

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**RURAL WATER DISTRICT NO. 4,** )  
**DOUGLAS COUNTY, KANSAS** )  
) )  
**Plaintiff,** )  
) )  
**vs.** )  
) )  
**CITY OF EUDORA, KANSAS,** )  
) )  
**Defendant.** )  
\_\_\_\_\_ )

**Case No. 07-2463-JAR**

**MEMORANDUM AND ORDER DENYING  
MOTION TO DELAY ENTRY OF ORDER OF FINAL JUDGMENT**

On July 1, 2013, the Tenth Circuit Court of Appeals entered its opinion in *Rural Water Dist. No. 4, Douglas County, Kansas v. City of Eudora, Kansas*.<sup>1</sup> The Tenth Circuit subsequently denied Douglas-4's request for panel rehearing and/or rehearing *en banc*, and the mandate issued on August 5, 2013.<sup>2</sup> In its order, the Tenth Circuit directed this Court to "enter summary judgment in Eudora's favor on the question of whether Douglas-4's USDA guarantee was 'necessary to carry out the purposes of its organization' and otherwise proceed in a manner consistent with this opinion."<sup>3</sup> On August 6, 2013, this Court requested that Eudora, as the prevailing party, submit a proposed order in accordance with the Tenth Circuit's mandate. In a series of emails with the Court, Eudora submitted a proposed order and Douglas-4 objected to

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<sup>1</sup>720 F.3d 1269 (10th Cir. 2013).

<sup>2</sup>Doc. 498.

<sup>3</sup>*Rural Water*, 720 F.3d at 1281.

that proposed order, leaving the Court to settle the journal entry per D. Kan. Rule 58.1.<sup>4</sup>

This matter is before the Court on Douglas-4's separate Motion to Delay Entry of Order of Final Judgment (Doc. 499). Douglas-4 seeks to delay entry of the order and judgment on remand on the grounds that its Board of Directors is presently considering a writ of certiorari to the United States Supreme Court. Douglas-4 has apparently filed its request with this Court in lieu of following established appellate procedure and seeking a stay of the mandate pending the filing of a petition for certiorari with the Tenth Circuit.<sup>5</sup> Fed. R. App. P. 41(d)(2) states that to obtain such a stay, a party "must show that the certiorari petition would present a substantial question and that there is good cause for a stay." Similarly, Tenth Circuit Rule 41.1(B) states that a party must show that "there is a substantial possibility that a petition for writ of certiorari would be granted." Even if its motions were properly before this Court, Douglas-4 does not set forth any of the requisite grounds for obtaining a stay of the mandate. Accordingly, Douglas-4's request is denied; after having reviewed the proposed order and objections thereto, the Court will enter judgment forthwith.

**IT IS THEREFORE ORDERED** that Douglas-4's Motion to Delay Entry of Order of Final Judgment (Doc. 499) is DENIED.

**IT IS SO ORDERED.**

**Dated: September 5, 2013**

**S/ Julie A. Robinson**  
**JULIE A. ROBINSON**  
**UNITED STATES DISTRICT JUDGE**

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<sup>4</sup>See D. Kan. Rule 58.1 (stating if the attorneys cannot agree as to the form of the journal entry, the court will settle the journal entry).

<sup>5</sup>To date, Douglas-4 has not filed a motion for stay of the mandate in Tenth Circuit appeal no. 12-3197.

