

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

LINDSEY K. SPRINGER

Plaintiff,

Case No. _____

v.

UNITED STATES, THE INTERNAL
REVENUE SERVICE, and THE COMMISSIONER
OF INTERNAL REVENUE,

Defendants.

**COMPLAINT FOR DECLARATORY JUDGMENT, INJUNCTION
AND OTHER EQUITABLE RELIEF**

Comes now Plaintiff and for his complaint states:

1. Plaintiff, Lindsey K. Springer (“Springer”), seeks declaratory judgment, injunctive and other equitable relief against the United States (“U.S.”) and its Internal Revenue Service Agency’s (“IRS”) regarding its intentional failure and refusal to bring into compliance its information request form 1040 with the Paperwork Reduction Act (“PRA”). This case is about the procedure required to promulgate the information request form and whether the public protection under 44 U.S.C. § 3512 applies to Form 1040 with purported Office of Management and Budget number (hereinafter sometimes OMB #) 1545-0074 which is the same expired number that has appeared since the 1981 Form 1040 first purportedly published its compliance with the PRA. This case also raises the question as to whether

the public protection statement listed within the instructions for Form 1040 with OMB 1545-0074 is an accurate statement.

JURISDICTION AND VENUE

2. This Court has jurisdiction over Plaintiff's action against the U.S. IRS and the Sovereign Immunity is waived as to subject matter jurisdiction by Congress pursuant to 28 U.S.C. §§ 1331, 2201 and 5 U.S.C. § 702.
3. Venue over this action belongs in this Court pursuant to 28 U.S.C. Section 1391.

PARTIES

4. Plaintiff Lindsey K. Springer is a Citizen of Oklahoma with a principal address of 5147 S. Harvard, # 116, Tulsa, Oklahoma 74135
5. The Internal Revenue Service publicly presents itself an "agency" of the United States underneath the U.S. Department of the Treasury with a service address of 55 North Robinson, Oklahoma City, Oklahoma, 73102.

BACKGROUND

6. The Internal Revenue Service is an Agency of the United States through the Department of Treasury and an "agency" within the meaning of 5 U.S.C. § 702.
7. The Internal Revenue Service is an Agency of the United States and an "agency" within the meaning of 44 U.S.C. § 3512.
8. The IRS distributes income tax information collection request forms labeled "Form 1040" publically through their web page as well as at various post offices around the Country including post offices in Tulsa, Oklahoma, along with certain instructions and descriptions pertaining to said form with references to certain laws claimed to support the income tax information request.
9. All 1040 forms utilized by the IRS Agency since the passage of the

Paperwork Reduction Act (“PRA”) have printed upon their face the OMB # 1545-0074. *See Exhibit 1 1040 Form 2005 and Exhibit 2A thru 2O, 1040 Form 1990 through 2004 .*

10. Said instructions inform the reader that “you are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number.” *See Exhibit 3, page 78, instructions for 1040-2005 and Privacy Act and PRA Notice (all other years same)*
11. From 1982 through 2004 the OMB # 1545-0085 appeared on Form 1040A.
12. From 1982 through 2004 the OMB # 1545-0087 appeared on Form 1040ES.
- 13.
14. From 1982 through 2004 the OMB # 1545-0675 appeared on Form 1040EZ.
15. Beginning with the expiration year of 2005 and 2006 the IRS has placed the OMB # 1545-0074 which appears on all previous 1040 Forms from years 1981 through 2005, upon the 2005 1040A Form, the 2005 1040 EZ Form as well as the 2006 1040 ES Form and 2005 Form 2555. *See Exhibits 4,5,6 and 7.*
16. By its terms, for the Paperwork Reduction Act to work, the Agency requesting information from a Citizen must apply to the Office of Management and Budget for approval to ask the Public for certain information and for many of the years at issue herein the form used was SF 83. *See Exhibit 8.* This has been the application form for compliance but in recent years the application form has changed to I-83. *See Exhibit 9.*
17. The 10th Circuit stated in a published decision that “as long as the 1040 form complies with the Act, nothing more is required” *U.S. v. Dawes, 951 F.2d 1189 (10th Cir. 1991).*
18. The 10th Circuit also, in quoting from the 2nd Circuit in *United States v.*

Weiss, 914 F.2d 1514, 1520-22 (2d Cir. 1990), quoting *United States v. Smith*, 866 F.2d 1092, 1098-99 (9th Cir. 1989) held that the Paperwork Reduction Act did protect Mr. Smith, where he was prosecuted for failure to file a Plan of Operations

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with the Forest Service, the Second Circuit reasoned that the Act "only protects a person from penalties for failing to files information. It does not protect one who files information which is false." Id. at 1522 *U.S. v. Collins*, 920 F.2d 619 (10th Cir. 1990).

