

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.)
)

MOTION TO ENFORCE THE COURT'S JULY 16, 2025 ORDER
DIRECTING PRODUCTION OF THE CLASS LIST

Pursuant to Local Rule 7, Plaintiff 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 the certified class (“Plaintiffs”) hereby respectfully moves this Court for an order directing Defendants to comply with this Court’s July 16, 2025 Order, which directed production of the class list. In support, Plaintiffs include below its Memorandum of Law and proposed order.

Dated: December 17, 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*)
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

Counsel for Plaintiffs and the class

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.)
)

[PROPOSED] ORDER

Upon consideration of the Plaintiffs' Motion to Enforce the Court's Order, it is hereby ORDERED that the motion is GRANTED.

It is further ORDERED that Defendants shall produce a supplemental class list within one (1) day of the date of this Order.

ENTERED this ____ day of _____ 2026 in Alexandria, Virginia.

United States District Judge

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.)
)

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION TO ENFORCE
THE COURT'S JULY 16, 2025 ORDER DIRECTING PRODUCTION OF THE CLASS
LIST**

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

Counsel for Plaintiffs and the class

TABLE OF CONTENTS

	Page
I. BACKGROUND	1
II. ARGUMENT	4
III. CONCLUSION.....	5

Plaintiff and Class Representative 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 the certified class (collectively, the “Plaintiffs”), by undersigned appointed Class Counsel, file this Motion to Enforce Compliance With The Court’s July 16, 2025 Order Directing Production of the Class List (the “Motion”). In support of this Motion, Plaintiffs state as follows:

I. BACKGROUND

By Order dated May 30, 2025, the Court certified the following class of beneficiaries, subject to certain exclusions:

All Eligible Children of Early Retirees, where such children, between and including May 10, 2024 and May 30, 2025, received a child’s insurance benefit under Section 402(d) of the Social Security Act (the “Act”) that was reduced under Section 403(a)(1) of the Act because the Social Security Administration (the “SSA”) used the PIA of the Early Retiree instead of the RIB in determining whether the Family Maximum was exceeded, and therefore such children may be entitled to past due benefits.

Dkt. 72 at 7. By Order dated July 16, 2025, Dkt. 81, the Court ordered that “Defendants shall produce the class list and any methodology used to compile the MBR¹ no later than July 21, 2025.”

The agency produced a class list on July 21, 2025, containing just 21,469 individuals. Class Counsel analyzed the list and on August 3, 2025, alerted the agency to the fact that the list was not complete as it did not include the Class Representatives—*i.e.*, the named Plaintiff and his children. *See* Dkt. 85 at 1 and Exhibit K thereto, Dkt. 85-11. The agency subsequently admitted that “the July 21, 2025 list included only child auxiliaries who *became eligible* to receive benefits during the class period. It did not include child auxiliaries who had *already been receiving* these benefits—and continued to do so into the class period.” Dkt. 93 at 6 (emphasis in original); at 15

¹ The parties agree that this was a typo in the Order: the agency understood that it was to produce the methodology for creating the class list, not the methodology for creating the MBR.

(“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.”). The agency claimed this was caused by “human error.” Dkt. 95-1.

The agency produced a new class list, along with other data, on August 20, 2025, containing 102,741 children—nearly five times larger than the original list. *Id.* As a result of this error, Plaintiffs sought further discovery from the agency, including production of a list of individuals from whom the original class list was compiled to review and assess whether people were erroneously omitted from the list. The Court denied that particular relief. Dkt. 100 (“ORDERED that Plaintiff’s request as to the original list of approximately 40,000 potential class members from which Defendants compiled the class list is DENIED.”).

By Order dated October 1, 2025, the Court approved the class notice plan submitted by Plaintiffs with the approval of Defendants. Dkt. 109. In accordance with the Order, on October 17, 2025, Class Counsel mailed 102,741 notices to the individuals on the second class list provided by SSA, which triggered a 45-day period for class members to submit requests for exclusion. Dkt. 112. Over the following weeks, almost 800 class members contacted Class Counsel with questions about the lawsuit. Some of those individuals advised Class Counsel that they had received notices for some of their children but not others who they believed should also have been in the class. Dkt. 112 at ¶ 6.

