

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

**LINCOLN NATIONAL LIFE INSURANCE
COMPANY,**
Plaintiff-Appellee,

v.

**TRANSAMERICA LIFE INSURANCE COMPANY,
WESTERN RESERVE LIFE ASSURANCE CO. OF
OHIO, and TRANSAMERICA FINANCIAL LIFE
INSURANCE COMPANY,**
Defendants-Appellants.

2010-1257

Appeal from the United States District Court for the
Northern District of Iowa in 06-CV-0110, Judge Mark W.
Bennett.

ON MOTION

O R D E R

Transamerica life Insurance Company et al. (Trans-
america) submits a response pursuant to the court's July
15, 2010 order and moves the court to continue the stay of
briefing in this appeal until either Lincoln National Life

Insurance Company informs the court and Transamerica that it does not intend to petition the United States Supreme Court for certiorari or the Supreme Court rules on Lincoln's petition in *Lincoln Nat'l Life Ins. Co. v. Transamerica Life Ins. Co.*, 2009-1403, -1491. Transamerica states that Lincoln consents.

Transamerica states that the present appeal concerns enforcement of a permanent injunction entered against Transamerica, and that in *Lincoln Nat'l Life Ins. Co. v. Transamerica Life Ins. Co.*, 2009-1403, -1491, the underlying injunction was vacated. On July 15, 2010 this court stayed proceedings in this appeal pending issuance of the mandate in *Lincoln Nat'l Life Ins. Co. v. Transamerica Life Ins. Co.*, 2009-1403, -1491. The mandate in that appeal issued on September 24, 2010. Transamerica states that the vacatur of the permanent injunction in *Lincoln Nat'l Life Ins. Co. v. Transamerica Life Ins. Co.*, 2009-1403, -1491 moots this appeal but that it wishes to preserve its right to prosecute this appeal in the event that Lincoln files a certiorari petition. Under these circumstances, the court agrees that a stay is warranted.

Accordingly,

IT IS ORDERED THAT:

The motion is granted. Transamerica is directed to file a status report every 60 days concerning whether a certiorari petition has been filed and, if so, the status of any petition. Lincoln may also file status reports within that time.

FOR THE COURT

NOV 18 2010

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: D. Randall Brown, Esq.
Steven M. Bauer, Esq.

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FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

NOV 18 2010

JAN HORBALY
CLERK