

CLOSED,STAT-CONSENT,TRIAL-LINCOLN

**U.S. District Court
District of Nebraska (4 Lincoln)
CIVIL DOCKET FOR CASE #: 4:12-cv-03035-WKU-CRZ**

State of Nebraska et al v. United States Department of Health
and Human Services et al
Assigned to: Senior Judge Warren K. Urbom
Referred to: Magistrate Judge Cheryl R. Zwart
Case in other court: USCA-8th Circuit, 12-03238
Cause: 28:2201 Declaratory Judgement

Date Filed: 02/23/2012
Date Terminated: 07/17/2012
Jury Demand: None
Nature of Suit: 899 Other Statutes:
Administrative Procedures Act/Review or
Appeal of Agency Decision
Jurisdiction: U.S. Government Defendant

Plaintiff

State of Nebraska

*by and through, Jon C. Bruning,
Attorney General of the State of
Nebraska*

represented by **David D. Cookson**
ATTORNEY GENERAL'S OFFICE -
NEBRASKA
2115 State Capitol Building
P.O. Box 98920
Lincoln, NE 68509-8920
(402) 471-2682
Fax: (402) 471-3297
Email: david.cookson@nebraska.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Jon C. Bruning

ATTORNEY GENERAL'S OFFICE -
NEBRASKA
2115 State Capitol Building
P.O. Box 98920
Lincoln, NE 68509-8920
(402) 471-2683
Fax: (402) 471-3297
Email: kim.schwaninger@nebraska.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Katherine J. Spohn

ATTORNEY GENERAL'S OFFICE -
NEBRASKA
2115 State Capitol
Lincoln, NE 68509
(402) 471-2834
Fax: (402) 471-2957
Email: katie.spohn@nebraska.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

State of South Carolina

*by and through, Alan Wilson, Attorney
General of the State of South Carolina*

represented by **Katherine J. Spohn**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

State of Texas

*by and through, Greg Abbott, Attorney
General of the State of Texas*

represented by **Katherine J. Spohn**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

State of Ohio

*by and through, Mike DeWine, Attorney
General for the State of Ohio*

represented by **Katherine J. Spohn**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

State of Florida

*by and through, Pam Bondi, Attorney
General for the State of Florida*

represented by **Katherine J. Spohn**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

State of Oklahoma

*by and through, Scott Pruitt, Attorney
General for the State of Oklahoma*

represented by **Katherine J. Spohn**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Bill Schuette

*Attorney General of the State of
Michigan, on behalf of the People of
Michigan*

represented by **Katherine J. Spohn**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Sister Mary Catherine, CK
an individual

represented by **Rocky C. Weber**
CROSBY, GUENZEL LAW FIRM
134 South 13th Street
Suite 400
Lincoln, NE 68508
(402) 434-7300
Fax: (402) 434-7303
Email: rcw@crosbylawfirm.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Stacy Thomlison
an individual

represented by **Donald G. Blankenau**
BLANKENAU, WILMOTH LAW FIRM
206 South 13th Street
Suite 1425
Lincoln, NE 68508-2002
(402) 475-7080
Fax: (402) 475-7085
Email: don@aqualawyers.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Catholic Social Services
a Nebraska non-profit corporation

represented by **Rocky C. Weber**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Pius X Catholic High School
a Nebraska non-profit corporation

represented by **Rocky C. Weber**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Catholic Mutual Relief Society of America
a Nebraska non-profit corporation

represented by **Donald G. Blankenau**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

United States Department of Health and Human Services

represented by **Michelle R. Bennett**
 U.S. DEPARTMENT OF JUSTICE –
 FEDERAL PROGRAMS BRANCH
 20 Massachusetts Avenue, N.W.
 Room 7340
 Washington, DC 20001
 (202) 305-8902
 Fax: (202) 616-8470
 Email: michelle.bennett@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Kathleen Sebelius
in her official capacity as the Secretary of the United States Department of Health and Human Services

represented by **Michelle R. Bennett**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

United States Department of Treasury

represented by **Michelle R. Bennett**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Timothy F. Geithner
in his official capacity as the Secretary of the United States Department of the Treasury

represented by **Michelle R. Bennett**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

United States Department of Labor

represented by **Michelle R. Bennett**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Hilda L. Solis
in her official capacity as Secretary of the United States Department of Labor

represented by **Michelle R. Bennett**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/23/2012	<u>1</u>	COMPLAINT against Timothy F. Geithner, Kathleen Sebelius, Hilda L. Solis, United States Department of Health and Human Services, United States Department of Labor, United States Department of Treasury (Filing fee \$ 350, receipt number 0867-2220787), by Attorney Katherine J. Spohn on behalf of State of Ohio, State of Nebraska, State of Texas, State of Oklahoma, State of Florida, Bill Schuette, State of South Carolina(Spohn, Katherine) (Entered: 02/23/2012)

02/23/2012	<u>2</u>	TEXT NOTICE OF JUDGES ASSIGNED: Magistrate Judge Cheryl R. Zwart assigned. (TEL) (Entered: 02/23/2012)
02/23/2012	<u>3</u>	ATTORNEY LETTER by Clerk that Attorney Donald G. Blankenau has not paid the biennial assessment. If the requested action is not taken within fifteen (15) days of the date of this letter, this matter will be referred to the assigned magistrate judge for the entry of a show cause order. (TEL) (Entered: 02/23/2012)
02/23/2012	<u>4</u>	TEXT NOTICE REGARDING CORPORATE DISCLOSURE STATEMENT by Deputy Clerk as to Plaintiff Catholic Mutual Relief Society of America. Pursuant to Fed. R. Civ. P. 7.1, non-governmental corporate parties are required to file Corporate Disclosure Statements (Statements). The parties shall use the form Corporate Disclosure Statement, available on the Web site of the court at http://www.ned.uscourts.gov/forms/ . If you have not filed your Statement, you must do so within 15 days of the date of this notice. If you have already filed your Statement in this case, you are reminded to file a Supplemental Statement within a reasonable time of any change in the information that the statement requires. (TEL) (Entered: 02/23/2012)
02/23/2012	<u>5</u>	TEXT NOTICE REGARDING CORPORATE DISCLOSURE STATEMENT by Deputy Clerk as to Plaintiff Catholic Social Services. Pursuant to Fed. R. Civ. P. 7.1, non-governmental corporate parties are required to file Corporate Disclosure Statements (Statements). The parties shall use the form Corporate Disclosure Statement, available on the Web site of the court at http://www.ned.uscourts.gov/forms/ . If you have not filed your Statement, you must do so within 15 days of the date of this notice. If you have already filed your Statement in this case, you are reminded to file a Supplemental Statement within a reasonable time of any change in the information that the statement requires. (TEL) (Entered: 02/23/2012)
02/23/2012	<u>6</u>	TEXT NOTICE REGARDING CORPORATE DISCLOSURE STATEMENT by Deputy Clerk as to Plaintiff Pius X Catholic High School. Pursuant to Fed. R. Civ. P. 7.1, non-governmental corporate parties are required to file Corporate Disclosure Statements (Statements). The parties shall use the form Corporate Disclosure Statement, available on the Web site of the court at http://www.ned.uscourts.gov/forms/ . If you have not filed your Statement, you must do so within 15 days of the date of this notice. If you have already filed your Statement in this case, you are reminded to file a Supplemental Statement within a reasonable time of any change in the information that the statement requires. (TEL) (Entered: 02/23/2012)
02/24/2012	<u>7</u>	CORPORATE DISCLOSURE STATEMENT pursuant to Fed. R. Civ. P. 7.1 by Attorney Donald G. Blankenau on behalf of Plaintiff Catholic Mutual Relief Society of America.(Blankenau, Donald) (Entered: 02/24/2012)
02/24/2012	<u>8</u>	CORPORATE DISCLOSURE STATEMENT pursuant to Fed. R. Civ. P. 7.1 by Attorney Rocky C. Weber on behalf of Plaintiff Pius X Catholic High School.(Weber, Rocky) (Entered: 02/24/2012)
02/24/2012	<u>9</u>	CORPORATE DISCLOSURE STATEMENT pursuant to Fed. R. Civ. P. 7.1 by Attorney Rocky C. Weber on behalf of Plaintiff Catholic Social Services.(Weber, Rocky) (Entered: 02/24/2012)
02/28/2012	<u>10</u>	Summons Requested as to The Honorable Deborah R. Gilg regarding Complaint, <u>1</u> . (Spohn, Katherine) (Entered: 02/28/2012)
02/28/2012	<u>11</u>	Summons Requested as to The Honorable Eric Holder, Esq. regarding Complaint, <u>1</u> . (Spohn, Katherine) (Entered: 02/28/2012)
02/28/2012	<u>12</u>	Summons Requested as to The Honorable Kathleen Sebelius, Secretary regarding Complaint, <u>1</u> . (Spohn, Katherine) (Entered: 02/28/2012)
02/28/2012	<u>13</u>	Summons Requested as to The Honorable Hilda L. Solis, Secretary regarding Complaint, <u>1</u> . (Spohn, Katherine) (Entered: 02/28/2012)
02/28/2012	<u>14</u>	Summons Requested as to The Honorable Timothy Geithner, Secretary regarding Complaint, <u>1</u> . (Spohn, Katherine) (Entered: 02/28/2012)

02/28/2012	<u>15</u>	Summons Requested as to U.S. Department of Health and Human Services regarding Complaint, <u>1</u> . (Spohn, Katherine) (Entered: 02/28/2012)
02/28/2012	<u>16</u>	Summons Requested as to U.S. Department of Treasury regarding Complaint, <u>1</u> . (Spohn, Katherine) (Entered: 02/28/2012)
02/28/2012	<u>17</u>	Summons Requested as to U.S. Department of Labor regarding Complaint, <u>1</u> . (Spohn, Katherine) (Entered: 02/28/2012)
02/28/2012	<u>18</u>	Summons Issued as to defendants Timothy F. Geithner, Kathleen Sebelius, Hilda L. Solis, United States Department of Health and Human Services, United States Department of Labor, United States Department of Treasury, Deborah R. Gilg, and Eric Holder. YOU MUST PRINT YOUR ISSUED SUMMONS, WHICH ARE ATTACHED TO THIS DOCUMENT. PAPER COPIES WILL NOT BE MAILED. (TEL) (Entered: 02/28/2012)
04/16/2012	<u>19</u>	NOTICE <i>Summons Returned Executed</i> by Attorney Katherine J. Spohn on behalf of Plaintiff State of Nebraska (Spohn, Katherine) (Entered: 04/16/2012)
04/16/2012	<u>20</u>	SUMMONS Returned Executed upon defendant United States Department of Health and Human Services on 2/28/2012. (Spohn, Katherine) (Entered: 04/16/2012)
04/16/2012	<u>21</u>	SUMMONS Returned Executed upon defendant United States Department of Treasury on 2/28/2012. (Spohn, Katherine) (Entered: 04/16/2012)
04/16/2012	<u>22</u>	SUMMONS Returned Executed upon defendant Timothy F. Geithner on 2/28/2012. (Spohn, Katherine) (Entered: 04/16/2012)
04/16/2012	<u>23</u>	SUMMONS Returned Executed upon defendant United States Department of Labor on 2/28/2012. (Spohn, Katherine) (Entered: 04/16/2012)
04/16/2012	<u>24</u>	SUMMONS Returned Executed upon defendant Hilda L. Solis on 2/28/2012. (Spohn, Katherine) (Entered: 04/16/2012)
04/16/2012	<u>25</u>	SUMMONS Returned Executed upon <i>The Honorable Eric Holder, Esq.</i> defendant United States Department of Health and Human Services. (Spohn, Katherine) (Entered: 04/16/2012)
04/16/2012	<u>26</u>	SUMMONS Returned Executed upon <i>The Honorable Deborah R. Gilg, United States Attorney for the District of Nebraska</i> defendant United States Department of Health and Human Services. (Spohn, Katherine) (Entered: 04/16/2012)
04/16/2012	<u>27</u>	SUMMONS Returned Executed upon defendant Kathleen Sebelius on 2/28/2012. (Spohn, Katherine) (Entered: 04/16/2012)
04/17/2012	28	TEXT NOTICE OF INCORRECT EVENT used when filing the Summons Returned Executed filings <u>20 21 22 23 24 25 26</u> and <u>27</u> by Deputy Clerk. In the future, use the event Summons Returned Executed as to USA.(GJG) (Entered: 04/17/2012)
04/30/2012	<u>29</u>	NOTICE of Appearance by Attorney Michelle R. Bennett on behalf of Defendants Timothy F. Geithner, Kathleen Sebelius, Hilda L. Solis, United States Department of Health and Human Services, United States Department of Labor, United States Department of Treasury (Bennett, Michelle) (Entered: 04/30/2012)
04/30/2012	<u>30</u>	MOTION to Dismiss by Attorney Michelle R. Bennett on behalf of Defendants Timothy F. Geithner, Kathleen Sebelius, Hilda L. Solis, United States Department of Health and Human Services, United States Department of Labor, United States Department of Treasury.(Bennett, Michelle) (Entered: 04/30/2012)
04/30/2012	<u>31</u>	BRIEF in support of MOTION to Dismiss <u>30</u> by Attorney Michelle R. Bennett on behalf of Defendants Timothy F. Geithner, Kathleen Sebelius, Hilda L. Solis, United States Department of Health and Human Services, United States Department of Labor, United States Department of Treasury.(Bennett, Michelle) (Entered: 04/30/2012)
05/03/2012	<u>32</u>	MEMORANDUM AND ORDER regarding defendants MOTION to Dismiss <u>30</u> . The above-captioned action was randomly assigned to the undersigned magistrate judge for final disposition. To avoid any delay in ruling on the pending motion, if