On November 18, 2025, Class Counsel sent counsel for SSA a letter containing the names of the representative payees and their children who may have been left off the class list and asked the agency to investigate the issue. Exhibit A, hereto. Counsel for SSA responded on November 19, 2025: “Received and forward [sic] to SSA regarding those individuals named in the letter.” Exhibit B, hereto.

On December 10, 2025, four weeks later, counsel for SSA reported that the agency had determined that it (once again) omitted individuals from the class list:

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.

Dkt. 119-1 at 2 (emphasis added). SSA did not produce a list of the impacted beneficiaries on December 12. Dkt. 119 at 1.

On December 15, 2025, counsel for SSA reported “yes, ***there are quite a few additional potential beneficiaries that were likely impacted by this age/school status issue.*** On Friday [December 12], SSA informed us that they are working to confirm the number and identity of these new potential class members. ***For obvious reasons, SSA is doing quality controls*** to ensure that this supplemental list is complete and accurate. This data is difficult to pull from SSA’s systems, and ***unfortunately I do not have a final list for you at this time.***” Exhibit C, hereto, at 2-3. Counsel for SSA also noted that “we may need to re-open the opt-out period to notify additional beneficiaries.” *Id.* at 3.

On December 16, 2025, Class Counsel informed counsel for SSA that given the agency’s long delay in resolving this issue (since November 18, 2025), failure to produce the list on its own

self-selected date (December 12, 2025), and inability to provide a date certain on which the list would be produced, Plaintiffs felt compelled to file the instant motion to ensure timely production of the list unless the agency produced the list forthwith. Exhibit C at 2. Instead, SSA counsel responded to Class Counsel that “SSA *anticipates* finalizing the supplemental list early next week. As I’m sure you can appreciate, SSA is doing everything it can to ensure that this list is complete and accurate.” *See* Exhibit C at 1 (emphasis added). The list was not produced as of the filing of this motion.

II. ARGUMENT

This Court previously ordered SSA to produce the class list by July 21, 2025. Dkt. 81. The agency produced a list of just 21,469 individuals on the Court-ordered deadline. Following investigation and motion practice by Class Counsel, the agency admitted that its initial list was woefully incomplete—it excluded nearly 80% of the class (including Plaintiff and his children). A second class list was produced on August 20, 2025—almost a month after the Court-ordered deadline. Now, as set forth above, the agency admits that its second class list is also incomplete and erroneously compiled. The list excluded children who had their benefits terminated during the class period even though the class definition includes such children. Dkt. 72 at 7 (“*All Eligible Children* of Early Retirees, where such children, *between and including May 10, 2024 and May 30, 2025, received a child’s insurance benefit* under Section 402(d) of the Social Security Act (the “Act”) *that was reduced...*”). Thus, the agency has still not complied with the Court’s July 16 Order directing production of an accurate class list.

It is axiomatic that this Court may enter an order to compel compliance with its prior orders. Plaintiffs, therefore, seek an order requiring the agency to produce within one (1) business day of the Court’s Order being issued the requisite information for the children and their representative

payees erroneously left off the second class list for which Class Counsel mailed notices. Without such an Order, there is no certainty that the agency will complete its work and produce the new class list in a timely manner. The agency has been investigating this issue since Class Counsel brought it to their attention by letter on November 18. It is now nearly one month later and SSA has repeatedly missed its own deadlines and now cannot even provide a date certain on which it will complete its work and produce a list of missing class members.

The agency's failure to correctly compile the list will necessitate another round of notice to the new class members and another 45-day period for them to opt out. Notice cannot be given until the new notice plan is approved by the Court, which cannot happen until SSA produces the new class list. Thus, the agency's failure to promptly correct its most recent error is unduly delaying resolution of this case, which only serves to prejudice the class members who continue to receive, each month, less benefits than they are entitled to. *See* Dkt. 49 at 10 (denying Defendants' motion to dismiss based on statutory construction grounds).

