

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

STATE OF TEXAS,
Plaintiff,

v.

INTERNAL REVENUE SERVICE;
DEPARTMENT OF THE TREASURY,
DANIEL WERFEL, in his official capacity as
Commissioner of Internal Revenue, KEVIN
WOOLFOLK, in his official capacity as Acting
Associate Director of the IRS Office of
Safeguards,
Defendants.

CIVIL ACTION NO. 6:23-cv-406-ADA-JCM

STATE OF TEXAS'S NOTICE OF VOLUNTARY DISMISSAL

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), Plaintiff the State of Texas hereby gives notice that this action is voluntarily dismissed and respectfully shows the following.

On May 25, 2023, the State of Texas filed suit against the Internal Revenue Service (“IRS”); the Department of the Treasury (“DoT”); Daniel Werfel, Commissioner of the IRS; and Kevin Woolfolk, Acting Associate Director of the IRS Office of Safeguards. Texas sought the Court to hold unlawful and set aside the IRS’s Enforcement Announcement dated February 15, 2023; declare Defendants’ actions unlawful; and issue a preliminary and permanent injunction prohibiting Defendants from implementing the Enforcement Announcement. [ECF No. 1 ¶ 73; ECF No. 5 ¶70]. On June 9, 2023, one day after the filing of Texas’s First Amended Complaint [ECF No. 5], the IRS issued another Security and Privacy Memo which stated the purpose was to supersede the February 15, 2023, memo. [ECF No. 13-2]

On August 30, 2023, Defendants filed a Motion to Dismiss pursuant to Rule 12(b)(1). [ECF

No. 13]. On November 13, 2023, the State of Texas filed their Second Amended Complaint in response to Defendants' Motion to Dismiss, [ECF No. 19], entered March 5, 2023. [ECF No. 27], again asking the Court to grant a preliminary injunction prohibiting the IRS from implementing any agency action described in its Security and Privacy Memos of February 15, 2023, or June 9, 2023; and declare that the IRS's agency action described in its Security and Privacy Memos of February 15, 2023, and/or June 9, 2023, void and unenforceable. [ECF No. 27 ¶ 97a-b]. Defendants filed their Motion to Dismiss Texas's Second Amended Complaint pursuant to Rule 12(b)(1) on May 20, 2024, and argued that because Texas's CSSA submitted a mitigation plan, that plan and agency actions moot Texas's claims. [ECF No. 29 at II (A)]. Defendants further argued that the June 9, 2023, memo rendered the February 15, 2023, memo as moot and further argued that neither memo were considered by Defendants as final agency actions.

After further review, Texas has decided to give notice and voluntarily dismiss this action because the IRS has granted sufficient relief through its own agency action. Defendants have not served an answer or motion for summary judgment in this action. Accordingly, Plaintiff notices voluntary dismissal of this action, without prejudice. *See* Fed. R. Civ. P. 41(a)(1)(B). Because this voluntary dismissal is without prejudice, Texas reserves the right to return to court should the IRS change its position in the future with regard to Texas's use of FTI in Child Support enforcement actions.

Dated June 4, 2024.

Respectfully submitted.

KEN PAXTON
Attorney General of Texas

RYAN D. WALTERS
Chief, Special Litigation Division

BRENT WEBSTER
First Assistant Attorney General

/s/ Susanna Dokupil
SUSANNA DOKUPIL
Attorney in Charge
Special Counsel
Texas Bar No. 24034419

RALPH MOLINA
Deputy Attorney General for Legal Strategy

AMY SNOW HILTON
Special Counsel
Texas Bar No. 24097834

Office of the Attorney General of Texas
P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548
(512) 463-2100

Susanna.Ddokupil@oag.texas.gov
Amy.Hilton@oag.texas.gov
COUNSEL FOR THE STATE OF TEXAS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been served electronically through the electronic-filing manager on June 4, 2024, to:

Herbert Linder
Mary E. Smith
Herbert.W.Linder@usdoj.gov
Mary.E.Smith@usdoj.gov
TAX DIVISION
UNITED STATES DEPARTMENT OF JUSTICE
717 N. Harwood Street, Suite 400
Dallas, Texas 75201

Defendants' Counsel

/s/ Susanna Dokupil
SUSANNA DOKUPIL