

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 18-1146**September Term, 2019****USTC-ADM-3-18****Filed On:** December 23, 2019

John J. Koresko, V,

Appellant

v.

United States Tax Court,

Appellee

ON APPEAL FROM THE UNITED STATES TAX COURT**BEFORE:** Rogers, Griffith, and Rao, Circuit Judges**J U D G M E N T**

This appeal was considered on the record from the United States Tax Court and on the briefs filed by the parties. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). Upon consideration of the foregoing and the motions for leave to file a supplemental appendix and for oral argument, it is

ORDERED AND ADJUDGED that the Tax Court's April 19, 2018 Order of Disbarment be vacated and the case remanded. The Tax Court concluded that appellant waived his right to a hearing in this reciprocal discipline case by failing to provide timely written notice of his intent to attend hearings scheduled for October 9, 2014, and December 16, 2014. But those hearings were scheduled before appellant was disbarred by the Supreme Court of Pennsylvania in September 2015, and they were intended to address appellant's suspension for conduct in a different disciplinary matter than the one that ultimately led to his disbarment by the Supreme Court of Pennsylvania. In recognition of the changed circumstances, the Tax Court issued an order on May 10, 2016 setting a new hearing for June 28, 2016, to address whether reciprocal discipline based on the Supreme Court of Pennsylvania's disbarment order was warranted. The Tax Court does not argue that appellant waived his right to the June 28, 2016 hearing after it was offered. By disbarring appellant without providing the hearing it offered, the Tax Court failed to follow the procedures it had established in its published rules and the orders issued in this case. Accordingly, the disbarment order must be vacated. See Aka v. United States Tax Court, 854 F.3d 30, 32 (D.C. Cir. 2017). The case is remanded to the Tax Court so that it can offer appellant the hearing it promised appellant in its May 10, 2016 order. It is

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FURTHER ORDERED that the motions for leave to file a supplemental appendix and for oral argument be dismissed as moot.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam