

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

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VINCENT N. MICONE, III, ACTING	)	
SECRETARY OF LABOR, U.S.	)	
DEPARTMENT OF LABOR,	)	
	)	
Plaintiff-Counterclaim Defendant,	)	Civil No.: 3:24-cv-01512 (CVR)
	)	
v.	)	
	)	
SUFFOLK ADMINISTRATIVE SERVICES,	)	
LLC; PROVIDENCE INSURANCE CO.,	)	
I.I.; ALEXANDER RENFRO; WILLIAM	)	
BRYAN; ARJAN ZIEGER,	)	
	)	
Defendants-Counterclaim Plaintiffs.	)	

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**DEFENDANTS’ MOTION TO STAY AND MEMORANDUM IN SUPPORT**

**TO THE HONORABLE COURT:**

**COME NOW** Defendants and Counterclaim Plaintiffs Suffolk Administrative Services, LLC (“SAS”), Providence Insurance Company, I.I. (“PIC”), William Bryan (“Bryan”), Arjan Zieger (“Zieger”), and Alexander Renfro (“Renfro”) (collectively “Defendants”) and respectfully move this Court for an order staying this action pending either (1) a final ruling on Defendants’ Motion to Transfer Venue or (2) a final ruling on a recent filing in the United States District Court for the Northern District of Texas—Fort Worth Division.

**I. INTRODUCTION**

1. This case’s existence is solely because the Department of Labor (“DOL”) followed through with its threats as part of its extortive global settlement tactics involving PIC, SAS, and two other non-parties. A related dispute concerning important ERISA questions involving the DOL is ongoing in Texas federal court between the DOL and the non-parties. But instead of waiting for

that court's decision, the DOL has attempted to circumvent the Texas Court by attacking Defendants in a separate venue. This Court should use its broad discretionary authority to stop this abuse of the judicial process.

2. Alongside this Motion, Defendants filed a Motion to Transfer Venue, *Defendant's Motion to Transfer Venue and Memorandum in Support*, (Docket No. 26) (the "Motion to Transfer") seeking transfer of this case to the United States District Court for the Northern District of Texas—Fort Worth Division. *See Data Mktg. P'ship, LP v. United States Dep't of Lab.*, No. 4:19-CV-00800-O, 2023 WL 5939379 (N.D. Tex. Aug. 11, 2023) ("Texas DMP suit"). The Texas case involves Data Marketing Partnership, LP ("DMP") and LP Management Services, LLC ("LPMS"), who the DOL has inextricably connected to the Defendants in this case during settlement negotiations. The Texas DMP suit is ongoing, and most recently has a Motion for Leave to File Supplemental Complaint and Supporting Brief on file explaining the nature of the DOL's extortive strategy against DMP, LPMS, PIC and SAS, attached as Exhibit A to the Motion to Transfer. *See Exhibit A, Amended Motion for Leave to File Supplemental Complaint and Supporting Brief, Data Marketing Partnership, LP v. Department of Labor et al.*, ECF No. 74. This extortive strategy has been explained at length in the Motion to Transfer in this case, as well.

3. Although in its complaint, the DOL has disingenuously denied that this case concerns the Partnership Plans in the DMP suit, functionally, the DOL's allegations implicate the exact same plans (single employer employee welfare benefit plans) and baselessly allege wrongdoing by PIC and SAS related to such plans, which by definition include the Partnership Plans.

4. The DOL inextricably and unilaterally connected PIC and SAS to its litigation against DMP and LPMS in Texas. Now, after facing several losses in the Texas suit, it brings a case making baseless allegations against DMP and LPMS' vendors, PIC and SAS, in a brazen strategy to existentially threaten DMP and LPMS lest they abandon their case against DOL. But this extortive strategy should not prevail, as ultimately, a suit in this court not only potentially jeopardizes the business of PIC and SAS, but threatens the viability and existence of the Partnership Plans involved in the Texas DMP suit.

5. Staying these proceedings is in the interests of judicial efficiency and justice and does *not* burden the DOL. It was the DOL that caused these two cases to become intertwined. Thus, it is most efficient to resolve these issues where they initially began and currently reside—the Northern District of Texas.

6. As discussed in Defendants' Motion to Transfer Venue, the improperly motivated investigation of Defendants (the "Anjo Investigation") by the DOL was initiated in April 2019. That investigation was not concluded until July 2022. Settlement negotiations between the DOL and Defendants continued from then until November 2024. Clearly, staying the current proceedings would in no way prejudice the DOL, given the nearly five-year span between initiation of the investigation and initiation of these proceedings.

7. Not staying these proceedings ultimately greatly burdens both Defendants and DMP and LPMS in the Texas DMP suit. The very existence of the Partnership Plans depends on the existence of its vendors, SAS and PIC. In addition to the burden of litigating facts and issues already being litigated in Texas, potentially conflicting rulings between this court and Texas will not only threaten the business of PIC, SAS, DMP, and LPMS, but the ongoing viability of the plans

PIC and SAS help service and administer, thus jeopardizing access to health care for more than 30,000 plan participants.

8. Further, the DOL has brought this suit as if the Texas DMP suit does not exist. The Texas DMP court rejected remanding to the DOL for additional administrative adjudication. If the Texas court prevented the DOL from escaping its jurisdiction, DOL should not be able to do an end run around that Court by filing this case.

9. Finally, the stay Defendants request is for a reasonable duration, as it will only last as long as this court needs to decide on the Motion to Transfer Venue or until the Texas court issues its rulings on the fully briefed Motion pending in its court.

10. Thus, in the interests of efficiency and justice, Defendants now respectfully request that this Court exercise its broad judicial discretionary authority to control its docket and promote justice by staying all proceedings within this litigation until this court decides on the Motion to Transfer Venue, or alternatively, until a ruling on the pending Motion for Leave to File Supplemental Complaint in the Texas DMP suit bringing additional claims against the DOL for its tortious interference and extortive conduct.

## **II. ARGUMENTS AND AUTHORITIES**

11. Courts are empowered to stay cases because of their inherent power to “control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *See Landis v. North Am. Co.*, 299 U.S. 248, 254-255 (1936). Courts rely on their own broad discretion and judgment, weighing competing interests and ultimately maintaining an even balance.” *Id.*; *Clinton v. Jones*, 520 U.S. 681, 706 (1997) (“The District Court has broad discretion to stay proceedings as an incident to its power to control its own docket.”); *see also Torres v. Furiel Auto Corp.*, No. 21-CV-01593(GMM), 2023 WL 3058487, at \*1 (D.P.R. Apr. 24, 2023).

12. “Indeed, a typical reason [for staying] is the pendency of a related proceeding in another tribunal.” *Hewlett-Packard Co. v. Berg*, 61 F.3d 101, 105 (1st Cir. 1995); *see also Blue Cross & Blue Shield of Massachusetts, Inc. v. Regeneron Pharm., Inc.*, 633 F. Supp. 3d 385, 392 (D. Mass. 2022). This Court has granted stays pending decisions on other motions such as Motions to Dismiss. *See generally Rafael Rodriguez Barril, Inc. v. Conbraco Indus., Inc.*, No. CV 08-1993 (JAG), 2008 WL 11495201, at \*2 (D.P.R. Oct. 9, 2008).

13. Furthermore, this Court has embraced the notions presented in Rule 1 of the Federal Rules of Civil Procedure requiring that the rules be “construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.” *Id.* at \*1; Fed. R. Civ. P. R. 1.

