

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ADAM STEELE, BRITTANY
MONTROIS, and JOSEPH HENCHMAN,
on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. 1:14-cv-1523-RCL

ORDER

On January 24, 2023, the Court remanded this case to the IRS to determine an appropriate refund for the class consistent with the Court's instructions. *See* ECF No. 222. The Court also retained jurisdiction for purposes of further proceedings to follow thereafter. *Id.* at 2. On January 22, 2024, the defendant filed a notice of the IRS' estimated refund. *See* ECF No. 256. To explain the methodology behind the calculation, the defendant also filed a declaration from Kimberly D. Rogers, Director of the Return Preparer Office of the IRS. *See* ECF No. 257.

Before the Court is plaintiffs' Motion for Leave to File Corrected Version of Response to Defendant's Notice of Refund Estimation. ECF No. 264.¹ Plaintiffs intend to challenge the IRS' post-remand estimate and ask the Court to set a briefing schedule. *Id.* at 4. Plaintiffs also reported that counsel for defendant told them that the defendant plans to file a Supplemental Declaration by Ms. Rogers further explaining the IRS' calculations. *Id.* at 2. Defendant opposed this motion, ECF No. 265, and plaintiffs filed a reply, ECF No. 266.

¹ Plaintiffs previously filed an initial Motion for Leave to File Response to Defendant's Notice of Refund Estimation. *See* ECF No. 263.

Also before the Court is a Motion for Leave to File Supplemental Brief, filed on behalf of plaintiffs by Allen Buckley. *See* ECF No. 267. This is not the first time that “Mr. Buckley, still unwilling to yield his claim as class-counsel-in-exile, filed a short supplemental brief in support of plaintiffs’ motion.” *Steele v. United States*, 657 F. Supp. 3d 23, 33 (D.D.C. 2023). Class counsel filed a response pointing out that “Mr. Buckley’s supplemental submission goes to the merits of any substantive challenge to the IRS’s work on remand and not to plaintiffs’ request for an opportunity to respond.” ECF No. 268. Because Mr. Buckley’s motion does not concern whether the Court should set a briefing schedule, and because there is no indication on the docket that class counsel has consented to the motion, the Court will deny this motion.

Upon consideration of the parties’ briefing, it is hereby:


ORDERED that plaintiffs’ Motion for Leave to File Supplemental Brief (ECF No. 267) is **DENIED**; and it is further

ORDERED that plaintiffs’ Motion for Leave to File Response to Defendant’s Notice of Refund Estimation (ECF No. 263) is **DENIED AS MOOT**; and it is further

ORDERED that plaintiffs’ Motion for Leave to File Corrected Version of Response to Defendant’s Notice of Refund Estimation (ECF No. 264) is **GRANTED IN PART** and **DENIED IN PART**. Defendant shall file any Supplemental Declaration of Kimberly D. Rogers no later than March 8, 2024. Plaintiffs shall file any challenge to the IRS’ decision by March 22, 2024. In their memorandum, plaintiffs shall set forth any legal basis for further action by this Court.

IT IS SO ORDERED.

Date: 3-4-24



Royce C. Lamberth
United States District Judge