

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-03405-BNB

RONALD J. NAGIM, and  
JANET SARMIENTO,

Plaintiffs,

v.

INTERNAL REVENUE SERVICE,

Defendant.

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ORDER OF DISMISSAL

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On February 21, 2012, Magistrate Judge Boyd N. Boland instructed Plaintiffs to show cause why the action should not be dismissed for failure to exhaust administrative remedies in keeping with 26 U.S.C. § 7422(a) and for lack of subject matter jurisdiction.

Plaintiffs' Response to Magistrate Judge Boland's Order to Show Cause is, for the most part, unintelligible and unresponsive. Plaintiffs also do not address their failure to exhaust remedies under § 7422(a) and the lack of subject matter jurisdiction as the Court had directed. The instant action, therefore, will be dismissed.

Finally, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order is not taken in good faith, and, therefore, *in forma pauperis* status is denied for the purpose of appeal. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Plaintiffs file a notice of appeal they must also pay the full \$455 appellate filing fee or file a motion to proceed *in forma pauperis* in the United States Court of Appeals for the Tenth Circuit within thirty days in accordance with Fed. R. App. P. 24.

Accordingly, it is

ORDERED that the Complaint and the action are dismissed without prejudice for failure to exhaust and for lack of subject matter jurisdiction. It is

FURTHER ORDERED that Defendant's Motion to Dismiss, Doc. No. 9, is denied as moot. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied.

DATED at Denver, Colorado, this 3<sup>rd</sup> day of April, 2012.

BY THE COURT:

s/Lewis T. Babcock  
LEWIS T. BABCOCK, Senior Judge  
United States District Court