

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

UNITED STATES OF AMERICA
and the STATE OF MICHIGAN,

Plaintiffs,

v.

Civil Action No. 10-cv-14155-DPH-MKM
Hon. Denise Page Hood
Hon. Mona K. Majzoub

BLUE CROSS BLUE SHIELD OF
MICHIGAN, a Michigan nonprofit
healthcare corporation,

Defendant.

DEFENDANT BLUE CROSS BLUE SHIELD OF MICHIGAN'S NOTICE OF APPEAL

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Defendant Blue Cross Blue Shield of Michigan (“Blue Cross”) hereby appeals to the United States Court of Appeals for the Sixth Circuit. Blue Cross appeals from the Order of the District Court for the Eastern District of Michigan denying Blue Cross Blue Shield’s Motion to Dismiss with respect to the denial of the state action immunity defense.¹ This motion was denied in a minute entry entered in this case on June 10, 2011 and filed in this case on June 7, 2011. *See* Minute Entry - Motion Hearing held on 6/7/2011 re 20 Motion to Stay - Moot; 12 Motion to Dismiss - Denied, 34 Motion to Strike 32 Statement Denied, 38 Motion to Compel Production of Documents (Filed 6/7/2011, entered 6/10/2011).

Respectfully submitted,

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¹ Blue Cross recognizes that the Sixth Circuit has held that the denial of a motion to dismiss on state action immunity grounds is not immediately appealable under the collateral order doctrine. *See Huron Valley Hosp., Inc. v. City of Pontiac*, 792 F.2d 563 (6th Cir. 1986). Blue Cross believes that *Huron Valley* is distinguishable and, in light of subsequent case law in other circuits, *see, e.g., Danner Constr. Co., Inc. v. Hillsborough Cnty., Fla.*, 608 F.3d 809, 816 (11th Cir. 2010); *Jordan v. Avco Fin. Servs. of Ga., Inc.*, 117 F.3d 1254, 1258 (11th Cir. 1997); *Segni v. Commercial Office of Spain*, 816 F.2d 344, 346 (7th Cir. 1987), should be overruled. Blue Cross recognizes that the issues of appellate jurisdiction will need to be fully addressed as part of this appeal and will brief these issues at the appropriate time.

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury that he served a copy of the foregoing Notice of Appeal on August 5, 2011 on all counsel of record in accordance with this Court's policies and procedures for service of electronically filed documents.

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