20. The 10th Circuit in *U.S. v. Collins*, 920 F.2d 619 (10th Cir. 1990) stated that if the Paperwork Reduction Act mandates that all federal forms contain expiration dates, "this requirement plainly would be satisfied by the dates provided on the 1040 forms at issue."
21. The PRA contains a public protection provision that states: Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to maintain or provide information to any agency if the information collection request involved was made after December 31, 1981, and does not display a current control number assigned by the Director [of OMB], or fails to state that such request is not subject to this chapter.
22. In *U.S. v. Dawes*, 951 F.2d 1189 (10th Cir. 1991) the Court said: "Where an agency fails to follow the PRA in regard to an information collection request that the agency promulgates via regulation, at its own discretion, and without express prior mandate from Congress, a citizen may indeed escape penalties for failing to comply with the agency's request." Id. (emphasis added) (citing *United States v. Hatch*, 919 F.2d 1394 (9th Cir. 1990); *United States v. Smith*, 866 F.2d 1092 (9th Cir. 1989)).
23. Both the 10th Circuit and Supreme Court have determined that "tax forms

are information collection requests” under the PRA, *Dole v. United Steelworkers*, 494 U.S. 26, 110 S.Ct. 929, 932-33, 108 L.Ed.2d 23 (1990); *United States v. Collins*, 920 F.2d 619, 630 & n. 13 (10th Cir. 1990) (dictum), and “the 1040 form is the information collection request which arguably must comply with the PRA. It is through the 1040 form that the government obtains all of the tax information it requires,...” *U.S. v. Dawes*, 951 F.2d 1189 (10th Cir. 1991)

24. The 10th Circuit went on to say that it was not resting its decision in *Dawes* upon the “statutory origin theory” and that “as long as the 1040 form complies with the Act, nothing more is required”. ¹
25. At issue in cases cited by the 10th Circuit in *Dawes* was the question whether the regulations and instructions required OMB approval. No case has ever resulted in a determination that the OMB number purportedly approved upon form 1040 is either a valid approval number or currently an approval number.
26. The “statutory origin theory” that the Government may attempt to argue in this Court because of the confusion regarding PRA application and protection is nothing more than a “theory.” It is an unsupportable theory, to the point of being frivolous.
27. The statutory origin theory fails to acknowledge that the form 1040 demands information that cannot reasonably be derived from any specific statute.
28. The 6th Circuit and 9th Circuit rested their PRA jurisprudence upon the theory that the requirement to supply information upon the information

¹ The 10th Circuit in a footnote like this one stated the Paperwork Reduction Act contains a public protection provision which negates any penalty for failure to provide information solicited in an information collection request that does not bear a control number.

request form 1040 was somehow a sole creature of 26 U.S.C. § 6012.

- 29. A plain reading of section 6012 clearly only applies if an “exempt amount” is exceeded or equaled. Section 6012 directs the “exempt amount” to have the same meaning as in 26 U.S.C. § 151(d).
- 30. Section 151(d) lists no amounts that section 6012 could rely upon.
- 31. Section 6012 cannot be relied upon as the statutory origin for the requirement for the form 1040, thereby evading the plain and undeniable mandate of 44 U.S.C. § 3512. Without a statutorily specified and fixed numerical value for the phrase “exempt amount,” 26 U.S.C. § 6012 is no command at all. Neither 26 U.S.C. § 6012, 151(d), 7203 or any other provision of law provides that a “revenue procedure” may take the place of a statutory command.
- 32. At no time during any of the applications to the OMB office for OMB approval regarding form 1040 or any other form claimed to be applicable to section 6012 did the Defendants or any of them ever divulge the revenue procedure being applied or how the exempt amount was calculated.
- 33. Neither any SF-83 forms or current 83-I Forms regarding the information sought for collection by the IRS upon form 1040 ever identify for OMB approval the “exempt amount” which clearly acts as the only trigger to any requirement under section 6012.
- 34. There are changes on form 1040 from year to year but the main changes are the expiration date which is the year of the form, and the exempt amounts upon the back. *Dole v. Steelworkers*, 494 U.S. 26, 44 (1990), *U.S. v. Collins*, 920 F.2d 619 (10th Cir. 1990), *U.S. v. Dawes*, 951 F.2d 1189 (10th Cir. 1991)
- 35. If the Office of Management and Budget (OMB) is not verifying the statutory origin of the “exempt amount,” and otherwise complying in all

respect to each requirement of the PRA, then approval does not satisfy the requirements of 44 U.S.C. § 3512(a)(1) "in accordance with this chapter."

