No. ___

IN THE

Supreme Court of the United States

BLUE CROSS AND BLUE SHIELD OF ALABAMA; USABLE MUTUAL INSURANCE COMPANY, *DOING BUSINESS AS* ARKANSAS BLUE CROSS AND BLUE SHIELD; ANTHEM BLUE CROSS LIFE AND HEALTH, *DOING BUSINESS AS* ANTHEM BLUE CROSS, ET AL.,

Applicants,

v.

ANGELINA EMERGENCY MEDICINE ASSOCIATES PA; ATASCOSA EMERGENCY MEDICINE ASSOCIATES PA; ATHENS EMERGENCY MEDICINE ASSOCIATES PA; BLUFF CREEK EMERGENCY MEDICINE ASSOCIATES, PA; BREWSTER EMERGENCY MEDICINE ASSOCIATES PA, ET AL.,

Respondents.

(*Caption continued on inside cover*)

APPLICATION FOR AN EXTENSION OF TIME TO FILE A PETITION FOR A WRIT OF CERTIORARI

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December 15, 2025

BLUE CROSS AND BLUE SHIELD OF ALABAMA; USABLE MUTUAL INSURANCE COMPANY, *DOING BUSINESS AS* ARKANSAS BLUE CROSS AND BLUE SHIELD; ANTHEM BLUE CROSS LIFE AND HEALTH, *DOING BUSINESS AS* ANTHEM BLUE CROSS; ROCKY MOUNTAIN HOSPITAL AND MEDICAL SERVICES, *DOING BUSINESS AS* ANTHEM BLUE CROSS AND BLUE SHIELD OF COLORADO; HIGHMARK BCBSD INCORPORATED; BLUE CROSS AND BLUE SHIELD OF GEORGIA, INCORPORATED; BLUE CROSS BLUE SHIELD HEALTHCARE PLAN OF GEORGIA INCORPORATED; WELLMARK, INCORPORATED, *DOING BUSINESS AS* BLUE CROSS AND BLUE SHIELD OF IOWA, *DOING BUSINESS AS* WELLMARK BLUE CROSS AND BLUE SHIELD; BLUE CROSS AND BLUE SHIELD OF KANSAS CITY; RIGHTCHOICE MANAGED CARE INCORPORATED; HEALTHY ALLIANCE LIFE INSURANCE COMPANY; HMO MISSOURI INCORPORATED; BLUE CROSS & BLUE SHIELD OF MISSISSIPPI, *A MUTUAL INSURANCE COMPANY*; BLUE CROSS AND BLUE SHIELD OF NEBRASKA, INCORPORATED; BLUE CROSS BLUE SHIELD OF NORTH DAKOTA; EMPIRE HEALTHCHOICE ASSURANCE INCORPORATED; EMPIRE HEALTHCHOICE HMO INCORPORATED; HEALTHNOW NEW YORK INCORPORATED; COMMUNITY INSURANCE COMPANY, *DOING BUSINESS AS* BLUE CROSS AND BLUE SHIELD OF OHIO; HIGHMARK INCORPORATED; WELLMARK OF SOUTH DAKOTA INCORPORATED; ANTHEM HEALTH PLANS OF VIRGINIA, INCORPORATED; PREMERA BLUE CROSS; BLUE CROSS OF IDAHO HEALTH SERVICE, INCORPORATED, *DOING BUSINESS AS* BLUE CROSS OF IDAHO,

Applicants,

v.

ANGELINA EMERGENCY MEDICINE ASSOCIATES PA; ATASCOSA EMERGENCY MEDICINE ASSOCIATES PA; ATHENS EMERGENCY MEDICINE ASSOCIATES PA; BLUFF CREEK EMERGENCY MEDICINE ASSOCIATES, PA; BREWSTER EMERGENCY MEDICINE ASSOCIATES PA, ET AL.,

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Applicants make the following disclosures:

Anthem Blue Cross Life and Health Insurance Company is a non-governmental corporate party wholly owned by WellPoint California Services, Inc. WellPoint California Services, Inc. is a wholly owned subsidiary of Anthem Holding Corp. Anthem Holding Corp. is a wholly owned subsidiary of Elevance Health, Inc. Elevance Health, Inc. is a publicly held corporation, and no publicly held corporation owns 10% or more of its stock.

