

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
BID PROTEST**

**CONTINENTAL SERVICES)
GROUP, INC. and PIONEER CREDIT)
RECOVERY, INC.,)**

Plaintiffs,)

**PERFORMANT RECOVERY, INC.,)
COLLECTION TECHNOLOGY, INC.,)
ALLTRAN EDUCATION, INC., and)
PROGRESSIVE FINANCIAL,)
SERVICES, INC.,)**

Intervenor-Plaintiffs,)

v.)

UNITED STATES OF AMERICA,)

Defendant,)

**CBE GROUP, INC., PREMIERE)
CREDIT OF NORTH AMERICA, LLC,)
GC SERVICES LTD. PARTNERSHIP,)
FINANCIAL MANAGEMENT SYSTEMS,)
INC, VALUE RECOVERY HOLDINGS,)
LLC, WINDHAM PROFESSIONALS,)
INC., and AUTOMATED COLLECTION)
SERVICES, INC.,)**

Intervenor-Defendants.)

**Nos. 17-449, 17-499,
17-493, 17-517, 17-578,
17-558, 17-633
Consolidated
Judge Thomas C. Wheeler**

**PLAINTIFF PROGRESSIVE FINANCIAL SERVICES, INC.’S
MOTION FOR EMERGENCY RELIEF/TEMPORARY RESTRAINING ORDER**

Progressive seeks emergency relief and/or a temporary restraining order and requests the Court’s intervention and immediate action to prevent the recall of Progressive’s “in-repayment” accounts until Progressive can obtain clarification and/or amendment of a written Order issued by the United States Court of Appeals for the Federal Circuit. On December 8, 2017, the United

States Court of Appeals for the Federal Circuit (“CAFC”) issued an Order granting, in part, Defendant United States of America’s (acting through the U.S. Department of Education, or “ED”) and Defendant-Intervenor Alltran Education, Inc.’s (“Alltran”) Motions to Stay the Injunction Pending Appeal. Specifically, the CAFC held:

Appellants’ requests are DENIED insofar as the preliminary injunction enjoined “authorizing the purported awardees to perform on the contract awards under Solicitation No. ED-FSA-16-R-0009.” Appellants’ requests are GRANTED insofar as the preliminary injunction enjoined “transferring work to be performed under the contract at issue in this case to other contracting vehicles to circumvent or moot this bid protest.”

Order, Dec. 8, 2017, attached as Exhibit A. Despite the discussion at oral argument and ruling from the bench, the written Order issued by the CAFC failed to distinguish between the recall of Progressive’s “in-repayment” accounts, and the potential dilution of the protesters’ awards and transfer of work to other contracting vehicles. Progressive does not believe the CAFC’s Order applies to the issue of recall of Progressive’s “in-repayment” accounts. Progressive believes, however, based on previous conversations with ED and the long history of Progressive’s pending protest, that ED will interpret the CAFC’s Order as granting *carte blanche* authority to immediately recall Progressive’s “in-repayment” accounts, which would irreparably harm Progressive by effectively mooting its entire protest against the recall of those accounts. Accordingly, Progressive has filed an Emergency Motion to Clarify/Amend The Court’s December 8, 2017 Order to confirm that the CAFC’s Order does not apply to that part of the injunction prohibiting the recall of Progressive’s “in-repayment” accounts prior to resolution of its protest. Exhibit B, Emergency Motion to Clarify/Amend The Court’s December 8, 2017 Order.

The purpose of this Motion for Emergency Relief/Temporary Restraining Order is to seek a temporary restraining order to allow Progressive to retain its “in-repayment” accounts until the

CAFC issues its ruling on Progressive's Emergency Motion to Clarify/Amend and/or this Court rules on the merits of Progressive's protest. Should ED indicate that it will refrain from seeking to recall Progressive's "in-repayment" accounts until Progressive's protest is resolved, Progressive will withdraw this Motion and request for a TRO.