III. CONCLUSION

For the reasons stated above, Plaintiffs request that the Court enter an Order to enforce compliance with its July 16 Order by requiring the agency to correct its error and within one (1) business day of the Court's Order being issued, produce the requisite information for the children and their representative payees erroneously left off the class list.²

Dated: December 17, 2025

Respectfully submitted,

/s/ Joseph J. Green

KELLEY DRYE & WARREN LLP
Joseph J. Green (VSB # 40336)

² If SSA actually produces the list "early next week" as it promises anew, Plaintiffs will gladly withdraw its motion to avoid wasting the Court's time.

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

Counsel for Plaintiffs and the class

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of December 2025, Plaintiffs' Motion to Enforce this Court's Order, along with its accompanying Memorandum of Law, 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

Ira T. Kasdan



Kelley Drye & Warren LLP
Washington Harbour, Suite 400
3050 K Street, NW
Washington, DC 20007

Tel: (202) 342-8864
Fax: (202) 342-8451

November 18, 2025

Via Email

Meghan.Loftus@usdoj.gov
Kirstin.O'Connor@usdoj.gov

Meghan Loftus
Kirstin O'Connor
Assistant United States Attorneys
Eastern District of Virginia
2100 Jamieson Avenue
Alexandria, VA 22314ur

RE: *L.N.P., v. Bisignano, et al.*, 1:24cv1196 (MSN-IDD) (E.D. Va.)

Dear Meg and Kirstin,

Hope you are well; welcome back from the shutdown.

Pursuant to the Court's Order dated October 1, 2025 (Dkt. # 109), on October 17, 2025, we mailed Notices to the more than 102,000 members of the Class based on the list that you and the Social Security Administration provided. Since then, hundreds of Class Members have contacted us, as Class Counsel, with various questions and issues. In particular, the representative payees listed below have inquired about their children whom they believe were inadvertently left out of the Class. Please submit this letter to SSA and ask the agency whether the children cited below should have been included in the Class. If SSA believes they (or their representative payees) do not qualify as Class Members, please ask SSA to explain the reasons therefor. Once we obtain this information from you, we will apprise the payee representatives below of the agency's responses.

1. [REDACTED], [REDACTED], [REDACTED], [REDACTED].
 - a. Mr. [REDACTED] received a notice for only for one child ([REDACTED]). He told us that he has two other children, albeit with different last names — [REDACTED] and [REDACTED]—who are also receiving benefits on his record that he believes should also be members of the Class.

Meghan Loftus
Kirstin O'Connor
November 18, 2025

2. [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED].
 - a. Ms. [REDACTED] received letters for for two of three children. She believes another child, [REDACTED], is eligible for inclusion in the Class.
3. [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED].
 - a. Mr. [REDACTED] received a letter for [REDACTED] only. He believes that another child, [REDACTED], should also qualify as a Class member.
4. [REDACTED]. [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED].
 - a. Mr. [REDACTED] received a letter for [REDACTED] only, but contends that his daughter [REDACTED] was in school during the class period and should have been included in the Class too.
5. [REDACTED]. [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED].
 - a. Mr. [REDACTED] received a letter for his child [REDACTED] only. He has a second child receiving SSA benefits and inquired whether the second child also should be on the Class list.
6. [REDACTED]. [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED].
 - a. Ms. [REDACTED] received notices for two of her children, [REDACTED] and [REDACTED], but did not receive one for another child, [REDACTED] whom she believes was inadvertently omitted from the Class.

* * *

Damon and I will look forward to your and the agency's responses. Meanwhile, we would also like to recommence discussions about the potential of the parties entering into a consent judgment.