Rocky Mountain Hospital and Medical Services, Inc. is a non-governmental corporate party wholly owned by ATH Holding Company, LLC. ATH Holding Company, LLC is a wholly owned subsidiary of Elevance Health, Inc. Elevance Health, Inc. is a publicly held corporation, and no publicly held corporation owns 10% or more of its stock.

Blue Cross Blue Shield of Georgia, Inc. merged into Blue Cross Blue Shield HealthCare Plan of Georgia, Inc. and ceased to separately exist effective January 1, 2019. Blue Cross Blue Shield HealthCare Plan of Georgia, Inc. is a non-governmental corporate party wholly owned by Cerulean Companies, Inc. Cerulean Companies, Inc. is a wholly owned subsidiary of Anthem Holding Corp. Anthem Holding Corp. is a wholly owned subsidiary of Elevance Health, Inc. Elevance Health, Inc. is a publicly held corporation, and no publicly held corporation owns 10% or more of its stock.

Healthy Alliance Life Insurance Company and HMO Missouri, Inc. are non-governmental corporate parties wholly owned by RightCHOICE Managed Care, Inc. RightCHOICE Managed Care, Inc. is a non-governmental corporate party wholly owned by Anthem Holding Corp. Anthem Holding Corp. is a wholly owned subsidiary of Elevance Health, Inc. Elevance Health, Inc. is a publicly held corporation, and no publicly held corporation owns 10% or more of its stock.

Empire HealthChoice HMO, Inc. is now known as Anthem HealthChoice HMO, Inc. Anthem HealthChoice HMO, Inc. is a non-governmental corporate party wholly owned by Anthem HealthChoice Assurance, Inc. Anthem HealthChoice Assurance, Inc. is a non-governmental corporate party wholly owned by WellPoint Holding Corp. WellPoint Holding Corp. is a wholly owned subsidiary of Elevance Health, Inc. Elevance Health, Inc. is a publicly held corporation, and no publicly held corporation owns 10% or more of its stock.

Empire HealthChoice Assurance, Inc. is now known as Anthem HealthChoice Assurance, Inc. Anthem HealthChoice Assurance, Inc. is a non-governmental corporate party wholly owned by WellPoint Holding Corp. WellPoint Holding Corp. is a wholly owned subsidiary of Elevance Health, Inc. Elevance Health, Inc. is a publicly held corporation, and no publicly held corporation owns 10% or more of its stock.

Community Insurance Company is a non-governmental corporate party wholly owned by ATH Holding Company, LLC. ATH Holding Company, LLC is a wholly owned subsidiary of Elevance Health, Inc. Elevance Health, Inc. is a publicly held corporation, and no publicly held corporation owns 10% or more of its stock.

Anthem Health Plans of Virginia, Inc. is a non-governmental corporate party wholly owned by Anthem Southeast, Inc. Anthem Southeast, Inc. is a wholly owned subsidiary of Elevance Health, Inc. Elevance Health, Inc. is a publicly held corporation, and no publicly held corporation owns 10% or more of its stock.

Blue Cross and Blue Shield of Alabama is a non-governmental corporate party that has no parent corporation. No publicly held corporation owns 10% or more of Blue Cross and Blue Shield of Alabama.

HealthNow New York Inc. is now known as Highmark Western and Northeastern New York. Highmark Western and Northeastern New York has as its sole member Highmark Inc., a nonprofit corporation. The sole corporate member of Highmark Inc. is Highmark Health, a nonprofit corporation with no members or shareholders.

USAble Mutual Insurance Company is a non-governmental corporate party that has no parent corporation. No publicly held corporation owns 10% or more of USAble Mutual Insurance Company's stock.

Highmark BCBSD Inc. is a non-governmental corporate party wholly owned by Highmark Inc. The sole corporate member of Highmark Inc. is Highmark Health. Highmark Health is a nonprofit corporation with no members or shareholders.

