

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

TEXAS,
WISCONSIN,
ALABAMA,
ARKANSAS,
ARIZONA,
FLORIDA,
GEORGIA,
INDIANA,
KANSAS,
LOUISIANA,
PAUL LePAGE, Governor of Maine,
MISSISSIPPI, by and through
Governor Phil Bryant,
MISSOURI,
NEBRASKA,
NORTH DAKOTA,
SOUTH CAROLINA,
SOUTH DAKOTA,
TENNESSEE,
UTAH, and
WEST VIRGINIA,

Plaintiffs,

v.

UNITED STATES OF AMERICA,
UNITED STATES DEPARTMENT
OF HEALTH AND HUMAN
SERVICES, ALEX AZAR,
in his Official Capacity as
SECRETARY OF HEALTH AND
HUMAN SERVICES, UNITED
STATES INTERNAL REVENUE
SERVICE, and DAVID J. KAUTTER,
in his Official Capacity as Acting
COMMISSIONER OF INTERNAL
REVENUE,

Defendants.

Civil Action No. 4:18-cv-00167-O

PLAINTIFFS' RESPONSE TO EMERGENCY MOTION TO STRIKE

In his emergency motion to strike Plaintiffs' response to his motion to intervene (Doc. 12), Intervenor Stephen P. Wallace alleges that he did not receive a copy of Plaintiffs' response brief (Doc. 11). He also contends that Plaintiffs committed fraud

on the Court by representing that they served the response via certified mail. Doc. 12 at 2.

As Plaintiffs explained in their Notice of Service to the Court (Doc. 13), Wallace was served with the response on March 29, 2018. Doc. 13-1. Plaintiffs mailed the response on March 22, 2018, Doc. 11 at 5, and Wallace filed his motion on March 28, 2018, one day before he received the response. *See* Doc. 12. Wallace's motion offers no other reason that Plaintiffs' response to his motion to intervene should be stricken. Accordingly, the Court should deny his emergency motion to strike Plaintiffs' response and, for the reasons stated in Plaintiffs' response, deny his motion to intervene.

Respectfully submitted this the 18th day of April, 2018,

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I certify that the foregoing document was electronically filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record registered as CM/ECF users, and via certified mail to the following:

Stephen P. Wallace
1116 Sheffer Road, Apt. F
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/s/Darren McCarty
DARREN MCCARTY

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[PROPOSED] ORDER DENYING EMERGENCY MOTIONS TO STRIKE

Before the Court is Additional Plaintiff's Emergency Motions to Strike Texas
Special Counsel, AG Darren McCarty's, March 22, 2018, Opposition to Add

Additional Plaintiff's Motion to Intervene for "Sham Process of Service", Under Color of Law, and to Grant Additional Plaintiff's Motion to Intervene, as "Civil Rights-Other", with Brief in Support (Doc. 12). Having reviewed the Motion, the response, and the reply, if any, as well as the applicable law, the Court finds that the Motion should be, and is hereby, **DENIED**.

SIGNED on this ___ day of _____, 2018.

THE HONORABLE REED O'CONNOR
UNITED STATES DISTRICT JUDGE