

# United States Court of Federal Claims

No: 09-333 T  
November 18, 2009  
UNPUBLISHED

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**WILLIAM KOOPMAN,**

*Plaintiff,*

v.

**UNITED STATES OF AMERICA,**

*Defendant.*

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*William Koopman, pro se.*

*Karen M. Groen, Court of Federal Claims Section, Tax Division, United States Department of Justice, Washington, DC, for defendant.*

## OPINION AND ORDER

**Block, Judge.**

In the instant complaint, *pro se* plaintiff William Koopman, a retired United Airlines pilot, purports to represent over 160 other retired United Airlines pilots. Compl. at 1. First, Koopman claims a refund of all Federal Insurance Contribution Act (“FICA”) taxes allegedly withheld by United Airlines and paid to the Internal Revenue Service (“IRS”) in connection with each pilot’s retirement benefits. Compl. at 17. Second, Koopman asks that this court award damages in connection with the IRS’s purported denial of his and other pilots’ due process rights through summary denial of their tax refund claims. Compl. at 12, 17. Third, Koopman asks this court to order the IRS to provide Koopman and his fellow pilots with additional time to file their tax refund claims, should the IRS deem any previous filings untimely. Compl. at 17.

In response to these claims, defendant filed two motions. Defendant’s first motion seeks to strike all named plaintiffs other than Koopman and to dismiss for lack of jurisdiction all claims, save Koopman’s own tax refund claim. Def.’s Mot. to Strike and for Partial Dismissal at 4. Defendant’s second motion demands that Koopman provide a more definite statement of his claims, including: (1) a copy of Koopman’s tax refund claim before the IRS, as required by Rule 9(m)(1) of the RULES OF THE UNITED STATES COURT OF FEDERAL CLAIMS (“RCFC”); (2) identification of the date and place where Koopman filed his claim(s) for refund; and (3) identification of the tax years for which Koopman is seeking a refund. Def.’s Mot. for a More Definite Statement at 4.

As noted above, Koopman is proceeding *pro se*. While an individual may represent himself or a member of his immediate family, “[a]ny other party . . . must be represented by an attorney who is admitted to practice in this court.” RCFC 83.1(c)(8). Thus, Koopman cannot represent his fellow pilots. *Fuselier v. United States*, 63 Fed. Cl. 8, 11 (Fed. Cl. 2004). Accordingly, the court grants defendant’s motion to strike all named plaintiffs other than Koopman.

Turning to defendant’s partial motion to dismiss, Koopman (plaintiff, hereinafter) bears the burden of establishing, by a preponderance of the evidence, the court’s jurisdiction. *Reynolds v. Army & Air Force Exchange Serv.*, 846 F.2d 746, 748 (Fed. Cir. 1988). Plaintiff claims that the IRS denied his due process rights when it summarily denied his tax refund. Compl. at 12. However, claims resting on the Due Process clause of either the Fifth or Fourteenth Amendment are not within the court’s jurisdiction. *Crocker v. United States*, 125 F.3d 1475, 1476 (Fed. Cir. 1997); *Beach v. United States*, 68 Fed. Cl. 289, 295 (Fed. Cl. 2005). Similarly, plaintiff’s request for an order directing the IRS to provide him with additional time to file his tax refund claim(s) is a request for injunctive relief that is also outside the court’s jurisdiction. 28 U.S.C. § 1491(a); *Brown v. United States*, 105 F.3d 621, 624 (Fed. Cir. 1997) (“[A]ppellant’s demands, which are for declaratory or injunctive relief, are . . . outside the jurisdiction of the Court of Federal Claims. The Tucker Act does not provide independent jurisdiction over such claims for equitable relief.” (citing *United States v. King*, 395 U.S. 1, 2–3 (1969))). Accordingly, the court lacks jurisdiction over plaintiff’s due process claims and request for injunctive relief.

As stated at 26 U.S.C. § 7422(a), “[n]o suit or proceeding shall be maintained in any court for the recovery of any internal revenue tax . . . until a claim for refund or credit has been duly filed.” This rule is implemented by RCFC 9(m)(1), which provides that “[i]n pleading a claim for a tax refund, a party must include . . . a copy of the claim for refund.” Enforcement of RCFC 9 ensures that the plaintiff has met the jurisdictional requirements of § 7422(a). *Artuso v. United States*, 80 Fed. Cl. 336, 338–39 (Fed. Cl. 2008). Thus, without a copy of plaintiff’s tax refund claim before the IRS and the information required by RCFC 9, this court cannot properly determine whether it possesses jurisdiction to adjudicate plaintiff’s claim for a tax refund.

For the foregoing reasons, the court **GRANTS** defendant’s motion to strike all named plaintiffs other than Koopman; accordingly, all future filings in this matter shall reflect the above case style. Additionally, the court **GRANTS** defendant's motion to dismiss for lack of jurisdiction those portions of the complaint not related to Koopman’s own tax refund claim. The court also **GRANTS** defendant’s motion for a more definite statement and **ORDERS** plaintiff to provide the court with a copy of his IRS tax refund claim, to provide the date and place where he filed his claim(s) for refund, and to identify the tax years for which he is seeking a refund, by December 11, 2009.

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Lawrence J. Block  
Judge