

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

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SADIE BENNETT and MELISSA))	
MANNINO, Individually and on))	
Behalf of All Others Similarly Situated,))	
))	
<i>Plaintiffs,</i>))	Civil Action No. 3:19-185-SDD-RLB
))	
v.))	
))	
LOUISIANA HEALTH SERVICE &))	
INDEMNITY COMPANY (doing))	
Business as BLUE CROSS AND))	
BLUE SHIELD OF LOUISIANA),))	
))	
<i>Defendant.</i>))	
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**DEFENDANT’S MOTION FOR RECONSIDERATION OR, IN THE ALTERNATIVE,
FOR CERTIFICATION TO FILE INTERLOCUTORY APPEAL**

NOW INTO COURT, through undersigned counsel, comes Defendant Louisiana Health Service & Indemnity Company d/b/a Blue Cross and Blue Shield of Louisiana (“BCBSLA”), which moves, pursuant to Fed. R. Civ. P. 54(b), for reconsideration of the Court’s March 31, 2020 Order (ECF No. 49) denying certain aspects of BCBSLA’s motion to dismiss Plaintiffs’ complaint (ECF Nos. 24 and 26-1). Specifically, BCBSLA asks the Court to exercise its liberal discretionary authority to reconsider the decision not to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) Counts II through IV of the Complaint, as the ruling violates governing Fifth Circuit precedent and therefore is clearly erroneous.

In the alternative, if the Court declines to reconsider its decision not to dismiss Counts II through IV, BCBSLA moves for certification of the Court’s March 31, 2020 Order for interlocutory appeal pursuant to 28 U.S.C. § 1292(b). The Order involves a controlling question of law as to which there is a substantial ground for difference of opinion, and an immediate

appeal from the Order may materially advance the ultimate termination of the litigation. The controlling question of law is whether a plaintiff can simultaneously plead and pursue beyond the pleadings stage claims under 29 U.S.C. § 1132(a)(1)(B) and 29 U.S.C. § 1132(a)(2) or (a)(3), when the claims stem from the same overall grievance and injury.

These grounds for the Motion are set forth in more detail in the accompanying Memorandum in Support.

WHEREFORE, BCBSLA prays that this Motion be granted.

May 21, 2020

Respectfully submitted,

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