

In the United States Court of Federal Claims

No. 22-867C
(Filed: October 12, 2022)

 JOSHUA J. ANGEL, *
 *
 Plaintiff, *
 *
 v. *
 *
 THE UNITED STATES, *
 *
 Defendant. *

ORDER

On August 8, 2022, plaintiff filed a class action complaint on behalf of himself and other similarly situated persons. On September 16, 2022, defendant filed a motion to stay proceedings in this case until the decision of the United States Court of Appeals for the Federal Circuit in Fairholme Funds, Inc. v. United States, 26 F.4th 1274 (Fed. Cir. 2022), petition for cert. filed (U.S. Aug. 8, 2022) (No. 22-100), is final and unappealable. The motion is fully briefed. For the reasons set forth below, the motion is denied without prejudice.

Plaintiff’s claims date back to January 1, 2013, more than nine years before the complaint was filed. Compl. 1-2. The briefing of defendant’s motion raises the question of whether plaintiff’s claims are barred by 28 U.S.C. § 2501, this court’s six-year statute of limitations. See Pl.’s Resp. 2 (stating that “[t]here is an established decisional exception to 28 U.S.C. § 2501”); Def.’s Reply 2 (noting that plaintiff’s response to the motion attempts “to defend the timeliness of at least some of his claims”). Because § 2501 is jurisdictional, John R. Sand & Gravel Co. v. United States, 552 U.S. 130, 134 (2008), it is more efficient for the court to first assure itself that plaintiff’s claims are timely so that it can exercise jurisdiction over this suit, see Doe v. United States, 106 Fed. Cl. 118, 121 & n.3 (2012) (denying a request to stay proceedings in order to first resolve the government’s jurisdictional challenges to the complaint). Indeed, without jurisdiction the court has no option but to dismiss the suit before it. See, e.g., Ex parte McCardle, 74 U.S. (7 Wall) 506, 514 (1868) (“Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause.”). No stay will be ordered by the court at this time.

Defendant requests, in the alternative, that its deadline to respond to the complaint be enlarged to December 6, 2022. The request for an enlargement of sixty days is reasonable under the circumstances.

Because defendant “anticipates” filing a motion to dismiss, Def.’s Mot. 2, the court provides these reminders as to the court’s requirements for briefs. First, the parties’ briefs must conform to the Rules of the United States Court of Federal Claims (RCFC) and shall include a table of authorities when so required by RCFC 5.4(a)(2)(B). Factual representations and legal contentions must meet the standards set by RCFC 11 or be subject to sanction. Finally, citations to court documents must follow standard citation formats (identifying the court, case number, and filing date), whereas citations to reported opinions must include the reporter volume, starting and referenced page numbers, and date.

The court **DENIES** defendant’s motion to stay proceedings without prejudice. Defendant shall **FILE** its answer or other response to the complaint by **no later than Tuesday, December 6, 2022**.

IT IS SO ORDERED.

s/ Margaret M. Sweeney
MARGARET M. SWEENEY
Senior Judge