I. Allowing ED To Recall Accounts Would Prematurely Moot Progressive's Protest

As detailed in previous briefing before this Court, Progressive's distinct protest challenges the nature and scope of ED's *corrective action*, primarily ED's attempted recall of "in-repayment" accounts during its corrective action process, and the unequal treatment of Progressive that would flow from any recall of its "in-repayment" accounts.¹ (No. 17-558, ECF 45; ECF 46.) Progressive was one of several protesters who prevailed before the U.S. Government Accounting Office ("GAO"). But for the myriad errors in ED's evaluation of offers for student loan debt collection services, Progressive would likely have been awarded a new private collection agency ("PCA") contract, and its "in-repayment" accounts would not have been subject to recall, but would, instead, be retained as part of its new contract.

Progressive filed its Protest in this Court only after ED notified the Court that ED intended to recall Progressive's "in-repayment" accounts on April 18, 2017, seeking to preserve the *status quo* until ED finalized its corrective action and made a new award decision. (No. 17-558, ECF 45.) As this Court previously recognized, "but-for the ED's alleged errors during the procurement process . . . Progressive might have received contracts on December 9, 2016, under which they could continue to service their prior accounts." (No. 17-558, ECF 50 at 2.) The preliminary injunctions issued by this Court after Progressive filed its initial Complaint and

¹ Progressive adopts the arguments in its Amended and Renewed Motion for Temporary Restraining Order and/or Preliminary Injunction and Memorandum in Support (No. 17-558, ECF 46, ECF 46-2) regarding the factors for injunctive relief, and incorporates them herein.

Motion for Temporary Restraining Order and/or Preliminary Injunction were intended to address the varying interests and maintain the *status quo* at the time of filing. For Progressive specifically, this included Progressive's retention of all of its "in-repayment" accounts until ED completed its corrective action. Like the awardees of the protested contract, if Progressive had received an award, it would be able to retain those "in-repayment" accounts as part of its new contract.

ED has indicated that it would recall all of Progressive's "in-repayment" accounts, but for this Court's preliminary injunctions, and in fact, asked the Court to modify its May 31, 2017 preliminary injunction so that it could recall some "in-repayment" accounts for borrowers potentially affected by Hurricane Harvey. (*See* No. 17-449, ECF 191.)

If allowed to recall Progressive's accounts, ED would effectively circumvent or moot Progressive's protest and irreparably harm Progressive, and would deprive Progressive of an opportunity to fully perform a government contract and would diminish its future contract award. Progressive will lose accounts it would otherwise retain, due solely to ED's flawed procurement process and failure to postpone the recall of accounts as part of its corrective action. Moreover, any effort by ED to recall Progressive's accounts would be particularly unreasonable in light of the relatively short time period before the Agency claims it will complete its corrective action.

Most significantly, given the nature of Progressive's protest, the gravamen of which is prevention of the recall of its accounts, if the Court were to allow such action, ED would have free rein to recall **all of Progressive's accounts**, which would provide ED with the same result as it seeks through its Motion to Dismiss, but without having to prevail on the merits of that Motion.

Progressive's protest seeks to prevent the recall of its "in-repayment" accounts until ED completes its corrective action and makes proper contract awards. Based on the subject of the oral argument before the CAFC, which focused on "dilution" and the Preliminary Injunction's harm to small business interests, Progressive does not believe that the CAFC intended for ED to begin to recall Progressive's "in-repayment" accounts. To that end, Progressive has filed an Emergency Motion to Clarify/Amend seeking clarification from the CAFC to confirm that the December 8, 2017 Order does not apply to that part of the injunction prohibiting the recall of Progressive's "in-repayment" accounts prior to resolution of its protest. *See* Exhibit B, Emergency Motion to Clarify/Amend The Court's December 8, 2017 Order.

II. The Balance of Hardships To The Respective Parties Favors The Grant of Temporary Injunctive Relief

ED and the Defendant-Intervenors will suffer little, if any, harm by prohibiting recall until the CAFC rules on Progressive's Motion. On the other hand, if the Court allows ED to move forward with its plan to recall Progressive's "in-repayment" accounts, then Progressive will have lost the opportunity to compete on an open and level playing field in any future procurement or reprocurement. Any future proposal will need to include the overhead costs to re-migrate accounts back (if that option is even made available to the Progressive—which ED has indicated is unlikely) thereby increasing the price to perform under any future award, placing it at a severe disadvantage by eliminating any advantage it would have as an incumbent.

