

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE, PART I

SEAN SMITH,)	
)	
<i>Petitioner,</i>)	
)	Case No. 24-0074-I
v.)	
)	Chancellor Patricia Head Moskal
TENNESSEE DEPARTMENT OF)	
FINANCE & ADMINISTRATION,)	
DIVISION OF TENNCARE; and)	
)	
STEPHEN SMITH, DIRECTOR OF)	
TENNCARE, in his official capacity,)	
)	
<i>Respondents.</i>)	

RESPONDENT'S RESPONSE IN OPPOSITION TO PETITIONER'S
MOTION FOR ACCOMMODATION

Respondents, the Tennessee Department of Finance & Administration, Division of TennCare ("TennCare") and Stephen Smith, Director of TennCare ("Director") (jointly "Respondents"), herein respond in opposition, in part, to Petitioner's *Motion for Accommodation*. Petitioner requests accommodations *in the event* of incapacitation or death, and because this is a hypothetical situation and not something presently at issue, Respondents oppose, in part, the Petitioner's Motion, for the forgoing reasons. Respondents do not oppose Petitioner's request for the Court to stay legal proceedings in the event of incapacitation or death.

BACKGROUND

On March 4, 2024, Petitioner filed a Motion for Accommodations to be Granted in the Event of Plaintiff Suffering Incapacitating Injury and/or Death. In his Motion he outlines his disabilities in detail and his medical history of doctor visits and medical care for his disabilities. He also outlines the effort it takes to draft pleadings in this matter. While Respondents sympathize

with Petitioner, we respond in opposition due to the hypothetical nature of the request and certain requests being actions that the Court is not responsible for doing.

The requests the Petitioner has laid out in his Motion can be summarized as, in the event of Petitioner's incapacitation or death, the Court should: a) grant Summary Judgment in favor of Petitioner and apply harsh penalties to the health plans; b) if the Court does not grant Summary Judgment in favor of the Petitioner, than suspend or stay the legal proceedings of this case until adequate counsel can appear in the case and continuing litigating it; and 3) ascertain the cause of Petitioner's incapacitation or death by utilizing the specialized doctors Petitioner includes in his Motion.

ARGUMENT

I. The Motion Asks the Court to Provide Advisory Rulings on Hypothetical Situations.

The Court need not (and cannot) reach the merits of Plaintiff's motion. Tennessee courts "may not render advisory opinions based on hypothetical facts." *Colonial Pipeline Co. v. Morgan*, 263 S.W.3d 827, 838 (Tenn. 2008). From its title to its request for relief, Plaintiff's motion asks for relief "in the event of" Plaintiff's incapacitation or death. *See* Mot. at 1 ("Motion for Accommodations to be Granted *in the Event of* Plaintiff Suffering Incapacitating Injury and/or Death") (emphasis added); *see also id.* at 11 (asking the Court to "grant the following Accommodations to be implemented *in the event that*" Plaintiff suffers incapacitation or death"). Moreover, Plaintiff does not indicate any course of action that Respondents will take to merit judicial intervention even if the contingent events occur.

Accordingly, the Motion presents issues that are not ripe for adjudication. An issue is not ripe when it "involves uncertain or contingent future events that may or may not occur as anticipated or, indeed, may not occur at all." *B & B Enters. of Wilson Cnty., LLC v. City of*

Lebanon, 318 S.W.3d 839, 848 (Tenn. 2010). Here, the issue is not ripe under either prong of the doctrine’s “two-part inquiry.” *Id.* As indicated above, the issues presented in the motion are not “appropriate for judicial resolution” at this time. *Id.* at 849. Nor will the Court’s refusal to act at this time cause hardship to Plaintiff. *See id.* “The prototypical case of hardship comes from the claimant who faces a choice between immediately complying with a burdensome law or ‘risk[ing] serious criminal and civil penalties.’” *West v. Schofield*, 468 S.W.3d 482, 492 (Tenn. 2015) (quoting *Warshak v. United States*, 532 F.3d 521, 526 (6th Cir. 2008)). Accordingly, “a court should decline to rule ‘where the refusal to act will not prevent the parties from raising the issue at a more appropriate time.’” *State v. Price*, 579 S.W.3d 332, 339 (Tenn. 2019) (quoting *B & B Enters.*, 318 S.W.3d at 849. Here, there is no prejudice to Plaintiff if the presented issues are adjudicated at a later time.

ANALYSIS OF PETITIONER’S REQUESTS

1. Petitioner Has Not Filed a Motion for Summary Judgment/ This Case is Not in a Procedural Posture for a Summary Judgment Motion

Petitioner includes in his *Motion for Accommodation* a request that in the event that he becomes incapacitated or dies, before the Court has ruled a final judgment on this case, the Court will grant “summary judgment in favor of plaintiff against the defendants.” Here, Plaintiff has not filed a motion for summary judgment, nor would such a motion be appropriate at this stage. Summary judgment is not appropriate until “adequate time for discovery has been provided.” *Howell v. Chattanooga-Hamilton Cnty. Hosp. Auth.*, 663 S.W.3d 552, 558 (Tenn. Ct. App. 2022), appeal denied (Jan. 11, 2023). Here, Respondents have not yet answered or responded to the Petitioner’s initial *Petition for Judicial Review*, which was recently amended. Petitioner may seek summary judgment through an appropriate motion at the appropriate time.

2. Respondents Do Not Oppose a Stay on Legal Proceedings If Petitioner Becomes Incapacitated

The Petitioner's second request laid out in his Motion for Accommodation is a request that the Court "indefinitely suspend these legal proceedings until someone, in good faith with full intent, adequate resources, and the ability to seek justice for the incapacitated or deceased plaintiff, decides to finish litigation this case." Without waiving the Respondents' argument that the Petitioner does not have a right to an attorney, the Respondents would not oppose a *temporary* stay of legal proceedings, that the Court may see fit, if or until an attorney or successor-in-interest can represent Petitioner in the continuing proceedings of this case in the event he becomes incapacitated or dies.

3. The Court is Not in a Position to Ascertain the Incapacitation or Death of a Litigant

Respondents understand the Petitioner's third "request" laid out in his Motion for Accommodation to be a request for the Court to "determin[e his] cause of incapacitation or death." Such a request goes well beyond the authority of the Court, which is a judicial body and does not have investigative authority. Such issues are left to local health officials, law enforcement officers, or coroners as appropriate. The Petitioner "**advises**" the Court to seek out the certain medical professionals who may be able to ascertain the injury or death, however, the Respondents fail to see how this is related to the case at hand, nor how this request is timely in relation to the current procedural posture of the case.

CONCLUSION

As shown above, the Petitioner's Motion should be denied due to the requests not being ripe for judicial resolution.

Respectfully Submitted,

JONATHAN SKRMETTI
ATTORNEY GENERAL & REPORTER

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of this motion, memorandum in support, and all attached exhibits have been served via email and electronic filing on April 12, 2024, upon the following recipients:

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