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Florida v. HHS - District Court Order Granting Motion to Add Six States

United States District Court for the Northern District of Florida

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

STATE OF FLORIDA, by and through
Bill McCollum, et al.;

Plaintiffs,

v. Case No.: 3:10-cv-91-RV/EMT

UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES,
et al.,

Defendants.
_________________________________/

ORDER

Pending is the plaintiffs' motion for leave to file a second amended complaint (doc. 147). The sole purpose of the proposed amended complaint is to add six new states to this case. These six states --- Ohio, Kansas, Wyoming, Wisconsin, Maine, and Iowa --- are represented by Attorneys General and/or Governors who have just recently taken office following the November 2010 elections. They have agreed to accept and join this case as it currently stands, with the parties' cross motions for summary judgment having been fully briefed and already argued before this court. The proposed complaint is the same as the operative complaint, except that the new states are identified and listed as plaintiffs. It advances no new claims and raises no new allegations. The plaintiffs have represented that the defendants apparently oppose this motion on the stated basis that it is inconsistent with two earlier orders in the case which: (i) set a May 14th deadline for filing an amended complaint and joining parties, and (ii) indicated that intervenors were not likely to be authorized to join for they would prevent resolution "in an efficient and timely manner."

Rule 15 of the Federal Rules of Civil Procedure governs the amendment of pleadings. This rule provides that leave to amend shall be freely and liberally given when justice so requires. Fed. R. Civ. P. 15(a)(2); see also 3 Moore's Federal Practice § 15.14[1] (3d ed. 2006) (explaining that "a liberal, pro-amendment ethos dominates the intent and judicial construction of Rule 15(a)"). However, the ability to amend pleadings is not without bounds. It is well-established that amendment may be denied where there is futility, undue delay, bad faith or dilatory motive on the part of the movant, and/or undue prejudice to the non-movant. See generally Foman v. Davis, 371 U.S. 178, 83 S. Ct. 227, 9 L. Ed. 2d 222 (1962).

I cannot see how any of the Foman factors could possibly be present here. The proposed amendment would not be futile. The delay in seeking leave to amend, as noted, was due to the fact that the Attorneys General and Governors appearing on behalf of the proposed new plaintiff states have only just recently taken office. There would not seem to be any claim of bad faith or dilatory motive on the part of the plaintiffs. And most importantly, I can imagine no prejudice that could inure to the defendants in granting the plaintiffs' motion, as the second amended complaint changes nothing in the case except for the caption and style, and will not delay its resolution. Indeed, because of this, I will relieve the defendants of the obligation to file an answer to the new complaint and will regard their previously-filed answer as an answer to the new complaint as well.

Therefore, the plaintiffs' motion for leave to file a second amended complaint (doc. 147) is hereby GRANTED, and the new complaint will be deemed filed as of this date, as will the defendants' previously-filed answer.

DONE and ORDERED this 19th day of January, 2011.

/s/ *Roger Vinson*
ROGER VINSON
Senior United States District Judge