

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA**

UNITED HEALTHCARE SERVICES,
INC.; UNITEDHEALTHCARE
INSURANCE COMPANY; AND UMR,
INC.,

Plaintiffs,

v.

HOSPITAL PHYSICIAN SERVICES
SOUTHEAST, P.C.; INPHYNET
PRIMARY CARE PHYSICIANS
SOUTHEAST, P.C.; AND REDMOND
ANESTHESIA & PAIN TREATMENT,
P.C.,

Defendants.

Civil Action No. 1:23-cv-05221-JPB

**PLAINTIFFS' NOTICE OF FILING
SUPPLEMENTAL AUTHORITY**

Plaintiffs United Healthcare Services, Inc., UnitedHealthcare Insurance Co., and UMR, Inc. (collectively, "United"), by and through their attorneys of record, file this Notice of Filing Supplemental Authority.

On June 17, 2024, the United States District Court for the Northern District of Texas, issued an opinion in a case brought by Exxon Mobil Corporation against Arjuna Capital, LLC, et al., whereby Exxon sought a declaration from the court that it could exclude a shareholder proposal advanced by Arjuna related to Exxon's greenhouse gas emissions. *Exxon Mobil Corp. v. Arjuna Capital, LLC, et. al*, No.

4:24-cv-00069-P (N.D. Tex. June 17, 2024), ECF No. 52 (“Ex. A”). After Exxon filed its lawsuit, Arjuna withdrew the contested shareholder proposal and moved to dismiss the lawsuit as moot. The Court denied Arjuna’s motion because withdrawing the proposal did not foreclose Arjuna from advancing the proposal in the future. *Id.* at 1.

Arjuna then submitted a signed letter whereby it “unconditionally and irrevocably covenant[ed] to refrain” from submitting a similar proposal in the future. Ex. A at 3 (quoting ECF No. 41-1). Judge Pittman held that this disavowal of the intent to engage in the conduct at issue in the future was sufficient grounds for dismissal of Exxon’s suit on Article III grounds because Arjuna met its burden of showing that “it is absolutely clear” that the conduct “could not reasonably be expected to recur.” *Id.* at 5 (quoting *Knox v. Serv. Emp. Int’l Union, Local 1000*, 567 U.S. 298, 307 (2012); *Friends of the Earth, Inc. v. Laidlaw Envt’l. Servs., Inc.*, 528 U.S. 167, 190 (2000)). Thus, the Court concluded the letter foreclosed Arjuna from “fight[ing] on” in the future and mooted Exxon’s suit. *See* Ex. A at 1-5 (citing *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 93 (2013)).

This supplemental authority is relevant to the arguments that United developed in its Response in Opposition to Defendant’s Motion to Dismiss the Amended Complaint, ECF No. 30 at 12-13, that TeamHealth’s mere declaration of a “present intent” not to sue over United’s claim adjudications in Georgia—and

reserving the ability to engage in the complained-of conduct based on unspecified “factors” and “conditions”—is insufficient to negate a case or controversy.

A copy of the opinion is attached as Exhibit A.

Respectfully submitted,

Dated: July 1, 2024

William H. Jordan
R. Blake Crohan
ALSTON & BIRD LLP
One Atlantic Center
1201 West Peachtree Street
Suite 4900
Atlanta, GA 30309-3424
Tel.: (404) 881-7000
Fax: (404) 881-7777
bill.jordan@alston.com
blake.crohan@alston.com

Emily Seymour Costin (*pro hac vice*)
ALSTON & BIRD LLP
The Atlantic Building
950 F Street, NW
Washington, DC 20004-1404
Tel.: (202) 239-3300
Fax: (202) 239-3333
emily.costin@alston.com

/s/ Greg Jacob
Greg Jacob (*pro hac vice*)
Brian Boyle (*pro hac vice*)
Meredith Garagiola (*pro hac vice*)
O’MELVENY & MYERS LLP
1625 Eye Street, N.W.
Washington, D.C. 20006
Tel.: (202) 383-5300
Fax: (202) 383-5414
gjacob@omm.com
bboyle@omm.com
mgaragiola@omm.com

William D. Pollak (*pro hac vice*)
O’MELVENY & MYERS LLP
1301 Avenue of the Americas
New York, NY 10019
Tel.: (212) 326-2000
Fax: (212) 326-2061
wpollak@omm.com

*Attorneys for Plaintiffs United
HealthCare Services, Inc.,
UnitedHealthcare Insurance
Company, and UMR, Inc.*

CERTIFICATE OF SERVICE AND TYPE-SIZE COMPLIANCE

Pursuant to LR 5.1C, N.D. Ga., the foregoing pleading is prepared in Times New Roman font, 14 point, and I hereby certify that I have this day caused a true and correct copy of the foregoing to be filed with the Clerk of Court using the CM/ECF system, which will send a notification of such filing to all counsel of record.

This 1st day of July, 2024.

/s/ Greg Jacob
Greg Jacob (*pro hac vice*)
O'MELVENY & MYERS LLP
1625 Eye Street, N.W.
Washington, D.C. 20006
Tel.: (202) 383-5300
Fax: (202) 383-5414
gjacob@omm.com

Attorney for Plaintiffs United HealthCare Services, Inc., UnitedHealthcare Insurance Company, and UMR, Inc.