14. Courts must be mindful “of the hardship and inequity to the moving party if the action is not stayed, and of the potential prejudice to the non-movant.” *Ramos-Martir v. Astra Merck, Inc.*, No. CIV. 05-2038(PG), 2005 WL 3088372, at \*1 (D.P.R. Nov. 17, 2005). Accordingly, courts consider (1) potential prejudice to the non-moving party, (2) any hardship or inequity to the moving party if a stay is not granted, and (3) principles of judicial economy. *See Torres*, 2023 WL 3058487 at \*1; *Taunton Gardens Co. v. Hills*, 557 F.2d 877, 879 (1<sup>st</sup> Cir. 1977). Additionally, there must be good cause for a stay, it “must be reasonable in duration; and the court must ensure that competing equities are weighed and balanced.” *Marquis v. F.D.I.C.*, 965 F.2d 1148, 1155 (1<sup>st</sup> Cir. 1992).

15. Importantly, when claims or issues overlap between suits, despite not being identical, courts choose to stay one of the cases to “avoid duplication of effort and potentially inconsistent judgments.” *Acton Corp. v. Borden, Inc.*, 670 F.2d 377, 382 (1<sup>st</sup> Cir. 1982). Such claims do not need to be identical, but where an action is “substantially farther along than [the

second] action and is likely to be resolved more quickly,” courts note it as a reason to stay the second proceeding until the first is resolved. *See Blue Cross & Blue Shield of Massachusetts, Inc. v. Regeneron Pharms., Inc.*, 633 F. Supp. 3d 385, 392 (D. Mass. 2022).

16. Furthermore, this Court has stayed a case where its resolution was “largely dependent” on issues being decided in another proceeding. *In re Fin. Oversight & Mgmt. Bd. for Puerto Rico*, 335 F. Supp. 3d 256, 262 (D.P.R. 2018). In this case, this Court explained:

“[T]he parties’ arguments related to the motion to dismiss rely on rulings of this Court in related proceedings which are either on review before the District Court Judge assigned to this matter or the First Circuit Court of Appeals. As *any decision by either court would significantly impact this Court’s ruling* on the Motion to Dismiss, the Court hereby *stays* the pending Motion to Dismiss until after disposition of the standing issue by either court.”

*Id.* at 258 (emphasis added).

17. Further, in *Blue Cross*, the court considered whether to stay a current action alleging a kickback scheme by a pharmaceutical company until an ongoing Department of Justice False Claims Act action with the same “underlying factual dispute” against that same company in the same court was resolved. *See Blue Cross*, 633 F. Supp. 3d at 389, 392-393. Factors the court considered included (1) the first action was well underway and would likely be resolved faster, (2) “[r]isk of inconsistent judgments” as “[w]ithout a stay, Regeneron will face multiple private civil actions and a government civil enforcement action at the same time, based on the same basic set of facts, which conceivably could lead to inconsistent outcomes,” and (3) the court’s own interest in judicial efficiency in “conserv[ing] resources and avoid[ing] duplicative litigation” by preventing this case from litigating simultaneously alongside another dealing with substantially same facts. *Id.*, at 392-93.

18. In the case at bar, it is in this Court and both parties’ interest to prevent duplicative proceedings and conserve resources in staying this litigation until either this Court decides to

transfer this proceeding to the Northern District of Texas or until the Motion for Leave to File Supplemental Complaint is ruled upon in the Texas DMP suit. The factors for a stay of this proceeding rule in the Defendants' favor here.

**A. Defendants, Not the DOL, Will Be Burdened if a Stay is Not Granted**

19. Defendants will be significantly burdened if a stay is not granted.

20. First, Defendants will face significant financial obstacles in litigating this frivolous suit—while attempting to continue to service healthcare options for more than 30,000 plan participants—while a suit involving substantially similar facts is already ongoing in another jurisdiction.

21. Second, the risk of a conflicting judgment presents significant potential burdens on the stability of Defendants' business and the relationships they have cultivated with its customers. PIC and SAS currently have harmonious business relations with DMP and LPMS in providing their essential administrative and stoploss insurance services. In the likely event that the Northern District rules favorably for the DMP and LPMS, and this Court rules favorably for the DOL, PIC and SAS will be unable to provide the services DMP and LPMS rely on, and Defendants' business relationships with DMP and LPMS are jeopardized.

22. Third, there is a very real threat to Defendants' customers, along with DMP and LPMS, to be caught in the chokehold of the DOL's extortive strategies. The Texas suit is ongoing, and important interpretive questions remain as to the ERISA-compliance of the Partnership Plans in the Texas DMP suit. As explained further in the Motion to Transfer Venue, this suit is the result of an extortive strategy the DOL created during settlement negotiations between it and Defendants, namely when the DOL requested (1) withdrawal of the request for an Advisory Opinion brought by LPMS (notably, for which Defendant Renfro was legal counsel) applicable to DMP and the

other limited partnerships it managed and (2) the dismissal of the DMP and LPMS' suit against the DOL in the Texas District Court.<sup>1</sup> That very same Advisory Opinion and the case in Texas District Court arise from ERISA healthcare plans for which SAS provides administrative services and that PIC provides stop loss coverage to the plan sponsor (DMP).

23. But when DMP and LPMS refused to relent to the DOL's extortive settlement terms, the DOL initiated other actions in courts across the country, including in this very Court, against entities related to DMP and LPMS. In doing so, the DOL threatened the financial viability of DMP, LPMS, the healthcare plans they sponsor, and now PIC and SAS. The DOL did this as if the ongoing Texas DMP suit and the ongoing ERISA questions did not exist.

24. For example, in addition to this case against SAS and PIC, the DOL recently filed Petition To Enforce Administrative Subpoena in federal court in Georgia, attached as Exhibit A to this Motion, against one of LPMS' partnerships Socios Buenos, LP ("Socios Buenos"), a Limited Partnership and plan sponsor of identical plans sponsored by DMP and which is also serviced by SAS and PIC. Socios Buenos was included by the DOL as part of its global settlement strategy with PIC, SAS, DMP, and LPMS in potentially agreeing to drop its administrative subpoena pursuit against Socios Buenos. When the DOL's unreasonable demands were not accepted, it continued to aggressively pursue Socios Buenos, culminating in the recent administrative subpoena duces

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<sup>1</sup> Although Federal Rule of Evidence 408 says that evidence of a statement made during compromise negotiations is "inadmissible ... either to prove or disprove the validity or amount of a disputed claim or to impeach a prior inconsistent statement or a contradiction ...", the Rule also states that a "court may admit this evidence for another purpose..." Purposes for which a statement has been found to be admissible include, as here, the improper use of settlement statements to harass or extort another person or entity. See *Block v. Washington State Bar Ass'n*, 860 F.App'x 508, 510 (9<sup>th</sup> Cir. 2021) ("Because the emails were offered to prove [Plaintiff's] pattern of harassment, they were not offered 'to prove or disprove the validity or amount of a disputed claim or to impeach,' as is required under the rule. Fed. R. Evid. 408(a)"); *Collier v. Town of Harvard*, No. Civ. A.95-11652, 1997 WL 33781338 at \*3 n. 10 (D. Mass. March 28, 1997) ("The other purpose here, of course, is to show an extortionate scheme"). Since the statements made by the DOL are themselves the basis of Defendants' Counterclaim in this action, the grounds for their admissibility are even more compelling. See *Service Employees Int'l Union v. Local 1199*, 70 F.3d 647, 654, n. 7 (1st Cir.1995) (citing *Overseas Motors, Inc. v. Import Motors Ltd., Inc.*, 375 F.Supp. 499, 537 (E.D.Mich.1974) ("it would also seem reasonable to admit such evidence where the settlement negotiations are themselves ... operative facts"), *aff'd* 519 F.2d 119 (6th Cir.), *cert. denied*, 423 U.S. 987 (1975)).



tecum. Notably, the DOL seeks information to determine whether Socios Buenos' eligible plan participants are "working owners" or "bona fide partners"—the exact same question being litigated, and yet to be answered, in the Texas court.