Wellmark of South Dakota, Inc.'s parent corporation is Wellmark, Inc. No publicly held corporation owns 10% or more of the stock of Wellmark of South Dakota, Inc. or Wellmark, Inc.

Blue Cross and Blue Shield of Mississippi is a non-governmental corporate party that does not have a parent corporation. No publicly held corporation owns 10% or more of Blue Cross and Blue Shield of Mississippi's stock.

Premera Blue Cross's parent corporation is Premera, which is a non-profit corporation under Washington law. No publicly held corporation owns 10% or more of the stock of Premera or Premera Blue Cross.

Blue Cross and Blue Shield of Kansas City is a not-for-profit mutual insurance company. It has no parent corporation or publicly-held owners.

Blue Cross and Blue Shield of Nebraska, Inc. is a non-governmental corporate party that has no parent corporation and no publicly-held corporation owns 10% or more of its stock.

Blue Cross Blue Shield of North Dakota is a non-governmental corporate party that is owned by its parent company, HealthyDakota Mutual Holdings, a nonprofit holding company. No publicly-held corporation owns 10% or more of its stock.

Blue Cross of Idaho Health Service, Inc. is a non-governmental corporate party that has no parent corporation and no publicly-held corporation owns 10% or more of its stock.

APPLICATION FOR EXTENSION OF TIME TO FILE PETITION FOR WRIT OF CERTIORARI

To the Honorable Samuel Alito, Associate Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Fifth Circuit:

1. Pursuant to Rule 13.5 of the Rules of this Court and 28 U.S.C. § 2101(c), Applicants respectfully request a 30-day extension of time, to and including February 20, 2026, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit in this case. Applicants (collectively, the "Blue Plans") are:

> Blue Cross and Blue Shield of Alabama; USAble Mutual Insurance Company, *doing business as* Arkansas Blue Cross and Blue Shield; Anthem Blue Cross Life and Health, *doing business as* Anthem Blue Cross; Rocky Mountain Hospital and Medical Services, *doing business as* Anthem Blue Cross and Blue Shield of Colorado; Highmark BCBSD Incorporated; Blue Cross and Blue Shield of Georgia, Incorporated; Blue Cross Blue Shield Healthcare Plan of Georgia Incorporated; Wellmark, Incorporated, *doing business as* Blue Cross and Blue Shield of Iowa, *doing business as* Wellmark Blue Cross and Blue Shield; Blue Cross and Blue Shield of Kansas City; RightCHOICE Managed Care Incorporated; Healthy Alliance Life Insurance Company; HMO Missouri Incorporated; Blue Cross & Blue Shield of Mississippi, *A Mutual Insurance Company;* Blue Cross and Blue Shield of Nebraska, Incorporated; Blue Cross Blue Shield of North Dakota; Empire HealthChoice Assurance Incorporated; Empire HealthChoice HMO Incorporated; HealthNow New York Incorporated; Community Insurance Company, *doing business as* Blue Cross and Blue Shield of Ohio; Highmark Incorporated; Wellmark of South Dakota Incorporated; Anthem Health Plans of Virginia, Incorporated; Premera Blue Cross; and Blue Cross of Idaho Health Service, Incorporated, *doing business as* Blue Cross of Idaho.[1]

[1] Blue Cross Blue Shield of Georgia, Inc. merged into Blue Cross Blue Shield HealthCare Plan of Georgia, Inc. Empire HealthChoice HMO, Inc. is now known as Anthem HealthChoice HMO, Inc. Empire HealthChoice Assurance, Inc. is now known as Anthem HealthChoice Assurance, Inc. HealthNow New York Inc. is now known as Highmark Western and Northeastern New York.

2. The Fifth Circuit issued its decision and substituted opinion on October 23, 2025. *See Angelina Emergency Med. Assocs. PA* v. *Blue Cross & Blue Shield of Ala.*, 156 F.4th 505 (5th Cir. 2025); *see also Angelina Emergency Med. Assocs. PA* v. *Blue Cross & Blue Shield of Ala.*, 150 F.4th 393 (5th Cir.), *opinion withdrawn and superseded on reh'g*, 156 F.4th 505 (5th Cir. 2025). A copy of the Fifth Circuit's substituted opinion is attached as Appendix A. A copy of the court's original opinion is attached as Appendix B.

