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Goudy-Bachman v. HHS - Parties' Joint Stipulation

United States District Court for the Middle District of Pennsylvania

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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

BARBARA GOUDY-BACHMAN; and)
GREGORY BACHMAN,)
)
Plaintiffs,)

v.)

Civil Action No. 1:10-cv-00763-CCC

UNITED STATES DEPARTMENT OF)
HEALTH AND HUMAN SERVICES;)
KATHLEEN SEBELIUS, in her official)
capacity as Secretary of the United States)
Department of Health and Human Services;)
UNITED STATES DEPARTMENT OF THE)
TREASURY; and TIMOTHY F. GEITHNER,)
in his official capacity as Secretary of the)
United States Department of the Treasury,)
)
Defendants.)

(Judge Christopher C. Conner)

JOINT STIPULATION REGARDING CROSS-MOTIONS FOR SUMMARY

JUDGMENT AND FURTHER BRIEFING

Plaintiffs Barbara Goudy-Bachman and Gregory Bachman (“Plaintiffs”) and Defendants the United States Department of Health and Human Services (“HHS”); Kathleen Sebelius, in her official capacity as HHS Secretary; the United States Department of the Treasury (“Treasury”); and Timothy F. Geithner, in his official capacity as Treasury Secretary (collectively, “Defendants”) hereby submit the following Joint Stipulation:

1. Plaintiffs in this case challenge a provision of Congress’s 2010 comprehensive health care reform law, the Patient Protection and Affordable Care Act. In response to Plaintiffs’ Complaint, Defendants filed a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6). See dkt. #11. This motion was fully briefed as of August 18, 2010. See

dk. #13, 21, 27, 30. On January 24, 2011, the Court issued a memorandum opinion and order denying Defendants' motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(1) but indicating that the Court would rule separately in regard to Defendants' motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6). See dk. #37. Defendants' 12(b)(6) motion remains pending before the Court.

2. The parties have agreed that Defendants will supplement their pending 12(b)(6) motion with a motion, in the alternative, for summary judgment, and Plaintiffs will file a cross-motion for summary judgment. These motions will incorporate the parties' prior briefing, submitted in connection with Defendants' 12(b)(6) motion, in support of the parties' respective summary judgment motions. In addition, the parties have also agreed that, in order to create an appropriate summary judgment record for this Court and for purposes of appellate review, they will file supplementary briefing in connection with these motions. The parties have agreed to, and respectfully request the Court's leave for, expanded page limits for this briefing as indicated below.

3. The Court has set oral argument in this case for July 21, 2011. So as not to disrupt the Court's schedule, the parties have agreed to the following briefing schedule:

June 21, 2011	Defendants will file their Motion, in the Alternative, for Summary Judgment and Brief in Support (40-page page limit)
July 6, 2011	Plaintiffs will file their Cross-Motion for Summary Judgment and Brief in Support of Cross-Motion and in Opposition to Defendants' Motion (40-page page limit)
July 18, 2011	Defendants will file their Brief in Opposition to Plaintiffs' Cross-Motion and Reply in Support of Defendants' Motion (30-page page limit)

DATED this 8th day of June, 2011.

Respectfully submitted,

TONY WEST
Assistant Attorney General
IAN HEATH GERSHENGORN
Deputy Assistant Attorney General
DENNIS C. PFANNENSCHMIDT
United States Attorney

/s/ Kathryn L. Wyer _____
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IT IS SO ORDERED.

Judge Christopher C. Conner

CERTIFICATE OF SERVICE

Pursuant to Local Rule 4.1, I hereby certify that the foregoing document was served via ECF on counsel of record for plaintiffs in the above-captioned case.

Dated: June 8, 2011

/s/ Kathryn L. Wyer
Kathryn L. Wyer