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Howard Stern, IRS Strange Co-Defendants In Tax Audit Privacy Suit

No one wants to be audited. But imagine if your friendly—or testy—IRS audit conversations were not just with the IRS, but were broadcast, publicly. Then, add that Howard Stern is there too, presumably to comment, and make you feel, well, worse. If you think that sounds like a lawsuit, you're right. And not just a lawsuit against Stern, but against the IRS, too. This home-grown recipe for a lawsuit involves a [woman suing Howard Stern for airing her call with the IRS](#). According to [The Washington Post](#), the strange brew started when Jimmy Forsyth, an IRS agent, called into The Howard Stern Show, but was put on hold. Surely IRS employees must be familiar with being on hold.

The IRS agent was on hold, but hey, he's trying to conduct the government's business. So while on hold, he talks to a taxpayer about audit details on the other line. That taxpayer would become the plaintiff in the suit, Judith Barrigas. But, it turns out the IRS agent somehow was allowing the whole phone call with the unwitting Ms. Barrigas to be heard by the people on The Howard Stern Show. Rightly or wrongly—after all, the IRS agent called Howard—Stern picked up and liked what he heard. So, hearing something interesting—an audit conversation under way—Howard kept broadcasting. The IRS agent kept talking with the taxpayer for nearly an hour, on the air to [1.2 million listeners](#).



Radio personality Howard Stern, left, and his wife Beth Ostrovsky sit in the front row during an NBA basketball game between the New York Knicks and the Cleveland Cavaliers at Madison Square Garden in New York, Wednesday, Dec. 7, 2016. (AP Photo/Kathy Willens)

This was no Russian hack job. It was out there for everyone. During her call with the IRS, Ms. Barrigas began receiving a [barrage of text messages](#) and phone calls from unknown callers informing that her personal information and phone number were being aired on the Howard Stern Show. A big fat lawsuit for invasion of privacy and other claims seemed inevitable. Ms. Barrigas has claims, and who knows how big they could be. She is suing the IRS, Howard Stern and his production company in Massachusetts federal court for unlawful invasion of privacy, negligence, intentional infliction of emotional distress, and more.

The IRS has [stated](#) that, “We are aware of this troubling situation, and we are currently reviewing the matter. The IRS takes the confidentiality of taxpayer information very seriously, and we have high standards that we expect and require employees to follow.” The IRS says in [Publication 1, that you have many rights as a taxpayer](#). These rights include:

- A right to professional and courteous treatment by IRS employees.

- A right to privacy and confidentiality about tax matters.
- A right to know why the IRS is asking for information, how the IRS will use it and what will happen if the requested information is not provided.
- A right to representation, by oneself or an authorized representative.
- A right to appeal disagreements, both within the IRS and before the courts.

Section [7431](#) of the tax code allows for lawsuits if the government discloses your information. It says that:

- 6 If any officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

People like Stern—non-IRS employees—are covered too. This tax code section goes on to say that:

- 6 If any person who is not an officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103 or in violation of section 6104(c), such taxpayer may bring a civil action for damages against such person in a district court of the United States.

Keep your tax information private. There's no telling who could be listening.

For alerts to future tax articles, email me at Wood@WoodLLP.com. This discussion is not legal advice.