

APPENDIX A
NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS FOR THE
NINTH CIRCUIT

MARY A. NELSON ROGERS,
Plaintiff-Appellant,

v.

UNITED STATES INTERNAL REVENUE SERVICE;
CHARLES P. RETTING, IRS Commissioner,
Defendants-Appellees,
and PAUL J. ENJALRAN, IRS Officer, Area #6; et al.,
Defendants.

No. 20-17294
D.C. No. 2:19-cv-01564-TLN-CKD

MEMORANDUM*

Appeal from the United States
District Court for the Eastern
District of California

Troy L. Nunley, District Judge, Presiding Submitted
October 12, 2021**

Before: TALLMAN, RAWLINSON, and BUMATAY,
Circuit Judges.

This disposition is not appropriate for publication
and is not precedent except as provided by Ninth Circuit
Rule 36-3.

The panel unanimously concludes this case is suitable for
decision without oral argument. See Fed. R. App. P.
34(a)(2).

Mary A. Nelson Rogers appeals pro se from the district
court's judgment in her action challenging Internal
Revenue Service ("IRS") tax collection efforts. We have
jurisdiction under 28 U.S.C. § 1291. We review de novo a
district court's dismissal under Federal Rule of Civil
Procedure 12(b)(1) and (b)(6). *Davidson v. Kimberly-Clark*
Corp., 889 F.3d 956, 963 (9th Cir. 2018). We affirm.

The district court properly dismissed Rogers's action
because Rogers failed to allege facts sufficient to state any

plausible claim. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (a plaintiff must present factual allegations sufficient to state a plausible claim for relief); *Cholla Ready Mix, Inc. v. Civish*, 382 F.3d 969, 973 (9th Cir. 2004) (a party's conclusory allegations, unwarranted deductions of fact, or unreasonable inferences need not be accepted as true). To the extent Rogers sought injunctive and equitable relief, such relief is barred by the Anti-Injunction Act (the "Act"), which prohibits any attempt to restrain the IRS's tax assessment and collection activities, with limited exceptions that do not apply here. *See* 26 U.S.C. § 7421(a) (listing statutory exceptions to the Act); *Elias v. Connell*, 908 F.2d 521, 523, 525 (9th Cir. 1990) (setting forth limited judicial exception to the Act).

We reject as meritless Rogers's contention that her due process rights were violated.

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009). We do not consider documents not filed with the district court. *See United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990).

All pending motions are denied.

AFFIRMED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JAN 25 2022

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

MARY A. NELSON ROGERS,

Plaintiff-Appellant,

v.

UNITED STATES INTERNAL REVENUE
SERVICE; CHARLES P. RETTING, IRS
Commissioner,

Defendants-Appellees,

and

PAUL J. ENJALRAN, IRS Officer, Area #6;
et al.,

Defendants.

No. 20-17294

D.C. No. 2:19-cv-01564-TLN-CKD
Eastern District of California,
Sacramento

ORDER

Before: TALLMAN, RAWLINSON, and BUMATAY, Circuit Judges.

Rogers's petition for panel rehearing (Docket Entry No. 29) is denied.

Non-party Lukashin's requests for publication (Docket Entry Nos. 30 & 31)

are denied.

No further filings will be entertained in this closed case.

APPENDIX B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIAMARY A. NELSON ROGERS,
Plaintiff

v.

THE UNITED STATES OF AMERICA,
Defendant

2:19-cv-01564-TNL-CKD

ORDER

Plaintiff Mary A. Nelson Rogers ("Plaintiff"), proceeding *pro se*, brings this civil action alleging that IRS agents unlawfully inspected her taxpayer information in violation of multiple federal statutes. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On September 21, 2020, the magistrate judge filed findings and recommendations herein which were served on the parties and which contained notice to the parties that any objections to the findings and recommendations were to be filed within fourteen (14) days. (ECF No. 68.) On October 5, 2020, Plaintiff filed Objections to the Findings and Recommendations. (ECF No. 69.)

The Court reviews *de novo* those portions of the proposed findings of fact to which objection has been made. 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore Business Machines*, 656 F.2d 1309, 1313 (9th Cir. 1981), *cert. denied*, 455 U.S. 920 (1982); *see also Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009). As to any portion of the proposed findings of fact to which no objection has been made, the Court assumes its correctness and decides the motions on the applicable law. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed *de novo*. *See Britt v. Simi Valley Unified Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

Having carefully reviewed the entire file under the applicable legal standards, the Court finds the Findings and Recommendations to be supported by the record and by the magistrate judge's analysis.

Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendations filed September 21, 2020 (ECF No. 68), are adopted in full;
2. Defendant's Motion to Dismiss (ECF No. 64) is GRANTED;
3. Plaintiff's Fifth Amended Complaint (ECF No. 62) is DISMISSED without leave to amend; and
4. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

DATED: November 6, 2021

/s/Troy L. Nunley
Troy L. Nunley
United States District Judge

No. _____

In The
Supreme Court of the United States

Mary Alice Nelson-Rogers,

Petitioner,

v.

COMMISSIONER OF THE INTERNAL REVENUE,

CHARLES P. RETTIG,

Respondent.

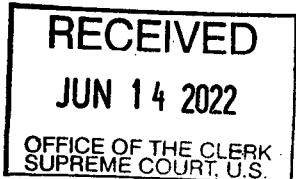
CERTIFICATE OF
COMPLIANCE WITH WORD
COUNT LIMITATIONS

I, Mary Alice Nelson Rogers, Pro Se, certify pursuant to Rule 33.1(h) of the Rules of this Court that this Writ of Certiorari contains 3,107 words, excluding parts of the Writ that are exempted by Rule 33.1(d), since my word processing program states the word count is 3,107 words. Thank you for your time.

Dated: June 7, 2022

Respectfully submitted,

By: Mary Alice Nelson Rogers
Mary Alice Nelson-Rogers, Petitioner



I certify of penalty of perjury that the foregoing is true and correct.

Executed on June 7, 2022

Mary Alice Nelson-Rogers
Mary Alice Nelson-Rogers

California Notarial Certificate (Jurat)

An notary public or other officer completing this certificate verifies only the identity of the individual(s) who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

Sacramento County)

State of California)

Subscribed and sworn to (or Affirmed) before me on this 19th day of October, 2021 by Mary Alice Nelson-Rogers, proved to me on the basis satisfactory evidence to be the person(s) who appeared before me.

7th of June 2022

Notary Public - signature: Johnathan Kneff

My commission expires: 12/04/2022

seal:

