

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

AMERICAN ASSOCIATION OF  
ANCILLARY BENEFITS, A FLORIDA  
NOT-FOR-PROFIT CORPORATION, and  
PREMIER HEALTH SOLUTIONS, LLC, A  
TEXAS LIMITED LIABILITY  
COMPANY,

*Plaintiffs,*

V.

XAVIER BECERRA, in his official capacity, as SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, JULIE A. SU, in her official capacity, as acting UNITED STATES SECRETARY OF LABOR, and JANET YELLEN, in her official capacity, as SECRETARY OF THE UNITED STATES DEPARTMENT OF THE TREASURY,

*Defendants.*

**PLAINTIFFS AMERICAN ASSOCIATION OF ANCILLARY BENEFITS AND  
PREMIER HEALTH SOLUTIONS, LLC'S RESPONSE TO DEFENDANTS' MOTION  
FOR EXTENSION OF TIME TO FILE REPLY**

NOW COME Plaintiffs AMERICAN ASSOCIATION OF ANCILLARY BENEFITS and PREMIER HEALTH SOLUTIONS, LLC’S, by and through their counsel, and for their Response to Defendants Motion for Extension of Time to File Reply (Dkt. No. 61), pursuant to the Order of this Court (Dkt. No. 62), state as follow:

1. The motion before this Court is generally a routine motion for most cases, but this case has extraordinary and far-reaching implications for millions of policy holders of Short-Term, Limited Duration Insurance (“STLDI”) plans.

2. A Motion for Extension of the briefing schedule is analyzed under Rule 56 and reviewed for abuse of discretion. *Baker v. Am. Airlines, Inc.*, 430 F.3d 750, 756 (5th Cir. 2005) (noting “[t]he district court treated Baker’s request to extend the response time as a motion under Fed R. Civ. P. 56(f) . . . . Baker knew (or should have known) the briefing schedule and the discovery period. Nevertheless, she failed to act diligently in the pursuit of evidence. Her problem is one of her own making”) (citing *Wichita Falls Office Assocs. v. Banc One Corp.*, 978 F.2d 915, 919 (5th Cir.1992)).

3. Defendants proposed and were granted a longer briefing schedule for summary judgment than was proposed by Plaintiffs . (See Dkt. Nos. 29-1 and 29-2). Now without identifying the other cases, the specific deadlines, or attorneys who can assist with the filing of a Reply in a case of national significance, there is a request for additional time to file a Reply. These minimal matters are essential to adequately weigh the situation. *See generally Baker*, 430 F.3d at 756

4. By the terms of Defendants’ Motion, “[t]he attorney previously assigned to handle this case” is still employed and at some unknown date “is leaving the Department of Justice.” (Dkt. No. 61). Although eventually the attorney may be transitioning out of the Department of Justice, that attorney remains a part of this case and employed and compensated through federal taxpayer funding.

5. Now the New Rule at issue will eliminate freedom of choice, as the term of the policies issued after January 1, 2025 have a term that expires at the end of March and can only be renewed for another 30 days because of the unprecedented prohibition on stacking. As such, Defendants are asking for an extension that would place this Court in the position of rushing to

judgment or jeopardize the freedom of choice of a plan for health insurance that the consumer desires.

6. Additionally, a consideration that also must be addressed is that after this Court's ruling, and should this Court find in Plaintiffs' favor, STLDI plan issuers will have to work with state regulators in order correct policies with the prior term and duration, which was upheld by the D.C. Court of Appeals. *Association for Community Affiliated Plans v. U.S. Dep't of the Treasury*, 966 F.3d 782 (D.C. Cir. 2020).

7. Counsel for Plaintiffs is sympathetic to the reassignment of cases and attorney workloads, but lead counsel is still with the Department of Justice and has an appearance on file.

6. The only remaining brief to be filed is the Reply in Support of Defendants' cross-motion for summary judgment and thus, the only arguments that can be raised are those in Defendants' Summary Judgment.

7. The 15-day extension would require the Reply by February 19, 2025 and to file the appendix by February 28, 2025. But the imposition of filing a Reply, in approximately one week, pales in comparison to the exigency that such delay places on this Court to avoid significant harm to insured and the healthcare insurance industry.

8. Ultimately, the basis for the motion, although understandable, is not justified given the ultimate harm and prejudice that will result to Plaintiffs, STLDI plan issuers, policy holders, state regulators, and the public.

WHEREFORE, for the above and foregoing reasons, PLAINTIFFS AMERICAN ASSOCIATION OF ANCILLARY BENEFITS and PREMIER HEALTH SOLUTIONS, LLC'S, respectfully requests that this Honorable Court enter an Order denying Defendants' Motion for Extension of Time to File Reply and for any further relief this Court deems fair and just.

Respectfully submitted:

By: /s/ Dominick L. Lanzito

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 27, 2025, I caused the foregoing documents to be filed with the Clerk for the Eastern District of Texas through the ECF system. Participants in the case who are not registered ECF users will be served through email.

Date: January 27, 2025

Respectfully submitted,

**/s/Dominick L. Lanzito**

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