If ED had conducted a proper procurement, Progressive would likely already have a follow-on contract award. And, having won its bid protest at GAO, with one of the highest overall ratings, among the original group of protesters, it is likely to win an award after ED completes its re-evaluation process. Particularly given that Progressive won its protest, it is unreasonable, arbitrary and capricious, and contrary to basic procurement laws and regulations

like the Competition in Contracting Act, to allow ED to diminish Progressive's future contract award by recalling accounts it would otherwise retain on its new contract, all because ED failed to conduct a proper procurement. That would, in effect, punish Progressive for ED's failure to timely award a new contract, and now, failing to complete its proposed corrective action in a timely manner. Further, because the CAFC is expected to rule on Progressive's Motion within a matter of days, no other party will be irreparably harmed by the Court's issuance of a Temporary Restraining Order prohibiting the recall of Progressive's "in-repayment" accounts until the CAFC rules.

Indeed, this Court has often prevented the Government from violating the automatic stay or simply ensured the *status quo* until a protest is resolved. That is all that Progressive seeks; that, as a winning protester, its rights are not injured while waiting for the CAFC's clarification on its Order, and, ultimately, a ruling on the merits of its protest in this Court. ED's recall, which could be implemented as early as *this weekend*, threatens to irreparably harm Progressive even further, and, therefore, Progressive prays that the Court grant its request for emergency relief and/or issue a temporary restraining order to prevent ED from recalling Progressive's "in-repayment" accounts until its protest is resolved.

Date: December 8, 2017

Respectfully submitted,

PROGRESSIVE FINANCIAL SERVICES, INC.

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Exhibit A

NOTE: This order is nonprecedential.

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

CONTINENTAL SERVICE GROUP, INC.,
Plaintiff-Appellee

PIONEER CREDIT RECOVERY, INC.,
Plaintiff-Appellant

COLLECTION TECHNOLOGY, INC.,
Intervenor-Plaintiff

PROGRESSIVE FINANCIAL SERVICES, INC.,
Intervenor-Plaintiff-Appellee

ALLTRAN EDUCATION, INC.,
Intervenor-Plaintiff-Appellant

v.

UNITED STATES,
Defendant-Appellant

**CBE GROUP, INC., PREMIERE CREDIT OF
NORTH AMERICA, LLC, GC SERVICES LIMITED
PARTNERSHIP, FMS INVESTMENT CORP.,
VALUE RECOVERY HOLDINGS, LLC, WINDHAM
PROFESSIONALS, INC., AUTOMATED
COLLECTION SERVICES, INC.,**
Intervenor-Defendants

ACCOUNT CONTROL TECHNOLOGY, INC.,
Plaintiff

v.

UNITED STATES,
Defendant-Appellant

**PREMIERE CREDIT OF NORTH AMERICA, LLC,
GC SERVICES LIMITED PARTNERSHIP, FMS
INVESTMENT CORP., VALUE RECOVERY
HOLDINGS, LLC, CBE GROUP, INC., AUTOMATED
COLLECTION SERVICES, INC., WINDHAM
PROFESSIONALS, INC., TEXAS GUARANTEED
STUDENT LOAN CORP.,**
Intervenor-Defendants

ALLTRAN EDUCATION, INC.,
Intervenor-Defendant-Appellant

ALLTRAN EDUCATION, INC.,
Plaintiff-Appellant

v.

UNITED STATES,
Defendant-Appellant

**PREMIERE CREDIT OF NORTH AMERICA, LLC,
GC SERVICES LIMITED PARTNERSHIP, FMS
INVESTMENT CORP., CBE GROUP, INC., VALUE
RECOVERY HOLDINGS, LLC, WINDHAM
PROFESSIONALS, INC.,**
Intervenor-Defendants

PROGRESSIVE FINANCIAL SERVICES, INC.,
Plaintiff-Appellee

**PERFORMANT RECOVERY, INC., COLLECTION
TECHNOLOGY, INC., VAN RU CREDIT
CORPORATION, ALLIED INTERSTATE LLC,**
Intervenor-Plaintiffs

v.

