

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEBRASKA

ACS STATE HEALTHCARE, LLC, a )  
Delaware Limited Liability )  
Company, )

Plaintiff, )

4:08CV3021

v. )

DAVID HEINEMAN, in his official )  
capacity as GOVERNOR OF THE )  
STATE OF NEBRASKA; JON BRUNING, )  
in his official capacity as )  
ATTORNEY GENERAL OF THE STATE )  
OF NEBRASKA; CARLOS CASTILLO, )  
in his official capacity as )  
DIRECTOR, DEPARTMENT OF )  
ADMINISTRATIVE SERVICES; )  
CHRISTINE PETERSON, CEO OF THE )  
DEPARTMENT OF HEALTH & HUMAN )  
SERVICES; and STEVE SULEK, in )  
his official capacity as ACTING )  
MATERIAL DIVISION ADMINISTRATOR, )

ORDER

Defendants, )

FOURTHOUGHT GROUP, INC., )

Defendant-Intervenor. )  
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This matter is before the Court on plaintiff's motion to dismiss state defendants without prejudice and to lift the stay of discovery (Filing No. 160) and on the state defendants' motion for judgment on the pleadings (Filing No. 152). The plaintiff brings its motion pursuant to Fed. R. Civ. P. 41(a)(2). The Court notes that the state defendants do not oppose plaintiff's motion to dismiss and finds that they will suffer no legal prejudice as a result of the dismissal. Accordingly,

IT IS ORDERED:

1) Plaintiff's motion to dismiss state defendants without prejudice and to lift the stay of discovery (Filing No. 160) is granted; counts one and two of the plaintiff's second amended complaint and defendants David Heineman, Jon Bruning, Carlos Castillo, Christine Peterson, and Steve Sulek are dismissed without prejudice; the remaining parties may resume discovery.

2) State defendants' motion for judgment on the pleadings (Filing No. 152) is denied as moot.

DATED this 19th day of November, 2008.

BY THE COURT:

/s/ Lyle E. Strom

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LYLE E. STROM, Senior Judge  
United States District Court