

In the United States Court of Federal Claims

No. 98-596 C

(Filed: March 19, 2001)

_____)	
AUTOMATED SERVICES, INC.,)	
)	
Plaintiffs,)	Finality of judgment pursuant to
)	Rule 54(b); dismissal of claim
)	
v.)	
)	
THE UNITED STATES,)	
)	
Defendant.)	
_____)	

Douglas B. McFadden, Washington, DC, for plaintiffs. John M. Shoreman, of counsel.

Mark A. Melnick, with whom were Stuart E. Schiffer, Acting Assistant Attorney General, and David M. Cohen, Director, Department of Justice, Washington, DC, for defendant. Margaret J. Porter, Chief Counsel, and Karen E. Schifter, Associate Chief Counsel, Food and Drug Administration, of counsel.

ORDER

HEWITT, Judge

Before the court is Plaintiff's Response to Order to Show Cause. Plaintiff argues that this case should not be dismissed "pending the appeal" in a cognate case, A-1 Amusement Co., et al. v. United States, No. 98-192 C, in which the court dismissed a claim legally identical to the claim pleaded in Count I in this case by Opinion and Order dated October 19, 2000.¹ Plaintiff challenges the court's decision in A-1 Amusement

¹Plaintiff concedes that Count II of the two-count Amended Complaint is no longer an issue. Count II in this case was stayed on May 23, 2000, pending the appeal of B&G Enterprises, Ltd. v. United States, 43 Fed. Cl. 523 (1999). In B&G Enterprises, the United States Court of Federal Claims granted the government's summary judgment motion on a claim that is legally

and urges, in effect, reconsideration of the court's opinion. Plaintiff declines to address, however, the finality of the judgment in A-1 Amusement pursuant to Rule 54(b) of the Court of Federal Claims.²

Because plaintiff offers no other reason why this case should not be dismissed, the matter of Automated Services, Inc. v. United States, No. 98-596 C, is DISMISSED with prejudice.

The Clerk of the Court shall enter judgment for defendant.

IT IS SO ORDERED.

EMILY C. HEWITT
Judge

identical to the claim pleaded in Count II here. The United States Court of Appeals for the Federal Circuit affirmed this court's judgment in B&G Enterprises, and the United States Supreme Court recently denied a petition for writ of certiorari. See B&G Enterprises, Ltd. v. United States, 220 F.3d 1318 (Fed. Cir. 2000), cert. denied, 2001 WL 137695 (U.S. Feb. 20, 2001).

²In the absence of an appeal, the judgment is final. Plaintiffs in A-1 Amusement did not appeal the Opinion and Order of October 19, 2000.