		the parties consent to final disposition of the case by the undersigned magistrate judge, on or before May 24, 2012, they shall e-mail a consent form to the Clerk. In the absence of timely submitting the attached form in accordance with paragraph (1) of this order, the case will be reassigned to a district judge. Ordered by Magistrate Judge Cheryl R. Zwart. (JAB) (Entered: 05/03/2012)
05/24/2012	<u>33</u>	BRIEF in opposition to MOTION to Dismiss <u>30</u> by Attorney Katherine J. Spohn on behalf of Plaintiffs Sister Mary Catherine, CK, Catholic Mutual Relief Society of America, Catholic Social Services, Stacy Molai, Pius X Catholic High School, Bill Schuette, State of Florida, State of Nebraska, State of Ohio, State of Oklahoma, State of South Carolina, State of Texas.(Spohn, Katherine) (Entered: 05/24/2012)
05/25/2012	<u>34</u>	REASSIGNMENT ORDER – This case is reassigned to Senior Judge Warren K. Urbom for disposition and assigned to Magistrate Judge Magistrate Judge Cheryl R. Zwart for judicial supervision and processing of all pretrial matters. Ordered by Chief Judge Laurie Smith Camp. (AOA) (Entered: 05/25/2012)
05/30/2012	<u>35</u>	Unopposed MOTION to Extend <i>Time to File Reply Brief</i> by Attorney Michelle R. Bennett on behalf of Defendants Timothy F. Geithner, Kathleen Sebelius, Hilda L. Solis, United States Department of Health and Human Services, United States Department of Labor, United States Department of Treasury.(Bennett, Michelle) (Entered: 05/30/2012)
06/04/2012	<u>36</u>	ORDER granting <u>35</u> Defendants' Motion for an Extension of Time to File Reply Brief. The defendants shall have on or before June 13, 2012, to file and serve their reply brief. Ordered by Senior Judge Warren K. Urbom. (EJL) (Entered: 06/04/2012)
06/13/2012	<u>37</u>	REPLY BRIEF in support of MOTION to Dismiss <u>30</u> by Attorney Michelle R. Bennett on behalf of Defendants Timothy F. Geithner, Kathleen Sebelius, Hilda L. Solis, United States Department of Health and Human Services, United States Department of Labor, United States Department of Treasury.(Bennett, Michelle) (Entered: 06/13/2012)
07/17/2012	<u>38</u>	MEMORANDUM AND ORDER granting the Defendants' <u>30</u> Motion to Dismiss. The Plaintiff's complaint is dismissed without prejudice. Ordered by Senior Judge Warren K. Urbom. (MKR) (Entered: 07/17/2012)
07/17/2012	<u>39</u>	JUDGMENT in accordance with the Memorandum and Order on Motion to Dismiss <u>38</u> . Judgment is entered in favor of the defendants and against the plaintiffs, and the plaintiffs complaint is dismissed without prejudice. Ordered by Senior Judge Warren K. Urbom. (MKR) (Entered: 07/17/2012)
09/14/2012	<u>40</u>	NOTICE OF APPEAL regarding Judgment, Terminated Case,, <u>39</u> , Order on Motion to Dismiss <u>38</u> by Attorney Katherine J. Spohn on behalf of Plaintiffs Sister Mary Catherine, CK, Catholic Mutual Relief Society of America, Catholic Social Services, Stacy Molai, Pius X Catholic High School, Bill Schuette, State of Florida, State of Nebraska, State of Ohio, State of Oklahoma, State of South Carolina, State of Texas. Filing fee \$ 455, receipt number 0867-2345384. (Spohn, Katherine) (Entered: 09/14/2012)
09/14/2012	<u>41</u>	REQUEST FOR TRANSCRIPT before Senior Judge Warren K. Urbom <i>No</i> (Spohn, Katherine) (Entered: 09/14/2012)
09/20/2012	<u>42</u>	MOTION CHANGE INDIVIDUAL PLAINTIFFS SURNAME by Attorney Katherine J. Spohn on behalf of Plaintiffs Sister Mary Catherine, CK, Catholic Mutual Relief Society of America, Catholic Social Services, Stacy Molai, Pius X Catholic High School, Bill Schuette, State of Florida, State of Nebraska, State of Ohio, State of Oklahoma, State of South Carolina, State of Texas.(Spohn, Katherine) (Entered: 09/20/2012)
09/21/2012	<u>43</u>	MEMORANDUM AND ORDER granting <u>42</u> Motion to Change Individual Plaintiff's Surname. The clerk shall modify the docket to reflect that the name of individual Plaintiff Stacy Molai has been changed to Thomlison. Ordered by Magistrate Judge Cheryl R. Zwart. (MKR) (Entered: 09/24/2012)

