

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

JANICE PENN

Plaintiff

V.

THE UNITED STATES OF AMERICA

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NO: 4:10CV01145 SWW

ORDER

Plaintiff Janice Penn brings this action under the Federal Tort Claims Act (“FTCA”) against the United States of America. Before the Court is the United States’ unopposed motion for a stay in lieu of answer (docket entry #3). After careful consideration, the motion is granted.

Plaintiff, an employee of the Department of Veteran Affairs (“DVA”), seeks damages for personal injury and property damage allegedly sustained as a result of a motor vehicle accident involving another DVA employee. The United States reports that Plaintiff has filed an administrative claim with the Department of Labor, Office of Workers’ Compensation Programs (“OWCP”), which is currently on appeal. According to the United States, a stay in this case is warranted because the outcome of Plaintiff’s administrative claim could render this action moot. *See Pourier v. United States*, 138 F.3d 1267, 1268 (8th Cir.1998)(holding that where the Federal Employees Compensation Act provides a remedy, district court lacks subject matter jurisdiction over a plaintiff’s claims under the Federal Tort Claims Act). The United States reports that it has conferred with Plaintiff’s counsel and that Plaintiff does not object to a stay.

IT IS THEREFORE ORDERED that Defendant's motion for a stay in lieu of answer (docket entry #3) is GRANTED. This action is STAYED until Plaintiff's administrative appeal is complete.

IT IS FURTHER ORDERED that the parties must file a joint progress report within ten days from the conclusion of the underlying administrative appeals process.

IT IS SO ORDERED THIS 25TH DAY OF OCTOBER, 2010.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE