# In the United States Court of Federal Claims

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| THE ELECTRICAL WELFARE TRUST FUND, THE OPERATING ENGINEERS TRUST FUND OF WASHINGTON, D.C., and THE STONE & MARBLE MASONS OF METROPOLITAN WASHINGTON, D.C. HEALTH AND WELFARE FUND on behalf of themselves and all others similarly situated,<br><br>Plaintiffs,<br><br>v.<br><br>UNITED STATES OF AMERICA,<br><br>Defendant. | Civil Action No. 19-353 C<br><br>Judge Roumel |

**MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT ON THE ILLEGAL EXACTION CLAIM**

**[Redacted Version]**

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Plaintiff EWTF and the Exaction Class,[1] by and through Class Counsel, respectfully submit this Memorandum in Support of their Motion for Summary Judgment under Rule 56 on the illegal exaction claim (the "Motion").[2]

## I. INTRODUCTION[3]

The central issue presented by this Motion has already been decided by the Court. In denying the Government's Motion to Dismiss and for Summary Judgment,[4] the Court rightly determined that Congress did not intend for SISAs, like EWTF and the Exaction Class, to make Transitional Reinsurance Contributions under the ACA because ***SISAs are not covered by the "plain language" of 42 U.S.C. § 18061***, which requires only "health insurance issuers, and third-party administrators on behalf of group health plans . . . to make [reinsurance contributions]." *Elec. Welfare Tr. Fund v. United States*, 155 Fed. Cl. 169, 183 (2021) (Roumel, J.) ("MTD Order").

These findings were not only correct, they are law of the case. Indeed, the Court explained that the only reason it could not "affirmatively rule in favor of EWTF on its illegal exaction claim

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[1] On June 22, 2022, the Court certified the following Class: "All self-administered, self-insured employee health and welfare benefit plans that are or were subject to the assessment and collection of the Transitional Reinsurance Contribution under Section 1341 of the Affordable Care Act for benefit year 2014 (the "Exaction Class" or "Class")." *Elec. Welfare Tr. Fund v. United States*, 2022 WL 2252460, at *6 (Fed. Cl. June 22, 2022) (the "Class Certification Order"). In the Class Certification Order, the Court appointed Kessler Topaz Meltzer & Check, LLP and McChesney & Dale, P.C. as "Class Counsel." 2022 WL 2252460, at *5.

[2] Plaintiff is filing this motion consistent with the Court-ordered deadline. ECF No. 62. Plaintiff respectfully requests, however, that the Court defer any ruling on this Motion until after the notice period—which will be set forth in the parties' forthcoming joint motion to approve the form and manner of class notice—expires. *See* ECF No. 70 at 11. This will ensure all members of the Exaction Class are bound by the Court's judgment. RCFC 23(c)(2)(B)(vii) (class notice must describe "the binding effect of a class judgment on members under RCFC 23(c)(3)"); *cf. Smith v. Bayer Corp.*, 564 U.S. 299, 305 (2011) ("[A] court's judgment cannot bind nonparties.").

[3] Unless otherwise noted: (i) all capitalized terms have the meaning ascribed to them in the Second Amended Class Action Complaint ("Complaint") (ECF No. 59); (ii) "Rule" or "RCFC" means Rules of the United States Court of Federal Claims; (iii) "Ex. __" means exhibits attached hereto; (iv) all emphases are added; and (v) all internal citations and quotations are omitted.

[4] *See* Motion to Dismiss and for Summary Judgment (ECF No. 6) (the "Government's Motion").

at this time" was because "Plaintiffs (including EWTF) have not cross-moved for summary judgment on any of its claims." *Id.* at 188 n.11.

With the limited discovery record on the exaction claim now closed, and the Exaction Class certified, EWTF and the Class move for entry of judgment in their favor. Because there are no genuine issues of material fact in dispute, EWTF and the Exaction Class are entitled to judgment as a matter of law. Rule 56(a); *N.Y. & Presbyterian Hosp. v. United States*, 152 Fed. Cl. 507, 515 (2021) (Roumel, J.) ("Summary judgment is appropriate . . . if there is no genuine issue as to any material fact and . . . the moving party is entitled to a judgment as a matter of law.").

Notably, the Government has conceded that the MTD Order "***largely resolv[ed] the illegal exaction claim***." ECF No. 38 at 1. Similarly, in responding to EWTF's Motion for Class Certification, the Government acknowledged the Court's finding that "***the ACA did not require SISAs to make TRP contributions***," and further acknowledged that "the Court ***must give effect to [the] plain statutory language***." ECF No. 68 at 2; *see also* ECF No. 46 at 1-2.

For the reasons set forth in greater detail below, EWTF and the Class respectfully request the Court grant the Motion.

## II. QUESTION PRESENTED

1. Are EWTF and the Exaction Class entitled to summary judgment, where the Court previously determined that SISAs do not fall within the plain language of 42 U.S.C. §18061, and there are no genuine issues of material fact in dispute?

## III. STATEMENT OF UNDISPUTED MATERIAL FACTS

Plaintiff EWTF and Exaction Class members are self-administered, self-insured employee group health and welfare benefit plans. SISAs are not health insurance issuers and do not

participate in the commercial market.[5] Moreover, because SISAs are self-administered, they do not use a third-party administrator. *See* Class Certification Order, 2022 WL 2252460, at *2 (noting EWTF makes allegations on behalf of itself and similarly situated "self-administered group health plans"); *see also* Decl. of Michael McCarron in Supp. of EWTF's Mot. for Class Certification and Appointment as Class Representative ("EWTF Declaration") ECF No. 53 at Ex. 1, ¶ 4.

On March 23, 2010, President Barak Obama signed the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010), *as amended by*, Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (2010) (together the "ACA" or "Act") into law. Section 1341 of the Act, called the Transitional Reinsurance Program ("TRP"), provided for the creation of a pool of funds to be financed by the commercial insurance industry. 42 U.S.C. § 18061 ("Section 1341"). The purpose of the TRP was to "stabilize premiums for coverage in the individual market" (in which the SISAs did not operate) and create "risk-spreading mechanisms" (in which the SISAs would not participate). 42 U.S.C. § 18061(c)(1). SISAs were thus ineligible to receive payments from the reinsurance pool and, in fact, no SISA received any benefit or payment from the TRP. ECF No. 48 at Ex. 3 (Interrogatory No. 11).

Congress designated the Secretary of HHS, in consultation with the National Association of Insurance Commissioners ("NAIC"), to issue rules implementing the TRP. 42 U.S.C. § 18061(b)(1). HHS's rule-making authority, however, was expressly constrained by the plain language of the statute. In particular, Congress defined the class of entities responsible for funding the TRP through a payment (the "TRP Contribution" or "Contribution") as follows:

[5] "[H]ealth insurance issuer" is defined by statute as, "an insurance company, insurance service, or insurance organization (including a health maintenance organization, as defined in paragraph (3)) which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance (within the meaning of section 514(b)(2) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1144(b)(2)]). Such term does not include a group health plan." 42 U.S.C. § 300gg-91(b)(2).

> In establishing the Federal standards under section 18041(a) of this title, the Secretary, in consultation with the National Association of Insurance Commissioners (the "NAIC"), shall include provisions that enable States to establish and maintain a program under which—(A) ***health insurance issuers***, and ***third party administrators on behalf of group health plans***, ***are required to make payments*** to an applicable reinsurance entity for any plan year beginning in the 3-year period beginning January 1, 2014.

42 U.S.C. § 18061(b)(1).

Nonetheless, HHS improperly expanded the class of contributing entities required to pay the TRP Contribution to include SISAs—resulting in Exaction Class members being forced to pay [redacted] in Contributions. 45 C.F.R. § 153; ECF No. 52 at Exs. 1, 2 (the "2014 Rule").[6]

Tellingly, HHS ultimately reversed course and admitted that its initial interpretation of the statute, which included the Exaction Class as contributing entities, was flawed and acknowledged "that the better reading of section 1341 is that a self-funded, self-administered plan ***should not be a contributing entity***." MTD Order, 155 Fed. Cl. at 183 (citing 2014 Final Rule at A4702).

Remarkably, however, even though "HHS acknowledged that its interpretation was not a natural reading of the statute, HHS would not correct its previous interpretation to apply to the

[6] Pursuant to 45 C.F.R § 153.20, HHS interpreted "Contributing entity" to mean: "(1) A health insurance issuer; or (2) ***For the 2014 benefit year, a self-insured group health plan*** (including a group health plan that is partially self-insured and partially insured, where the health insurance coverage does not constitute major medical coverage), ***whether or not it uses a third party administrator;*** **and** ***for the 2015 and 2016 benefit years, a self-insured group health plan*** (including a group health plan that is partially self-insured and partially insured, where the health insurance coverage does not constitute major medical coverage) ***that uses a third party administrator in connection with claims processing or adjudication*** (including the management of internal appeals) ***or plan enrollment for services*** other than for pharmacy benefits or excepted benefits within the meaning of section 2791(c) of the PHS Act. Notwithstanding the foregoing, a self-insured group health plan that uses an unrelated third party to obtain provider network and related claim repricing services, or uses an unrelated third party for up to 5 percent of claims processing or adjudication or plan enrollment, will not be deemed to use a third party administrator, based on either the number of transactions processed by the third party, or the value of the claims processing and adjudication and plan enrollment services provided by the third party. A self-insured group health plan that is a contributing entity is responsible for the reinsurance contributions, although it may elect to use a third party administrator or administrative services-only contractor for transfer of the reinsurance contributions."

2014 plan year." *Id.* The agency's basis for this decision was that "making the proposed exemption effective for the 2014 benefit year at this late stage would be disruptive to plans and issuers that have already set contribution rates and premiums, and could upset settled estimates with respect to expected reinsurance payments and contribution obligations." *Id*. (citing 2014 Final Rule at A4703).

After HHS promulgated the 2014 Rule, hundreds of Exaction Class members were required to make Contribution payments. ECF No. 48 at Ex. 3 (Interrogatory No. 1). Many paid large sums to the Government. For example, Plaintiff EWTF was required to pay the Government $1,038,429 for its 2014 Contribution. EWTF Declaration at ¶ 5. Altogether, the Exaction Class paid [redacted] in TRP Contributions for benefit year 2014. ECF No. 52 at Exs. 1, 2. To date, the Government has not returned any of these illegally exacted funds.

## IV. STATEMENT OF THE CASE

On March 8, 2019, Plaintiff instituted this action to recover the funds illegally exacted by Defendant in contravention of the ACA's plain language. ECF No. 1. Thereafter, Defendant moved to dismiss and for summary judgment. Following oral argument, the Court entered the MTD Order denying the Government's Motion in part. ECF No. 22. As the Court found, the statute expressly limits the entities that were required to pay the Contribution to "***health insurance issuers***, and ***third party administrators on behalf of group health plans***[.]" MTD Order, 155 Fed. Cl. at 173 (quoting 42 U.S.C. § 18061(b)(1)(A)).

Given this express language, the Court found that the "plain language of section 18061(b)(1)(A)" does not apply to EWTF because it is a SISA. MTD Order, 155 Fed. Cl. at 183. The Court further held that "Defendant's interpretation is in complete contravention of . . . well-established tenets of statutory interpretation and effectively reads 'third party administrators' out of the statute" and that "[i]f Congress meant that all group health plans would pay the TRP, it could

have easily omitted its third-party administrator qualifier." *Id.* Further, the Court found that "HHS did not have authority to ignore the plain language of the statute in the name of public policy or administrative efficiency." *Id.* at 184.

As Defendant has noted on several occasions, the MTD Order "***largely resolv[ed] the illegal exaction claim***." ECF No. 38 at 1; ECF No. 46 at 1-2 (stating it "do[es] not object" to Plaintiffs' position that they will move separately for class certification and summary judgment of their exaction claims because "there are no genuine issues of material law or fact"); ECF No. 68 at 2 ("The Court held that the ACA did not require SISAs to make TRP contributions, and that the Court must give effect to that plain statutory language.").

Since the Court issued the MTD Order, Plaintiff has pursued confirmatory discovery for the illegal exaction claim. As relevant here, the Government has identified all SISAs that paid the TRP Contribution for benefit year 2014, as well as the amounts of such payments and any offsets (refunds).[7] *See* ECF No. 48 at Ex. 3 (Interrogatory Nos. 1, 2, 5, 7, 9, 11, 13); ECF No. 48 at Ex. 4 (Request for Production Nos. 1-3, 5, 7, 18) (together, the "Exaction Requests"). Apart from this confirmatory information, the factual record is unchanged from the time when the Court issued the MTD Order.