09/24/2012	<u>44</u>	NOTIFICATION OF APPEAL AND NOA SUPPLEMENT by Clerk to USCA regarding Notice of Appeal to USCA, <u>40</u> , Judgment <u>39</u> , Memorandum and Order on Motion to Dismiss <u>38</u> . Notice of Appeal filed on 9/14/2012 by Plaintiffs Sister Mary Catherine, CK, Catholic Mutual Relief Society of America, Catholic Social Services, Pius X Catholic High School, Bill Schuette, State of Florida, State of Nebraska, State of Ohio, State of Oklahoma, State of South Carolina, State of Texas, Stacy Thomlison. (MKR) (Entered: 09/24/2012)
09/25/2012	<u>45</u>	SCHEDULING LETTER from USCA – 8th Circuit [12–3238] as to Notice of Appeal to USCA, <u>40</u> . (Attachments: # <u>1</u> letter)(MKR) (Entered: 09/25/2012)
08/21/2013	<u>46</u>	COPY of Judgment from USCA – 8th Circuit [12–3238] Appellants' motion to dismiss the appeal is granted. The appeal is hereby dismissed in accordance with the Federal Rules of Appellate Procedure 49b0. The court's mandate shall issue forthwith. (MKR) (Entered: 08/21/2013)
08/21/2013	<u>47</u>	MANDATE/JUDGMENT from USCA – 8th Circuit [12–3238] In accordance with the judgment of 08/21/2013, and pursuant to the provisions of Federal Rule of Appellate Procedure 41(a), the formal mandate is hereby issued in the above–styled matter regarding Notice of Appeal to USCA, <u>40</u> . (MKR) (Entered: 08/21/2013)