You may recall that we sent you an initial draft for a consent judgment back in September. At the time, you told us that the agency had comments and edits—which, however, we never received. As we stipulated and agreed to (Dkt. No. 105), we must confer about a stipulated judgment and either submit it for approval or request a briefing schedule prior to the end of the opt-out period to resolve our differences.¹

The December 1st opt-out deadline is rapidly approaching, and we would like to be able to inform the Court by then whether or not the parties have reached agreement on appropriate language or whether we will need a briefing schedule. While we reserve the right to make additional changes to our initial draft, please provide us with the agency's position regarding what we forwarded in September, as well as dates later this week or early next—prior to December 1 (*i.e.*, the end of the opt-out period)—to

¹ See paragraph 7 -

- c. The parties will meet and confer and endeavor to propose a joint stipulated judgment to the Court on or before the end of the opt-out period for Rule 23(c)(2) notice has passed. See Fed. R. Civ. P. 58(d).
- d. In the event that the parties cannot arrive at a joint stipulated judgment by the end of the opt-out period, the parties will promptly thereafter suggest a schedule for briefing and for oral argument, to present their competing forms of judgment for the Court's resolution

Meghan Loftus
Kirstin O'Connor
November 18, 2025

meet and confer. To the extent that differences remain thereafter, we intend to seek a briefing schedule from the Court by December 8, 2025, at the latest.

Thanks.

Sincerely,



Ira T. Kasdan
Damon Suden

EXHIBIT B

From: Loftus, Meghan (USAVAE) <Meghan.Loftus@usdoj.gov>
Sent: Wednesday, November 19, 2025 11:38 AM
To: Kasdan, Ira; O'Connor, Kirstin (USAVAE)
Cc: Suden, Damon; Schlesinger, Steven W
Subject: RE: RE: L.N.P., v. Bisignano, et al., 1:24cv1196 (MSN-IDD) (E.D. Va.) -- Letter re potential class members

Thanks Ira. Received and forward to SSA regarding those individuals named in the letter. We are also working on the proposed stipulated judgment and hope to have that to you for your review in the next week or two.

Meg Loftus

Assistant United States Attorney
United States Attorney's Office, Eastern District of Virginia
Justin W. Williams U.S. Attorney's Building
2100 Jamieson Avenue
Alexandria, Virginia 22314
P: (703) 299-3757 | F: (703) 299-3982

From: Kasdan, Ira <IKasdan@KelleyDrye.com>
Sent: Tuesday, November 18, 2025 1:59 PM
To: Loftus, Meghan (USAVAE) <Meghan.Loftus@usdoj.gov>; O'Connor, Kirstin (USAVAE) <Kirstin.O'Connor@usdoj.gov>
Cc: Suden, Damon <DSuden@KelleyDrye.com>; Schlesinger, Steven W <SSchlesinger@KelleyDrye.com>
Subject: [EXTERNAL] RE: L.N.P., v. Bisignano, et al., 1:24cv1196 (MSN-IDD) (E.D. Va.) -- Letter re potential class members
Importance: High

Hi. Hope you are well.

Please see the attached letter.

Thanks. Ira

IRA KASDAN

Partner

Kelley Drye & Warren LLP
Washington Harbour
3050 K Street NW, Suite 400
Washington, DC 20007
Tel: (202) 342-8864
Cell: (917) 858-6156

ikasdan@kellydrye.com

This message is subject to Kelley Drye & Warren LLP's email communication policy.
[KDW-Disclaimer](#)

EXHIBIT C

From: O'Connor, Kirstin (USAVAE) <Kirstin.O'Connor@usdoj.gov>
Sent: Tuesday, December 16, 2025 4:46 PM
To: Suden, Damon; 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

All,

SSA anticipates finalizing the supplemental list early next week. As I'm sure you can appreciate, SSA is doing everything it can to ensure that this list is complete and accurate.

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: Tuesday, December 16, 2025 11:58 AM
To: Suden, Damon <DSuden@KelleyDrye.com>; Kasdan, Ira <IKasdan@KelleyDrye.com>; Schlesinger, Steven W <SSchlesinger@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

Damon,

Please see the attached proposed stipulated judgment. We look forward to hearing your thoughts.