25. As to PIC and SAS, the DOL sues in this Court alleging several unfounded and misplaced facts against PIC and SAS in a frantic attempt to pressure DMP and LPMS to drop their suit in Texas and withdraw their original Advisory Opinion request, which was first made in 2018 and rejected by DOL in 2020, an action which has been found to be arbitrary and capricious and therefore invalid by two separate courts.

26. All of this has occurred even though the ongoing questions in the Texas Case have not yet been resolved. The DOL is clearly looking for other venues to threaten employers offering plans identical to the Partnership Plans and third-party vendors providing services to the Plaintiffs in the Texas DMP suit in an inappropriate attempt to circumvent the authority of the court currently reviewing issues that will directly impact the DOL's enforcement ability as to the Partnership Plans and other identical plans offered by other employers. Allowing the DOL to proceed this way burdens Defendants, DMP, LPMS, Partnership Plan participants and thousands of participants in other plans currently receiving healthcare coverage through these entities' efforts.

27. In contrast, the DOL will *not* be burdened or prejudiced by a stay as they are the very reason this suit was brought to this court, and ongoing proceedings already exist involving similar underlying facts and related parties in another court. Just as the DOL can connect unrelated parties together as part of its global settlement, it should be able to resolve its claims in the one place it all began—the Northern District of Texas.

28. As discussed, the DOL indelibly connected the Texas DMP suit with its investigation of Defendants during settlement negotiations when it required, in its settlement

demands to Defendants, affirmative action from two non-parties to the Anjo Investigation, specifically (1) withdrawal of a request for an Advisory Opinion brought by LPMS (notably, for which Defendant Renfro served as legal counsel) applicable to DMP and the other limited partnerships it managed and (2) the dismissal of the Texas DMP suit. SAS and PIC provide valuable services that keep the Partnership Plans functioning, and without them, health care coverage of nearly 30,000 individuals is at stake. Like *Blue Cross & Blue Shield of Massachusetts, Inc. v. Regeneron Pharms., Inc.*, 633 F. Supp. 3d 385, 392–93 (D. Mass. 2022), though the DOL does not pursue the same exact claims in this Court as in the Texas DMP suit, the underlying facts and claims have been made inextricably intertwined by DOL’s own global settlement strategy explicitly connecting the facts, parties, and these two cases to one another. But since DMP and LPMS refused to drop their suit, the DOL has brought baseless allegations against their vendors SAS and PIC in this Puerto Rico federal district court to pressure DMP and LPMS to relent from their position.

29. This suit is not a whole new set of facts, but merely the DOL’s attempt to point fingers to related entities regarding single employer welfare benefit plans, which by definition include the same Partnership Plans. The DOL will likely not suffer burdens related to discovery and litigation in the Texas suit when it unilaterally and explicitly tied PIC and SAS to that litigation.

**B. Staying these Proceedings is in the Interests of Justice and Expediency**

30. This Court has recognized that the Federal Rules of Civil Procedure require courts to construe the rules “to secure the just, speedy, and inexpensive determination” of cases. *Rafael Rodriguez Barril, Inc. v. Conbraco Indus., Inc.*, No. CV 08-1993 (JAG), 2008 WL 11495201, at \*2 (D.P.R. Oct. 9, 2008). Nothing about the DOL’s actions in pursuing this case in this Court are just, speedy, or inexpensive. Instead, the DOL’s actions are designed and calculated to have the

opposite effect. The DOL has proven to be abusive and disrespectful of the courts themselves, and should not be allowed to prevail.

31. Importantly, the Texas district court recently denied the DOL's Motion to Remand for additional administrative adjudication because "the Fifth Circuit both explicitly and implicitly conferred responsibility upon the district court alone" to decide ERISA-issues related to the Partnership Plans. *Data Mktg. P'ship, LP v. United States Dep't of Lab.*, No. 4:19-CV-00800-O, 2023 WL 5939379, at \*3 (N.D. Tex. Aug. 11, 2023). The gravity of this decision cannot be understated, as the general rule is that courts should remand agency actions by default. *See Florida Power & Light Co. v. Lorion*, 470 U.S. 729, 744 (1985). The DOL now seeks to escape the court's jurisdiction and "back door" that ruling, by its actions in this case.

32. It would be in the interests of expediency to stay until additional issues are resolved in Texas. The DOL is clearly seeking to avoid the decision it knows will likely be coming from the Texas District Court. Significantly, if the Plans are determined by the Texas District Court to be ERISA compliant, the DOL's case in this Court is faced with collateral estoppel with respect to its claims.

33. As facts alleged between both sides are now inextricably entwined, there is a substantial likelihood that the issues the DOL has with Defendants will be resolved in the Texas DMP suit. The Motion for Leave to File Supplemental Complaint and Supporting Brief alleges the same extortive strategy on the DOL's part and will likely resolve the baseless allegations brought by the DOL in this suit. Additionally, PIC and SAS actively service the Partnership Plans at dispute in the Texas DMP suit, so it would be even more expedient and convenient to litigate facts involving PIC and SAS in Texas, compared to separately in this Court. Ultimately, the DOL has provided a natural avenue to resolving all these issues in one place—the Northern District of Texas.

34. Thus, in the interests of justice and expediency, this Court should stay proceedings until this Court rules on the Motion to Transfer Venue, or alternatively, until further decisions are made in the Texas court.

**C. The Timeline for Stay is Reasonable**

35. Stays must be “reasonable in duration.” *Marquis v. F.D.I.C.*, 965 F.2d 1148, 1155 (1st Cir. 1992). This Motion has provided two reasonable options to elect: to stay either (1) until the Motion for Leave to File Supplemental Complaint is filed in the Northern District of Texas or (2) until this Court decides on the Motion to Transfer venue.

36. Defendants offer these two options with this Court’s interests in efficiency in mind. As discussed, the Texas DMP suit is well underway and has been expedient, as demonstrated by the docket attached as Exhibit B to this Motion. Furthermore, although the last ruling occurred in *Data Mktg. P’ship, LP v. United States Dep’t of Lab.*, No. 4:19-CV-00800-O, 2023 WL 5939379 (N.D. Tex. Aug. 11, 2023), a Motion for Leave to File Supplemental Complaint and Supporting Brief has been fully briefed and is currently pending with the court, and many of the issues this Court would be required to rule upon have already been addressed or fully briefed therein.

37. Thus, staying this litigation until a decision has been made on the Motion for Leave to File Supplemental Complaint would not translate to an unnecessarily protracted stay length.

38. However, this Court can choose to stay this case until it decides upon the Motion to Transfer Venue, and the length of the stay would be limited to only as long as the Court requires to make its decision.

**III. CONCLUSION**

39. This Court is empowered to prevent unjust and unfair outcomes. Nothing about the DOL’s strategy or practice in this litigation is just, fair or reasonable.

40. Therefore, in the interests of justice and judicial efficiency, this Court should exercise its broad discretionary powers and stay this current proceeding until either (1) this Court rules on the Motion to Transfer Venue filed alongside this Motion or (2) the Motion for Leave to File Supplemental Complaint and Supporting Brief is ruled upon in the Northern District of Texas.

**WHEREFORE**, Defendants and Counterclaim Plaintiffs respectfully request the Court to take notice of the above and grant the requested relief.

**WE HEREBY CERTIFY** that on this date, we electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all attorneys of record.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico this 18<sup>th</sup> day of February 2025.

**HALLETT & PERRIN, P.C.**

*/s/ Edward P. Perrin, Jr.*

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*/s/ Jonathan Crumly*

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# **EXHIBIT A**





about to violate any provision of Title I of ERISA or any regulation or order promulgated thereunder. 29 U.S.C. § 1134.

2. This Court has subject matter jurisdiction over this petition pursuant to section 9 of the Federal Trade Commission Act, 15 U.S.C. § 49, as made applicable by section 504(c) of ERISA, 29 U.S.C. § 1134(c), and pursuant to ERISA section 502(e)(1), 29 U.S.C. § 1132(e)(1).

