

In the United States Court of Federal Claims

NOT FOR PUBLICATION

No. 10-603C

(Filed November 12, 2010)

DAVID ALLISON, et al.,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

ORDER

The government has moved, under Rules 6(b) and 6.1 of the Rules of the United States Court of Federal Claims (“RCFC”), for a sixty-two day enlargement of the time it has to respond to plaintiffs’ complaint. The complaint was filed on September 10, 2010. The government seeks this enlargement of time because the Broadcasting Board of Governors did not assign the matter to agency counsel until late October, and as a consequence the litigation report has yet to be created. Def.’s Mot. at 1. Plaintiffs oppose any enlargement greater than thirty days, arguing that only inefficiency can explain the several weeks’ delay in assigning agency counsel. Pls.’ Opp. at 1-2. Plaintiffs also contend that the “simplicity” of their case could not require 122 days to respond to their complaint, and that they “continue to suffer” from the loss of their withheld wages. *Id.* at 3.

The government’s attorney of record has satisfactorily shown good cause why she would not have been able to meet the initial deadline for filing defendant’s response to the complaint. But whether an additional sixty-two days may reasonably be needed is another matter. Were plaintiffs able to show they would be prejudiced by an extension of that length, the Court is of the opinion that good cause under RCFC 6(b) would require the government to justify the delay in assigning the case to agency counsel. Plaintiffs, however, allege they are entitled to pre-judgment interest on their back pay claims, under the Back Pay Act, 5 U.S.C. § 5596(b)(2). *See* Compl. ¶¶ 23, 29. They request this interest as part of their relief. *Id.* at 7. Thus, the extra thirty-two days’ delay causes no financial consequence to plaintiffs, and no other source of prejudice has been identified. Accordingly, the agency’s failure to complete the litigation report, required under 28 U.S.C. § 520(b), is a sufficient ground to find good cause for the government’s

requested enlargement of time, and the motion is **GRANTED**. The government shall file a response to plaintiffs' complaint on or by **Monday, January 10, 2011**.

IT IS SO ORDERED.

s/Victor J. Wolski
VICTOR J. WOLSKI
Judge