

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

State of Oklahoma, ex rel. Scott Pruitt, in his
official capacity as Attorney General of
Oklahoma,

Plaintiff,

v.

(1) Kathleen Sebelius, in her official capacity
as Secretary of the United States Department
of Health and Human Services, and

(2) Timothy Geithner, in his official capacity
as Secretary of the United States Department
of the Treasury,

Defendants.

Case No. CIV-11-030-RAW

ORDER

Before the court is Plaintiff's motion to lift the stay in this action [Docket No. 33] filed July 27, 2012. No response has been filed. On November 23, 2011, the court stayed this case pending a ruling on the merits by the United States Supreme Court in cases involving the same issues. On July 18, 2012, Defendants filed a notice of supplemental authority to inform the court of the United States Supreme Court's ruling in National Fed'n of Indep. Bus. v. Sebelius, 132 S. Ct. 2566 (2012). Defendants stated in their notice that the Supreme Court's decision forecloses Plaintiff's claim on the merits.

Plaintiff does not agree that the recent decision necessarily forecloses its claim on the merits. Plaintiff states that it is still analyzing the decision to determine whether an amended complaint is warranted. Plaintiff requests that the court lift the stay in this case and allow Plaintiff 30 days to file an amended complaint or other appropriate pleadings. If no such amended complaint or other pleading is filed at the conclusion of the 30 days, Plaintiff states that

the court should enter a judgment in the case disposing of the claims brought in the complaint in a manner consistent with the Supreme Court decision.


In a footnote, Plaintiff informs the court that it conferred with Defendants in accordance with LcvR 7.1(g) and that Defendants do not oppose Plaintiff's request to lift the stay.

Additionally, Defendants do not oppose Plaintiff's request that judgment be entered if Plaintiff does not file an amended complaint within 30 days. Plaintiff states that Defendants understand that judgment would be entered in Defendants' favor if Plaintiff does not file an amended complaint.

The court hereby GRANTS Plaintiff's motion [Docket No. 33] and LIFTS THE STAY in this action. Plaintiff has had more than 60 days since it filed its motion to analyze the decision and determine whether an amended complaint is warranted. Accordingly, Plaintiff may file an amended complaint no later than September 19, 2012. If Plaintiff does not file an amended complaint by that date, this action will be dismissed and judgment entered in Defendants' favor.

IT IS SO ORDERED this 12th day of September, 2011.

Dated this 12th day of September, 2012.


Ronald A. White
United States District Judge
Eastern District of Oklahoma