3. Socios Buenos is located at 4279 Roswell Rd., Box 371, Suite 208, Atlanta, GA 30342. Accordingly, venue is proper in the Northern District of Georgia, pursuant to ERISA section 502(e), 29 U.S.C. § 1132(e)(2).

4. In December 2023, EBSA began conducting an investigation of Socios Buenos, and the health plan offered through that partnership (“Socios Buenos Investigation”), to determine compliance with Title I of ERISA. Declaration of Jeri Meisel ¶¶ 2-5 (“Meisel Decl.”).<sup>1</sup>

5. In connection with the Socios Buenos Investigation, on December 21, 2023, Colleen McKee, Director for the Office of Enforcement of EBSA, issued the Subpoena to Socios Buenos pursuant to the authority provided by ERISA section 504(c), 29 U.S.C. § 1134(c). A true and correct copy of the Subpoena is attached as Exhibit A to Investigator Meisel’s Declaration.

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<sup>1</sup> The Meisel Declaration is Exhibit 1 to the Petitioner’s Memorandum of Law in Support of Petition to Enforce Administrative Subpoena.

6. The Subpoena was served electronically to Jonathan Crumly, counsel for Socios Buenos who was authorized to accept service of the Subpoena. Meisel Decl. ¶ 5; Exhibit B to Meisel Decl.

7. The Department attempted to secure Socios Buenos's compliance with the Subpoena throughout the last year, as detailed in the accompanying Petitioner's Memorandum of Law in Support of Petition to Enforce Administrative Subpoena, incorporated herein by reference. Socios Buenos has produced to the Department some, but not all, of the documents requested in the Subpoena. Many of the documents produced were nearly-identical member information packages that repeat the same information. Meisel Decl. ¶¶ 8, 13, 15.

8. EBSA repeatedly requested that Socios Buenos provide a production schedule and prioritize its production to certain requests. Socios Buenos has ignored EBSA's requests and produced fewer than 2,000 documents out of a claimed 100,000 under review. Many of the documents produced are nearly identical. Socios Buenos also has failed to meet the production schedule that it proposed for itself. Meisel Decl. ¶ 17. Finally, Socios Buenos maintains objections to producing any documents in response to 13 of the Subpoena's 41 requests. Declaration of Katrina Liu ¶ 5.

9. A full response to the Subpoena, including production of all responsive documents, is necessary for EBSA to determine whether any person has violated or

is about to violate any provision of Title I of ERISA or any regulation or order promulgated thereunder. Meisel Decl. ¶ 24.

10. The issuance and service of the Subpoena at issue are authorized by section 504 of ERISA, which states in pertinent part:

#### INVESTIGATIVE AUTHORITY

(a) Investigation and submission of reports, books, etc.

The Secretary shall have the power, in order to determine whether any person has violated or is about to violate any provision of this title or any regulation or order thereunder—

(1) to make an investigation, and in connection therewith to require the submission of reports, books, and records . . . .

\*\*\*\*

(c) Other provisions applicable relating to attendance of witnesses and production of books, records, etc.

For the purposes of any investigation provided for in this subchapter, the provisions of sections 49 and 50 of Title 15 [the Federal Trade Commission Act, 15 U.S.C. §§ 49, 50]<sup>2</sup> (relating to the attendance of

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<sup>2</sup> The Federal Trade Commission and, by incorporation, EBSA, is authorized to examine and copy documentation, and has:

[the] power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. . . .

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpoena the Commission may invoke the aid of any court of the United States in

witnesses, and the production of books, records and documents) are hereby made applicable (without regard to any limitation in such sections respecting persons, partnerships, banks, or common carriers) to the jurisdiction, powers, and duties of the Secretary or any officers designated by him.

\*\*\*\*

29 U.S.C. § 1134(a)(1), (c).

WHEREFORE, for all the reasons set forth herein and in the accompanying Memorandum of Law, the Acting Secretary of Labor respectfully requests that this Court issue an Order:

- a. Requiring Respondent to produce all of the records requested by the Subpoena by a date certain; and
- b. Granting Petitioner such other relief as may be necessary and appropriate.

Respectfully submitted,

SEEMA NANDA  
Solicitor of Labor

WAYNE R. BERRY  
Associate Solicitor  
for Plan Benefits Security

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requiring the attendance and testimony of witnesses and the production of documentary evidence.

15 U.S.C. § 49.

KATRINA LIU  
Counsel for Litigation

s/ Jamie Troutman  
\_\_\_\_\_  
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# **EXHIBIT B**

**U.S. District Court  
Northern District of Texas (Fort Worth)  
CIVIL DOCKET FOR CASE #: 4:19-cv-00800-O**

Data Marketing Partnership, LP v. United States Department of  
Labor et al

Assigned to: Judge Reed C. O'Connor

Case in other court: United States Court of Appeals Fifth  
Circuit, 20-11179

Cause: 28:1132 E.R.I.S.A.

Date Filed: 10/03/2019

Jury Demand: None

Nature of Suit: 791 Labor: Employee

Retirement Income Security Act (ERISA)

Jurisdiction: U.S. Government Defendant

**Plaintiff**

**Data Marketing Partnership LP**

represented by **Reginald L. Snyder**

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**Plaintiff**

**LP Management Services LLC**

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**Robert G Chadwick , Jr**  
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**Jonathan D Crumly , Sr**  
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**Michael L Jones**  
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*ATTORNEY TO BE NOTICED*

V.

**Defendant**

**United States Department of Labor**

represented by **Galen N Thorp**  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
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*LEAD ATTORNEY*  
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**Defendant**

**Eugene Scalia**  
*in his official capacity as Secretary of the  
United States Department of Labor*

represented by **Galen N Thorp**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