36. If there has ever been an attempt to comply with the Paperwork Reduction Act by the Defendants or any of them, that attempt was not timely.
37. If there was an attempt to comply with the Paperwork Reduction Act by the Agency it was incomplete.
38. If there was an attempt to comply with the Paperwork Reduction Act by the Agency it fails to satisfy the Paperwork Reduction Act in that separate approval was not secured for each information request form including changes thereto.
39. After an agency has satisfied itself that an instrument for collecting information - termed an "information collection request" - is needed, the agency must submit the request to OMB for approval. See 44 U.S.C. § 3507 (a)(2) (1982 ed., Supp. V). If OMB disapproves the request, the agency may not collect the information. See 44 U.S.C. § 3507(a) (3) (1982 ed.). *Dole v. Steelworkers*, 494 U.S. 26, 33 (1990)
40. The public is thereby protected under the Paperwork Reduction Act from paperwork regulations not issued in full compliance with the Act. *Dole v. Steelworkers*, 494 U.S. 26, 40 (1990) OMB is failing or refusing to issue an expiration date for the approval of 1545-0074 upon form 1040. Furthermore, they are not subjecting the request for information approval in accordance with the specific language of the PRA,
41. Plaintiff is the subject of civil actions and criminal investigations in the Northern District and Western District of Oklahoma wherein the underlying subject matter of both actions and investigations involve the claim or threat of penalty by the Internal Revenue Service for failure to supply information upon an information request form labeled Form 1040.

FIRST CAUSE
FOR JUDGMENT

42. To the extent not inconsistent with any rule or ethical consideration, all other paragraphs of the complaint are realleged and incorporated herein by reference.
43. Defendants and each of them have a duty to comply with the Paperwork Reduction Act regarding application and approval of all forms seeking information from the Public, including tax forms.
44. The 1040 Form and all other tax forms utilized by the Internal Revenue Service Agency or the Department of Treasury relied upon to invoke penalties and avoid the public protection of 44 U.S.C. § 3512 are subject to the Paperwork Reduction Act and must strictly comply with the PRA. *Dole v. Steelworkers*, 494 U.S. 26, 44 (1990), *U.S. v. Collins*, 920 F.2d 619 (10th Cir. 1990), *U.S. v. Dawes*, 951 F.2d 1189 (10th Cir. 1991)

SECOND CAUSE
FOR JUDGMENT

45. To the extent not inconsistent with any rule or ethical consideration, all other paragraphs of the complaint are realleged and incorporated herein by reference.
46. Defendants and each of them have a duty to comply with the Paperwork Reduction Act regarding application and approval of all tax forms relied upon to impose penalties and escaping the public protection under 44 U.S.C. § 3512.
47. Defendants have not complied with the Paperwork Reduction Act in the obtaining of a VALID CURRENT OMB control number TIMELY from the

Office of Management and Budget regarding Form 1040 and any other form applicable to any requirement to make or submit any completed information request form to the Internal Revenue Service Agency. That violation is ongoing. *Dole v. Steelworkers*, 494 U.S. 26, 44 (1990), *U.S. v. Collins*, 920 F.2d 619 (10th Cir. 1990), *U.S. v. Dawes*, 951 F.2d 1189 (10th Cir. 1991)

**THIRD CAUSE
FOR JUDGMENT**

48. To the extent not inconsistent with any rule or ethical consideration, all other paragraphs of the complaint are realleged and incorporated herein by reference.
49. Defendants and each of them have a duty to comply with the Paperwork Reduction Act regarding application and approval of all tax forms seeking information from the Public.
50. OMB is authorized to assign one specific number to any Agency regarding one specific request for information form, the number therein being assigned can not appear upon any other information request form, or if it does, each such request would be considered a “bootleg” request and subject to the protections under 44 U.S.C. § 3512. *Dole v. Steelworkers*, 494 U.S. 26, 44 (1990), *U.S. v. Collins*, 920 F.2d 619 (10th Cir. 1990), *U.S. v. Dawes*, 951 F.2d 1189 (10th Cir. 1991)

FOURTH CAUSE

FOR JUDGMENT

51. To the extent not inconsistent with any rule or ethical consideration, all other paragraphs of the complaint are realleged and incorporated herein by reference.