UNITED STATES,
Defendant-Appellant

**PREMIERE CREDIT OF NORTH AMERICA, LLC,
GC SERVICES LIMITED PARTNERSHIP,**
Intervenor-Defendants

ALLTRAN EDUCATION, INC.,
Intervenor-Defendant-Appellant

COLLECTION TECHNOLOGY, INC.,
Plaintiff

PROGRESSIVE FINANCIAL SERVICES, INC.,
Intervenor-Plaintiff-Appellee

v.

UNITED STATES,
Defendant-Appellant

**CBE GROUP, INC., PREMIERE CREDIT OF
NORTH AMERICA, LLC,**
Intervenor-Defendants

ALLTRAN EDUCATION, INC.,

Intervenor-Defendant-Appellant

VAN RU CREDIT CORPORATION,
Plaintiff

PROGRESSIVE FINANCIAL SERVICES, INC.,
Intervenor-Plaintiff-Appellee

v.

UNITED STATES,
Defendant-Appellant

PREMIERE CREDIT OF NORTH AMERICA, LLC,
Intervenor-Defendant

ALLTRAN EDUCATION, INC.,
Intervenor-Defendant-Appellant

2017-2155, 2017-2156, 2017-2157, 2017-2158, 2017-2159,
2017-2160, 2017-2210, 2017-2212, 2017-2214, 2017-2215,
2017-2216, 2017-2221, 2017-2342

Appeals from the United States Court of Federal
Claims in Nos. 1:17-cv-00449-SGB, 1:17-cv-00493-SGB,
1:17-cv-00499-SGB, 1:17-cv-00517-SGB, 1:17-cv-00558-
SGB, 1:17-cv-00578-SGB, 1:17-cv-00633-SGB, Chief
Judge Susan G. Braden.

PER CURIAM.

ORDER

Currently before the court are appeals from the United States Court of Federal Claims' May 31, 2017, preliminary injunction order. The case was argued on December 8, 2017.

Shortly after the Court of Federal Claims' May 31, 2017, preliminary injunction order, appellants filed in that court a motion to stay the injunction pending appeal. On June 19, 2017, appellants filed an emergency motion for stay pending appeal in this court. On July 18, 2017, this court determined to hold appellants' motions in abeyance until the Court of Federal Claims ruled on appellants' motions for stay pending appeal in that court. However, the Court of Federal Claims took no action on the motions until October 31, 2017, when it denied the motions after this court instructed the parties to inquire as to why there had not yet been a ruling.

On November 8, 2017, this court denied without prejudice the motions in this court to stay the preliminary injunction pending appeal and instructed the parties to file replacement briefs, which were to include any renewed requests for stay pending appeal. In their amended opening briefs, appellants again requested that this court stay the Court of Federal Claims' May 31, 2017, preliminary injunction order.

This court considers four factors in evaluating a request for a stay pending appeal: (1) whether the stay applicant has made a strong showing of likelihood of success on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies. *See Hilton v. Braunskill*, 481 U.S. 770, 776 (1987).

Upon consideration thereof,

IT IS ORDERED THAT:

Appellants' requests are DENIED insofar as the preliminary injunction enjoined "authorizing the purported awardees to perform on the contract awards under Solicitation No. ED-FSA-16-R-0009." Appellants' requests are GRANTED insofar as the preliminary injunction enjoined "transferring work to be performed under the contract at issue in this case to other contracting vehicles to circumvent or moot this bid protest."

FOR THE COURT

December 8, 2017

Date

/s/ Peter R. Marksteiner

Peter R. Marksteiner
Clerk of Court

Exhibit B

**United States Court Of Appeals
For The Federal Circuit**

CONTINENTAL SERVICE GROUP, INC.,
Plaintiff-Appellee

PIONEER CREDIT RECOVERY, INC.,
Plaintiff-Appellant

COLLECTION TECHNOLOGY, INC.,
Intervenor-Plaintiff

PROGRESSIVE FINANCIAL SERVICES, INC.,
Intervenor-Plaintiffs-Appellee

ALLTRAN EDUCATION, INC.,
Intervenor-Plaintiff-Appellant

v.

