

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

RONNIE MAURICE STEWART, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 1:18-cv-152 (JEB)
)	
ALEX M. AZAR II, et al.,)	
)	
Defendants.)	
_____)	

JOINT STATUS REPORT

The Court granted Plaintiffs’ Motion for Partial Summary Judgment as to Count VIII of the Amended Complaint and vacated the Kentucky HEALTH project as a whole. *Stewart v. Azar*, 366 F. Supp. 3d 125 (D.D.C. 2019). Defendants appealed. *See* Fed. Defs’ Notice of Appeal (Apr. 10, 2019) (ECF 135); Intervenor-Def’s Notice of Appeal (Apr. 11, 2019) (ECF 137). The D.C. Circuit Court of Appeals consolidated the appeals and heard argument on October 11, 2019.

On December 16, 2019, Intervenor-Defendant Commonwealth of Kentucky notified the U.S. Department of Health and Human Services of the termination of the Kentucky HEALTH project. That same day, the Commonwealth moved the D.C. Circuit to voluntarily dismiss with prejudice the consolidated appeals as moot. No party opposed the motion. The Federal Defendants asked the D.C. Circuit to vacate this Court’s judgment. Plaintiffs-appellees opposed that request.

On January 9, 2020, the D.C. Circuit granted the Commonwealth’s motion but declined to vacate the judgment of this Court. Order (Jan. 9, 2020) (ECF 140-1). Later that day, this Court entered a minute order calling on the parties to submit a joint status report indicating how they wish to proceed in this case. In accordance with that order, Plaintiffs Ronnie Maurice Stewart, et

al.; Federal Defendants Alex M. Azar, et al.; and Intervenor-Defendant Commonwealth of Kentucky (collectively, the “parties”) respectfully submit the following joint status report:

1. The Amended Complaint contained nine counts. *See* Am. Compl. (Jan. 17, 2019) (ECF 88). On January 9, 2020, the D.C. Circuit’s Mandate issued as to Count VIII (challenging Kentucky HEALTH project as a whole), dismissing defendants’ appeals as to that Count as moot.
2. The Amended Complaint, Counts II-VII, challenged the components of the Kentucky HEALTH project. The parties request that the Court dismiss Counts II-VII as moot.
3. The Amended Complaint, Count I, challenged the Federal Defendants’ January 11, 2018, issuance of a Dear State Medicaid Director Letter, “Opportunities to Promote Work and Community Engagement Among Medicaid Beneficiaries,” *see* ECF 1-4 (AR 90-99), as violating the Administrative Procedure Act. Plaintiffs propose to file a motion to voluntarily dismiss Count I. Defendants will not oppose the motion.
4. The Amended Complaint, Count IX, challenged the Federal Defendants’ actions as a violation of the Take Care Clause of the U.S. Constitution, Art. II, § 3, cl. 5. Plaintiffs propose to file a motion to voluntarily dismiss Count IX. Defendants will not oppose that motion.
5. Plaintiffs may submit an application for attorneys’ fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(B), within 30 days of the Court’s entry of final judgment in this case.

Dated: January 23, 2020

Respectfully submitted,

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