

2017-2154

In the

United States Court of Appeals for the Federal Circuit

BLUE CROSS AND BLUE SHIELD OF NORTH CAROLINA,

Plaintiff-Appellant,

v.

UNITED STATES,

Defendant-Appellee.

**Appeal from the United States Court of Federal Claims,
Case No. 1:16-cv-00651 (Griggsby, J.)**

CONSENT MOTION FOR ENTRY OF JUDGMENT

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CONSENT MOTION FOR ENTRY OF JUDGMENT

Plaintiff-Appellant Blue Cross and Blue Shield of North Carolina (BCBSNC), respectfully moves this Court to enter a judgment in this case consistent with the Court's recent decisions in *Moda Health Plan, Inc. v. United States*, No. 17-1994, and *Land of Lincoln Mutual Health Insurance Co. v. United States*, No. 17-1224. The parties have conferred, and Defendant-Appellee the United States consents to this motion.

On June 14, 2018, this Court issued decisions in *Moda* and *Land of Lincoln*, both in favor of the United States. This case and its companion case, *Maine Community Health Options v. United States*, No. 17-2395¹, were assigned to the same merits panel as *Moda* and *Land of Lincoln*, as all four cases involve the same issues. As such, the parties agree that this case is presently controlled as a matter of *stare decisis* by the panel's opinions in *Moda* and *Land of Lincoln*, and respectfully request that this Court enter a judgment against BCBSNC in this case. BCBSNC maintains its disagreement with those decisions and makes this request because it intends and expects to seek further review, including a request for rehearing *en banc*. Prompt entry of the requested judgment will allow for better coordination of any requests for *en banc* consideration in this case and any that may be pursued in *Moda*, *Land of Lincoln*, and *Maine Community Health Options*.

¹ The Plaintiff-Appellant in *Maine* similarly filed a Consent Motion for Entry of Judgment with this Court on June 29, 2018.

July 6, 2018

Respectfully submitted,

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By: s/ Colin E. Wrabley

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CERTIFICATE OF COMPLIANCE

I hereby certify that this Motion complies with the requirements of Federal Rules of Appellate Procedure 27(d)(1)(E), 32(a)(5), and 32(a)(6) because it has been prepared in 14-point Times New Roman, a proportionally spaced font. I further certify that this motion complies with the length limitations of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 249 words according to the count of Microsoft Word, excluding parts of the motion exempted under Federal Rule of Appellate Procedure 32(f) and Circuit Rule 32(b).

July 6, 2018

s/ Colin E. Wrabley

CERTIFICATE OF SERVICE

I, Colin E. Wrabley, hereby certify that, on July 6, 2018, I electronically filed the foregoing Consent Motion for Entry of Judgment with the Clerk of the Court by using the appellate CM/ECF system. I hereby certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

s/ Colin E. Wrabley