UNITED STATES,
Defendant-Appellant

**CBE GROUP, INC., PREMIERE CREDIT OF
NORTH AMERICA, LLC, GC SERVICES LIMITED
PARTNERSHIP, FMS INVESTMENT CORP,
VALUE RECOVERY HOLDINGS, LLC,
WINDHAM PROFESSIONALS, INC., AUTOMATED
COLLECTION SERVICES, INC.,**
Intervenor-Defendants

ACCOUNT CONTROL TECHNOLOGY, INC.,
Plaintiff

v.

UNITED STATES,
Defendant-Appellant

**PREMIERE CREDIT OF NORTH AMERICA, LLC,
GC SERVICES LIMITED PARTNERSHIP, FMS
INVESTMENT CORP., VALUE RECOVERY
HOLDINGS, LLC, CBE GROUP, INC., AUTOMATED
COLLECTION SERVICES, INC., WINDHAM
PROFESSIONALS, INC., TEXAS GUARANTEED
STUDENT LOAN CORP.,**
Intervenor-Defendants

ALLTRAN EDUCATION, INC.,
Intervenor-Defendant-Appellant

ALLTRAN EDUCATION, INC.,
Plaintiff-Appellant

v.

UNITED STATES,
Defendant-Appellant

**PREMIERE CREDIT OF NORTH AMERICA, LLC,
GC SERVICES LIMITED PARTNERSHIP,
FMS INVESTMENT CORP., CBE GROUP, INC.,
VALUE RECOVERY HOLDINGS, LLC,
WINDHAM PROFESSIONALS, INC.,**
Intervenor-Defendants

PROGRESSIVE FINANCIAL SERVICES, INC.,
Plaintiff-Appellee

**PERFORMANT RECOVERY, INC., COLLECTION
TECHNOLOGY, INC., VAN RU CREDIT
CORPORATION, ALLIED INTERSTATE LLC,**
Intervenor-Plaintiffs

v.

UNITED STATES,
Defendant-Appellant

**PREMIERE CREDIT OF NORTH AMERICA, LLC,
GC SERVICES LIMITED PARTNERSHIP,**
Intervenor-Defendants

ALLTRAN EDUCATION, INC.,
Intervenor-Defendant-Appellant

COLLECTION TECHNOLOGY, INC.,
Plaintiff

PROGRESSIVE FINANCIAL SERVICES, INC.,
Intervenor-Plaintiff-Appellee

v.

UNITED STATES,
Defendant-Appellant

**CBE GROUP, INC.,
PREMIERE CREDIT OF NORTH AMERICA, LLC,**
Intervenor-Defendants

ALLTRAN EDUCATION, INC.,
Intervenor-Defendant-Appellant

VAN RU CREDIT CORPORATION,
Plaintiff

PROGRESSIVE FINANCIAL SERVICES, INC.,
Intervenor-Plaintiff-Appellee

v.

UNITED STATES,
Defendant-Appellant

PREMIERE CREDIT OF NORTH AMERICA, LLC,
Intervenor-Defendant

ALLTRAN EDUCATION, INC.,
Intervenor-Defendant-Appellant

2017-2155, -2156, -2157, -2158, -2159, -2160, -2210, -2212,
-2214, -2215, -2216, -2221, -2342

Appeals from the United States Court of Federal Claims
in Nos. 1:17-cv-00449-SGB, 1:17-cv-00493-SGB, 1:17-cv-00499-SGB,
1:17-cv-00517-SGB, 1:17-cv-00558-SGB, 1:17-cv-00578-SGB,
and 1:17-cv-00633-SGB, Chief Judge Susan G. Braden

**PLAINTIFF-APPELLEE PROGRESSIVE FINANCIAL SERVICES, INC.’S EMERGENCY
MOTION TO CLARIFY/AMEND THE COURT’S DECEMBER 8, 2017 ORDER**

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*Attorney for Progressive Financial
Services, Inc.*

Dated: December 8, 2017

PLAINTIFF-APPELLEE PROGRESSIVE FINANCIAL SERVICES, INC.'S EMERGENCY MOTION TO CLARIFY/AMEND THE COURT'S DECEMBER 8, 2017 ORDER

