IN THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

LORI CHAVEZ-DEREMER, SECRETARY OF LABOR, U.S. DEPARTMENT OF LABOR, Plaintiff-Appellee, v. SUFFOLK ADMINISTRATIVE SERVICES, LLC; PROVIDENCE INSURANCE CO., I.I.; ALEXANDER RENFRO; WILLIAM BRYAN; ARJAN ZIEGER, Defendants, DATA MARKETING PARTNERSHIP, LP; LP MANAGEMENT SERVICES, LLC, Interested Parties-Appellants.	Case No. 25-1886

MOTION TO DISMISS APPEAL OR ALTERNATIVELY FOR EXTENSION OF TIME TO FILE APPELLEE'S BRIEF AND LEAVE TO FILE OUT-OF-TIME RESPONSES

Appellee Lori Chavez-DeRemer, Secretary of the United States Department of Labor ("Secretary"), respectfully moves this Court to dismiss this appeal pursuant to Rule 31(c) of the Federal Rules of Appellate Procedure for want of diligent prosecution. Alternatively, the Secretary respectfully moves this Court pursuant to Rules 26 and 27 of the Federal Rules of Appellate Procedure for

(1) an extension of 30 days to the time to file the Secretary's brief, (2) leave to respond out of time to Interested Parties-Appellants' Motion to Abate Briefing Schedule Pending Mediation, and (3) leave to respond out of time to Interested Parties-Appellants' Motion to Stay Proceedings in the District Court of Puerto Rico Pending Appeal. In support of this motion, the Secretary states as follows:

1. On October 1, 2025, appropriated funding for the Department of Labor and its subagencies lapsed. Funding was not restored until November 13, 2025. During the lapse in appropriations, Department of Labor attorneys were prohibited from doing work, even on a voluntary basis, "exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property." 31 U.S.C. § 1342. This exception "[did] not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property." *Id*.

2. On October 6, 2025, the Court set a briefing schedule in this matter. Interested Parties-Appellants Data Marketing Partnership, LP ("DMP") and LP Management Services, LLC's ("LPMS") brief was due November 17, 2025 (Doc. 00118348967). The Secretary's brief is due 30 days following service of DMP and LPMS's brief. *See id.*; Fed. R. App. P. 31; 1st Cir. R. 31.0.

3. On October 27, 2025, DMP and LPMS filed Interested Parties-Appellants' Motion to Abate Briefing Schedule Pending Mediation (Doc.

00118358477). The Secretary's response was due November 6, 2025. *See* Fed. R. App. P. 27(a)(3)(A).

4. On October 30, 2025, DMP and LPMS filed a Motion to Stay Proceedings in the District Court of Puerto Rico Pending Appeal (Doc. 00118360365). The Secretary's response was due November 10, 2025. *See* Fed. R. App. P. 27(a)(3)(A).

5. On November 4, 2025, the Secretary filed a Motion to Stay Proceedings Due to Lapse in Appropriations and requested that the Court extend all deadlines in this matter, including any proceeding dates, until at least 30 days after Congress restored appropriations to the Department of Labor (Doc. 00118362236). DMP and LPMS filed a response on November 6, 2025, stating that they did not oppose the motion (Doc. 00118363423).

6. The Court had not ruled on these motions when appropriations were restored on November 13, 2025.

7. On November 17, 2025, DMP and LPMS failed to file their opening brief in this matter.

8. The Department's failure to timely respond to the motions filed by DMP and LPMS is not akin to DMP and LPMS's failure to timely file their brief. Appropriated funding for the Department of Labor had lapsed before DMP and LPMS filed their Motion to Abate Briefing Schedule Pending Mediation and

Motion to Stay Proceedings in the District Court of Puerto Rico Pending Appeal, resulting in work prohibitions for Department of Labor attorneys. In contrast, DMP and LPMS, who initiated this appeal, faced no such encumbrance with respect to the filing of their opening brief.

9. Finally, due to the resumption of appropriations after a 43-day lapse, Department of Labor attorneys are managing an unusually large number of filing deadlines in a compact time frame.

10. For the reasons above, the Secretary requests that the Court dismiss DMP and LPMS's appeal for lack of diligent prosecution, failure to abide by the Court's deadlines, and failure to comply with the rules of appellate procedure. *See* Fed. R. App. P. Rule 31(c); 1st Cir. Loc. R. 45(a); *CrossFit, Inc. v. Mustapha*, No. 16-1987, 2017 WL 7113962, at *1 (1st Cir. Aug. 21, 2017).

11. Alternatively, the Secretary requests (1) an extension of 30 days to the time to file her Appellee brief, for a total of 60 days after Interested Parties-Appellants' brief is served, (2) 21 days from the filing of this motion in which to respond to Interested Parties-Appellants' Motion to Abate Briefing Schedule Pending Mediation, and (3) 21 days from the filing of this motion in which to respond to the Motion to Stay Proceedings in the District Court of Puerto Rico Pending Appeal.

WHEREFORE, the Secretary respectfully requests that the Court dismiss this appeal for want of diligent prosecution. Alternatively, the Secretary requests that the Court (1) extend the deadline to file her brief by 30 days, for a total of 60 days after Interested Parties-Appellants' brief is served, (2) grant her leave to file a response to Interested Parties-Appellants' Motion to Abate Briefing Schedule Pending Mediation within 21 days from the filing of this motion, and (3) grant her leave to file a response to the Motion to Stay Proceedings in the District Court of Puerto Rico Pending Appeal within 21 days from the filing of this motion.

Dated: November 19, 2025

Respectfully Submitted:

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CERTIFICATE OF COMPLIANCE

1. This document complies with the type-volume limit of Fed. R. App. P. 27(d)(2) because, excluding the parts of the document exempted by the Fed. R. App. P. 32(f), this document contains 833 words.

2. This document complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this document has been prepared using Microsoft 365 Word in proportionally spaced 14-point Times New Roman typeface.

/s/ *Blair L. Byrum*
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