3. Unless extended, the time to file a petition for a writ of certiorari will expire on January 21, 2026. *See* Sup. Ct. R. 13.1. This application is being filed more than ten days before that date. *See* Sup. Ct. R. 13.5. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1).

4. This case presents the question of whether the Employee Retirement Income Security Act (ERISA) permits an "equitable estoppel" exception—distinct from the narrow "ERISA estoppel" doctrine—to override an unambiguous ERISA plan based on informal representations.

5. The Blue Plans are health insurers and claims administrators for healthcare plans operating outside of Texas. Respondents are limited liability management entities affiliated with SCP Health that staff emergency departments in Texas with independent-contractor doctors.

6. The doctors working for Respondents are considered "out-of-network" providers, because they have not contracted with the Blue Plans to participate in their provider networks. For the convenience of their patients, the Blue Plans have

established an out-of-network claims-payment process under which payment is routed to the provider, rather than the patient. But under the plain terms of their healthcare plans, all rights belong to the member alone.

7. For an out-of-network provider to challenge a payment as inadequate, it must stand in the shoes of a plan member; to do so, it must possess a valid assignment of rights from the member. When a hospital emergency department admits a patient, the hospital may ask the patient to sign a standard "assignment of benefits." That form contract purports to transfer rights the patient holds under their healthcare plan. The specific terms of the contract matter: If you wish to stand in the patient's shoes in a later suit against an insurer, the contract must validly assign *that* right to *you*. The patient, moreover, must have authority under their healthcare plan to assign their rights in the first place.

8. Under ERISA, a plan may include an anti-assignment provision that prohibits assignment of a member's rights to a third party.

9. Respondents alleged that the Blue Plans underpaid on 250,000 reimbursement claims for services rendered by doctors working for Respondents (narrowed to 182 Bellwether Claims over the course of litigation). App 65a-66a. Respondents claimed a right to sue based on standard "assignment of benefits" contracts signed by patients when they were admitted to emergency departments in Texas; in other words, Respondents purported to stand in the shoes of Blue Plan members. The Blue Plans sought summary judgment on select Bellwether Claims. App. 68a-69a.

10. The Blue Plans showed that a "significant majority" of the Bellwether Claims—including all at issue here—involved ERISA plans with unambiguous anti-assignment clauses. App. 87a-90a. Plan members had no authority to assign their rights to Respondents, so Respondents could not have standing to sue as assignees. Rather than dispute the anti-assignment clauses' validity, Respondents argued the Blue Plans should nevertheless be estopped from relying on them. The District Court granted summary judgment for the Blue Plans on this issue. App. 87a-91a.

11. The Fifth Circuit reversed. The Panel held that Respondents raised a material dispute over whether the Blue Plans should be estopped from relying on the anti-assignment clauses. App. 56a. The Panel acknowledged that Respondents had "disavowed" ERISA estoppel—a specific estoppel doctrine recognized by the Fifth Circuit and ten others. App. 51a. Like judge-made ERISA federal common law in general, ERISA estoppel cannot override unambiguous plan language. Respondents also abandoned any argument that the anti-assignment clauses were ambiguous, and thus could not succeed on an ERISA estoppel theory, even had they preserved it. *See* App. 88a-90a, 51a-52a, 55a.

12. Instead, the Panel contrived a broad "equitable estoppel" doctrine, doing away with ERISA estoppel's carefully drawn constraints. The Panel concluded that ERISA estoppel applied only to "promissory estoppel," and therefore did not extend to the fact pattern here. App. 54a-55a. The Panel then read a single Fifth Circuit opinion from 1992, *Hermann Hosp.* v. *MEBA Med. & Benefits Plan*, 959 F.2d 569 (5th Cir. 1992), *overruled in part on other grounds by Access Mediquip, L.L.C.* v.

