

**IN THE GEORGIA TAX TRIBUNAL
STATE OF GEORGIA**

LORRAINE L. HUNTER,

Petitioner,

v.

**GEORGIA TAX TRIBUNAL,
STATE REVENUE COMMISSIONER,
and OFFICE OF THE ATTORNEY
GENERAL,**

Respondent.

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* **DOCKET NO.: TAX-IIT-1406330**
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DECISION

2014-6 Ga. Tax Tribunal, March 13, 2014

This is another case involving questions as to the scope of the jurisdiction of the Georgia Tax Tribunal.

For the reasons stated below, the Motion of the State Revenue Commissioner and Attorney General to dismiss certain claims by the Petitioner is **GRANTED**. The Motion of the Attorney General that the Attorney General, individually, and the Tax Tribunal be dismissed as parties to this case is also **GRANTED**.

I. FINDINGS OF FACT

On August 19, 2013, Petitioner filed her Petition with the Tax Tribunal, designating her case to proceed as a Small Claims Division case and naming the Georgia Tax Tribunal, State Revenue Commissioner and the Office of the Attorney General as Respondents in this action.

In her initial Petition, Petitioner appealed:

- (1) the Official Assessment and Demand for Payment Letter ID L 0129013152 assessing individual income taxes against Petitioner for the year 2012, and
- (2) the Commissioner's denial of a tax refund.

Petitioner also alleged that Georgia owed her \$1,200 for a “name change petition” that she had filed in Gwinnett County because “names are free.” Petitioner also claimed that the State of Georgia had “loose foreclosure practices [and the] highest corruption and highest bankruptcy [rate].” She also asserted that she had overpaid her unemployment taxes to the Georgia Department of Labor.

On December 10, 2013, the Commissioner filed an Answer and alleged, *inter alia*, that the Georgia Tax Tribunal lacked jurisdiction over some of the claims in this action and that the Attorney General and Georgia Tax Tribunal are not proper parties in any event.

On or about January 7, 2014, Petitioner sent to Respondent a document captioned, “Petitioners (sic) Answer to Georgia Petition” (referred to in this decision as Petitioner’s “Reply”). In her Reply, Petitioner alleged that:

1. The Respondents are liable to Petitioner for “money damages,”
2. The Government owes Petitioner more in damages than Petitioner owes Georgia in taxes; and
3. Petitioner has suffered Financial, Emotional, Economic [and] Tax Damages in Georgia and all branches of [Georgia] government need to respond.”¹

Petitioner also attached a number of exhibits to her Reply.

In her Reply, Petitioner also claimed that:

- (1) Respondents are liable to her for damages of \$1,587.60,
- (2) Petitioner is eligible for statutory damages up to \$1,000 and actual damages for loss of work, medical expenses, and other out-of-pocket costs,

¹ Petitioner is proceeding *pro se* in this matter and it is therefore perhaps understandable that she apparently neglected to file a copy of the Reply with the Tribunal. Respondent subsequently rectified this deficiency for Petitioner by providing a copy of the Reply to the Tribunal which was filed on February 19, 2014.

(3) Petitioner is entitled to reimbursement of \$1,200 spent to have the name of her son changed in a proceeding filed in Gwinnett State Court, and

(4) Petitioner is entitled to \$8,584 of “unemployment taxes” collected by the Georgia Department of Labor.

In her original Petition and her subsequent Reply, the Petitioner also raised claims (i) that she does not owe the tax set forth in Official Assessment and Demand for Payment Letter ID L0129013152, (ii) that the Department of Revenue improperly offset Petitioner’s income tax refund for the year 2011 to pay taxes due for years 2008, 2009 and 2010, and (iii) that Petitioner is entitled to have her 2011 refund refunded to her or applied to the 2012 liability. In the remainder of this Decision, we refer to the claims enumerated in this paragraph as the “Petitioner’s Tax Claims” and we refer to all of the other claims raised in the Petition and the Reply as the “Non-Justiciable Claims.”

II. CONCLUSIONS OF LAW

For the reasons discussed below, the Georgia Tax Tribunal does not have jurisdiction to address the Non-Justiciable Claims. Moreover, the Attorney General, individually, and the Tax Tribunal are not proper parties to this action and must be dismissed. With these modifications in place, and the matter appropriately restyled, the case can proceed for further consideration with respect to Petitioner’s Tax Claims.

