

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

TROY JOHNSON, ET AL.

CIVIL ACTION

VERSUS

NO. 15-44

MICHAEL SCEAU, ET AL.

SECTION I

ORDER AND REASONS

Before the Court is a motion¹ filed by defendant, the United States of America, to dismiss plaintiffs' claims against it for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure. The motion was filed on February 2, 2015, and was taken under submission by the Court on March 4, 2015. Plaintiffs neither filed an opposition nor requested an extension of time to respond. Accordingly, the Court considers the motion to be unopposed.

Plaintiffs filed this lawsuit against "Michael Sceau, State of Louisiana and State of Louisiana (VA)" for claims arising out of a vehicle collision while Sceau was allegedly "acting within the course and scope of his agency and/or employment."² The United States removed to this court "on behalf of the named federal defendant, Michael Sceau," an employee of the Department of Veterans Affairs.³ Pursuant to 28 U.S.C. § 2679(d)(2), the United States was substituted for Sceau as a defendant.

The United States now moves to dismiss the claims against it because plaintiffs have not presented a claim to the appropriate administrative agency as required by the Federal Tort Claims

¹R. Doc. No. 5.


²R. Doc. No. 1-1, at 2-3.

³R. Doc. No. 1, at 1-2.

Act (“FTCA”).⁴ 28 U.S.C. § 2675(a). Failure to comply with the FTCA’s administrative exhaustion requirement deprives the Court of subject matter jurisdiction over plaintiffs’ claims against the United States. *See Price v. United States*, 69 F.3d 46, 54 (5th Cir. 1995). The motion is supported by the law and the record and, in the absence of any opposition from plaintiffs articulating why it should not be granted,

IT IS ORDERED that the motion to dismiss is **GRANTED** and that all of plaintiffs’ claims against the United States of America are hereby **DISMISSED WITHOUT PREJUDICE**. To the extent that plaintiffs intend to pursue claims against the “State of Louisiana” or “State of Louisiana (VA),” plaintiffs shall comply with the pending order⁵ to show cause why the case should not be dismissed for failure to serve those defendants.

New Orleans, Louisiana, May 6, 2015.



LANCE M. AFRICK
UNITED STATES DISTRICT JUDGE

⁴R. Doc. No. 5-1, at 2-3; R. Doc. No. 5-2.

⁵R. Doc. No. 6.