United States of America

represented by **Galen N Thorp**  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
10/04/2019	<u>1</u>	COMPLAINT against All Defendants filed by Data Marketing Partnership, LP. (Filing fee \$400; receipt number 0539-10313926) Clerk to issue summons(es). In each Notice of Electronic Filing, the judge assignment is indicated, and a link to the <a href="#">Judges Copy Requirements</a> is provided. The court reminds the filer that any required copy of this and future documents must be delivered to the judge, in the manner prescribed, within three business days of filing. Unless exempted, attorneys who are not admitted to practice in the Northern District of Texas must seek admission promptly. Forms, instructions, and exemption information may be found at <a href="http://www.txnd.uscourts.gov">www.txnd.uscourts.gov</a> , or by clicking here: <a href="#">Attorney Information – Bar Membership</a> . If admission requirements are not satisfied within 21 days, the clerk will notify the presiding judge. (Attachments: # <u>1</u> Cover Sheet, # <u>2</u> Cover Sheet Supplement Certificate of Interested Persons, # <u>3</u> Exhibit(s) Exhibit A, # <u>4</u> Exhibit(s) Exhibit B) (Snyder, Reginald) (Entered: 10/04/2019)
10/04/2019		CERTIFICATE OF INTERESTED PERSONS by Data Marketing Partnership, LP. (see doc. <u>1</u> for image) (tln) (Entered: 10/04/2019)
10/04/2019	<u>2</u>	New Case Notes: A filing fee has been paid. File to: Judge O Connor. Pursuant to Misc. Order 6, Plaintiff is provided the Notice of Right to Consent to Proceed Before A U.S. Magistrate Judge. Clerk to provide copy to plaintiff if not received electronically. (tln) (Entered: 10/04/2019)
10/04/2019	<u>3</u>	Summons issued as to Eugene Scalia, United States Department of Labor, United States of America, U.S. Attorney, and U.S. Attorney General. (tln) (Entered: 10/04/2019)
12/13/2019	<u>4</u>	SUMMONS Returned Executed as to United States of America ; served on 12/6/2019. (Snyder, Reginald) (Entered: 12/13/2019)
01/24/2020	<u>5</u>	NOTICE of Attorney Appearance by Galen N Thorp on behalf of Eugene Scalia, United States Department of Labor, United States of America. (Filer will update contact info in ECF.) (Thorp, Galen) (Entered: 01/24/2020)
01/27/2020	<u>6</u>	ORDER: Accordingly, it is ORDERED that the Parties either submit a status report on their disposition or voluntarily dismiss this action on or before February 3, 2020. (Ordered by Judge Reed C. O'Connor on 1/27/2020) (skg) (Entered: 01/27/2020)
01/29/2020	<u>7</u>	Joint STATUS REPORT <i>filed by Plaintiff and</i> filed by Eugene Scalia, United States Department of Labor, United States of America. (Attachments: # <u>1</u> Exhibit(s) A) (Thorp, Galen) (Entered: 01/29/2020)
01/30/2020	<u>8</u>	ORDER: Plaintiff shall file its Amended Complaint on or before February 21, 2020. Defendants shall answer or otherwise respond to the Amended Complaint on or before March 20, 2020. (Ordered by Judge Reed C. O'Connor on 1/30/2020) (skg) (Entered: 01/30/2020)
02/03/2020	<u>9</u>	AMENDED COMPLAINT <i>for Declaratory Judgment and Injunctive Relief</i> against All Defendants filed by Data Marketing Partnership LP. Unless exempted, attorneys who are not admitted to practice in the Northern District of Texas must seek admission promptly. Forms, instructions, and exemption information may be found at <a href="http://www.txnd.uscourts.gov">www.txnd.uscourts.gov</a> , or by clicking here: <a href="#">Attorney Information – Bar Membership</a> . If admission requirements are not satisfied within 21 days, the clerk will notify the presiding judge. (Attachments: # <u>1</u> Exhibit(s) Exhibit A to First Amended Complaint, # <u>2</u> Exhibit(s) Exhibit B to First Amended Complaint, # <u>3</u> Exhibit(s) Exhibit C to First Amended Complaint) (Snyder, Reginald) (Entered: 02/03/2020)
02/03/2020	<u>10</u>	MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION filed by Data Marketing Partnership LP, LP Management Services, LLC. Party LP Management Services, LLC added. Attorney Reginald L Snyder added to party LP Management Services, LLC(pty:pla) (Snyder, Reginald) (Entered: 02/03/2020)

		02/03/2020)
02/03/2020	<u>11</u>	Brief/Memorandum in Support filed by Data Marketing Partnership LP, LP Management Services, LLC re <u>10</u> MOTION for Temporary Restraining Order MOTION for Injunction (Attachments: # <u>1</u> Exhibit(s) Exhibit A to Brief in Support of TRO, # <u>2</u> Exhibit(s) Exhibit B to Brief in Support of TRO, # <u>3</u> Exhibit(s) Exhibit C to Brief in Support of TRO, # <u>4</u> Exhibit(s) Exhibit D to Brief in Support of TRO) (Snyder, Reginald) (Entered: 02/03/2020)
02/03/2020	<u>12</u>	CERTIFICATE of Conference re <u>10</u> MOTION for Temporary Restraining Order MOTION for Injunction by Reginald L Snyder on behalf of All Plaintiffs (Snyder, Reginald) (Entered: 02/03/2020)
02/04/2020	<u>13</u>	Application for Admission Pro Hac Vice with Certificate of Good Standing for Attorney Jonathan D. Crumly, Sr. (Filing fee \$100; Receipt number 0539-10593931) filed by Data Marketing Partnership LP, LP Management Services, LLC (Attachments: # <u>1</u> Letter of Good Standing) (Crumly, Jonathan) Modified on 2/5/2020 (pef). (Entered: 02/04/2020)
02/04/2020	<u>14</u>	Application for Admission Pro Hac Vice with Certificate of Good Standing for Attorney Bryan Jacoutot (Filing fee \$100; Receipt number 0539-10594220) filed by Data Marketing Partnership LP, LP Management Services, LLC (Attachments: # <u>1</u> Letter of Good Standing) (Jacoutot, Bryan) Modified on 2/5/2020 (pef). (Entered: 02/04/2020)
02/06/2020	<u>15</u>	ORDER: This proposed schedule should be filed on or before February 20, 2020. (Ordered by Judge Reed C. O'Connor on 2/6/2020) (skg) (Entered: 02/06/2020)
02/06/2020	<u>16</u>	ORDER denying <u>14</u> Application for Admission Pro Hac Vice. (Ordered by Judge Reed C. O'Connor on 2/6/2020) (skg) (Entered: 02/06/2020)
02/06/2020	<u>17</u>	ORDER denying <u>13</u> Application for Admission Pro Hac Vice. (Ordered by Judge Reed C. O'Connor on 2/6/2020) (skg) (Entered: 02/06/2020)
02/13/2020	<u>18</u>	Joint STATUS REPORT <i>Regarding Proposed Schedule</i> filed by Eugene Scalia, United States Department of Labor, United States of America. (Thorp, Galen) (Entered: 02/13/2020)
02/17/2020	<u>19</u>	ORDER: Setting deadlines (Ordered by Judge Reed C. O'Connor on 2/17/2020) (Judge Reed C. O'Connor) (Entered: 02/17/2020)
02/17/2020	<u>20</u>	NOTICE of Attorney Appearance by Reginald L Snyder for Michael L. Jones on behalf of Data Marketing Partnership LP, LP Management Services, LLC. (Snyder, Reginald) (Entered: 02/17/2020)
02/18/2020	<u>21</u>	Application for Admission Pro Hac Vice with Certificate of Good Standing (Clerk Note: Filer states no fee is to be collected due to prior payment or waiver by MO 16 or prior order.) filed by Data Marketing Partnership LP, LP Management Services, LLC (Attachments: # <u>1</u> Letter of Good Standing, # <u>2</u> Proposed Order) (Crumly, Jonathan) (Entered: 02/18/2020)
02/18/2020	<u>22</u>	Application for Admission Pro Hac Vice with Certificate of Good Standing (Clerk Note: Filer states no fee is to be collected due to prior payment or waiver by MO 16 or prior order.) filed by Data Marketing Partnership LP, LP Management Services, LLC (Attachments: # <u>1</u> Letter of Good Standing, # <u>2</u> Proposed Order) (Jacoutot, Bryan) (Entered: 02/18/2020)
02/19/2020	<u>23</u>	MOTION for Summary Judgment filed by Data Marketing Partnership LP, LP Management Services, LLC (Snyder, Reginald) (Entered: 02/19/2020)
02/19/2020	<u>24</u>	Brief/Memorandum in Support filed by Data Marketing Partnership LP, LP Management Services, LLC re <u>23</u> MOTION for Summary Judgment (Attachments: # <u>1</u> Appendix, # <u>2</u> Appendix Tab 1 - 6, # <u>3</u> Appendix Tab 7 - 15) (Snyder, Reginald) (Entered: 02/19/2020)
03/09/2020	<u>25</u>	Cross MOTION for Summary Judgment filed by Eugene Scalia, United States Department of Labor, United States of America (Thorp, Galen) (Entered: 03/09/2020)