I have passed your email on to SSA and will let you know what timetable they can provide regarding the updated class list.

Thanks,
Kirstin

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

From: Suden, Damon <DSuden@KelleyDrye.com>

Sent: Tuesday, December 16, 2025 9:43 AM

To: O'Connor, Kirstin (USAFAE) <Kirstin.O'Connor@usdoj.gov>; Kasdan, Ira <IKasdan@KelleyDrye.com>; Schlesinger, Steven W <SSchlesinger@KelleyDrye.com>

Cc: Loftus, Meghan (USAFAE) <Meghan.Loftus@usdoj.gov>

Subject: [EXTERNAL] RE: LNP Class action - opt out list as of 12/4/25 and request for meet and confer

Kirstin,

Thank you for the update. The agency promised to send us the list of impacted beneficiaries by Friday December 12, but that did not happen. Your email does not provide a new date certain on which we will receive the list. As you note, it is very likely that the Court will need to approve a new round of notice to the missing class members. Thus, obtaining the new list is an urgent priority for us, and I'm sure for the Court, so that we can bring this case to a resolution. If we do not receive the new list by COB today, we feel compelled to file a motion with the Court to order timely production of the list and will set the motion for hearing on January 2.

As for the stipulated judgment, we look forward to receiving the agency's revisions by COB today as you stated. We disagree, however, that resolution of the judgment is not urgent. The last time we agreed to put off negotiations over the judgment pending class notice, the agency failed to provide any revisions to the judgment or engage in any good faith negotiations by the agreed-upon December 1 deadline. We do not want to be in that position again. Thus, we will review the agency's forthcoming revisions and confer promptly to attempt to reach agreement where possible. To the extent we have no agreement, we intend to move promptly for the Court to enter judgment—this way, the parties can brief the issues in parallel with any new round of class notice and the Court will be positioned to enter judgment shortly after the additional notice period has expired.

Thank you,

Damon

DAMON SUDEN

Kelley Drye & Warren LLP

Tel: (212) 808-7586

Cell: (917) 570-4458

From: O'Connor, Kirstin (USAFAE) <Kirstin.O'Connor@usdoj.gov>

Sent: Monday, December 15, 2025 3:03 PM

To: Suden, Damon <DSuden@KelleyDrye.com>; Kasdan, Ira <IKasdan@KelleyDrye.com>; Schlesinger, Steven W <SSchlesinger@KelleyDrye.com>

Cc: Loftus, Meghan (USAFAE) <Meghan.Loftus@usdoj.gov>

Subject: RE: LNP Class action - opt out list as of 12/4/25 and request for meet and confer

Damon,

Thanks for reaching out, and I apologize again for the delay in getting information to you. In response to your question, yes, there are quite a few additional potential beneficiaries that were likely impacted by this age/school status issue. On Friday, SSA informed us that they are working to confirm the number and identity of these new

potential class members. For obvious reasons, SSA is doing quality controls to ensure that this supplemental list is complete and accurate. This data is difficult to pull from SSA's systems, and unfortunately I do not have a final list for you at this time.

Because we may need to re-open the opt-out period to notify additional beneficiaries, I do not think finalizing the joint stipulation is urgent at this point. That being said, we have received edits from SSA and I will send a revised draft of the joint stipulation to you by COB tomorrow.

Thanks,
Kirstin

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

From: Suden, Damon <DSuden@KelleyDrye.com>
Sent: Friday, December 12, 2025 9:14 AM
To: O'Connor, Kirstin (USAFAE) <Kirstin.O'Connor@usdoj.gov>; Kasdan, Ira <IKasdan@KelleyDrye.com>; Schlesinger, Steven W <SSchlesinger@KelleyDrye.com>
Cc: Loftus, Meghan (USAFAE) <Meghan.Loftus@usdoj.gov>
Subject: [EXTERNAL] 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