

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

RUTH TELFORD §  
v. § CIVIL ACTION NO. 6:11CV347  
UNITED STATES OF AMERICA §

ORDER ADOPTING REPORT AND  
RECOMMENDATION OF UNITED STATES  
MAGISTRATE JUDGE

The Report and Recommendation of the Magistrate Judge, which contain her findings, conclusions, and recommendation for the disposition of this matter has been presented for consideration. The Report and Recommendation recommends that the Motion to Dismiss and/or Motion for Summary Judgment Dismissing Plaintiff’s Complaint (document [#13](#)) be granted in part and denied in part. The Report and Recommendation recommends that the motion be granted as to Plaintiff’s claims against the individual defendants and her claim brought pursuant to 26 U.S.C. § 7433, and that these claims be dismissed with prejudice. The Report and Recommendation further recommends that the Motion to Dismiss Based Upon Improper Venue (document [#21](#)) be granted, such that Plaintiff’s only remaining claim – her refund claim brought pursuant to 26 U.S.C. § 7422 – should be dismissed without prejudice.

No written objections have been filed. Plaintiff was granted permission to file pleadings electronically in this case and the Report and Recommendation was sent to her electronically on

November 30, 2011. The Court therefore adopts the findings and conclusions of the Magistrate Judge as those of the Court.

In light of the foregoing, it is

**ORDERED** that the Motion to Dismiss and/or Motion for Summary Judgment Dismissing Plaintiff's Complaint (document [#13](#)) is **GRANTED** in part, as to Plaintiff's claims against the individual defendants and her claim brought pursuant to 26 U.S.C. § 7433. These claims are **DISMISSED** with prejudice. Defendant withdrew its motion for summary judgment as to Plaintiff's claim brought against the United States pursuant to 26 U.S.C. § 7422 and that portion of the motion is accordingly **DENIED**. It is further

**ORDERED** that the Motion to Dismiss Based Upon Improper Venue (document [#21](#)) is **GRANTED** and Plaintiff's refund claim brought pursuant to 26 U.S.C. § 7422 is **DISMISSED** without prejudice. It is finally

**ORDERED** that any motion not previously ruled on is **DENIED**.

So **ORDERED** and **SIGNED** this 3rd day of January, 2012.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS**  
**UNITED STATES DISTRICT JUDGE**