A. The Georgia Tax Tribunal lacks subject matter jurisdiction to address Petitioner’s Non-Justiciable Claims

The Georgia Tax Tribunal’s jurisdiction is specified in O.C.G.A. § 50-13A-9. That statute allows the Tribunal to hear: (1) appeals of assessments issued by the Revenue Department for property tax purposes to public utilities and other centrally assessed taxpayers, see O.C.G.A. § 48-2-18; (2) actions seeking a refund of taxes collected by the Revenue Commissioner, see

O.C.G.A. § 48-2-35; (3) appeals of final tax assessments and other orders, rulings, or findings of the Revenue Commissioner, see O.C.G.A. § 48-2-59; (4) appeals contesting state tax executions issued by the Revenue Department, see O.C.G.A. § 48-3-1; (5) appeals seeking refunds of real estate transfer taxes, see O.C.G.A. § 48-6-7; (6) appeals seeking refunds of intangible recording taxes, see O.C.G.A. § 48-6-76; (7) appeals contesting the denial by the Revenue Commissioner of a taxpayer's petition for a specific allocation or apportionment formula, see O.C.G.A. 48-7-31(d)(2)(C); and (8) certain declaratory judgment actions, see O.C.G.A. § 50-13-10(a).

Petitioner's Non-Justiciable Claims include claims for alleged damages sought against state agencies or employees, negligence actions, matters concerning the foreclosure of Petitioner's residence by MERS and/or Premier Mortgage Funding, Inc. or American Brokers Conduit, reimbursement of expenses for a name change sought by Petitioner for her child, reimbursement of unemployment taxes which Petitioner paid to the Georgia Department of Labor, the number of bankruptcy petitions filed in the State of Georgia, and/or alleged "corruption" in Georgia.

Irrespective of whether any of these Non-Justiciable Claims may have any merit, none of these claims fall within the ambit of the jurisdictional grant provided to the Georgia Tax Tribunal under O.C.G.A. § 50-13A-9. These Non-Justiciable Claims must, therefore, be dismissed.

B. Neither the Tax Tribunal nor the Attorney General is a proper party to the Petitioner's Tax Claims


In her initial Petition and in her Reply, Petitioner named the Georgia Tax Tribunal and the Office of the Attorney General as Respondents. The State Revenue Commissioner, in his official capacity, is properly named as a party to any action before the Tribunal, contesting a final tax assessment by the Department of Revenue, seeking a refund of taxes collected by the

Department of Revenue, or for various other matters. O.C.G. A. § 50-13A-10(a). On the other hand, the Attorney General merely represents the Commissioner in his statutory capacity in such an action before the Tax Tribunal while the Tax Tribunal adjudicates such matters. As such, the Attorney General and the Tax Tribunal are not proper parties. As a *pro se* Petitioner, it is understandable that the Petitioner might make these errors. But neither the Tax Tribunal nor the Attorney General is a proper party to the Petitioner's action and both must be dismissed from this case.

III. CONCLUSION

For the reasons stated above, the Georgia Tax Tribunal lacks jurisdiction to consider Petitioner's Non-Justiciable Claims and these claims must be **DISMISSED**. Because neither the Georgia Tax Tribunal nor the Attorney General is a proper party to that portion of the Petitioner's action addressing Petitioner's Tax Claims which the Georgia Tax Tribunal is authorized to hear, both the Attorney General and the Tax Tribunal must be **DISMISSED** from this case as parties as well. The matter will be appropriately restyled to reflect that the action can proceed only with respect to the Petitioner's Tax Claims and only as to Respondent Douglas J. MacGinnitie, Commissioner, Georgia Department of Revenue.

SO ORDERED, this 12th day of March, 2014.


CHARLES R. BEAUDROT, JR.
CHIEF JUDGE
GEORGIA TAX TRIBUNAL

LORRAINE L. HUNTER, *PRO SE*

PETITIONER

SAMUEL S. OLENS, Attorney General, W. WRIGHT
BANKS, JR., Deputy Attorney General, WARREN R.
CALVERT, Senior Assistant Attorney General,
LOURDES G. MENDOZA, Senior Assistant Attorney
General

*ATTORNEYS FOR RESPONDENT, DOUGLAS J.
MACGINNITIE, Commissioner, Georgia Department of
Revenue*