Appellant, Progressive Financial Services, Inc. (“Progressive”), in accordance with Rules 26 and 27 of the Federal Rules of Appellate Procedure and of the Federal Circuit Rules, respectfully requests that the Court grant its emergency motion to clarify/amend the court’s order issued on December 8, 2017 (ECF 308), to confirm that the Order does not apply to that part of the injunction prohibiting the recall of Progressive’s “in-repayment” accounts prior to resolution of its protest. Appellant’s counsel has attempted to contact all counsel involved in the consolidated appeal but, given the exigencies of this motion and the limited time available to await responses from counsel, Progressive did not receive responses from all counsel prior to the filing of this emergency motion.¹ Counsel for FMS indicated that he does not object and will not file a response. In support of its emergency motion, Progressive states the following:

1. On December 8, 2017, this Court heard oral argument in the consolidated appeal regarding whether to stay the preliminary injunction issued by the Court of Federal Claims, enjoining the United States from:

(1) authorizing the purported awardees to perform on the contract awards under Solicitation No. ED-FSA-16-R-0009; and

¹ Progressive will update this filing to notify the Court of any responses received from other counsel.

(2) transferring work to be performed under the contract at issue in this case to other contracting vehicles to circumvent or moot this bid protest.

2. The focus of oral argument was the impact of the preliminary injunction on other contract holders, namely small businesses and Award Term Extension (“ATE”) contractors, and whether potential “dilution” was sufficient justification for the preliminary injunction.

3. The issue of the impact of the preliminary injunction on other contract holders or “dilution” was not discussed during the brief argument of counsel for Progressive, and no other party addressed those issues with respect to the preliminary injunction as applied to Progressive. 4. Indeed, Progressive’s primary arguments in this matter do not concern the impact of the preliminary injunction on other contract holders or “dilution”. Instead, Progressive’s focus is on maintaining the preliminary injunction to protect against ED’s attempts to recall “in-repayment” accounts from Progressive during the course of its corrective action.

5. As noted in its briefing before this Court, Progressive’s protest of ED’s corrective action seeks to prevent the recall of its “in-repayment” accounts until Education completes its corrective action and makes proper contract awards. Any stay of the current preliminary injunction would allow Education to immediately recall Progressive’s “in-repayment” accounts, which would

irreparably harm Progressive by effectively mooting its entire protest against the recall of those accounts.

6. At the conclusion of oral argument, the Court notified the parties of its ruling granting the Appellants' Motions to Stay as to paragraph 2 of the preliminary injunction, and referenced that paragraph as concerning "dilution." As later memorialized in the Court's December 8 Order, the Court granted, in part, Appellants' Motions to Stay the Preliminary Injunction:

Appellants' requests are GRANTED insofar as the preliminary injunction enjoined "transferring work to be performed under the contract at issue in this case to other contracting vehicles to circumvent or moot this bid protest."

(ECF 308; December 8 Order at 2).

7. Because Progressive's unique need for the preliminary injunction was not addressed by the Court or the Appellants during oral argument, Progressive believes that the Court's December 8 Order does not apply to that part of the injunction prohibiting the recall of Progressive's "in-repayment" accounts prior to resolution of its protest.

8. However, to ensure that Progressive is protected against any action by Education to recall its "in-repayment" accounts, Progressive respectfully requests that the Court clarify or modify its Order to reflect that, in granting, in part, Appellants' Motions for Stay Pending Appeal, the Court's Order does not apply to that part of the injunction prohibiting the recall of Progressive's "in-repayment"

accounts prior to resolution of its protest and the preliminary injunction remains in effect as to Progressive's "in-repayment" accounts.

9. Therefore, Progressive respectfully requests that the Court grant its Emergency Motion to Clarify/Amend the Court's December 8 Order to reflect that the Order does not apply to that part of the injunction prohibiting the recall of Progressive's "in-repayment" accounts prior to resolution of its protest and the preliminary injunction remains in effect as to Progressive's "in-repayment" accounts.

Date: December 8, 2017

Respectfully submitted,

**PROGRESSIVE FINANCIAL
SERVICES, INC.**

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*Counsel of Record for Plaintiff-Appellee
Progressive Financial Services, Inc.*

FORM 9. Certificate of Interest

Form 9
Rev. 10/17

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Continental Service Group, Inc., et al. v. United States, et al.

