

FILED

NOV 20 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MAXCREST LIMITED,

Petitioner-Appellant,

v.

UNITED STATES OF AMERICA,

Respondent-Appellee.

No. 16-16587

D.C. No. 3:15-mc-80270-JST

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Jon S. Tigar, District Judge, Presiding

Submitted November 16, 2017**
San Francisco, California

Before: RAWLINSON and BYBEE, Circuit Judges, and FRIEDMAN,*** District
Judge.

* This disposition is not appropriate for publication and is not precedent
except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision
without oral argument. *See* Fed. R. App. P. 34(a)(2).

*** The Honorable Paul L. Friedman, United States District Judge for the
District of Columbia, sitting by designation.

Maxcrest Ltd. alleges that the government issued and reissued a summons in bad faith, because only on reissue was it given notice and opportunity to complain that the summons was issued in bad faith. Bad faith exists where a summons is issued without a legitimate or proper purpose, to abuse a court's process, to harass a taxpayer, to improperly use the requested information, or otherwise to go fishing. *United States v. Clarke*, 134 S.Ct. 2361, 2367 (2014); *United States v. Powell*, 379 U.S. 48, 57–58 (1964); *United States v. Jose*, 131 F.3d 1325, 1328 (9th Cir. 1997); *Liberty Fin. Servs. v. United States*, 778 F.2d 1390, 1392–93 (9th Cir. 1985). The government reissued the summons so that Maxcrest could have its opportunity to complain. Finally armed with that opportunity, Maxcrest now fails to allege even a single improper purpose behind either summons. The district court's order is thus **AFFIRMED.**