

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

HEALTH REPUBLIC INSURANCE)	
COMPANY,)	
)	
Plaintiff,)	No. 16-259C
)	
v.)	
)	Judge Sweeney
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	
_____)	

JOINT STATUS REPORT AND REQUEST TO CONTINUE STAY OF PROCEEDINGS

Defendant United States and Plaintiff Health Republic Insurance Company, on behalf of itself and the Class, (together, the “Parties”), hereby submit this joint status report in accordance with the Court’s July 11, 2017 Order, which required the Parties to submit a status report no later than 14 days following the *Land of Lincoln* and *Moda* decisions. Dkt. 62; *see also Land of Lincoln Mut. Health Ins. Co. v. United States*, No. 17-1224, Dkt. 166-1 (Fed. Cir. June 14, 2018); *Moda Health Plan, Inc. v. United States*, No. 17-1994, Dkt. 87-1 (Fed. Cir. June 14, 2018). When the Court originally stayed this case, it did so with the explanation that the Federal Circuit’s decisions in *Land of Lincoln* and/or *Moda* might weigh on the merits of the risk corridors claim. Dkt. 62.

On June 14, 2018, the Federal Circuit reversed the judgment in the insurer’s favor in *Moda* and affirmed the judgment in favor of the United States in *Land of Lincoln*. The Federal Circuit rejected the insurers’ claims for additional payments under the risk corridors program based upon statutory, contract and takings theories. *Moda*, No. 17-1994, Dkt. 87-1 at 35; *Land of Lincoln*, No. 17-1224, Dkt. 166-1 at 3. It is Defendant’s position that the Federal Circuit’s rulings govern this case and warrant judgment for the United States. However, Plaintiff has

requested that the United States consent to the continuation of the stay now in effect through the time provided in the appellate court's rules for the filing of a petition for rehearing and/or rehearing en banc, Fed. Cir. R. 35, 40, and through the resolution of any petition for a writ of certiorari. Defendant agrees to continuing the stay, which will conserve the Court's and the Parties' resources until they have finality on the appeals in those two cases. The Parties thus respectfully, and jointly, request that the Court continue the stay in this case until there are final and non-appealable judgments in *Moda* and *Land of Lincoln*. To this end, the Parties propose that they file a status report with this Court within 15 days after the judgments in *Moda* and *Land of Lincoln* have become final and non-appealable.

Dated: June 28, 2018

Respectfully submitted,

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