

IN THE OREGON TAX COURT
REGULAR DIVISION
Income Tax

KEVIN C. MAILLARD and RHONDA)
MAILLARD,)
) **TC 5456**
 Plaintiffs,)
 v.)
)
 DEPARTMENT OF REVENUE,)
 State of Oregon,)
) **ORDER GRANTING MOTION TO**
 Defendant.) **DISMISS**

On or about May 26, 2023, Plaintiffs filed a complaint in this division seeking to appeal their income tax assessment, penalties, and interest for tax year 2016. Plaintiffs also moved for an order staying immediate payment of the tax and any interest and penalties due to undue hardship, as allowed by ORS 305.419(3). Plaintiffs attached an Affidavit of Income, Assets, and Expenses in support of their motion. On June 26, 2023, Defendant objected to hardship relief.

On June 28, 2023, the court issued an Order on Plaintiffs' Motion for Stay of Payment of Income Tax (Order). The Order directed Plaintiffs to, within 30 days of the Order, either (1) file with the court and serve on Defendant a new, supplemental Affidavit with copies of documents substantiating certain items; or (2) pay to Defendant the amount assessed.

On August 11, 2023, Defendant moved to dismiss Plaintiffs' complaint due to failure to comply with ORS 305.419 and the court's Order. Defendant stated that it had not received payment of the assessed amount from Plaintiffs as of August 9, 2023. As of August 28, 2023, the court has not received an updated affidavit with supporting documents from Plaintiffs.

///

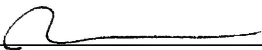
///

The court's Order directed Plaintiffs to exercise one of two options within 30 days of June 28, 2023. Plaintiffs did not avail themselves of either one. The court will dismiss Plaintiffs' complaint with prejudice. The court directs Defendant to prepare a form of judgment. Now, therefore,

IT IS ORDERED that Defendant's Motion to Dismiss is granted.

Dated this 28th day of August, 2023.

8/28/2023 12:18:40 PM

A handwritten signature in black ink, appearing to read 'R. Manicke', is written over a horizontal line.

Judge Robert T. Manicke