

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE AMERICAN HOSPITAL
ASSOCIATION,
et al.,

Plaintiffs,

—v—

XAVIER BECERRA, in his official capacity as
the Secretary of Health and Human Services, *et*
al.,

Defendants.

Civil Action No. 18-2084 (RC)

**RESPONSE TO DEFENDANTS' MOTION FOR CLARIFICATION
OF THE COURT'S SEPTEMBER 28, 2022 ORDER**

Plaintiffs submit this filing to clarify their position on Defendants' Motion to Clarify the Court's Order of September 28, 2022, ECF 80.

Unlike Defendants, Plaintiffs understand the Court's Order, ECF 78, to have immediate effect—*i.e.*, it requires that any unpaid claims as of the date of the Order must be paid at the ASP plus 6% rate. Nevertheless, Plaintiffs do not oppose the Court issuing a partial final judgment under Federal Rule of Civil Procedure 54(b) in light of Defendants' representations that they need a formal judgment to facilitate prompt compliance with the Court's order without a rule-making and that they seek such a judgment only for that purpose.

Dated: October 3, 2022

Respectfully submitted,

/s/ William B. Schultz

William B. Schultz (DC Bar No. 218990)

Margaret M. Dotzel (DC Bar No. 425431)
Ezra B. Marcus (DC Bar No. 252685)
ZUCKERMAN SPAEDER LLP
1800 M Street, NW, Suite 1000
Washington, DC 20036
Tel: 202-778-1800
Fax: 202-822-8136
wschultz@zuckerman.com
mdotzel@zuckerman.com
emarcus@zuckerman.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that, on October 3, 2022, I caused the foregoing to be electronically served on counsel of record via the Court's CM/ECF system.

/s/ Ezra B. Marcus

Ezra B. Marcus