

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DISTRICT OF COLUMBIA

MICHAEL B. ELLIS and )  
 ROBERT A. MCNEIL, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 AMY BERMAN JACKSON, personally, )  
 CHRISTOPHER R. COOPER, personally, )  
 PADMANABHAN SRINIVASAN, personally, )  
 CAROLINE CIRAULO-KLEPPER, personally, )  
 RYAN O. MCMONAGLE, personally, )  
 COMMISSIONER OF INTERNAL REVENUE, )  
 UNITED STATES ATTORNEY GENERAL, )  
 And 2 UNKNOWN-NAMED IRS )  
 EMPLOYEES, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

Case No. 1:16-cv-02313 (EGS)

**UNITED STATES’ MOTION TO DISMISS**

The United States of America, The United States of America, as the real party in interest and in place of the named federal defendants, moves the Court pursuant to Federal Rule of Civil Procedure 12(b)(1) and (6) to dismiss the Complaint (“Complaint”) of Plaintiffs Michael B. Ellis and Robert A. McNeil for lack of subject matter jurisdiction and failure to state a claim upon which relief could be granted.

As more fully set forth in the attached memorandum of law, the grounds for this motion are as follows:

- (1) The Court lacks subject matter jurisdiction to entertain the Complaint because it is barred under the Anti-Injunction Act, 26 U.S.C. § 7421(a), and because the Plaintiffs lack Article III standing;

(2) The Complaint fails to state a claim on which relief can be granted because the conduct which Plaintiffs challenge is authorized by law and cannot form the basis of a cognizable claim under the Fifth Amendment or the Administrative Procedure Act.

Plaintiffs' failure to respond to this motion may result in the Court granting the motion and dismissing the Complaint.

Date: February 13, 2017

DAVID A. HUBBERT  
Acting Assistant Attorney General,  
Tax Division

By: /s/ Megan E. Hoffman-Logsdon  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 13<sup>th</sup> day of February, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of all parties registered to receive such notice. I further certify that I sent a copy of the foregoing, via U.S. mail, to the following:

**Michael Beals Ellis**  
5052 N.C. County Road 0220  
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PLAINTIFF PRO SE

**Robert A. McNeil**  
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PLAINTIFF PRO SE