03/09/2020	<u>26</u>	RESPONSE filed by Eugene Scalia, United States Department of Labor, United States of America re: <u>10</u> MOTION for Temporary Restraining Order MOTION for Injunction (Thorp, Galen) (Entered: 03/09/2020)
03/09/2020	<u>27</u>	RESPONSE filed by Eugene Scalia, United States Department of Labor, United States of America re: <u>23</u> MOTION for Summary Judgment (Thorp, Galen) (Entered: 03/09/2020)
03/09/2020	<u>28</u>	COMBINED BRIEF IN OPPOSITION filed by Eugene Scalia, United States Department of Labor, United States of America re <u>26</u> Response/Objection, <u>25</u> Cross MOTION for Summary Judgment , <u>27</u> Response/Objection (Thorp, Galen) (Entered: 03/09/2020)
04/06/2020	<u>29</u>	PLAINTIFFS' CONSOLIDATED REPLY BRIEF IN SUPPORT OF SUMMARY JUDGMENT AND INJUNCTION AS WELL AS OPPOSITION TO DEFENDANTS' <u>25</u> Cross MOTION for Summary Judgment (Attachments: # <u>1</u> Exhibit(s)) (Snyder, Reginald) (Entered: 04/06/2020)
04/07/2020	<u>30</u>	REPLY filed by Data Marketing Partnership LP, LP Management Services, LLC re: <u>25</u> Cross MOTION for Summary Judgment (Attachments: # <u>1</u> Exhibit(s)) (Snyder, Reginald) (Entered: 04/07/2020)
04/07/2020	<u>31</u>	ADDITIONAL ATTACHMENTS to <u>30</u> Reply, <u>29</u> Reply by Plaintiffs Data Marketing Partnership LP, LP Management Services, LLC. (Snyder, Reginald) (Entered: 04/07/2020)
04/09/2020	<u>32</u>	ORDER granting <u>21</u> Application for Admission Pro Hac Vice of Jonathan D. Crumly, Sr. Important Reminder: Unless excused for cause, an attorney who is not an ECF user must register within 14 days of the date the attorney appears in a case pursuant to LR 5.1(f) and LCrR 49.2(g). (Ordered by Judge Reed C. O'Connor on 4/9/2020) (tln) (Entered: 04/09/2020)
04/09/2020	<u>33</u>	ORDER granting <u>22</u> Application for Admission Pro Hac Vice of Jacoutot. Important Reminder: Unless excused for cause, an attorney who is not an ECF user must register within 14 days of the date the attorney appears in a case pursuant to LR 5.1(f) and LCrR 49.2(g). (Ordered by Judge Reed C. O'Connor on 4/9/2020) (tln) (Entered: 04/09/2020)
04/14/2020	<u>34</u>	Application for Admission Pro Hac Vice with Certificate of Good Standing for Attorney Allen Nelson (Filing fee \$100; Receipt number 0539-10765027) filed by Data Marketing Partnership LP, LP Management Services, LLC (Attachments: # <u>1</u> Letter of Good Standing, # <u>2</u> Proposed Order) (Snyder, Reginald) (Entered: 04/14/2020)
04/17/2020	<u>35</u>	ELECTRONIC ORDER granting <u>34</u> Application for Admission Pro Hac Vice of Allen W. Nelson. Important Reminder: Unless excused for cause, an attorney who is not an ECF user must register within 14 days of the date the attorney appears in a case pursuant to LR 5.1(f) and LCrR 49.2(g). (Ordered by Judge Reed C. O'Connor on 4/17/2020) (chmb) (hc) (Entered: 04/17/2020)
04/24/2020	<u>36</u>	REPLY filed by Eugene Scalia, United States Department of Labor, United States of America re: <u>25</u> Cross MOTION for Summary Judgment (Thorp, Galen) (Entered: 04/24/2020)
09/28/2020	<u>37</u>	MEMORANDUM OPINION AND ORDER: For the foregoing reasons, the Court GRANTS Plaintiffs' Motion for Summary Judgment (ECF No. <u>23</u> ), DENIES Defendants' Cross Motion for Summary Judgment (ECF No. <u>25</u> ), and DENIES as moot Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction (ECF No. <u>10</u> ). Because the Limited Partners are working owners and bona-fide partners, they may participate in the single employer welfare benefit plan set up by DMP, so long as DMP employs at least one common-law employee. Accordingly, the Department's Opinion is set aside as arbitrary and capricious under the APA and contrary to law under ERISA and Defendants are ENJOINED from refusing to acknowledge the ERISA-status of the Plan or refusing to recognize the Limited Partners as working owners of DMP. (Ordered by Judge Reed C. O'Connor on 9/28/2020) (tln) (Main Document 37 replaced on 9/30/2020) (tln). (Entered: 09/28/2020)

09/28/2020	<u>38</u>	FINAL JUDGMENT: In accordance with the Court's Memorandum Opinion and Order (ECF No. <u>37</u> ), final judgment is rendered for Plaintiffs. Accordingly, the Department's Opinion is set aside as arbitrary and capricious under the APA and contrary to law under ERISA, and Defendants are ENJOINED from refusing to acknowledge the ERISA–status of the Plan or refusing to recognize the Limited Partners as working owners of DMP. (Ordered by Judge Reed C. O'Connor on 9/28/2020) (tln) (Entered: 09/28/2020)
09/29/2020	<u>39</u>	ORDER: On September 28, 2020, the Court issued a Memorandum Opinion and Order (ECF No. <u>37</u> ). The Court inadvertently stated that "the Court Plaintiffs' Motion for Summary Judgment is GRANTED and DENIES Defendants' Cross Motion for Summary Judgment" on the first page of the Order. The Court will substitute a corrected order which will replace this sentence and read "the Court GRANTS Plaintiffs' Motion for Summary Judgment and DENIES Defendants' Cross Motion for Summary Judgment." No other change has been made. (Ordered by Judge Reed C. O'Connor on 9/29/2020) (tln) (Entered: 09/30/2020)
11/27/2020	<u>40</u>	NOTICE OF APPEAL as to <u>38</u> Judgment <u>37</u> Memorandum Opinion and Order, to the Fifth Circuit by Eugene Scalia, United States Department of Labor, United States of America. T.O. form to appellant electronically at <a href="#">Transcript Order Form</a> or US Mail as appropriate. Copy of NOA to be sent US Mail to parties not electronically noticed. IMPORTANT ACTION REQUIRED: Provide an electronic copy of any exhibit you offered during a hearing or trial that was admitted into evidence to the clerk of the district court within 14 days of the date of this notice. Copies must be transmitted as PDF attachments through ECF by all ECF Users or delivered to the clerk on a CD by all non–ECF Users. See detailed instructions <a href="#">here</a> . (Exception: This requirement does not apply to a pro se prisoner litigant.) Please note that if original exhibits are in your possession, you must maintain them through final disposition of the case. (Thorp, Galen) (Entered: 11/27/2020)
12/04/2020	<u>41</u>	USCA Case Number 20–11179 in United States Court of Appeals Fifth Circuit for <u>40</u> Notice of Appeal, filed by United States Department of Labor, Eugene Scalia, United States of America. (tle) (Entered: 12/04/2020)
12/07/2020		Record on Appeal for USCA5 20–11179 (related to <u>40</u> appeal): Record consisting of: 1 ECF electronic record on appeal (eROA) is certified,. <b>PLEASE NOTE THE FOLLOWING:</b> Licensed attorneys must have filed an appearance in the USCA5 case and be registered for electronic filing in the USCA5 to access the paginated eROA in the USCA5 ECF system. (Take these steps immediately if you have not already done so. Once you have filed the notice of appearance and/or USCA5 ECF registration, it may take up to 3 business days for the circuit to notify the district clerk that we may grant you access to the eROA in the USCA5 ECF system.) To access the paginated record, log in to the USCA5 ECF system, and under the Utilities menu, select Electronic Record on Appeal. Pro se litigants may request a copy of the record by <a href="#">contacting the appeals deputy</a> in advance to arrange delivery. (tle) (Entered: 12/07/2020)
12/17/2020		APPEARANCE FORM FILED at USCA5 by Attorney(s) Jonathan D. Crumly Sr. for party(s) Appellee Data Marketing Partnership, L.P. Appellee L.P. Management Services, L.L.C., in case 20–11179. Access to the EROA has been granted. (tle) (Entered: 12/17/2020)
04/09/2021		APPEARANCE FORM FILED at USCA5 by Attorney Kathryn McDermott Speaks. Access to the EROA has been granted [20–11179]. (tle) (Entered: 04/09/2021)
04/09/2021		APPEARANCE FORM FILED at USCA5 by Attorney Caroline Van Zile for Amicus Curiae State of Wisconsin in [20–11179]. Access to the EROA has been granted. (tle) (Entered: 04/09/2021)
04/21/2021		APPEARANCE FORM FILED at USCA5 by Attorney(s) Yvonne Y. Ho for party(s) Appellee Data Marketing Partnership, L.P. Appellee L.P. Management Services, L.L.C., in case 20–11179. Access to the EROA has been granted. (tle) (Entered: 04/21/2021)
04/26/2021		APPEARANCE FORM FILED at USCA5 20–11179. Access to the EROA has been granted to Attorney: Nandan M. Joshi for Amicus Curiae Public Citizen... Allison M. Zieve for party(s) Amicus Curiae Public Citizen... Michael T. Raupp for Amicus

