

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO**

NEW MEXICO HEALTH	)	
CONNECTIONS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:18-cv-00773 SCY/KBM
	)	
UNITED STATES DEPARTMENT OF	)	
HEALTH AND HUMAN SERVICES,	)	
<i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	

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**NOTICE OF INTENT TO OPPOSE**

Defendants respectfully file this Notice to inform the Court that they intend to oppose Plaintiff's Motion to Consolidate, ECF No. 11. Defendants previously took no position on the motion in light of the fact that they have not yet been served with this lawsuit in accord with Federal Rule of Civil Procedure 4. Additionally, it appears that Plaintiff has failed to properly serve the Motion to Consolidate under Federal Rule of Civil Procedure 5, given that the certificate of service claims service of the Motion by email but undersigned counsel had not consented in writing to electronic service. *See* Fed. R. Civ. P. 5(b)(2)(E). Although these facts indicate that no obligation to oppose the motion has yet ripened, out of an abundance of caution, Defendants intend to file an opposition within 14 days of the date the Motion was filed—by August 29, 2018. In filing this Notice and their subsequent Opposition, Defendants reserve their rights to object to any failure to properly serve the Defendants under Rule 4 and to move to dismiss the Complaint in whole or in part for any reason.

Dated: August 16, 2018

Respectfully submitted,

CHAD A. READLER  
Acting Assistant Attorney General

DIANE KELLEHER  
Assistant Branch Director

/s/ James Powers  
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**CERTIFICATE OF SERVICE**

I hereby certify that on August 16, 2018, I caused the foregoing document to be served on counsel for plaintiff by filing with the court's electronic case filing system.

/s/ *James Powers*  
James R. Powers