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July 9, 2020

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VIA ELECTRONIC DELIVERY & COURT FILING

The Honorable Andrew L. Carter, Jr.
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

Re: United States v. Anthem, Inc., 1:20-cv-02593-ALC: Renewed Request For Pre-Motion Conference or, Alternately, Request for Briefing Schedule on Proposed Motion to Transfer Venue

Dear Judge Carter:

We represent the Defendant in this case, Anthem, Inc. (“Anthem”). In accordance with the Court’s Individual Rules of Practice 2(A) and 2(D)(i), we write to respectfully renew our request for a pre-motion conference regarding Anthem’s intent to file a motion to transfer venue pursuant to 28 U.S.C. § 1404(a) following the submission of Plaintiff’s Amended Complaint. In the alternative, Anthem respectfully requests that the Court dispense with a pre-motion conference and enter an order adopting the proposed briefing schedule for the motion to transfer venue set forth below.

On April 14, 2020, Anthem filed a letter requesting a pre-motion conference related to Anthem’s intention to file a motion to transfer venue (Dkt. 15). On April 15, 2020, Plaintiff filed a letter motion requesting additional time to respond to Anthem’s letter request (Dkt. 16), which Anthem did not oppose and which the Court granted (Dkt. 18). On April 20, 2020, Plaintiff submitted a letter response indicating it would oppose Anthem’s motion to transfer (Dkt. 17).

On July 2, 2020, Plaintiff filed its Amended Complaint. The revised allegations in the Amended Complaint do not materially impact the reasons why this matter should be transferred to the Southern District of Ohio, as described in Anthem’s April 14, 2020 letter. Anthem therefore respectfully renews its request for a pre-motion conference on the motion to transfer, or, alternatively, approval to file the motion to transfer with the Court.

In the event the Court approves Anthem’s request to file its motion to transfer, Anthem respectfully proposes the following briefing schedule:

July 27, 2020: Anthem files its Motion to Transfer Venue;

August 24, 2020: Plaintiff files its Response to Anthem’s Motion;

September 8, 2020: Anthem files its Reply in Support of its Motion.



Anthem has conferred with Plaintiff regarding this request. By email dated July 9, 2020, Plaintiff indicated that it would support a briefing schedule on Anthem's motion to transfer, but only if Anthem agreed to consolidate the briefing on the motion to transfer venue with any later motion it filed to dismiss Plaintiff's Amended Complaint (if Anthem decides to move to dismiss rather than answer the Amended Complaint).

Anthem believes that consolidating the motion to transfer venue with any later motion to dismiss would not be appropriate for several reasons. The deficiencies in the Complaint regarding venue in this district are not materially changed in the Amended Complaint and Anthem intends to move forward with a motion to transfer. But Anthem has yet not determined whether it will move to dismiss Plaintiff's Amended Complaint. There is therefore no reason to further delay briefing regarding whether this district or the Southern District of Ohio is the most appropriate venue for this action. Additionally, the basis for Anthem's motion to transfer is distinct from the merits of Plaintiff's claims, and Anthem's reasons for seeking transfer do not relate to any deficiencies of the Amended Complaint under Rule 12. In a complicated matter such as this one, consolidating the briefing on these two unrelated motions would serve no relevant purpose and would unduly complicate the issues presented to the Court. Finally, if the Court agrees that the Southern District of Ohio is the appropriate venue for this action and grants Anthem's motion to transfer, there would be no need for the Court to rule on or consider any motion to dismiss (which would be resolved by the court in the transferee district). Accordingly, far from improving efficiency for the Court, consolidating the briefing would have the opposite result and risks wasting the Court's time and resources.

Anthem therefore respectfully requests that the Court schedule a pre-motion conference regarding Anthem's anticipated motion to transfer, or, alternately, provide leave for Anthem to file its motion to transfer and issue a briefing schedule for that motion.

We thank the Court for its consideration of this request.



Dated: July 9, 2020

Respectfully submitted,

By: /s/ K. Lee Blalack, II

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