

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

WILLIAM M. GREENE and  
KAREN M. GREENE,

Plaintiffs,

-against-

1:08-CV-0280  
(LEK/DRH)

INTERNAL REVENUE SERVICE,

Defendant.

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**ORDER**

Presently before the Court is a motion by Plaintiffs William M. Greene and Karen M. Greene (“Plaintiffs”) seeking to amend three pages of the Complaint for corrections, unseal the original Complaint, and provide injunctive relief.

Plaintiff’s request to amend three (3) pages of the Complaint for corrections is granted. Plaintiffs are ordered to file and serve the Amended Complaint on the Government with only the corrections for pages 9, 11, and 109 as described in the Motion to amend.

The Court had previously sealed the Complaint for 60 days by Order dated March 12, 2008 (Dkt No. 3), as required in a Qui Tam action in order to provide the Government with the opportunity to review the action to determine whether it seeks to intervene. See 31 U.S.C. § 3730(b)(2). The Certificate of Service indicates that the Complaint was served on the Government on March 17, 2008. Since 60 days have passed since the Government was served, and having received no request for an extension of that period from the Government, the Complaint is hereby unsealed, and Plaintiffs are ordered to serve the Amended Complaint on the Defendant.

In addition, Plaintiffs seeks preliminary injunctive relief in connection with the claims outlined in their Complaint. “[A] party seeking preliminary injunctive relief must establish (1) a likelihood of irreparable harm, if the requested relief is denied, and (2) either (a) a likelihood of success on the merits or (b) ‘sufficiently serious questions going to the merits to make them a fair ground for litigation and a balance of hardships tipping decidedly in its favor.’” Alliance for Open Soc’y Int’l, Inc. v. U.S. Agency for Int’l Dev., No. 06-4035-CV, 2007 WL 3334335, at \*1 (2d Cir. Nov. 8, 2008) (summary order) (quoting Time Warner Cable, Inc. v. DIRECTV, Inc., 497 F.3d 144, 152-53 (2d Cir. 2007)). When the preliminary injunctive relief sought would prohibit “government action taken in the public interest pursuant to a statutory or regulatory scheme,” the party seeking such injunctive relief must establish a likelihood of success on the merits. Fifth Ave. Presbyterian Church v. City of New York, 293 F.3d 570, 573-4 (2d Cir. 2002). Additionally, when the injunction sought will alter, rather than maintain the status quo, the moving party must show a clear or substantial likelihood of success. Louis Vuitton Malletier v. Dooney & Bourke, Inc., 454 F.3d 108, 114 (2d Cir. 2006).

Plaintiffs seek preliminary relief enjoining the Internal Revenue Service (“IRS”) from levying or collecting taxes or acting to enforce any outstanding liens or judgments against Plaintiffs, among other actions. As this relief would prohibit government action taken in the public interest pursuant to a statutory scheme, Plaintiffs must establish a likelihood of success on the merits of their claim before such relief can be awarded.

Plaintiffs have not met this burden. Plaintiffs’ Complaint appears to assert various constitutional claims against the IRS, stemming from the imposition of a Federal income tax. These claims, which appear to be based primarily on the Free Exercise clause of the First Amendment of

the United States Constitution, do not have an evident likelihood of success. Because Plaintiffs have not established a likelihood of success on the merits of their claim, their Motion for preliminary injunctive relief must be denied.

For the foregoing reasons, it is therefore

**ORDERED**, that Plaintiffs' request to amend pages 9, 11, and 109 of the Complaint (Dkt. No. 1) to make the corrections listed in the Motion to amend is **GRANTED**; and it is further

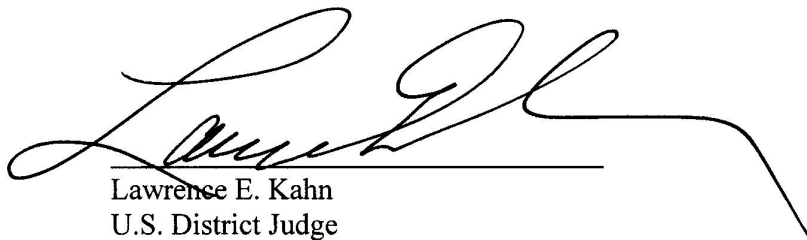
**ORDERED**, that this matter is **UNSEALED**; and it is further

**ORDERED**, that Plaintiffs file and serve the Amended Complaint on the Government and on the Defendant; and it is further

**ORDERED**, that Plaintiff's Motion for preliminary injunctive relief is **DENIED**.

**IT IS SO ORDERED.**

DATED: May 16, 2008  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge