

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

L.N.P.)
on his own behalf and on behalf of his)
dependent children P.D.P. and L.D.P.)
and on behalf of all others similarly situated)
)
Plaintiffs,)
)
- versus -) Case No. 1:24-cv-01196 (MSN/IDD)
)
FRANK BISIGNANO,)
Commissioner of Social Security Administration,)
et al.,)
)
Defendants.)
)

PLAINTIFFS' SECOND STATUS REPORT

KELLEY DRYE & WARREN LLP

Joseph J. Green (VSB # 40336)
jgreen@kelleydrye.com

Ira T. Kasdan (admitted *pro hac vice*)
ikasdan@kelleydrye.com

670 Maine Avenue, SW
Washington D.C. 20024
Tel: (202) 342-8400
Fax: (202) 342-8451

Damon W. Suden (admitted *pro hac vice*)
dsuden@kelleydrye.com

Steven W Schlesinger (admitted *pro hac vice*)
sschlesinger@kelleydrye.com

3 World Trade Center
175 Greenwich Street
New York, NY 10007
Tel: (212) 808-7800
Fax: (212) 808-7897

Dated: December 15, 2025

Counsel for Plaintiffs and the class

I. Update Regarding Compliance With Order Dated October 1, 2025

By Order dated October 1, 2025 (Dkt. 109), the Court ordered, among other things, that on or before December 22, 2025, Class Counsel file a list of the names of all individuals who timely requested to exclude themselves from the class. In Plaintiffs' First Status Report, filed on December 8, Class Counsel provided the required list of names. *See* Dkt. 122, Ex. A. Since then, Class Counsel have received via mail additional requests for exclusion that were timely postmarked by the December 1 deadline but that arrived at our office over a week later.¹ Class Counsel will file a final list of individuals who timely requested exclusion on December 22, 2025, as previously ordered (Dkt. 109), to ensure sufficient time for any additional mail to arrive.

II. SSA May Have Omitted Class Members From The Class List

As reported in the prior status report, Class Counsel were contacted by several representative payees (all parents) who wondered why some of their children received class notices, while others who they believed should also be in the class did not. Class Counsel sent a list of inquiries to counsel for SSA who advised that the agency would investigate the issue.

On December 10, 2025, counsel for SSA reported that the children identified by Class Counsel—and potentially others—may have been erroneously omitted from the class list due to a mistake in the search criteria used by the agency to identify class members. *See* Exhibit A at 2. Counsel for SSA advised that they would have a “full list of potentially impacted beneficiaries by December 12”—three days ago. *Id.* As of the time of this filing, we have not yet received the list of impacted class members from SSA.

¹ Class Counsel also received several requests to opt-out that were postmarked (or sent by email) after December 1, 2025.

This is a troubling development because it is not the first time the agency has erroneously omitted people from the class list. As the Court may recall, the agency originally provided a class list of *only* 21,496 people. Only after Class Counsel identified an error in the list did SSA re-run its query and provide a class list of 102,741 people—nearly five times as large. *See* Dkt. 93 at 15 (“SSA has acknowledged that the July 21, 2025, list does not include all class members and has produced a new list to remedy that error.”); Dkt. 95 at 1 (“This new list contains nearly *five times* as many class members as the original list—**102,741 children in total**. Put another way, *the agency’s original list omitted almost 80% of the actual class.*”). It now again appears as though the agency has excluded class members from the list and the error was only discovered through Class Counsel’s efforts. Plaintiffs are available to appear for a status conference should the Court have any questions or concerns about this development.

Once we receive the list of missing class members, the parties will confer regarding next steps which will likely include sending notice to the new class members to give them a chance to opt-out, as the rest of the class received. Plaintiffs will promptly move the Court to approve additional class notice, together with other appropriate relief, as necessary.

III. Status Regarding Joint Stipulated Judgment

As set forth in Plaintiffs’ first status report, despite the best efforts of Class Counsel, SSA had not yet provided its revisions to the proposed stipulated judgment that Class Counsel sent to the agency back on September 10, 2025. Unfortunately, as explained below, the agency has still not provided its revisions to the proposed stipulated judgment.

As we last reported, counsel for SSA stated on December 5, 2025, that they still believed a stipulated judgment was the “right approach” and that they would be receiving revisions from SSA that same day—yet, no revisions were shared with Class Counsel as of the filing of Plaintiffs’

status report on December 8. On December 12, 2025, having still not received any revisions, Class Counsel emailed counsel for SSA to inquire about the status of the revisions and to request that they be sent by no later than this morning, Monday December 15, 2025. *See Exhibit A at 1.* Upon receiving an out-of-office reply, Class Counsel forwarded the request to a Supervisory AUSA identified in the out-of-office reply. The Supervisory AUSA did not provide any substantive response, other than to advise that counsel would return to the office on Monday. As of the filing of this report, we have still not received any revisions to the stipulated judgment.

Plaintiffs are disappointed that the agency was not able to meaningfully confer regarding a judgment in the two months since it received Plaintiffs' draft, and despite the parties' stipulated agreement to confer by December 1, 2025. Dkt. 105. Plaintiffs are therefore preparing an appropriate motion for the Court to enter judgment and will file it shortly. Plaintiffs note, however, that final judgment cannot be entered until any new individuals who were erroneously omitted from the class list by SSA (as noted above) have received notice and are given a chance to request exclusion. But there is no reason the parties cannot litigate the issue of final judgment in parallel with any additional notice process, to avoid further delay.

