

# Extraordinary Tactic to Stop a Federal Tax Wage Levy

["Collection Due Process Hearing" "non-frivolous arguments" "IRS personnel" fear "criminal prosecution" Legalbear lien CDPH](#)

26 U.S.C. § 6330(e) includes a provision that is little known and underutilized by folks facing an [Federal tax wage levy](#) of their bank account or pay. That subsection provides in pertinent part:

"(e) Suspension of collections and statute of limitations

"(1) In general

"... if a hearing is requested under subsection (a)(3)(B), the levy actions which are the subject of the requested hearing...shall be suspended for the period during which such hearing, and appeals therein, are pending..."

The suspension of collection activities by timely requesting a Collection Due Process Hearing (CDPH) is a very useful way to block an IRS levy on a financial institution such as a bank or credit union or paycheck. I have utilized this provision to end an [IRS \(Internal Revenue Service\) wage levy](#) in as little as 2 days. A short time ago I put a remark in my shopping cart that even a dancing bear could block an IRS wage levy by a well-timed request for a CDPH hearing as provided in 26 U.S.C. § 6330(b)(1).

Nevertheless, a dancing bear would not be able to keep IRS collection activity suspended and most likely neither would most of us. In spite of all the delays while appeals are pending; and in spite of being able to retrieve whatever money you had in the bank when the Notice of Levy arrived from the Internal Revenue Service; and despite the fact of receiving complete paychecks during those delays; in due course, the end of the line will arrive and the IRS will proceed with

collection activities as they were before the hearing was requested. At the point this happens the majority of people will be right back where they began; staring down [collection activity by the IRS \(Internal Revenue Service\)](#). It is because of this harsh reality that I put up nine, free videos, 4-10 minutes long at [www.irsterminator.com](http://www.irsterminator.com) discussing strategies I have arrived at that make keeping IRS collection activities suspended indefinitely a very real likelihood.

There are two aspects to winning a CDPH hearing: 1) Taking affirmative strategic action with the purpose of prevailing in the hearing as I discuss in the videos referenced above; 2) Avoiding bringing up issues that would serve as grounds for you losing the hearing. Steering clear of losing matters is a matter of doing a little investigation and reviewing what issues have been raised in the past that lost.

Rohner v. U.S., 2003.NOH.0000145 (N.D.Ohio 2003) is the case that I will address in part in this article. Rohner lost his Collection Due Process hearing and appealed to the Federal District Court. I was able to find his case by searching the District Court data base at [www.versuslaw.com](http://www.versuslaw.com). I made an hour and forty minute video about how to use Versuslaw to do research and that video is available for you to learn to do online legal research too at [www.bearscart.com](http://www.bearscart.com) in the "law study" category.

In the section of the Court's decision entitled "Factual and Procedural Background" the Court recounted:

"Although Plaintiff submitted Forms 1040 to the Internal Revenue Service (IRS) along with copies of Forms W-2 indicating his wage income for the years 1996 and 1998, he reported no income on the returns and attached statements containing frivolous arguments as to why he was not liable for an income tax for those two years...With regards to the 1998 tax return, the IRS then sent Plaintiff a letter dated May 24, 1999, advising him that a frivolous return penalty of \$500

under 26 U.S.C. § 6702 would be assessed against him unless he corrected his position within 30 days...Plaintiff failed to correct the Form 1040 and the IRS assessed § 6702 penalty against him on September 13, 1999, with respect to the 1998 Form 1040...The IRS also assessed Plaintiff a § 6702 penalty on November 13, 2000, with respect to the 1996 Form 1040, because he submitted a Form 1040 for tax year 1996 showing no income with an attached statement containing frivolous arguments on July 21, 2000."

So, part of what Rohner was trying to do was use the hearing to get out of paying frivolous return penalties. The IRS sent Rohner a Notice of Intent to Levy that informed him of his right to a CDPH hearing and he requested the hearing. After losing in the CDPH hearing, Rohner lost on appeal to the Federal District Court:

1) Rohner's line of reasoning that he didn't receive a notice of deficiency respecting the § 6702 frivolous return penalty was refused as being unjustified for the reason that there is no requirement that a notice of deficiency be issued with respect to these penalties. The Court held that deficiency procedures do not apply to the assessment or collection of frivolous tax return penalties.

2) Rohner's line of reasoning that he did not obtain an evenhanded hearing because the hearing officer neglected to comply with his demands for records was refused by the Court as unsubstantiated. The Court held that Section 6330 did not bestow authorization for production of documents or other exploratory demands in relation to a CDPH (Collections Due Process Hearing).

Rohner broached further unsuccessful matters on appeal which will serve as the source of another article. The Court ended up holding that the Internal Revenue Service's administrative ruling would stand as decided. Conclusions such as this one have constantly served me as an motivation and not as a discouragement. At least a set of circumstances like this supplies a warning with regard to those

who have current cases coming after. To provide yourself the best prospect of enjoying success go over the 9 videos at [www.irsterminator.com](http://www.irsterminator.com).

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