After collecting this discovery, EWTF filed its Motion for Class Certification (ECF No. 53), which the Court granted on June 22, 2022. In certifying the Exaction Class, the Court found that "the proposed class members share common questions of law and fact, as [a]n identical legal question is present for each potential class member—i.e., whether the government is required to

[7] Of the more than [redacted] SISAs required to make the Contribution, the Government has identified [redacted] SISAs that received a partial refund. Ex. 1. The Government has further represented that these Exaction Class members "received refunds when they paid the same amount more than once or initially submitted an incorrect enrollment count, thus leading to a higher TRP contribution than required." Ex. 2 (Interrogatory No. 20). No SISAs were provided a full refund for their Contribution payment for benefit year 2014. *See* ECF No. 52 at Ex. 1 and Exs. 1, 2.

refund [money] paid." Class Certification Order, 2022 WL 2252460, at *4. The Court further found that "damages may be calculated using a common methodology." *Id*. at *4-6.

## V. LEGAL STANDARD

Summary judgment is appropriate when there are no genuine disputes of material fact and the moving party is entitled to judgment as a matter of law. RCFC 56(a); *N. Y. & Presbyterian Hosp.*, 152 Fed. Cl. at 515. When the moving party shows there are no genuine issues of material fact, "[t]he nonmoving party then bears the burden of showing that there are genuine issues of material fact for trial." *Silver Buckle Mines, Inc. v. United States*, 132 Fed. Cl. 77, 84 (2017).

## VI. ARGUMENT

### A. The Court's MTD Order Sustaining EWTF's Illegal Exaction Claim Is Law of the Case and Controls

"Under the law-of-the-case doctrine, courts generally refuse to reconsider questions of law and fact that have already been decided during litigation to 'prevent relitigation of issues.'" *Robinson v. McDonough*, 2022 WL 499845, at *2 (Fed. Cir. Feb. 18, 2022) (quoting *Suel v. Sec'y of Health & Hum. Servs.*, 192 F.3d 981, 984-85 (Fed. Cir. 1999)). The doctrine "encourages both finality and efficiency in the judicial process by preventing relitigation of already-settled issues." *Banks v. United States*, 741 F.3d 1268, 1276 (Fed. Cir. 2014). Similarly, it "protect[s] the settled expectations of the parties and promote[s] orderly development of the case." *Suel*, 192 F.3d at 984.

For a court to reevaluate an issue already decided, the circumstances must be "exceptional." *Tronzo v. Biomet, Inc.*, 236 F.3d 1342, 1349 (Fed. Cir. 2001). "Exceptional circumstances include a substantial change in evidence, a change in controlling legal authority, or a showing that the prior decision was 'clearly' incorrect and would result in a 'manifest injustice.'" *Haggart v. United States*, 131 Fed. Cl. 628, 638 (2017) (collecting cases).

Here, the Court's MTD Order plainly, and correctly, adjudicated EWTF's illegal exaction claim. The parties then justifiably relied on this ruling in further litigation proceedings. In particular, Plaintiff and the Government pursued limited confirmatory discovery, which was necessary to identify SISAs that paid the TRP Contribution for benefit year 2014, as well as the amounts of such payments and any refunds. Given its straightforward nature, Plaintiff does not intend to put forth any expert to opine on the merits of the illegal exaction claim. And, in an effort to streamline future proceedings, the parties agreed to a bifurcated schedule, with separate tracks for the exaction and takings claims. ECF Nos. 46, 47.

The parties' reliance aside, there are no exceptional circumstances that would justify departing from the Court's ruling. With the exception of the limited confirmatory discovery described above, the exaction record is identical to the record at the time the Court issued its MTD Order. There has been no change in controlling law, nor can there be any suggestion that the Court's sound analysis of plain statutory language was clearly incorrect, as set forth below.

Simply put, the Court should follow its prior MTD Order and grant summary judgment on the Exaction Class's illegal exaction claim based on the findings and reasoning in its previous MTD Order alone. MTD Order, 155 Fed. Cl. at 183-84; Class Certification Order, 2022 WL 2252460, at *4 (holding EWTF and the Exaction Class share a common claim).