Dated: December 15, 2025

Respectfully submitted,

/s/ Joseph J. Green

KELLEY DRYE & WARREN LLP
Joseph J. Green (VSB # 40336)
jgreen@kelleydrye.com
Ira T. Kasdan (admitted *pro hac vice*)
ikasdan@kelleydrye.com
670 Maine Avenue, SW
Washington D.C. 20024
Tel: (202) 342-8400
Fax: (202) 342-8451

Damon W. Suden (admitted *pro hac vice*)

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sschlesinger@kelleydrye.com
3 World Trade Center
175 Greenwich Street
New York, NY 10007
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Counsel for Plaintiffs and the class

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of December 2025, Plaintiffs' Status Report was uploaded to this Court's CM/ECF system, which will electronically serve a copy of the same on all counsel of record.

Respectfully submitted,

/s/ Joseph J. Green

KELLEY DRYE & WARREN LLP

Joseph J. Green (VSB # 40336)
jgreen@kelleydrye.com
670 Maine Avenue, SW
Washington D.C. 20024
Tel: (202) 342-8400
Fax: (202) 342-8451

Counsel for Plaintiffs and the class

EXHIBIT A

From: Suden, Damon
Sent: Friday, December 12, 2025 9:14 AM
To: O'Connor, Kirstin (USAVAE); Kasdan, Ira; Schlesinger, Steven W
Cc: Loftus, Meghan (USAVAE)
Subject: RE: LNP Class action - opt out list as of 12/4/25 and request for meet and confer

Hi Kirstin,

We are following up on the email chain below.

First, regarding the stipulated judgment: You said in your December 5 email that you “are still of the view that a stipulated judgment is the right approach” and that you “will be receiving revisions to the stipulated judgment from SSA today [i.e. December 5] and will forward those as soon as we have them.” We still have not received any revisions from you. As we stated to the Court in our December 8 status report, we intend to provide an update to the Court this coming Monday. We would like to tell the Court that the parties have made progress—which is why we will have waited this extra week, to give the agency more time to forward revisions. Can you please send us the agency’s revisions to the proposed stipulated judgment by the end of business today or first thing Monday morning? Or else advise if there is some impediment to doing so.

Second, if we are understanding your email of December 10 correctly, it sounds like the agency may have omitted additional class members from the class list beyond those we identified. Is that correct? Also, the children we inquired about were brought to our attention by parents who received notices for some of their children but not others. Are there children, who have been left off the list, from families who have received no notices at all? Obviously, we will need to bring this new development to the Court’s attention in our status report. As you noted in your December 10 email, once we know the scope of the issue, we would like to confer with you on next steps.

We intend to file our status report by not later than 3pm on Monday. The more information we have from the agency reasonably before that time, the better. I’m sure the Court will appreciate hearing that the agency is promptly attempting to resolve these outstanding issues.

Thanks,
Damon

DAMON SUDEN

Kelley Drye & Warren LLP
Tel: (212) 808-7586
Cell: (917) 570-4458

From: O'Connor, Kirstin (USAVAE) <Kirstin.O'Connor@usdoj.gov>
Sent: Wednesday, December 10, 2025 4:32 PM
To: Kasdan, Ira <IKasdan@KelleyDrye.com>; Schlesinger, Steven W <SSchlesinger@KelleyDrye.com>; Suden, Damon <DSuden@KelleyDrye.com>

Cc: Loftus, Meghan (USAVAE) <Meghan.Loftus@usdoj.gov>
Subject: RE: LNP Class action - opt out list as of 12/4/25 and request for meet and confer

All,

Upon reviewing the status of the beneficiaries you identified, SSA determined that the issue is related to age: these are largely children who turned 18 or fulltime students who turned 19 at some point during the class period (May 10, 2024 through May 30, 2025). Beneficiaries would stop receiving benefits when they reach age 18 unless they are fulltime students and fulltime students would be terminated at either age 19 or when they are no longer fulltime students, whichever is sooner. The code excluded beneficiaries whose records had a termination code. The difficulty is that the MBR does not have a discrete history field for the date on which the multiple terminations may have occurred in some cases. SSA is amending their code to capture terminations that occurred during the class period. Cases may have a termination, but then a reinstatement for another benefit stream, such as child being converted to student, then being converted to disabled adult child.

SSA expects to have a full list of potentially impacted beneficiaries on December 12. Once you have reviewed that list, we can decide how to proceed.

Thanks,
Kirstin

Kirstin O'Connor
Assistant United States Attorney
Eastern District of Virginia
2100 Jamieson Ave.
Alexandria, VA 22314
P: 703.299.3799

From: O'Connor, Kirstin (USAVAE)
Sent: Friday, December 5, 2025 11:52 AM
To: Kasdan, Ira <IKasdan@KelleyDrye.com>; Loftus, Meghan (USAVAE) <Meghan.Loftus@usdoj.gov>
Cc: Suden, Damon <DSuden@KelleyDrye.com>; Schlesinger, Steven W <SSchlesinger@KelleyDrye.com>
Subject: RE: LNP Class action - opt out list as of 12/4/25 and request for meet and confer

Ira,

We will be receiving revisions to the stipulated judgment from SSA today and will forward those as soon as we have them. We are still of the view that a stipulated judgment is the right approach and are just waiting for SSA sign-off on the language. We suggest you review the revised draft and we can decide on a course of action from there. Meg is going to be out on medical leave starting Wednesday, so hopefully we can get this resolved before then.

Thanks,
Kirstin

Kirstin O'Connor
Assistant United States Attorney
Eastern District of Virginia
2100 Jamieson Ave.
Alexandria, VA 22314