

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

BLUE CROSS OF IDAHO HEALTH	:	
SERVICE, INC.,	:	No. 16-1384C
	:	
Plaintiff,	:	Judge Lettow
	:	
v.	:	
	:	
THE UNITED STATES OF AMERICA,	:	
	:	
Defendant.	:	

**THE UNITED STATES’ *CORRECTED*
UNOPPOSED MOTION TO STAY PROCEEDINGS**

The United States respectfully moves the Court to stay this action pending a final decision by the Court of Appeals for the Federal Circuit in *Land of Lincoln Mutual Health Ins. Co. v. United States*, No. 17-1244 (Fed. Cir.). Counsel for Plaintiff Blue Cross of Idaho Health Service, Inc. (“BCI”) has consented to this stay of the proceedings.

I. Background

On October 24, 2016, BCI filed this action seeking approximately \$79 million in money damages under Section 1342 of the Patient Protection and Affordable Care Act (“ACA”), 42 U.S.C. § 18062, and 45 C.F.R. § 153.510(b), and for breach of express and implied contract and Takings. (Docket No. 1). The United States’ response to the Complaint is currently due on December 23, 2016.

Twelve other cases have been filed in this Court seeking relief under identical and related legal theories to those asserted by BCI. *See Health Republic Ins. Co. v. United States*, No. 16-259C (Sweeney, J.); *First Priority Life Ins. Co. v. United States*, No. 16-587C (Wolski, J.); *Blue Cross and Blue Shield of North Carolina v. United States*, No. 16-651C (Griggsby, J.); *Moda*

Health Plan, Inc. v. United States, No. 16-649C (Wheeler, J.); *Land of Lincoln Mutual Health Ins. Co. v. United States*, No. 16-744C (Lettow, J.); *Maine Cmty. Health Options v. United States*, No. 16-967C (Merow, J.); *New Mexico Health Connections v. United States*, No. 16-1199C (Bruggink, J.); *BCBSM, Inc. v. United States*, No. 16-1253C (Wheeler, J.); *Minuteman Health Inc. v. United States*, No. 16-1418C (Griggsby, J.); *Montana Health CO-OP v. United States*, No. 16-1427C (Wolski, J.); *Alliant Health Plans, Inc. v. United States*, No. 16-1491C (Braden, J.); *Blue Cross and Blue Shield of South Carolina v. United States*, No. 16-1501C (Griggsby, J.). On November 10, 2016, this Court entered the first decision in these cases in *Land of Lincoln*, and on November 15, 2016, Land of Lincoln filed a notice of appeal from that judgment.

II. A Stay Is Proper and Will Conserve Substantial Resources

“It is well established that every trial court has the power to stay its proceedings, which is ‘incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.’” *Freeman v. United States*, 83 Fed. Cl. 530, 532 (2008) (citing *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936)). “Moreover, when and how to stay proceedings is within the sound discretion of the trial court.” *Id.* (citation and internal punctuation omitted). The Supreme Court has highlighted the conservation of judicial resources as an important reason for a trial court to stay proceedings in any matter pending before it, particularly where the appellate court may resolve issues before the trial court. *Landis*, 299 U.S. at 254-55; *UnionBanCal Corp. & Subsidiaries v. United States*, 93 Fed. Cl. 166, 167 (2010) (“The orderly course of justice and judicial economy is served when granting a stay simplifies the ‘issues, proof, and questions of law which could be expected to result from a stay.’”) (quoting *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962)).

The United States seeks a stay pending a final decision by the Federal Circuit of the appeal filed in *Land of Lincoln*, No. 17-1224. Because legal issues presented in this case are similar to issues raised in *Land of Lincoln*, a stay will eliminate the necessity for BCI, the Court, and the United States to expend substantial resources on issues being addressed by the Federal Circuit. With consent of the plaintiffs, stays have already been entered in *New Mexico Health Connections* and *Minuteman Health*. For these reasons, we move the Court to stay this case pending a final decision by the Federal Circuit in *Land of Lincoln*.

III. Conclusion

For these reasons, the United States respectfully requests that the Court stay this case pending a final decision by the Court of Appeals for the Federal Circuit in *Land of Lincoln*.

Dated: November 23, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of November 2016, a copy of the foregoing, *The United States' Corrected Unopposed Motion to Stay Proceedings*, 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/ Terrance A. Mebane
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