

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION AT LONDON**

PHI HEALTH, LLC, and EMPACT MIDWEST LLC,

Plaintiffs,

v.

U.S. DEPARTMENT OF HEALTH AND HUMAN
SERVICES,

ROBERT F. KENNEDY, JR., in his official capacity
as Secretary of Health and Human Services,

OFFICE OF PERSONNEL MANAGEMENT,

CHARLES EZELL, in his official capacity as Acting
Director of the U.S. Office of Personnel Management,

U.S. DEPARTMENT OF LABOR,

LORI CHAVEZ-DEREMER, in her official capacity
as Secretary of Labor,

U.S. EMPLOYEE BENEFITS SECURITY
ADMINISTRATION,

TIMOTHY HAUSER, in his official capacity as the
Deputy Assistant Secretary for Program Operations of
the Employee Benefits Security Administration,

U.S. DEPARTMENT OF THE TREASURY,

SCOTT BESSENT, in his official capacity as Secretary
of the Treasury,

INTERNAL REVENUE SERVICE, and

MICHAEL FAULKENDER, in his official capacity as
Acting Commissioner of Internal Revenue,

Defendants.

Case 6:22-cv-00095

JOINT STATUS REPORT

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Pursuant to the Court’s order of September 12, 2024, ECF 65, the parties respectfully submit this Joint Status Report.

TMA III and LifeNet III

On August 24, 2023, the United States District Court for the Eastern District of Texas granted in part and denied in part the parties’ cross-motions for summary judgment in *Texas Medical Association v. U.S. Department of Health and Human Services*, No. 22-cv-450 (E.D. Tex.) (lead case) (“*TMA III*”), and *LifeNet, Inc. v. U.S. Department of Health and Human Services*, No. 22-cv-453 (E.D. Tex.) (“*LifeNet III*”). On October 30, 2024, the Fifth Circuit reversed portions of the district court’s ruling and affirmed others. *Tex. Med. Ass’n v. U.S. Dep’t of Health & Human Servs.*, 23-40605, 120 F.4th 494 (5th Cir. 2024). As relevant here, the Fifth Circuit upheld the portions of the rule that Plaintiffs challenge in this case. On December 16, 2024, Plaintiffs petitioned for rehearing *en banc*. On December 17, 2024, the Fifth Circuit withheld its mandate and requested a response to Plaintiffs’ petition. Defendants filed their response on January 17, 2025. On May 30, 2025, the Fifth Circuit granted re-hearing *en banc* and vacated its previous opinion. *See Tex. Med. Ass’n v. U.S. Dep’t of Health & Human Servs.*, 23-40605, Dkt. 177-1 (May 30, 2025). Appellants filed their supplemental *en banc* brief on July 21, 2025; the Appellee’s *en banc* brief is currently due on August 18, 2025; Appellants’ reply brief is currently due on September 2, 2025. *See id*; Dkt. 211.

In light of the status of this related litigation, Plaintiffs request that the stay in this matter should remain in place, and Defendants do not oppose that request.

Dated: August 5, 2025

Respectfully submitted,

/s/ Chrisandrea L. Turner

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