

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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JACQUELINE HALBIG, <i>et al.</i>))	
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Plaintiffs,))	
))	
v.))	Civil Action No. 13-0623 (PLF)
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KATHLEEN SEBELIUS,))	
U.S. Secretary of Health and Human))	
Services, <i>et al.</i> ,))	
))	
Defendants.))	
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MEMORANDUM OPINION AND ORDER

Five motions are pending in this case. The Court is scheduled to hear oral argument on October 21, 2013, on two of these motions: defendants’ motion to dismiss, Dkt. No. 23, and plaintiffs’ motion for preliminary injunction, Dkt. No. 30. This Order pertains to the three additional motions pending before the Court.

Plaintiffs filed a motion for summary judgment in this case on June 6, 2013, several weeks before defendants were required to answer or otherwise respond to plaintiffs’ complaint. FED. R. CIV. P. 12(a)(2); see Dkt. No. 17. Defendants did not immediately file an opposition to plaintiffs’ motion, but instead moved to stay briefing on summary judgment until after the Court had ruled on defendants’ motion to dismiss, which defendants were in the midst of preparing. Dkt. No. 18.¹ Defendants’ motion to dismiss was filed on July 29, 2013, has been

¹ In addition, defendants requested a three-week extension of the filing deadline for their motion to dismiss.

fully briefed, and, as noted, is set for oral argument. Defendants' motion to defer briefing on summary judgment is still pending before the Court.

Upon consideration of the parties' papers and the relevant legal authorities, the Court finds that it is in the interest of judicial economy to stay briefing on plaintiffs' summary judgment motion until after the Court has resolved defendants' motion to dismiss. The Court also finds that the plaintiffs are unlikely to be prejudiced by this delay, in light of the Court's consideration of plaintiffs' motion for preliminary injunction. The Court therefore will grant *nunc pro tunc* defendants' motion to defer briefing on summary judgment. Plaintiffs' motion for summary judgment will be held in abeyance until the Court has issued an Order resolving the pending motion to dismiss.

Plaintiffs have also moved for entry of default judgment based on defendants' failure to respond to the summary judgment motion. Dkt. No. 25. This motion for default judgment will be denied. Default judgments "are generally disfavored by courts." Strong-Fisher v. LaHood, 611 F. Supp. 2d 49, 51 (D.D.C. 2009); see also Webb v. Dist. of Columbia, 146 F.3d 964, 971 (D.C. Cir. 1998) ("[A] default judgment must be a sanction of last resort to be used only when less onerous methods . . . will be ineffective or obviously futile.") (internal quotation and quotation marks omitted). Moreover, a default judgment may be entered against the United States "only if the claimant establishes a claim or right to relief by evidence that satisfies the court." FED. R. CIV. P. 55(d). Plaintiffs have not yet established a claim or right to relief in this case. Entry of default judgment therefore is neither appropriate nor authorized at this time.

Accordingly, it is hereby

ORDERED that [Dkt. No. 18] defendants' motion to defer briefing on summary judgment pending resolution of motion to dismiss, and for extension of time to file motion to dismiss, is GRANTED *nunc pro tunc*; it is

FURTHER ORDERED that defendants shall file a response to plaintiffs' motion for summary judgment no later than fourteen days after the Court issues an Order resolving defendants' motion to dismiss, unless this action is dismissed in its entirety, in which case no such response is required; and it is

FURTHER ORDERED that [Dkt. No. 25] plaintiffs' motion for entry of default judgment is DENIED.

SO ORDERED.

DATE: October 15, 2013

/s/ _____
PAUL L. FRIEDMAN
United States District Judge