

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

**CYRIL J. HARVEY, JR.,  
ET AL.,  
Plaintiffs**

**CIVIL ACTION**

**VERSUS**

**NO. 15-5983**

**UNKNOWN AGENT OF THE  
INTERNAL REVENUE SERVICE,  
ET AL.,  
Defendants**

**SECTION: "E"(5)**

**ORDER AND REASONS**

Before the Court is a motion to remand this matter to the 24th Judicial District Court for the Parish of Jefferson, State of Louisiana.<sup>1</sup> For the reasons that follow, the motion is **DENIED**.

**BACKGROUND**

On October 15, 2015, Plaintiff Cyril J. Harvey and Doris D. Harvey (the "Plaintiffs") filed a Petition for Writ of Mandamus in the 24th Judicial District Court for Jefferson Parish, Louisiana.<sup>2</sup> Plaintiffs named the following individuals and entities as Defendants: (1) the Internal Revenue Service, through an unknown agent; (2) the Louisiana Department of Revenue, through Secretary Tim Barfield; and (3) Jon Gegenheimer, Jefferson Parish Clerk of Court and Recorder of Mortgages.<sup>3</sup> Plaintiffs seek an order, in part, compelling the IRS to "furnish a verifiable tax return, verified and signed assessments, [an] affidavit of the collector, [and] lawful notice of distraint and/or [an] 'instrument' substantiating a valid claim for years 2005 through 2013."<sup>4</sup>

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<sup>1</sup> R. Doc. 6.

<sup>2</sup> See R. Doc. 1-2.

<sup>3</sup> See generally R. Doc. 1-2.

<sup>4</sup> R. Doc. 1-2 at 25.


Defendant, the Internal Revenue Service (the “IRS”), filed a Notice of Removal on November 17, 2015.<sup>5</sup> The matter was removed pursuant to 28 U.S.C. §§ 1442 and 1446.<sup>6</sup> Plaintiffs now seek to remand the case to state court.<sup>7</sup>

### **LAW AND ANALYSIS**

Title 28, United States Code, Section 1442(a)(1) provides for the removal of an action directed against “any officer (or any person acting under that officer) of the United States or any agency thereof, in an official or individual capacity, for or relating to any act under color of such office or on account of any right, title or authority claimed under any Act of Congress for . . . the collection of the revenue.”

Plaintiffs’ state-court lawsuit names an unknown agent of the Internal Revenue Service as a defendant. Moreover, Plaintiffs’ lawsuit relates to the collection of revenue, as contemplated by section 1442(a)(1). Title 28, United States Code, Section 1442(a)(1) clearly provides for the removal to federal court of such actions against officers, agents, or agencies of the United States. This matter is properly in federal court. Plaintiffs’ motion to remand is, as a result, **DENIED**.

**New Orleans, Louisiana, this 2nd day of March, 2016.**

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**SUSIE MORGAN**  
**UNITED STATES DISTRICT JUDGE**

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<sup>5</sup> R. Doc. 1.

<sup>6</sup> R. Doc. 1 at 1.

<sup>7</sup> See generally R. Doc. 6.