

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

CAROL A. KELLOGG, Individually, and
as sole Heir-at-Law and Administrator
of the Estate of Lee J. Witschi, deceased,
Plaintiff,

vs.

No. 18-1061-JTM

EVANGELICAL LUTHERAN GOOD SAMARITAN
SOCIETY, *doing business as* Good Samaritan
Society-Minneapolis, *et al.*,
Defendants.

MEMORANDUM AND ORDER

By prior Order (Dkt. 85), the court granted the motions to dismiss of the governmental defendants. These defendants have now moved to certify that judgment as final under Fed.R.Civ.P. 54(b). The court grants hereby grants the motion for good cause and, as the plaintiff has filed no timely response, pursuant to D.Kan.R. 7.4. *See Jordan v. Pugh*, 425 F.3d 820, 826 (10th Cir. 2005) (discussing standards under Rule 54(b)).

Finality of judgment under Rule 54(b) is appropriate because the court's prior Order resolved all federal constitutional claims, leaving only the state tort law claims against the nursing home defendant. Because the claims resolved are so distinct from those which remain, there is no just reason for delay in rendering judgment. The claims are distinct, and any appeal not involve the same issues as those which will be addressed in the trial of the remainder of the action.

IT IS ACCORDINGLY ORDERED this day of June, 2019, that the Motion for Order of Judgment as Final (Dkt. 86) of defendants Carr, Gent, Coleman, Thornton, City of Minneapolis, and the Ottawa County Board of Commissioners is hereby granted.

s/ J. Thomas Marten
J. Thomas Marten, Judge