### B. The Government Indisputably Illegally Exacted Funds from the Class in violation of Section 1341 and the Due Process Clause

Law-of-the-case notwithstanding, the Exaction Class is entitled to summary judgment based on the plain language of Section 1341. An illegal exaction occurs when money is "improperly paid, exacted, or taken from the claimant in contravention of the Constitution, a statute, or a regulation." MTD Order, 155 Fed. Cl. at 182 (quoting *Eastport S.S. Corp. v. United States*, 372 F.2d 1002, 1007 (Ct. Cl. 1967) and citing *Aerolineas Argentinas v. United States*, 77

F.3d 1564, 1574 (Fed. Cir. 1996)). Specifically, an illegal exaction claim "may be maintained when [1] the plaintiff has paid money over to the Government, directly or in effect, and [2] seeks return of all or part of that sum that was improperly paid, exacted, or taken from the claimant in contravention of the Constitution, a statute, or a regulation." *Aerolineas Argentinas*, 77 F.3d at 1572-73.

Here, it cannot be disputed that (1) EWTF and the Exaction Class were required to make Contribution payments to the Government for benefit year 2014 and (2) this was in contravention of the plain language of Section 1341. EWTF Declaration at ¶ 5; ECF No. 52 at Exs. 1, 2; MTD Order, 155 Fed. Cl. at 183-84 (finding that by requiring SISAs to make Contribution payments, HHS "warped Congress's plain language" in Section 1341 "likely as a means to its own ends").

**1. EWTF and the Class Paid Money to the Government**

Here, it is not disputed that EWTF directly paid the TRP Contribution in the amount of $1,038,429 and, altogether, Exaction Class members paid [redacted] in TRP Contributions for benefit year 2014. EWTF Declaration at ¶ 5; ECF No. 52 at Exs. 1, 2. In fact, the Government itself has identified the TRP Contribution amounts paid by each Exaction Class member in its interrogatory responses. ECF No. 52 at Exs. 1, 2. Accordingly, there is no genuine dispute of material fact regarding the first element of the Class's illegal exaction claim.

**2. HHS's Application of Section 1341 to the Class Was Contrary to Law, and Class Members Are Entitled to a Full Return of the TRP Contribution Paid**

As the Court previously explained, to determine "whether it was permissible for HHS to include [SISAs] within the definition of contributing entity, this Court must begin with the text of the statute." MTD Order, 155 Fed. Cl. at 182. This analysis is guided by "the familiar framework found in *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984)." *Id.* "The first question under *Chevron* is 'whether Congress has directly spoken to the precise question at issue.'"

*Id.* "If, after the Court exhausts the 'traditional tools of statutory construction,' the intent of Congress is clear, 'that is the end of the matter.'" *Id.*

Here, Congress has directly spoken to the precise question at issue. The relevant statutory language reads:

> In establishing the Federal standards under section 18041(a) of this title, the Secretary, in consultation with the National Association of Insurance Commissioners (the "NAIC"), shall include provisions that enable States to establish and maintain a program under which—(A) ***health insurance issuers***, and ***third party administrators on behalf of group health plans***, ***are required to make payments*** to an applicable reinsurance entity for any plan year beginning in the 3-year period beginning January 1, 2014.

42 U.S.C. § 18061(b)(1). The plain language of the statute thus identifies those responsible for making the Contribution payments as ***only*** (1) health-insurance issuers and (2) third-party administrators on behalf of group health plans—***not*** Exaction Class members. MTD Order, 155 Fed. Cl. at 183.

As the Court previously held, HHS' alternative reading "is in complete contravention of that well-established tenet of statutory interpretation" that "[a] presumption exists that each word Congress uses in a statute is there for a reason." *Id*. "If Congress meant that all group health plans would pay the TRP, it could have easily omitted its third-party administrator qualifier"—indeed, "when Congress has meant to regulate self-administered group health plans, it has done so specifically." *Id*. Ultimately, HHS simply "did not have authority to ignore the plain language of the statute." *Id.* at 184.

