

# First Things First

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In December 2015, James D. Sullivan filed a pro se complaint in the U.S. Court of Federal Claims, alleging that the IRS wrongly assessed his 2006 income taxes, and unlawfully seized a payment (\$45,000) from him under a federal tax lien to satisfy his 2006 tax liability. In his lawsuit, Sullivan sought to recover the \$45,000 and to bar the IRS from collecting his 2006 taxes.

The Government moved to dismiss Sullivan’s complaint for lack of subject matter jurisdiction under Rule 12(b)(1). The Government argued that the complaint failed to identify a money-mandating source of substantive law allowing Sullivan to pursue money damages against the Government in the CFC. The Government also argued that the Court lacked jurisdiction over the tax refund claim because Sullivan had not fully paid his 2006 taxes and had not filed an administrative refund claim with the IRS, both of which are statutory prerequisites to bringing a tax refund case in the CFC.

The Court granted the Government’s motion to dismiss, stating that a plaintiff must identify a “separate source of substantive law that creates the right to money damages” to invoke the Court’s jurisdiction over a claim, which Sullivan had failed to do in his complaint. The Court explained that IRS Code Section 7422 does provide a substantive right to money damages that applies in taxpayer refund cases but only if a plaintiff first pays his taxes in full and then files an administrative refund claim with the IRS prior to suing in the CFC. Here, Sullivan did neither and so Section 7422 did not apply.

The Court also held that it lacked jurisdiction over Sullivan’s claim for injunctive relief, explaining that the CFC has no statutory authority to enjoin the IRS from assessing or collecting Sullivan’s 2006 taxes. The Court therefore dismissed without prejudice Sullivan’s lawsuit for lack of subject matter jurisdiction.

Read Judge Wheeler’s full decision [here](#).