		Curiae National Association of Insurance Commissioners... Jennifer Maureen McAdam for party(s) Amicus Curiae National Association of Insurance Commissioners... Joel McElvain for Amicus Curiae National Organization for Rare Disorders in 20–11179, Attorney Joel McElvain for Amicus Curiae Cystic Fibrosis Foundation in 20–11179, Attorney Joel McElvain for Amicus Curiae American Cancer Society Cancer Action Network in 20–11179, Attorney Joel McElvain for Amicus Curiae American Cancer Society in 20–11179, Attorney Joel McElvain for Amicus Curiae Leukemia and Lymphoma Society...Gabriel Krimm for party(s) Amicus Curiae Cystic Fibrosis Foundation Amicus Curiae National Organization for Rare Disorders Amicus Curiae American Cancer Society Amicus Curiae Leukemia and Lymphoma Society Amicus Curiae American Cancer Society Cancer Action Network. (tle) Modified on 4/26/2021 (tle). (Entered: 04/26/2021)
04/26/2021		APPEARANCE FORM FILED at USCA5 20–11179. Access to the EROA has been granted to Attorney:: Jon Breyfogle for Amicus Curiae Blue Cross Blue Shield Association i access to the EROA...Tammy Killion for party(s) Amicus Curiae Blue Cross Blue Shield Association...Matthew W. Lanahan for party(s) Amicus Curiae Blue Cross Blue Shield Association. (tle) (Entered: 04/26/2021)
06/24/2021	<u>42</u>	ORDER of USCA 20–11179 as to <u>40</u> Notice of Appeal, filed by United States Department of Labor, Eugene Scalia, United States of America. The court has granted an extension of time to and including July 13, 2021 for filing a reply brief in this case. (tle) (Entered: 06/24/2021)
07/27/2021		APPEARANCE FORM FILED at USCA5 by Attorney Jason Elam for Amicus Curiae Benjamin Clear in 20–11179, Attorney Jason Elam for Amicus Curiae John Fiedler in 20–11179, Attorney Jason Elam for Amicus Curiae Adam Rochester in 20–11179 Sufficient Brief deadline satisfied. Access to the EROA has been granted. (tle) (Entered: 07/27/2021)
05/27/2022		APPEARANCE FORM FILED at USCA5 by Attorney(s) Alexander Kazam for party(s) Amicus Curiae Cystic Fibrosis Foundation Amicus Curiae National Organization for Rare Disorders Amicus Curiae American Cancer Society Amicus Curiae Leukemia and Lymphoma Society Amicus Curiae American Cancer Society Cancer Action Network, in case 20–11179. Access to the EROA has been granted. (tle) (Entered: 05/27/2022)
10/11/2022	<u>43</u>	JUDGMENT/MANDATE of USCA No. 20–11179 as to <u>40</u> Notice of Appeal, filed by United States Department of Labor, Eugene Scalia, United States of America. IT IS ORDERED and ADJUDGED that the judgment of the District Court is AFFIRMED IN PART, VACATED IN PART and REMANDED to the District Court for further proceedings in accordance with the opinion of this Court. Issued as Mandate: 10/11/2022. (Attachments: # <u>1</u> USCA5 Cover Letter) (tle) (Entered: 10/11/2022)
10/11/2022	<u>44</u>	Opinion of USCA No. 20–11179 in accordance with USCA judgment re <u>40</u> Notice of Appeal, filed by United States Department of Labor, Eugene Scalia, United States of America. The Department failed to do that. For the foregoing reasons, the district courts judgment is AFFIRMED in part, VACATED in part, and REMANDED. (tle) (Entered: 10/11/2022)
10/11/2022		Case reopened per United States Court of Appeals 5th Circuit Judgment <u>43</u> Opinion <u>44</u> Mandate. [20–11179] (tle) (Entered: 10/12/2022)
11/02/2022	<u>45</u>	ORDER:On August 17, 2022, the Fifth Circuit filed its opinion in Data Mktg. P'ship, LP v. United States Dep't of Lab., 45 F.4th 846 (5th Cir. 2022). The mandate for that opinion has now issued, and the case has been remanded to this Court. Accordingly, the Parties shall meet and confer as to the remaining issues before this Court. Following their meeting, the Parties shall submit a Joint Status Report to the Court, identifying the live issues in this case and outlining a plan for resolving them, no later than November 16, 2022. (Ordered by Judge Reed C. O'Connor on 11/2/2022) (sre) (Entered: 11/02/2022)
11/16/2022	<u>46</u>	Joint STATUS REPORT filed by Eugene Scalia, United States Department of Labor, United States of America. (Thorp, Galen) (Entered: 11/16/2022)
12/13/2022	<u>47</u>	POST–APPEAL SCHEDULING ORDER: Defendants' Motion for Remand to Agency due by 12/30/2022. Responses due by 1/31/2023. Replies due by 2/17/2023. (Ordered