These findings by the Court were correct and apply equally to all members of the Exaction Class. *Id*. at 184; *see also* Class Certification Order, 2022 WL 2252460, at *4 ("An identical legal question is present for each potential class member."). Because SISAs were required to make Contribution payments in contravention of Section 1341's plain language, "[a] sum . . . was improperly paid" by EWTF and Class members "in contravention of . . . a statute[.]" *Aerolineas*

*Argentinas*, 77 F.3d at 1572-73; *see also* MTD Order 155 Fed. Cl. at 184; Class Certification Order, 2022 WL 2252460, at *4, *6.

Accordingly, there is no genuine issue of material fact concerning the second prong of the Exaction Class's illegal exaction claim and the Class is entitled to summary judgment as to liability. *Silver Buckle Mines, Inc*, 132 Fed. Cl. at 95 (granting summary judgment on illegal exaction claim where plaintiff and class members paid the government based on "regulations promulgated in violation of the [the agency's] statutory authority as conferred by Congress"); *Cont'l Airlines, Inc. v. United States*, 77 Fed. Cl. 482, 487, 490 (2007) (granting summary judgment on illegal exaction claim where "Congressional intent is clear in the statute" and "[t]he government . . . required payment for uncollected user fees without statutory or regulatory authorization").

**C. The Amount of Damages Is Not in Dispute**

Upon a finding of summary judgment on liability in favor of the Class, EWTF and Class members are entitled to reimbursement of the total amount of Contribution payments made in violation of the plain language of Section 1341. *Silver Buckle Mines, Inc*, 132 Fed. Cl. at 95 (finding plaintiff and class members were "entitled to recover the . . . [money] paid" in contravention of a statute pursuant to an illegal exaction claim).

Here, it cannot be disputed that EWTF and Class members all made Contribution payments in sums certain. Specifically, EWTF "paid the Contribution in the amount of $1,038,429[.]" EWTF Declaration at ¶ 5. Further, in response to EWTF's discovery requests, the Government produced documents showing: (1) each purported SISA that made a payment for benefit year 2014, along with contact information for each entity; (2) the amount each SISA paid; and (3) refunds issued to certain SISAs. ECF No. 52 at Exs. 1, 2; Ex. 1.

Thus, the Government's own documents will be used to determine damages for EWTF and the Class. Damages will be equal to the Contribution amounts paid to the Government minus any partial refunds received. *See Silver Buckle Mines, Inc*, 132 Fed. Cl. at 95 (granting summary judgment and finding a plaintiff and class members were "entitled to recover the . . . [money] paid" pursuant to an illegal exaction claim); *see also* Class Certification Order, 2022 WL 2252460, at *4 (finding damages may be calculated using a common methodology).

Because damages amounts for EWTF and all Class members can be determined based on documents produced by the Government, the amount of damages is not in dispute and EWTF and Class members are entitled to summary judgment on both liability and damages. *Silver Buckle Mines, Inc*, 132 Fed. Cl. at 95 (granting summary judgment where plaintiff and class members were "entitled to recover the . . . [money] paid" in contravention of a statute pursuant to an illegal exaction claim).

The exact amount of damages owed by the Government will be determined after the Class opt-in period expires.[8] As such, Plaintiff respectfully requests that the Court grant summary judgment and order the parties to submit a joint status report at the conclusion of the opt-in period indicating: (i) the name of each Exaction Class member; and (ii) the amount of damages owed to each Exaction Class member. This is the same approach followed by Judge Sweeney in *Common Ground*. After granting plaintiffs' motion for summary judgment, she ordered "the parties [to] file a joint status report indicating the amount due to plaintiff and the other class members" and stated "[i]f the parties are able to provide the amounts due . . . the court will direct the entry of judgment on the Class's s cost-sharing reduction claims . . . pursuant to RCFC 54(b)." *Common Ground Healthcare Coop. v. United States*, 142 Fed. Cl. 38, 53 (2019).

[8] Consistent with the Court's order, the parties will submit by July 22, 2022 a joint motion asking the Court to approve the form and manner of class notice.

## VII. CONCLUSION

For the foregoing reasons, EWTF and the Class respectfully request that the Court grant summary judgment on their illegal exaction claim.

DATED: July 15, 2022

Respectfully submitted,

*/s/ Joseph H. Meltzer*

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