

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

| | | |
|---------------------------------|---|-------------------------------|
| McComb Children’s Clinic, LTD., |) | |
| |) | |
| <i>Plaintiff,</i> |) | |
| |) | |
| v. |) | Case No. 5:24-cv-00048-LG-ASH |
| |) | |
| Xavier Becerra, et al., |) | ORAL ARGUMENT REQUESTED |
| |) | |
| <i>Defendants.</i> |) | |

**MCCOMB CHILDREN’S CLINIC, LTD’S
RESPONSE IN OPPOSITION TO DEFENDANTS’ MOTION TO DISMISS**

Plaintiff McComb Children’s Clinic, LTD. (“MCC”) request that the Court deny Defendants’ Motion to Dismiss [ECF 35] and in support state as follows:

1. On September 30, 2024, Defendants filed their Motion to Dismiss [ECF 35] and Supporting Memorandum [ECF 36] seeking to dismiss MCC’s Complaint for two reasons, neither of which support dismissal.
2. First, Defendants assert that MCC’s claim, and suit, is precluded by *Neese v. Becerra*, 640 F. Supp. 3d 668 (N.D. Tex. Nov. 22, 2022). This Court has rejected this argument three times and *Neese v. Becerra* does not stop challenges to the Rule from moving forward.
3. Second, Defendants argue that MCC’s case should be dismissed because similar case exist for other Plaintiffs. But there is no doctrine dismissing a plaintiff’s case because other people sued elsewhere.
4. MCC’s Response is based on its supporting Memorandum.

Relief Requested

For these reasons, McComb Children's Clinic, LTD request that Defendant's motion to Dismiss be denied.

This, the 23rd day of October, 2024.

Respectfully submitted,

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