52. Defendants and each of them have a duty to comply with the Paperwork Reduction Act regarding application and approval of all tax forms seeking information from the Public.
53. The OMB # 1545-0074 has appeared upon the face of the Form 1040 for 23 years. *Dole v. Steelworkers*, 494 U.S. 26, 44 (1990), *U.S. v. Collins*, 920 F.2d 619 (10th Cir. 1990), *U.S. v. Dawes*, 951 F.2d 1189 (10th Cir. 1991)

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FIFTH CAUSE

FOR JUDGMENT

55. To the extent not inconsistent with any rule or ethical consideration, all other paragraphs of the complaint are realleged and incorporated herein by reference.
56. Defendants and each of them have a duty to comply with the Paperwork Reduction Act regarding application and approval of all tax forms seeking information from the Public.
57. Any form appearing with # 1545-0074 expires the first year after its appearance upon any form. *Dole v. Steelworkers*, 494 U.S. 26, 44 (1990), *U.S. v. Collins*, 920 F.2d 619 (10th Cir. 1990), *U.S. v. Dawes*, 951 F.2d 1189 (10th Cir. 1991)

SIXTH CAUSE

FOR JUDGMENT

58. To the extent not inconsistent with any rule or ethical consideration, all other paragraphs of the complaint are realleged and incorporated herein by reference.
59. Defendants and each of them have a duty to comply with the Paperwork Reduction Act regarding application and approval of all tax forms seeking

information from the public in general or any private citizen specifically.

60. All 1040 forms appearing with # 1545-0074 expired no later than three years from the year it first appeared upon any form. *Dole v. Steelworkers*, 494 U.S. 26, 44 (1990), *U.S. v. Collins*, 920 F.2d 619 (10th Cir. 1990), *U.S. v. Dawes*, 951 F.2d 1189 (10th Cir. 1991)

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**SEVENTH CAUSE
FOR JUDGMENT**

63. To the extent not inconsistent with any rule or ethical consideration, all other paragraphs of the complaint are realleged and incorporated herein by reference.

64. Defendants and each of them have a duty to comply with the Paperwork Reduction Act regarding application and approval of all tax forms seeking information from the Public.

65. OMB number 1545-0074 expired in 1982, for the 1981 1040 Form or at the very latest, in 1984. *Dole v. Steelworkers*, 494 U.S. 26, 44 (1990), *U.S. v. Collins*, 920 F.2d 619 (10th Cir. 1990), *U.S. v. Dawes*, 951 F.2d 1189 (10th Cir. 1991)

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**EIGHTH CAUSE
DECLARATORY JUDGMENT**

67. To the extent not inconsistent with any rule or ethical consideration, all other paragraphs of the complaint are realleged and incorporated herein by reference.

68. Defendants are required to strictly comply with the Paperwork Reduction

Act regarding application and approval of all tax forms seeking information from the public in general or any specific private citizen. *Dole v. Steelworkers*, 494 U.S. 26, 44 (1990), *U.S. v. Collins*, 920 F.2d 619 (10th Cir. 1990), *U.S. v. Dawes*, 951 F.2d 1189 (10th Cir. 1991)

**NINTH CAUSE
FOR JUDGMENT**

69. To the extent not inconsistent with any rule or ethical consideration, all other paragraphs of the complaint are realleged and incorporated herein by reference.
70. Defendants and each of them have a duty to comply with the Paperwork Reduction Act regarding application and approval of all tax forms seeking information from the public in general or any specific private citizen.
71. OMB # 1545-0074 has not been issued in compliance with the PRA for any year, was never a VALID OMB control number properly assigned by the Office of Management and Budget in accordance with the Paperwork Reduction Act. *Dole v. Steelworkers*, 494 U.S. 26, 44 (1990), *U.S. v. Collins*, 920 F.2d 619 (10th Cir. 1990), *U.S. v. Dawes*, 951 F.2d 1189 (10th Cir. 1991) .

**TENTH CAUSE
FOR JUDGMENT**

72. To the extent not inconsistent with any rule or ethical consideration, all other paragraphs of the complaint are realleged and incorporated herein by reference.
73. Defendants and each of them have a duty to comply with the Paperwork Reduction Act regarding application and approval of all tax forms seeking

information from the Public.

74. OMB # 1545-0074 appearing upon Form 1040 for 23 years was never a CURRENT OMB control number properly assigned by the Office of Management and Budget in accordance with the Paperwork Reduction Act. *Dole v. Steelworkers*, 494 U.S. 26, 44 (1990), *U.S. v. Collins*, 920 F.2d 619 (10th Cir. 1990), *U.S. v. Dawes*, 951 F.2d 1189 (10th Cir. 1991)

75.

