



Order “plainly protects UIP’s members *in toto*, including members who join in the future.” *See* ECF No. 39 at 3. Respectfully, Plaintiffs cite no portion of this Court’s Order that makes that point “plain[.]” *Id.* Rather, Plaintiffs largely cite their own filings and the absence of any “temporal limitation as to UIP’s members” as evidence of the Court’s intent. *Id.* at 2. But those facts are just as compatible with reading the Order not to include future UIP members. The Court may have “generally incorporated” certain language from Plaintiffs’ Complaint and summary judgment motion, *id.*, but it did not incorporate the language Plaintiffs’ proposed to include its future members, *see* ECF No. 38 at 3. The only specific language of the Order Plaintiffs cite is the Court’s injunction against Defendants taking certain actions against “Plaintiffs or UIP’s members.” *See* ECF No. 39 at 2 (quoting ECF No. 35 at 24). That language is equally consistent with limiting relief to current UIP members. *See* ECF No. 38 at 2.

In any event, Defendants have already acknowledged that the Order *can* be read, as Plaintiffs do, to encompass future UIP members. *See* ECF No. 38 at 3. Defendants seek clarification because it is not apparent that the Order *must* be read in that way. Plaintiffs apparently prefer that this tension remain unresolved. But all that would do is create the prospect of future (and unnecessary) disagreements about compliance with the Court’s injunction. All parties benefit from certainty about what the Court has enjoined.

## **II. Plaintiffs Forfeited Their New Arguments on the Scope of Relief**

In the alternative, Plaintiffs provide a series of new arguments supporting their view that the Court’s relief should run to entities that become UIP members in the future. ECF No. 39 at 3–5. The Court should not consider these new arguments; Plaintiffs forfeited them by not including them in their summary judgment briefs. *See Clark v. Wells Fargo Bank, N.A.*, No. 3:18-cv-1147, 2020 WL 1216720, at \*8 (N.D. Tex. Jan. 28, 2020) (“A party’s failure to brief an argument in response to a summary judgment motion waives that argument.”). Defendants’ summary-judgment opposition argued that “any relief” granted by the Court “should apply only to . . . the current members of UIP who are employers.” ECF No. 18 at 49. Plaintiffs had every opportunity to include their new arguments in response to that argument but did not. *See* ECF No. 23 at 23–24 (noting that Plaintiffs

had “not dispute[d]” certain arguments as to remedy, including “that any relief should apply only to the Parties and including only the current members of UIP who are employers.”); *cf.* ECF No. 22 at 24–25 (Plaintiffs’ summary judgment reply with no response to argument as to future members). If a “motion for reconsideration may not be used to . . . introduce new arguments,” *LeClerc v. Webb*, 419 F.3d 405, 412 n.13 (5th Cir. 2005), then Plaintiffs should not be permitted to smuggle new arguments into a response to a motion to clarify—particularly so where Defendants do not ask the Court to reconsider any issue and instead merely seek clarity on what has been decided.

Regardless, Plaintiffs’ new arguments are all predicated on the supposed inefficiency of requiring UIP or future members to sue on their own behalf in subsequent lawsuits. *See* ECF No. 39 at 3–5. As Defendants argued in their summary judgment briefs, however, including entities that are not current members of UIP is inconsistent with traditional principles of equity and extending such relief falls outside the scope of this Court’s Article III jurisdiction. ECF No. 18 at 49; *see Trump v. CASA*, 606 U.S. 831, 863 (2025) (Thomas, J., concurring); Order at 18, *Catholic Benefits Ass’n v. Kennedy*, No. 3:23-cv-203 (D.N.D. June 5, 2025), ECF No. 78 (explaining that “[g]ranting relief to” an association’s “future members” would “stray too far from the principle of party-specific relief”). There is no efficiency exception to Article III’s jurisdictional requirements.

### **III. If Future UIP Members Are Covered, Plaintiffs Consent to Amending the Permanent Injunction**

Plaintiffs’ response explains that they “do not oppose” Defendants’ request that, if the Court’s Order applies to future UIP members, the Court amend its injunction to incorporate subparagraph J from the Complaint. *See* ECF No. 39 at 5. There is, therefore, no dispute between the parties that this language should be added to the permanent injunction if that injunction applies to future UIP members.

## **CONCLUSION**

For the foregoing reasons, Defendants respectfully request that the Court clarify whether entities that become members of UIP after the date of the Complaint are included within the scope of the August 8, 2025 Order. If future members are included, Defendants respectfully request that

the Court amend its Order to incorporate the language Plaintiffs requested in subparagraph J of their Complaint.

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Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 30, 2025, I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Northern District of Texas by using the CM/ECF system. Counsel in the case are registered CM/ECF users and service will be accomplished by the CM/ECF system.

/s/ Jacob S. Siler  
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