

**In the United States District Court
For the Southern District of Ohio**

Mark Crawford, Senator Rand Paul, in his official capacity as a member of the United States Senate, **Roger Johnson, Katerina Johnson, Daniel Kuettel, Lois Kuettel**, a minor child, by and through her next friend, Daniel Kuettel, **Stephen J. Kish, Donna-Lane Nelson, Richard Adams, and L. Marc Zell**,

Plaintiffs,

v.

United States Department of the Treasury, United States Internal Revenue Service, and United States Financial Crimes Enforcement Network,

Defendants.

Civil Case No. 3:15-cv-00250

Judge Thomas M. Rose

**Plaintiff's Motion for Leave to File
Amended Verified Complaint for Declaratory and Injunctive Relief**

Plaintiffs move for leave to file an amended verified complaint under Federal Rule of Civil Procedure 15(a). The proposed amended complaint is included as an attachment in the ECF filing.

Plaintiffs' counsel have consulted with Defendants' counsel seeking consent to the filing of the amended complaint and asking whether Defendants oppose this motion for leave to file the amended complaint. Defendants' counsel advised Plaintiffs' counsel on October 30, 2015 as follows: "We do not consent to the amended complaint and oppose a motion for leave to amend." Defendants' counsel provided no explanation for those responses.

In support of this motion for leave to file an amended complaint, Plaintiffs state as follows. Federal Rule of Civil Procedure 15, regarding "Amended and Supplemental Pleadings" provides that (beyond the "matter of course" period, which has expired) "a party may amend its

pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires." Fed. R. Civ. P. 15(a)(2).

This case fits that criterion for freely granting leave. In Plaintiffs' Unopposed Motion for Extension of Time to File Opposition to Defendants' Motion to Dismiss (Doc. No. 31), Plaintiffs advised this Court that "on October 1, 2015, Plaintiffs decided to file an amended complaint addressing certain standing and other issues raised by opposing counsel and the Court." (*Id.* at PageID 420). Plaintiffs also explained that "it [would] take some time for Plaintiffs' counsel to work with Plaintiffs to establish and add the facts they plan to add." (*Id.*) Plaintiffs also advised that they were "considering adding one or more plaintiffs, which will take time to put together the statement of facts of any new plaintiffs and to incorporate them into the amended complaint. And when the facts to be verified are established, new verification pages will be required from all Plaintiffs, most of whom are overseas." (*Id.*)

Plaintiffs have worked diligently and now are ready to file the amended complaint that they promised to file by October 30, 2015. As promised, the amended complaint addresses standing issues, adding new facts about plaintiffs (such as who meets certain trigger amounts for disclosure) and adds new plaintiffs. Plaintiffs' have also added challenges to two other IGAs to address harm caused to certain plaintiffs. Plaintiffs believe that their amended complaint improves their arguments for standing and on the merits by addressing issues raised by this Court in its Entry and Order Denying Plaintiffs' Motion for Preliminary Injunction, ECF. 8. (Doc. No. 30; filed September 29, 2015).

This case is yet at an early stage, so there is no harm relating to lateness in the proceedings. This case was filed on July 14, 2015. Motion practice has only involved a

preliminary injunction motion and a postponed motion to dismiss. There has been no discovery. Defendants provide no reason why justice does not require that leave should be freely given for Plaintiffs to file their amended complaint.

In sum, this motion fits well within the “justice” criterion for freely granting leave to amend a complaint.

Conclusion

For the reasons stated, this motion should be granted.

Dated: October 30, 2015

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Respectfully Submitted,

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Certificate of Service

I hereby certify that on October 30, 2015, the foregoing document was filed electronically using the Court's CM/ECF filing system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system. The following persons should be notified:

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