

**In the United States Court of Federal Claims**

No. 11-715 C

(E-Filed: September 26, 2019)

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JOSEPH GALLIMORE, <u>et al.</u> ,	)
	)
Plaintiffs,	)
	)
v.	)
	)
THE UNITED STATES,	)
	)
Defendant.	)
_____	)

ORDER

On June 19, 2019, the court heard oral argument in this case on plaintiffs’ pending motion for entry of judgment pursuant to Rule 54(b) of the Rules of the United States Court of Federal Claims (RCFC), ECF No. 142. The primary issue addressed by the parties was the jurisdictional limitations of the court with regard to awarding damages on claims of a continuing nature. See ECF No. 165 (digital audio recording of oral argument). In defendant’s view, the court cannot consider claims that accrued after the initial complaint was filed, on October 28, 2011, and plaintiffs were required to file a new complaint to cover such claims. Id. at 12:04-16:15.

Following oral argument, the court entered an order which stated, in part, as follows:

If plaintiffs wish, out of an abundance of caution, to **FILE an amended complaint** prior to receiving the court’s ruling on its motion for entry of judgment, they may do so, on or before **July 12, 2019**.

ECF No. 163 at 1. Plaintiffs filed an amended complaint on July 2, 2019. See ECF No. 166. The allegations and claim for relief in the amended complaint are substantially similar to those asserted in the initial complaint. Most notably for present purposes, both complaints seek damages for “the period of May, 2003 to date.” See ECF No. 166 at 9; ECF No. 1 at 8.

Because plaintiffs' motion for entry of judgment was predicated on the claims made in the now inoperative initial complaint, and because those same claims are now covered in the amended complaint, the court cannot enter judgment as requested by plaintiffs. Accordingly, plaintiffs' motion for entry of judgment, ECF No. 142, is **DENIED** as moot.

The parties shall **CONFER** and **FILE** a **joint status report**, on or before **October 22, 2019**, proposing a schedule for proceeding in this case. The proposed schedule shall include a date on which defendant shall answer or otherwise respond to plaintiffs' amended complaint, and shall take into account the extensive work already accomplished by the parties toward resolving agreed-upon portions of plaintiffs' claims.

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith  
PATRICIA E. CAMPBELL-SMITH  
Judge