

United States Court of Federal Claims

No. 17-1090 C
September 25, 2017

HEALTHNOW NEW YORK INC.,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

ORDER STAYING CASE

Defendant seeks a stay of proceedings in this case pending a ruling in related cases by the Federal Circuit, or in the alternative, for 120 days, which presumably would have the same effect. Plaintiff objects.

We have generally opposed stays that are dependent solely on a future ruling by the appellate court or any other court. If the ruling turns out not to be dispositive of the facts and law of our case, or if it only remands the lead case, we will have wasted substantial time during which the parties could have been conducting pre-trial activities. Also, if the appeal is before our circuit, it seems important that the appellate panel have the benefit of as many trial court rulings involving the related cases as possible.

This case seems somewhat different from the norm, however, according to a persuasive brief filed by the United States. Given that brief's effectiveness vis-a-vis this court's long-held attitude toward such stays, we gave plaintiff's arguments against the stay careful consideration. Briefly, plaintiff made the following points in opposition: (1) the stay would be indefinite; (2) the Government cannot show a pressing need; (3) the balance of interests weighs against the stay; and (4) the court's paramount obligation to adjudicate cases in a timely manner weighs in favor of denial.

Plaintiff's arguments are severely summarized here but unfortunately, they contain little more than conclusory assertions. What would a "pressing need" be, and how has defendant been unable to show one? What elements go into measuring the "balance of interests?" How does the court's obligation to conduct its operations efficiently cause the balance to tip in favor of denial?

We must conclude that a stay pending the Federal Circuit's ruling in the cases that it is treating as companions before the same panel does not in this circumstance risk undue delay in this court.

For that reason, defendant's motion to stay is GRANTED. While we do prefer that the stay be entered for a definite period of time, the stay in this matter will continue pending the final decision by the United States Court of Appeals for the Federal Circuit in *Land of Lincoln Mutual Health Ins. Co. v. United States*, No. 17-1244. The parties will file a joint status report within two weeks of the Federal Circuit's final decision, and will apprise the court of the outcomes affecting the present case.

IT IS SO ORDERED.

s/ *Robert H. Hodges, Jr.*

Robert H. Hodges, Jr.
Senior Judge