

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
GAINESVILLE DIVISION**

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<b>EUGENE SCALIA</b> , Secretary of Labor,	:	
United States Department of Labor,	:	
	:	
Plaintiff	:	
	:	<b>CIVIL ACTION NO.</b>
v.	:	2:20-cv-00106-RWS
	:	
	:	
<b>ADVANCE BENEFIT MANAGEMENT</b>	:	
<b>SYSTEMS USA, INC.</b> , a South Carolina	:	
corporation; <b>C. KENNETH JOHNSON</b> , an	:	
individual; and <b>RANDY MILTON WRIGHT</b> ,	:	
an individual,	:	
	:	
Defendants.	:	
	:	
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**ORDER STAYING PROCEEDINGS AND ENJOINING ALL  
COLLECTIONS ACTIVITIES RELATED TO UNPAID CLAIMS  
AGAINST ADVANCE BENEFIT MANAGEMENT SYSTEMS USA,  
INC., THE PLANS ADMINISTERED BY ADVANCE BENEFIT  
MANAGEMENT SYSTEMS USA, INC., AND THE PLANS' ASSETS,  
PARTICIPANTS, AND BENEFICIARIES**

WHEREAS, the above-captioned action has been filed pursuant to the Secretary of Labor’s authority under the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1001 *et seq.*, alleging fiduciary

violations resulting in the failure of Advance Benefit Management Systems USA, Inc. (“ABMS”), to pay over \$7 million in claims incurred by self-funded employee healthcare plans it administered (“Participating Plans”); and

WHEREAS, Defendants ABMS, C. Kenneth Johnson, and Randy Wright have been removed as fiduciaries to the Participating Plans, and the Court has appointed an independent fiduciary (the “Independent Fiduciary” or “IF”) to administer the Participating Plans; and

WHEREAS, the Court has entered an Order giving the Independent Fiduciary full and exclusive control over assets frozen by the South Carolina Department of Insurance (the “Frozen Assets”), control over the assets of the Participating Plans, and responsibility for negotiating and resolving unpaid claims incurred through May 3, 2019, when ABMS ceased operating; and

WHEREAS, litigation and collections activities against ABMS, the Participating Plans, the Frozen Assets, and the assets, participants, and beneficiaries of the Participating Plans related to unpaid claims incurred through May 3, 2019, would interfere with the Independent Fiduciary’s work to resolve those unpaid claims and frustrate the Court’s Order;

WHEREAS, the Court deems it necessary to avoid, to the extent possible, any unnecessary drain of the Frozen Assets and the Participating

Plans' assets that would result from litigation involving ABMS, the Participating Plans, and the assets, participants, and beneficiaries of the Participating Plans; and

WHEREAS, the Court deems it necessary to protect, to the extent possible, the participants and beneficiaries from litigation and collections activities relating to the unpaid claims incurred through May 3, 2019; and

WHEREAS, the Court is vested with the authority to stay and enjoin actions in aid of its jurisdiction over this action by the All Writs Act, 28 U.S.C. § 1651, including litigation seeking to collect the Frozen Assets or the assets of the Participating Plans and collection activities by health care providers against ABMS, the Participating Plans, and the assets, participants, and beneficiaries of the Participating Plans for unpaid benefit claims incurred through May 3, 2019;

IT IS HEREBY ORDERED that:

1. All state and other federal court actions against ABMS, the Participating Plans, or the assets, participants, or beneficiaries of the Participating Plans for unpaid benefit claims incurred by the Participating Plans and their participants and beneficiaries through May 3, 2019, whether filed by or on behalf of participants, participating employers, health care

providers, collection agencies, or others, are hereby stayed and enjoined pending the final disposition of this action, or until further order of this Court.

2. All collections activities against ABMS, the Participating Plans, or the assets, participants, and beneficiaries of the Participating Plans for unpaid benefit claims incurred through May 3, 2019, by the Participating Plans or their participants or beneficiaries are hereby enjoined pending the final disposition of this action, or until further order of this Court.

3. All health care providers, collection agencies, Participating Plan participants or beneficiaries, participating employers, or other persons having actual knowledge of this Order are enjoined from filing, prosecuting or enforcing any state or other federal court action or taking any collections actions against ABMS, the Participating Plans, or the assets, participants or beneficiaries of the Participating Plans for payment of monies which constitute liabilities or allowable charges against the Participating Plans for the period through May 3, 2019, including, but not limited to, related claims for attorneys' fees, costs and other demands, pending the final disposition of this action or until further order of this Court.

4. All known creditors of the Participating Plans, collection or credit reporting agencies and their agents are prohibited from making or continuing

to make any adverse credit reports regarding participants or beneficiaries of the Participating Plans for nonpayment of monies from health claims incurred through May 3, 2019, while they participated in or were covered by the Participating Plans.

5. The Independent Fiduciary shall cause a copy of this Order to be served by United States mail or electronic mail upon all employer sponsors of the Participating Plans. The Participating Plan sponsors shall cause a copy of this Order to be served by United States mail or electronic mail upon all participants and beneficiaries of their respective plans.

6. The Independent Fiduciary shall cause a copy of this Order to be served by United States mail or electronic mail upon all persons or entities of which he is or becomes aware who are parties to any litigation stayed or enjoined by this Order.

7. The Independent Fiduciary shall cause a copy of this Order to be served by United States mail or electronic mail upon all known or discovered creditors of the Participating Plans, participants, and beneficiaries, and any collection or credit reporting agencies and their agents, who may be affected by this Order.

8. The Independent Fiduciary shall keep a record, available for review

by the Court, of the names and addresses of all individuals and entities served pursuant to Paragraphs 5, 6, and 7 of this Order.

9. Excluded from this Order are any actions, whether legal, equitable, or administrative in nature, by the Secretary of Labor or any other federal governmental authority and any state or state agency.

10. Excluded from this Order are any actions, whether legal, equitable, or administrative in nature, against the owners, officers, or agents of Defendant ABMS in their individual capacities.

11. Any action filed after the filing of this Order is also to be stayed pursuant to the All Writs Act, [28 U.S.C. § 1651](#).

12. Any objections to this Order shall be filed with the Court and served upon the parties herein within five business days of receipt of this Order.

Date: June 1, 2020.



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**RICHARD W. STORY**  
United States District Judge