

In the United States Court of Federal Claims

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NORIDIAN MUTUAL INSURANCE		*
COMPANY,		*
		*
Plaintiff,		*
		*
v.		*
	No. 18-1983C	*
	Filed: February 13, 2019	*
UNITED STATES,		*
		*
Defendant.		*
* * * * *		*

ORDER

The court is in receipt of the plaintiff’s February 11, 2019 motion for partial summary judgment. The plaintiff filed the motion for partial summary judgment prior to receiving defendant’s response to the complaint, and prior to the previously set initial status conference with the court. Without the benefit of an answer, or possibly a motion to dismiss, plaintiff was ill-advised to file the motion for partial summary judgment. Therefore, plaintiff’s motion for partial summary judgment is **STAYED**, pending the defendant’s response to the complaint and the previously set conference with the court to determine if a motion for partial summary judgment is appropriate at this time.

The court is in receipt of plaintiff’s February 11, 2019 supplemental corporate disclosure statement. Plaintiff states that “until January 1, 2019, Plaintiff Blue Cross Blue Shield of North Dakota was formerly known as Noridian Mutual Insurance Company d/b/a/ Blue Cross Blue Shield of North Dakota. Effective January 1, 2019, Plaintiff Blue Cross Blue Shield of North Dakota, which is a nongovernmental corporate party, is owned by its parent company HealthyDakota Mutual Holdings, a nonprofit holding company.” If plaintiff is no longer the real party in interest, plaintiff shall file a motion to properly identify the correct party in interest. The court notes that Rule 25(c) of the Rules of the United States Court of Federal Claims (RCFC) provides that “[i]f an interest is transferred, the action may be continued by or against the original party unless the court, on motion, orders the transferee to be substituted in the action or joined with the original party. The motion must be served as provided in RCFC 25(a)(3).” In addition, RCFC 17(a)(3) (2018) provides that “[t]he court may not dismiss an action for failure to prosecute in the name of the real party in interest until, after an objection, a reasonable time has been allowed for the real party in interest to ratify, join, or be substituted into the action. After ratification, joinder, or substitution, the action proceeds as if it had been originally commenced by the real party in interest.” Plaintiff shall cite to the proper Rule in its motion.

The court is also in receipt of defendant's February 12, 2019 motion for an extension of time to file a combined response to the complaint and the motion for partial summary judgment. Defendant's motion is **DENIED**. On or before **Monday, February 25, 2019**, defendant shall file only a response to plaintiff's complaint. The status conference remains scheduled for **Friday, March 1, 2019, at 2:30 p.m., EST**. The filing of the response on Monday, February 25, 2019 will give plaintiff an opportunity to review the response and propose what is best course to proceed in the above captioned case prior to the March 1, 2019 status conference. Both parties may appear at the status conference by telephone. Unless otherwise notified, the court will contact plaintiff's counsel at (202) 414-9209 and defendant's counsel at (202) 305-1571. The parties shall consult prior to the conference and be prepared to propose how to proceed in the above-captioned case.

IT IS SO ORDERED.

s/Marian Blank Horn
MARIAN BLANK HORN
Judge