		by Judge Reed C. O'Connor on 12/13/2022) (bdb) (Entered: 12/13/2022)
12/30/2022	<u>48</u>	MOTION to Remand to U.S. Department of Labor filed by Eugene Scalia, United States Department of Labor, United States of America with Brief/Memorandum in Support. (Thorp, Galen) (Entered: 12/30/2022)
01/31/2023	<u>49</u>	RESPONSE AND OBJECTION filed by Data Marketing Partnership LP, LP Management Services LLC re: <u>48</u> MOTION to Remand to U.S. Department of Labor (Crumly, Jonathan) (Entered: 01/31/2023)
02/17/2023	<u>50</u>	REPLY filed by Eugene Scalia, United States Department of Labor, United States of America re: <u>48</u> MOTION to Remand to U.S. Department of Labor (Thorp, Galen) (Entered: 02/17/2023)
08/11/2023	<u>51</u>	OPINION & ORDER DENYING DEFENDANTS' MOTION TO REMAND: Before the Court are Defendants Motion to Remand (ECF No. <u>48</u> ), filed December 30, 2022; Plaintiffs' Response (ECF No. <u>49</u> ), filed January 31, 2023; and Defendants' Reply to Plaintiffs' Response (ECF No. <u>50</u> ), filed February 17, 2023. After reviewing the briefing, relevant law, and applicable facts, the Court finds that Defendants' Motion to Remand should be DENIED in its entirety. The parties SHALL submit a joint report indicating their proposals for how this case should proceed no later than September 1, 2023. (Ordered by Judge Reed C. O'Connor on 8/11/2023) (sre) (Entered: 08/11/2023)
08/21/2023	<u>52</u>	Joint MOTION for Extension of Time to File Joint Status Report filed by Eugene Scalia, United States Department of Labor, United States of America with Brief/Memorandum in Support. (Thorp, Galen) (Entered: 08/21/2023)
08/21/2023	<u>53</u>	ORDER: Having considered the <u>52</u> motion and noting it is agreed, the Court GRANTS the parties' motion and ORDERS them to submit their joint report no later than September 14, 2023. (Ordered by Judge Reed C. O'Connor on 8/21/2023) (bdb) (Entered: 08/21/2023)
09/14/2023	<u>54</u>	STATUS REPORT filed by LP Management Services LLC. (Chadwick, Robert) (Entered: 09/14/2023)
09/15/2023	<u>55</u>	ORDER: Motions due by 1/15/2024. Responses due by 2/26/2024. Replies due by 3/18/2024. (Ordered by Judge Reed C. O'Connor on 9/15/2023) (sre) (Entered: 09/15/2023)
01/15/2024	<u>56</u>	MOTION for Summary Judgment filed by Data Marketing Partnership LP, LP Management Services LLC with Brief/Memorandum in Support. (Chadwick, Robert) (Entered: 01/15/2024)
01/15/2024	<u>57</u>	Brief/Memorandum in Support filed by Data Marketing Partnership LP, LP Management Services LLC re <u>56</u> MOTION for Summary Judgment (Chadwick, Robert) (Entered: 01/15/2024)
02/15/2024	<u>58</u>	MOTION for Extension of Time to File Response/Reply to <u>56</u> MOTION for Summary Judgment filed by Eugene Scalia, United States Department of Labor, United States of America with Brief/Memorandum in Support. (Thorp, Galen) (Entered: 02/15/2024)
02/15/2024	<u>59</u>	ORDER: Before the Court is Defendants' Consent Motion for Extension of Time for Summary Judgment Briefing (ECF No. <u>58</u> ), filed on February 15, 2024. Noting that the extension request is unopposed by Plaintiffs and may facilitate nonjudicial resolution of this matter, the Court GRANTS the extension. Accordingly, the briefing schedule for Plaintiffs' Motion for Summary Judgment (ECF No. <u>56</u> ) is modified as follows: 1. Defendants SHALL file their response by March 29, 2024. 2. Plaintiffs SHALL file their reply by April 19, 2024. (Ordered by Judge Reed C. O'Connor on 2/15/2024) (sre) (Entered: 02/15/2024)
03/26/2024	<u>60</u>	MOTION for Extension of Time to File Response/Reply to <u>56</u> MOTION for Summary Judgment filed by Eugene Scalia, United States Department of Labor, United States of America with Brief/Memorandum in Support. (Thorp, Galen) (Entered: 03/26/2024)
03/27/2024	<u>61</u>	SECOND ORDER EXTENDING BRIEFING SCHEDULE granting <u>60</u> Motion to Extend Time to File Response/Reply. Responses due by 5/10/2024. Replies due by 5/31/2024. (Ordered by Judge Reed C. O'Connor on 3/27/2024) (sre) (Entered: 03/27/2024)

04/29/2024	<u>62</u>	MOTION for Extension of Time to File Response/Reply to <u>56</u> MOTION for Summary Judgment filed by Eugene Scalia, United States Department of Labor, United States of America (Thorp, Galen) (Entered: 04/29/2024)
04/30/2024	<u>63</u>	THIRD ORDER EXTENDING BRIEFING SCHEDULE granting <u>62</u> Motion to Extend Time to File Response/Reply: the briefing schedule for Plaintiffs' Motion for Summary Judgment (ECF No. <u>56</u> ) is MODIFIED as follows: 1. Defendants SHALL file their response by May 31, 2024. 2. Plaintiffs SHALL file their reply by June 21, 2024. Additionally, given the length of time that Plaintiffs Motion for Summary Judgment (ECF No. <u>56</u> ) has been pending and that the issues raised therein will not come ripe until June 21, 2024 at the earliest, the Court formally DEFERS ruling on Plaintiffs' Motion for Summary Judgment (ECF No. <u>56</u> ) until such time that the briefing is complete. (Ordered by Judge Reed C. O'Connor on 4/30/2024) (sre) (Entered: 04/30/2024)
05/31/2024	<u>64</u>	RESPONSE filed by Eugene Scalia, United States Department of Labor, United States of America re: <u>56</u> MOTION for Summary Judgment (Thorp, Galen) (Entered: 05/31/2024)
06/21/2024	<u>65</u>	REPLY filed by Data Marketing Partnership LP, LP Management Services LLC re: <u>56</u> MOTION for Summary Judgment (Chadwick, Robert) (Entered: 06/21/2024)
11/01/2024	<u>66</u>	MOTION for Leave to File Supplemental Complaint filed by Data Marketing Partnership LP, LP Management Services LLC (Attachments: # <u>1</u> Exhibit(s), # <u>2</u> Proposed Order) (Chadwick, Robert) (Entered: 11/01/2024)
11/20/2024	<u>67</u>	MOTION for Extension of Time to File Response/Reply to <u>66</u> MOTION for Leave to File Supplemental Complaint filed by United States Department of Labor, Eugene Scalia, United States of America with Brief/Memorandum in Support. (Thorp, Galen) (Entered: 11/20/2024)
11/21/2024	<u>68</u>	ORDER: Before the Court is Defendants' Consent Motion for Extension of Time for Response to Motion for Leave to file and Serve Supplemental Complaint (ECF No. <u>67</u> ), filed on November 20, 2024. Noting that the extension request is unopposed by Plaintiffs, the Court GRANTS the extension. Accordingly, the briefing schedule for Plaintiffs' Motion for Leave to file and Serve Supplemental Complaint (ECF No. <u>67</u> ) is as follows: 1. Defendants SHALL file their response by December 6, 2024. 2. Plaintiffs SHALL file their reply by December 31, 2024. (Ordered by Judge Reed C. O'Connor on 11/21/2024) (sre) (Entered: 11/21/2024)
11/25/2024	<u>69</u>	Amended MOTION for Leave to File Supplemental Complaint and Supporting Brief filed by Data Marketing Partnership LP (Attachments: # <u>1</u> Exhibit(s) Exhibit A, # <u>2</u> Exhibit(s) Exhibit B, # <u>3</u> Proposed Order Proposed Order) (Chadwick, Robert) (Entered: 11/25/2024)
12/13/2024	<u>70</u>	MOTION for Extension of Time to File Response/Reply to <u>69</u> Amended MOTION for Leave to File Supplemental Complaint and Supporting Brief filed by United States Department of Labor, Eugene Scalia, United States of America with Brief/Memorandum in Support. (Thorp, Galen) (Entered: 12/13/2024)
12/17/2024	<u>71</u>	ORDER: Before the Court is Defendants' Consent Motion for Extension of Time for Response to Amended Motion for Leave to file and Serve Supplemental Complaint (ECF No. <u>70</u> ), filed on December 13, 2024. Noting that the extension request is unopposed by Plaintiffs, the Court GRANTS the extension. Accordingly, the briefing schedule for Plaintiffs' Amended Motion for Leave to file and Serve Supplemental Complaint (ECF No. <u>69</u> ) is as follows: 1. Defendants SHALL file their response by December 20, 2024. 2. Plaintiffs SHALL file their reply by January 10, 2025. Additionally, Plaintiff Motion for Leave to file and Serve Supplemental Complaint (ECF No. <u>66</u> ) is DENIED as moot. (Ordered by Judge Reed C. O'Connor on 12/17/2024) (sre) (Entered: 12/17/2024)
12/20/2024	<u>72</u>	RESPONSE filed by United States Department of Labor, Eugene Scalia, United States of America re: <u>69</u> Amended MOTION for Leave to File Supplemental Complaint and Supporting Brief (Thorp, Galen) (Entered: 12/20/2024)
12/20/2024	<u>73</u>	Appendix in Support filed by United States Department of Labor, Eugene Scalia, United States of America re <u>72</u> Response/Objection (Thorp, Galen) (Entered: 12/20/2024)



01/10/2025	<u>74</u>	REPLY filed by Data Marketing Partnership LP re: <u>69</u> Amended MOTION for Leave to File Supplemental Complaint and Supporting Brief (Chadwick, Robert) (Entered: 01/10/2025)
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