Case No. 2017-2155, et al.

CERTIFICATE OF INTEREST

Counsel for the:

(petitioner) (appellant) (respondent) (appellee) (amicus) (name of party)

Progressive Financial Services, Inc.

certifies the following (use "None" if applicable; use extra sheets if necessary):

1. Full Name of Party Represented by me	2. Name of Real Party in interest (Please only include any real party in interest NOT identified in Question 3) represented by me is:	3. Parent corporations and publicly held companies that own 10% or more of stock in the party
Progressive Financial Services, Inc.	None	None

4. The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court (**and who have not or will not enter an appearance in this case**) are:

LeClairRyan
(Thomas A. Coulter, Nicole Hardin Brakstad)

FORM 9. Certificate of Interest

Form 9
Rev. 10/17

5. The title and number of any case known to counsel to be pending in this or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. See Fed. Cir. R. 47.4(a)(5) and 47.5(b). (The parties should attach continuation pages as necessary).

None

12/08/2017

Date

/s/ Thomas A. Coulter

Signature of counsel

Thomas A. Coulter

Printed name of counsel

Please Note: All questions must be answered

cc: counsel of record

Reset Fields

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

CERTIFICATE OF SERVICE

I certify that I served a copy on counsel of record on December 8, 2017

by:

- U.S. Mail
- Fax
- Hand
- Electronic Means (by E-mail or CM/ECF)

Thomas A. Coulter

/s/ Thomas A. Coulter

Name of Counsel

Signature of Counsel

Law Firm

LeClairRyan

Address

919 E. Main St., 24th Floor

City, State, Zip

Richmond, VA 23219

Telephone Number

(804) 916-7103

Fax Number

(804) 916-7103

E-Mail Address

thomas.coulter@leclairryan.com

NOTE: For attorneys filing documents electronically, the name of the filer under whose log-in and password a document is submitted must be preceded by an "/s/" and typed in the space where the signature would otherwise appear. Graphic and other electronic signatures are discouraged.

Reset Fields

NOTE: This order is nonprecedential.

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

CONTINENTAL SERVICE GROUP, INC.,
Plaintiff-Appellee

PIONEER CREDIT RECOVERY, INC.,
Plaintiff-Appellant

COLLECTION TECHNOLOGY, INC.,
Intervenor-Plaintiff

PROGRESSIVE FINANCIAL SERVICES, INC.,
Intervenor-Plaintiff-Appellee

ALLTRAN EDUCATION, INC.,
Intervenor-Plaintiff-Appellant

v.

UNITED STATES,
Defendant-Appellant

**CBE GROUP, INC., PREMIERE CREDIT OF
NORTH AMERICA, LLC, GC SERVICES LIMITED
PARTNERSHIP, FMS INVESTMENT CORP.,
VALUE RECOVERY HOLDINGS, LLC, WINDHAM
PROFESSIONALS, INC., AUTOMATED
COLLECTION SERVICES, INC.,**
Intervenor-Defendants

ACCOUNT CONTROL TECHNOLOGY, INC.,
Plaintiff

v.

UNITED STATES,
Defendant-Appellant

**PREMIERE CREDIT OF NORTH AMERICA, LLC,
GC SERVICES LIMITED PARTNERSHIP, FMS
INVESTMENT CORP., VALUE RECOVERY
HOLDINGS, LLC, CBE GROUP, INC., AUTOMATED
COLLECTION SERVICES, INC., WINDHAM
PROFESSIONALS, INC., TEXAS GUARANTEED
STUDENT LOAN CORP.,**
Intervenor-Defendants

ALLTRAN EDUCATION, INC.,
Intervenor-Defendant-Appellant

ALLTRAN EDUCATION, INC.,
Plaintiff-Appellant

v.