UnitedHealthcare Ins. Co., 698 F.3d 229 (5th Cir. 2012) (en banc), to sanction a "separate," less "stringent" "theory of equitable estoppel" that can adjust rights under ERISA plans based on "equitable principle[s]." App. 51a, 54a-55a. According to the Panel, unlike ERISA estoppel, this free-floating "equitable estoppel" theory does not defer to unambiguous plan language. App. 54a-55a.

13. Applying its "equitable estoppel" theory, the Panel reversed the District Court's decision, which rested on the undisputed conclusion that the Blue Plans' anti-assignment provisions were unambiguous. App. 90aa. The Panel instructed the District Court on remand to apply the novel "equitable estoppel" theory. App. 56a.

14. The Blue Plans petitioned for rehearing en banc, explaining that the Panel had created several circuit splits. The Fifth Circuit treated the Blue Plans' petition "as a petition for panel rehearing," "granted" the petition, and substituted a materially unchanged opinion that made only three sentence-level corrections to how the Panel characterized a different Fifth Circuit case. App. 2a, 22a-23a. The Panel issued its mandate on the same day it issued its substituted opinion.

15. The Fifth Circuit's decision creates two deep circuit splits on an issue of exceptional importance. *First*, the Panel's decision to adopt a less "stringent" "theory of equitable estoppel," independent of ERISA estoppel, App. 19a, 23a, conflicts with ten circuits. *See* Sup. Ct. R. 10(a). Every other circuit to consider the question agrees that "[e]quitable estoppel in the ERISA context" applies only if the plan is "ambiguous"—a requirement that derives from the fundamental principle that federal common law cannot rewrite unambiguous text of ERISA health plans. *Griffin*

v. *Coca-Cola Refreshments USA, Inc.*, 989 F.3d 923, 936 (11th Cir. 2021) (citation omitted); *see, e.g.*, *Guerra-Delgado* v. *Popular, Inc.*, 774 F.3d 776, 782-783 (1st Cir. 2014); *Paneccasio* v. *Unisource Worldwide, Inc.*, 532 F.3d 101, 109 (2d Cir. 2008); *In re Unisys Corp. Retiree Med. Ben. ERISA Litig.*, 58 F.3d 896, 907 (3d Cir. 1995); *Ret. Comm. of DAK Americas LLC* v. *Brewer*, 867 F.3d 471, 484 (4th Cir. 2017); *Sprague* v. *General Motors Corp.*, 133 F.3d 388, 404 (6th Cir. 1998) (en banc); *Kamler* v. *H/N Telecomm. Servs., Inc.*, 305 F.3d 672, 680-681 (7th Cir. 2002); *Fink* v. *Union Cent. Life Ins. Co.*, 94 F.3d 489, 492 (8th Cir. 1996); *Gabriel* v. *Alaska Elec. Pension Fund*, 773 F.3d 945, 959 (9th Cir. 2014); *Martinez* v. *Plumbers & Pipefitters Nat. Pension Plan*, 795 F.3d 1211, 1223-24 (10th Cir. 2015). Eight of those ten circuits further specify that ERISA estoppel applies only if the party to be estopped engaged in "conduct or language amounting to" a knowing misrepresentation "of material fact" designed to induce the plaintiff's reliance, on which the plaintiff reasonably and detrimentally relied. *Sprague*, 135 F.3d at 403; *see, e.g.*, *Lee* v. *Burkhart*, 991 F.2d 1004, 1009 (2d Cir. 1993); *Kurz* v. *Philadelphia Elec. Co.*, 96 F.3d 1544, 1553 (3d Cir. 1996); *Bakery & Confectionery Union & Indus. Int'l Pension Fund* v. *Ralph's Grocery Co.*, 118 F.3d 1018, 1027 (4th Cir. 1997); *Kamler*, 305 F.3d at 679; *Gabriel*, 773 F.3d at 955-957; *Martinez*, 795 F.3d at 1224; *Griffin*, 989 F.3d at 936. The Fifth Circuit stands alone in recognizing a separate form of estoppel under ERISA that eschews ERISA estoppel's constraints.

