

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

BLUE CROSS BLUE SHIELD	)	
OF NORTH DAKOTA,	)	
	)	
	)	
Plaintiff,	)	
	)	No. 18-cv-01983-MBH
v.	)	
	)	
THE UNITED STATES OF AMERICA,	)	Senior Judge Horn
	)	
Defendant.	)	
_____	)	

**PLAINTIFF’S UNOPPOSED MOTION TO VOLUNTARILY DISMISS  
COUNT III OF ITS COMPLAINT**

Pursuant to the Court’s March 1, 2019 Order (ECF 16), in light of the Court’s recent decision in *Local Initiative Health Authority for L.A. County v. United States*, No. 17-1542C, 2019 WL 625446, at \*16 (Fed. Cl. Feb. 14, 2019) (Wheeler, J.), dismissing the plaintiff’s similar Fifth Amendment Takings claim in *L.A. Care Health Plan*, Plaintiff Blue Cross Blue Shield of North Dakota does not intend to pursue its Takings claim set forth in Count III of its Complaint, and hereby moves to voluntarily dismiss Count III, so that the Court does not need to address Count III in considering the Defendant’s motion to dismiss or Plaintiff’s cross motion for summary judgment on Counts I and II of its Complaint. Defendant’s counsel does not oppose this request.

WHEREFORE, Plaintiff Blue Cross Blue Shield of North Dakota respectfully requests that the Court dismiss Count III of Plaintiff’s Complaint.

Dated: March 14, 2019

Respectfully Submitted,

*Of Counsel:*

s/ Lawrence S. Sher  
 Lawrence S. Sher (D.C. Bar No. 430469)  
**REED SMITH LLP**

Conor M. Shaffer (PA Bar No. 314474)  
**REED SMITH LLP**  
Reed Smith Centre  
225 Fifth Avenue, Suite 1200  
Pittsburgh, PA 15222  
Telephone: 412.288.3131  
Facsimile: 412.288.3063  
Email: cshaffer@reedsmith.com

1301 K Street NW  
Suite 1000-East Tower  
Washington, DC 20005  
Telephone: 202.414.9200  
Facsimile: 202.414.9299  
Email: lsher@reedsmith.com

*Counsel for  
Blue Cross Blue Shield of North Dakota*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 14, 2019, a copy of the foregoing Plaintiff's Unopposed Motion to Voluntarily Dismiss Count III of its Complaint was filed electronically with the Court's Electronic Case Filing (ECF) system. I understand that notice of this filing will be sent to all parties by operation of the Court's ECF system.

s/ Lawrence S. Sher

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Lawrence S. Sher

*Counsel for Plaintiff*