

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION AT LONDON**

PHI HEALTH, LLC, and EMPACT
MIDWEST LLC,

Plaintiffs,

v.

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES, *et al.*

Defendants.

Case 6:22-cv-00095-REW-EBA

**CONSENT MOTION FOR EXTENSION OF DEADLINE TO FILE AN
AMENDED COMPLAINT**

Plaintiffs PHI Health, LLC and EMPact Midwest, LLC (“Plaintiffs”) respectfully request an extension of the Court’s order, ECF 40, which order required Plaintiffs to file their motion for leave to amend their complaint on June 27, 2023. Plaintiffs respectfully submit that a further extension is warranted in light of ongoing litigation in other forums, which is described below. Plaintiffs request that their deadline to file a motion to amend the complaint should be adjusted to the date that is 30 days after the entry of an order disposing of the pending cross-motions for summary judgment filed in *Texas Medical Association v. U.S. Dep’t of Health and Hum. Servs. et al.*, 22-cv-450 (lead case) (“*TMA IIF*”) and *LifeNet, Inc. et al. v. U.S. Dep’t of Health and Hum. Servs. et al.*, 22-cv-453 (consol. case) (“*LifeNet IIF*”).

Defendants do not oppose this request, provided that Defendants are granted 60 days, from the entry of an amended complaint, to answer or otherwise respond to that pleading.

Many of the issues raised in this matter are also the subject of the following ongoing proceedings:

- Several of the issues raised by Plaintiffs were the subject of cross-motions for summary judgment that were filed in *TMA III* and *LifeNet III*, and which were argued before Judge Kernodle, of the Eastern District of Texas, on April 19, 2023.
- Three of the issues raised by Plaintiffs are pending decision in the *AAMS* case, which is pending in the District Court for the District of Columbia. *Ass'n of Air Med. Servs. v. U. S. Dep't of Health and Hum. Servs., et al.*, No. 21-cv-3031-RJL (D.D.C.).
- One issue raised by Plaintiffs was decided by Judge Kernodle, of the Eastern District of Texas, and the Departments have noticed an appeal to the U.S. Court of Appeals for the Fifth Circuit. See Memorandum Opinion and Order, *Texas Medical Association v. U.S. Dep't of Health and Hum. Servs. et al.*, 22-cv-372, ECF 99 (Feb. 6, 2023) ("*TMA II*").

Respectfully submitted,

Date: June 22, 2023

By: /s/ Chrisandrea Turner
Chrisandrea Turner
STITES & HARBISON, PLLC
250 W. Main St., Ste. 2300
Lexington, KY 40507
859-226-2261
clturner@stites.com

Stephen Shackelford, Jr. (*pro hac vice*)
Steven M. Shepard (*pro hac vice*)
SUSMAN GODFREY LLP
1301 Ave. of the Americas, Fl. 32
New York, NY 10019
212-336-8340
sshackelford@susmangodfrey.com
sshepard@susmangodfrey.com
Counsel to Plaintiffs

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PROPOSED ORDER

Upon consideration of the motion for extension of time filed by Plaintiffs PHI Health, LLC and EMpact Midwest, LLC (“Plaintiffs”), which is not opposed by Defendants, the Court orders as follows.

IT IS ORDERED that:

1. Plaintiffs’ Motion for Extension of time is GRANTED;
2. Plaintiffs shall file a motion for leave to amend their Complaint on or before the date that is 30 days after the entry of an order disposing of the pending cross-motions for summary judgment filed in *Texas Medical Association v. U.S. Dep’t of Health and Hum. Servs. et al.*, 22-cv-450 (lead case) (“*TMA III*”) and *LifeNet, Inc. et al. v. U.S. Dep’t of Health and Hum. Servs. et al.*, 22-cv-453 (consol. case) (“*LifeNet III*”).
3. Within 60 days of entry of the Plaintiffs’ amended complaint, Defendants shall answer or otherwise respond to the pleading.

DATE: _____