16. *Second*, the Panel's holding that "ERISA estoppel" encompasses only "promissory estoppel," App. 23a, conflicts with eight circuits. *See* Sup. Ct. R. 10(a).

Every other circuit to consider the question agrees that ERISA estoppel includes equitable estoppel. Three circuits—the Second, Sixth, and Seventh—hold that "ERISA-estoppel can encompass both the concept of promissory estoppel and the concept of equitable estoppel." *Kamler*, 305 F.3d at 679; *see Paneccasio*, 532 F.3d at 109; *Sprague*, 133 F.3d at 403 n.13. Two circuits—the Ninth and Eleventh—hold that equitable estoppel can "apply to *some* claims arising under ERISA" but "promissory estoppel never applies in the ERISA context." *Wong* v. *Flynn-Kerper*, 999 F.3d 1205, 1212 & n.8 (9th Cir. 2021) (citations omitted); *Alday* v. *Container Corp. of Am.*, 906 F.2d 660, 666 (11th Cir. 1990). And three more circuits—the Third, Fourth, and Tenth—hold that ERISA estoppel includes equitable estoppel but have not addressed whether it extends to promissory estoppel. *E.g.*, *In re Unisys Corp.*, 58 F.3d at 907; *Brewer*, 867 F.3d at 484; *Martinez*, 795 F.3d at 1223. The Fifth Circuit alone holds that ERISA estoppel extends to promissory estoppel but not equitable estoppel.

17. The Panel's decision involves "an important question of federal law." Sup. Ct. R. 10(c). "The purpose of ERISA is to provide a uniform regulatory regime over employee benefit plans." *Aetna Health Inc.* v. *Davila*, 542 U.S. 200, 208 (2004). The Panel's decision disrupts that uniformity, in an area of frequent litigation. The argument that an ERISA suit is barred by an anti-assignment clause arose in at least thirty decisions on Westlaw in just the last year, in cases involving defendants of all stripes, from individual plan administrators to large insurers. *E.g.*, *West Virginia United Health Sys., Inc.* v. *GMS Mine Repair & Maint., Inc. Emp. Med. Plan*, No. 1:24-CV-35, 2025 WL 580600, at *5-6 (N.D. W. Va. Feb. 21, 2025); *CSMN Operations LLC* v.

Aetna Life Ins. Co., No. 24-CV-00368-NYW-RTG, 2025 WL 2513588, at *4-7 (D. Colo. Sept. 2, 2025). Plans will now confront one set of rules regarding the applicability of anti-assignment clauses in the Fifth Circuit, and another everywhere else. The Panel's decision will harm patients, too. Under the Panel's decision, to avoid being estopped from invoking anti-assignment clauses, plans may choose to decline to pay providers and instead pay members—forcing providers to bill patients directly, threatening access to care when they fail to pay.

18. Good cause exists for a 30-day extension. Over the next several weeks, the undersigned counsel has had and will have briefing deadlines for a variety of matters, including: a motion to dismiss in *Angga* v. *Bumble Bee Foods, LLC*, No. 25-cv-583 (S.D. Cal.), due December 22; a reply brief in *In re the Final NPDES/SDS Permit for 3M Cottage Grove Center*, No. A25-1049 (Minn. App.), due January 7; an opening brief in *Teva Pharmaceuticals USA, Inc.* v. *Kennedy*, No. 25-5425 (D.C. Cir.), due January 9; oral argument in *Doe* v. *Carnival Corporation*, No. 24-13159 (11th Cir.), on January 13; an intervenor brief in *Center for Biological Diversity* v. *Department of Transportation*, No. 25-60282 (5th Cir.), due January 20; and a reply brief in support of certiorari in *Williamson* v. *United States*, No. 25-412 (U.S.), due January 21.

19. Applicants respectfully seek this extension of time to allow counsel to research the relevant legal and factual issues and prepare a petition that comprehensively addresses the important questions raised by the decision below.

20. For these reasons, Applicants respectfully request that an order be entered extending the time to file a petition for certiorari to and including February 20, 2026.

Respectfully Submitted,

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