

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

RANDAL SCOT BRINKMAN and
CAROL MARIE BRINKMAN,

CIVIL NO. 16-2774 (SRN/DTS)

Plaintiffs,

v.

ORDER

INTERNAL REVENUE SERVICE,

Defendant.

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge David T. Schultz dated July 7, 2017. The Report and Recommendation [Docket No. 29] recommends that the Court dismiss this action with prejudice for failure to prosecute. Plaintiffs Randal Scot Brinkman and Carol Marie Brinkman made timely objections to this report and recommendation [Doc. No. 31], requesting instead that the action be dismissed without prejudice.

The Court, upon the Report and Recommendation of the Magistrate Judge, and upon all of the files, records and proceedings herein, now makes and enters the following Order.

IT IS HEREBY ORDERED:

1. The IRS's Motion for Summary Judgment [Docket No. 21] is DENIED AS MOOT.

2. The Plaintiffs' Motion to Dismiss the Complaint Without Prejudice [Doc. No. 31] is GRANTED. This matter is DISMISSED WITHOUT PREJUDICE pursuant to Federal Rule of Civil Procedure 41(a)(1)(A).

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: July 25, 2017

s/Susan Richard Nelson
SUSAN RICHARD NELSON
United States District Judge