed in a United States District Court, after appropriate relief has been sought from the agency concerned. However, that Act does provide it shall not apply to “[a]ny claim arising in respect of the assessment or collection of any tax” 28 U.S.C. § 2680(c). Also, the Opinion, filed June 23, 2006, does make clear that a taxpayer has the responsibility to discover and file any claim for refund with the Internal Revenue Service within the statutory time periods provided by Congress or, otherwise, this court lacks jurisdiction to grant relief.

Accordingly, it is ORDERED that:

(1) As chambers has made the copies required by RCFC 5.3(d) and a copy for service on defendant, the Request for Clarification, received on July 18, 2006, shall be **FILED** by leave of court;

(2) Upon its filing, pursuant to (1) the Request for Clarification shall be **DENIED**; and

(3) A copy of this Order accompanied with a copy of the Request for Clarification shall be served by the clerk on the defendant.

James F. Merow
Senior Judge