ELEVENTH CAUSE

FOR JUDGMENT

76. To the extent not inconsistent with any rule or ethical consideration, all other paragraphs of the complaint are realleged and incorporated herein by reference.
77. Defendants and each of them have a duty to comply with the Paperwork Reduction Act regarding application and approval of all tax forms seeking information from the Public.
78. OMB # 1545-0074 appearing upon Form 1040 for 23 years is not presently a CURRENT OMB control number properly assigned by the Office of Management and Budget in accordance with the Paperwork Reduction Act. *Dole v. Steelworkers*, 494 U.S. 26, 44 (1990), *U.S. v. Collins*, 920 F.2d 619 (10th Cir. 1990), *U.S. v. Dawes*, 951 F.2d 1189 (10th Cir. 1991)

TWELFTH CAUSE

FOR JUDGMENT

79. To the extent not inconsistent with any rule or ethical consideration, all other paragraphs of the complaint are realleged and incorporated herein by reference.
80. Defendants and each of them have a duty to comply with the Paperwork

Reduction Act regarding application and approval of all tax forms seeking information from the Public.

81. OMB # 1545-0074 appearing upon Form 1040 for 23 years is not a VALID OMB control number properly assigned by the Office of Management and Budget in accordance with the Paperwork Reduction Act. *Dole v. Steelworkers*, 494 U.S. 26, 44 (1990), *U.S. v. Collins*, 920 F.2d 619 (10th Cir. 1990), *U.S. v. Dawes*, 951 F.2d 1189 (10th Cir. 1991)

THIRTEENTH CAUSE

FOR JUDGMENT

82. To the extent not inconsistent with any rule or ethical consideration, all other paragraphs of the complaint are realleged and incorporated herein by reference.
83. Defendants and each of them have a duty to comply with the Paperwork Reduction Act regarding application and approval of all tax forms seeking information from the public in general or any private citizen specifically.
84. No person on behalf of the United States Department of Treasury, including Agents or employees for the Internal Revenue Service, are authorized within any other provision of law to begin any process regarding imposition of any penalties associated directly or indirectly to said 1040 Form with OMB 1545-0074 printed upon its face. *Dole v. Steelworkers*, 494 U.S. 26, 44 (1990), *U.S. v. Collins*, 920 F.2d 619 (10th Cir. 1990), *U.S. v. Dawes*, 951 F.2d 1189 (10th Cir. 1991)

FOURTEENTH CAUSE
FOR JUDGEMENT

85. To the extent not inconsistent with any rule or ethical consideration, all

other paragraphs of the complaint are realleged and incorporated herein by reference.

86. 79. Defendants and each of them have a duty to comply with the Paperwork Reduction Act regarding application and approval of all tax forms seeking information from the public in general or any individual specifically.
87. 80. The Application filed by the Department of Treasury, by and through the Internal Revenue Service Agency, to secure OMB approval for the collection of information sought by Form 1040, 1040A, 1040EZ, 1040ES has not complied with the Paperwork Reduction Act for each year from 1982 through the 2005 year and that violation is ongoing. *Dole v. Steelworkers*, 494 U.S. 26, 44 (1990), *U.S. v. Collins*, 920 F.2d 619 (10th Cir. 1990), *U.S. v. Dawes*, 951 F.2d 1189 (10th Cir. 1991)

FIFTEENTH CAUSE FOR INJUNCTION

81. To the extent not inconsistent with any rule or ethical consideration, all other paragraphs of the complaint are realleged and incorporated herein by reference.
82. Defendants and each of them have a duty to comply with the Paperwork Reduction Act regarding application and approval of all tax forms seeking information from the public generally or any individual specifically.
83. Because the Defendants have not complied with the Paperwork Reduction Act regarding promulgation of Forms requested approved involving usage of 1545-0074, and because this number is neither current nor valid according to the PRA law, in consideration of Court decisions derived therefrom, Plaintiff request this Court enter an injunction against the INTERNAL REVENUE SERVICE, ITS

EMPLOYEES, AGENTS AND THOSE IN ACTIVE PARTICIPATION WITH THEM OR IN CONCERT WITH THEM OR UNDER THEIR DIRECT OR INDIRECT CONTROL from imposing any penalty, civil or criminal, regarding and Form 1545-0074, for years beginning in 1982 through 2006, on the basis that said Form have not, have not ever, and do not currently comply with the Paperwork Reduction Act, and are all bootleg request.

84. WHEREFORE, Plaintiff prays for the entry of judgment for the declaratory and injunctive relief stated, and for all such other and further relief as may be appropriate whether or not specifically prayed.

Respectfully Submitted

Lindsey K. Springer
5147 S. Harvard, # 116
Tulsa, Oklahoma 74135
918-748-5539/955-8225(cell)

Subscribed and Affirmed before me this _____ Day of February, 2006

Notary Signature

My Commission Expires _____

