

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

STATE OF NEW YORK *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
LABOR *et al.*,

Defendants.

Civil Action No. 18-cv-1747 (JDB)

**NOTICE OF FILING OF CERTIFIED INDEX OF ADMINISTRATIVE RECORD**

Pursuant to this Court's Order of September 14, 2018, Defendants hereby file a certified list of the contents of the administrative record in this case. A copy of the administrative record itself will be served on Sara H. Mark and Susan J. Cameron, counsel in the Office of the New York State Attorney General, Health Care Bureau, on behalf of the Plaintiff States.

Dated: October 23, 2018

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

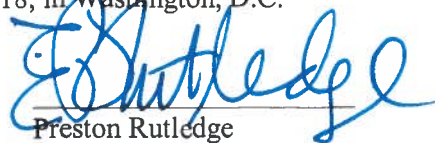
STATE OF NEW YORK, *et al.*, )  
)  
Plaintiffs, )  
)  
v. ) Civ. Action No. 18-1747-JDB  
)  
U.S. DEPARTMENT OF LABOR, *et al.*, )  
)  
Respondents. )

**CERTIFICATION OF ADMINISTRATIVE RECORD**

I, Preston Rutledge, declare as follows:

1. I am the Assistant Secretary of Labor of the Employee Benefits Security Administration ("EBSA") at the United States Department of Labor.
2. I have served in the above-described capacity since January 16, 2018. My present responsibilities include oversight of the agency responsible for the administration, regulation and enforcement of Title I of the Employee Retirement Income Security Act of 1974 ("ERISA") on behalf of the Secretary of Labor. The facts attested to herein are based upon my personal knowledge or information made available to me in the course of my official duties.
3. I certify that the table of contents annexed hereto includes, to the best of my knowledge, all non-privileged documents that constitute the administrative record underlying the agency's June 21, 2018 Final Rule, *Definition of "Employer" Under Section 3(5) of ERISA—Association Health Plans*, published at 83 Fed. Reg. 28912, which is the subject of this litigation.
4. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 17th day of October, 2018, in Washington, D.C.



Preston Rutledge  
Assistant Secretary of Labor  
Employee Benefits Security Administration

*State of New York, et al. v. United States Department of Labor, et al.*  
*Civil Action No. 1:18-cv-01747 (D.D.C.)*

**ADMINISTRATIVE RECORD INDEX**

**Final Rule, Definition of "Employer" Under Section 3(5) of ERISA – Association Health Plans  
(Jun. 21, 2018)**

- I. Final Rule, Definition of "Employer" Under Section 3(5) of ERISA – Association Health Plans (Jun. 21, 2018) (Published – 83 Fed. Reg. 28912) (DOL-AHP-AR Pages 000001 - 000053)
  
- II. Materials Relied Upon and/or Cited in Rulemaking
  1. Studies, Articles, and Reports (DOL-AHP-AR Pages 000054 - 001088)
  2. Material from Governmental and Regulatory Bodies (DOL-AHP-AR Pages 001089 - 003647)
  3. Industry Information (DOL-AHP-AR Pages 003648 - 003897)
  4. DOL Advisory Opinion Procedures and Advisory Opinions (DOL-AHP-AR Pages 003898 - 003946)
  5. State Materials (DOL-AHP-AR Pages 003947 - 004045)
  
- III. Public Comments and Petitions<sup>1</sup>
  1. Comments on Final and Proposed Rules (DOL-AHP-AR Pages 004046 - 006654)
  2. All Petitions (DOL-AHP-AR Pages 006655 - 006658)

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<sup>1</sup> The "Comments and Petitions" in this section are as they appeared on the United States Department of Labor, Employee Benefits Security Administration's (EBSA) website. Personally identifiable information ("PII") and inappropriate language were removed prior to uploading the comments and petitions onto EBSA's website. The original versions of the comments are available if needed.

IV. Meetings with Stakeholders

1. List of Meetings with Stakeholders and Materials Exchanged (if any) (DOL-AHP-AR Pages 006659 - 006946)

V. Notice of Proposed Rulemaking, Definition of "Employer" Under Section 3(5) of ERISA – Association Health Plans (Jan. 5, 2018) (Published – 83 Fed. Reg. 614) ) (DOL-AHP-AR Pages 006947 - 006969)

VI. Executive Order 13813, "Promoting Healthcare Choice and Competition Across the United States" (Oct. 17, 2017) (Published – 82 Fed. Reg. 48385) (DOL-AHP-AR Pages 006970 – 006972)