UNITED STATES,
Defendant-Appellant

**PREMIERE CREDIT OF NORTH AMERICA, LLC,
GC SERVICES LIMITED PARTNERSHIP, FMS
INVESTMENT CORP., CBE GROUP, INC., VALUE
RECOVERY HOLDINGS, LLC, WINDHAM
PROFESSIONALS, INC.,**
Intervenor-Defendants

CONTINENTAL SERVICE GROUP INC. v. UNITED STATES

3

PROGRESSIVE FINANCIAL SERVICES, INC.,
Plaintiff-Appellee

**PERFORMANT RECOVERY, INC., COLLECTION
TECHNOLOGY, INC., VAN RU CREDIT
CORPORATION, ALLIED INTERSTATE LLC,**
Intervenor-Plaintiffs

v.

UNITED STATES,
Defendant-Appellant

**PREMIERE CREDIT OF NORTH AMERICA, LLC,
GC SERVICES LIMITED PARTNERSHIP,**
Intervenor-Defendants

ALLTRAN EDUCATION, INC.,
Intervenor-Defendant-Appellant

COLLECTION TECHNOLOGY, INC.,
Plaintiff

PROGRESSIVE FINANCIAL SERVICES, INC.,
Intervenor-Plaintiff-Appellee

v.

UNITED STATES,
Defendant-Appellant

**CBE GROUP, INC., PREMIERE CREDIT OF
NORTH AMERICA, LLC,**
Intervenor-Defendants

ALLTRAN EDUCATION, INC.,

4

CONTINENTAL SERVICE GROUP INC. v. UNITED STATES

Intervenor-Defendant-Appellant

VAN RU CREDIT CORPORATION,
Plaintiff

PROGRESSIVE FINANCIAL SERVICES, INC.,
Intervenor-Plaintiff-Appellee

v.

UNITED STATES,
Defendant-Appellant

PREMIERE CREDIT OF NORTH AMERICA, LLC,
Intervenor-Defendant

ALLTRAN EDUCATION, INC.,
Intervenor-Defendant-Appellant

2017-2155, 2017-2156, 2017-2157, 2017-2158, 2017-2159,
2017-2160, 2017-2210, 2017-2212, 2017-2214, 2017-2215,
2017-2216, 2017-2221, 2017-2342

Appeals from the United States Court of Federal
Claims in Nos. 1:17-cv-00449-SGB, 1:17-cv-00493-SGB,
1:17-cv-00499-SGB, 1:17-cv-00517-SGB, 1:17-cv-00558-
SGB, 1:17-cv-00578-SGB, 1:17-cv-00633-SGB, Chief
Judge Susan G. Braden.

PER CURIAM.

ORDER

CONTINENTAL SERVICE GROUP INC. v. UNITED STATES

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Currently before the court are appeals from the United States Court of Federal Claims' May 31, 2017, preliminary injunction order. The case was argued on December 8, 2017.

Shortly after the Court of Federal Claims' May 31, 2017, preliminary injunction order, appellants filed in that court a motion to stay the injunction pending appeal. On June 19, 2017, appellants filed an emergency motion for stay pending appeal in this court. On July 18, 2017, this court determined to hold appellants' motions in abeyance until the Court of Federal Claims ruled on appellants' motions for stay pending appeal in that court. However, the Court of Federal Claims took no action on the motions until October 31, 2017, when it denied the motions after this court instructed the parties to inquire as to why there had not yet been a ruling.

On November 8, 2017, this court denied without prejudice the motions in this court to stay the preliminary injunction pending appeal and instructed the parties to file replacement briefs, which were to include any renewed requests for stay pending appeal. In their amended opening briefs, appellants again requested that this court stay the Court of Federal Claims' May 31, 2017, preliminary injunction order.

This court considers four factors in evaluating a request for a stay pending appeal: (1) whether the stay applicant has made a strong showing of likelihood of success on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies. *See Hilton v. Braunskill*, 481 U.S. 770, 776 (1987).

Upon consideration thereof,

IT IS ORDERED THAT:

Appellants' requests are DENIED insofar as the preliminary injunction enjoined "authorizing the purported awardees to perform on the contract awards under Solicitation No. ED-FSA-16-R-0009." Appellants' requests are GRANTED insofar as the preliminary injunction enjoined "transferring work to be performed under the contract at issue in this case to other contracting vehicles to circumvent or moot this bid protest."

FOR THE COURT

December 8, 2017
Date

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court