

**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,

XAVIER BECERRA, in his official capacity as  
Secretary of Health and Human Services,

OFFICE OF PERSONNEL MANAGEMENT,

KIRAN AHUJA, in her official capacity as Director of  
the U.S. Office of Personnel Management,

U.S. DEPARTMENT OF LABOR,

JULIE SU, in her official capacity as Acting Secretary  
of Labor,

U.S. EMPLOYEE BENEFITS SECURITY  
ADMINISTRATION,

LISA GOMEZ, in her official capacity as the Assistant  
Secretary for the Employee Benefits Security  
Administration,

U.S. DEPARTMENT OF THE TREASURY,

JANET YELLEN, in her official capacity as Secretary  
of the Treasury,

INTERNAL REVENUE SERVICE, and

DANNY WERFEL, in his official capacity as  
Commissioner of Internal Revenue,

Defendants.

**Case 6:22-cv-00095**

**JOINT STATUS REPORT**

## **JOINT STATUS REPORT**

Pursuant to the Court's order of September 27, 2023, ECF 47, the parties respectfully submit this Joint Status Report.

### ***TMA III and LifeNet III***

On August 24, 2023, the United States District Court for the Eastern District of Texas granted in part and denied in part the parties' cross-motions for summary judgment in *Texas Medical Association v. U.S. Department of Health and Human Services*, No. 22-cv-450 (E.D. Tex.) (lead case) ("*TMA III*"), and *LifeNet, Inc. v. U.S. Department of Health and Human Services*, No. 22-cv-453 (E.D. Tex.) ("*LifeNet III*"). The Departments appealed this ruling on October 20, 2023. *See TMA III* at ECF 64; *LifeNet III* at ECF 25. TMA filed a notice of cross-appeal on October 31, 2023. *See TMA III* at ECF 65. The Air Ambulance plaintiffs filed a notice of partial-cross-appeal on November 3, 2023. *See TMA III* at ECF 66; *LifeNet III* at ECF 27. The Departments' opening brief is due December 12, 2023.

### ***TMA II and LifeNet II***

The Eastern District of Texas granted summary judgment in *Texas Medical Association v. U.S. Department of Health and Human Services*, No. 22-cv-372 (E.D. Tex.) (lead case) (*TMA II*), and *LifeNet, Inc. v. U.S. Department of Health and Human Services*, No. 22-cv-373 (E.D. Tex.) ("*LifeNet II*"), on February 6, 2023. *TMA II* at ECF 99. The Departments filed a notice of appeal to the Fifth Circuit on April 6, 2023. *TMA II* at ECF 101. The appeal is now fully briefed. The Fifth Circuit has yet to set an argument date.

In light of the status of this related litigation, the parties respectfully submit that the stay in this matter should remain in place.

Dated: November 7, 2023

Respectfully submitted,

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