

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

MONTE SILVER and
MONTE SILVER, LTD.,
an Israel corporation

Plaintiffs

v.

**INTERNAL REVENUE SERVICE;
UNITED STATES DEPARTMENT
OF THE TREASURY; CHARLES RETTIG**,
in his official capacity as Commissioner of the
Internal Revenue; and **JANNET YELLEN**,¹ in
her official capacity as United States Secretary
of the Treasury

Defendants

Civil Action No. 19-cv-0247-APM

Judge Amit P. Mehta

**PLAINTIFFS' NOTICE OF MOTION FOR RECONSIDERATION AND MOTION TO
AMEND**

Pursuant to Federal Rules of Civil Procedure (“FRCP”) 59(e) and 60(b)(6), Plaintiffs move for a reconsideration of this Court’s March 28, 2021 Memorandum Opinion (ECF 67) (the “Opinion”) – Silver, et al. v. IRS, et al., 2021 WL 1180081 (D.D.C. Mar. 28, 2021) – and Order (ECF 68) (the “Order”) denying their motion for Summary Judgment (ECF 47) and granting Defendants’ Cross-Motion for Summary Judgment (ECF 57).

Plaintiffs also respectfully move this Court under Rule 15 of the FRCP to grant them leave to amend the complaint to add a request for relief in the form of nominal damages.

As set forth in Plaintiffs’ Memorandum of Points and Authorities in support of this Motion (ECF 70), along with the Administrative Record, and Plaintiffs’ declaration, Plaintiffs respectfully

¹ Pursuant to Fed. R. Civ. P. 25(d), Jannet Yellen, in her official capacity as Secretary of Treasury, has been substituted as a defendant in place of former Secretary of Treasury, Steven Mnuchin.

request that the Court reconsider its findings that (i) Plaintiffs’ lack Article III standing because the complained of past injury cannot be redressed by a ruling in their favor (Opinion, at 17-20); (ii) Plaintiffs lack Article III standing for injunctive relief because they have failed to demonstrate future injury (Opinion, at 20-24); and (iii) Plaintiff Silver Limited is not “subject to” the Final Regulations for the purposes of the RFA (Opinion, at 25-30).

Whereby, the Court is respectfully requested grant this Motion and enter an order:

- (1) Finding that Plaintiffs have satisfied Article III standing to maintain their lawsuit;
- (2) Finding that Plaintiffs are “regulated” small entities for the purposes of the RFA;
- (3) Granting leave to Plaintiffs to amend their complaint to add a request for relief in the form of nominal damages.
- (4) Any other relief the court finds fair and equitable.

Date: April 23, 2021

Respectfully submitted,

s/ Lawrence Marc Zell

Lawrence Marc Zell (DC Bar # 959437)
Noam Schreiber, *of counsel*
**ZELL & ASSOCIATES INTERNATIONAL
ADVOCATES LLC**
1345 Ave. of the Americas,
2nd floor,
New York, NY 10105

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on April 23, 2021, a copy of the foregoing document was served electronically through the Court's ECF system on all counsel of record.

s/ Lawrence Marc Zell

Lawrence Marc Zell (DC Bar # 959437)

Noam Schreiber, *of counsel*

**ZELL & ASSOCIATES INTERNATIONAL
ADVOCATES LLC**

1345 Ave. of the Americas,

2nd floor,

New York, NY 10105

Counsel for Plaintiffs