



[T]he Court has set an in-person hearing on January 3, 2023 at 10:00 am ET regarding the settlement, and the Court has ordered that any and all objections are due Friday, December 30, 2022.” For the reasons demonstrated below, the United States respectfully requests more time to determine whether to file a Statement of Interest with this Court.

As a non-party, any formal Statement of Interest by the United States must be authorized by the Attorney General or his delegate. *See* 28 U.S.C. § 517.<sup>1</sup> The United States needs more time to review the Agreement’s terms and the proposed order to determine whether it purports to affect any federal rights to recover tens of millions of dollars in aid that the United States provided to students who attended schools operated by the Education Corporation of America. Almost all individuals at the Department of Justice, ED, and VA who have responsibility for evaluating and pursuing potential claims related to ECA were on leave for at least parts of the period from December 20 through today. Undersigned counsel was on leave starting on December 20 through December 27, but forwarded receiver counsel’s e-mail and filings to agency counsel on Thursday, December 22. Together with the federal holiday for Christmas on Monday, December 26 and the federal holiday for New Year’s Day on January 2, the United States has been unable to reasonably assess the proposed settlement agreement and proposed order. Any Statement of Interest addressing concerns of the United States would first need a recommendation from agency counsel and officials, as well as approval by the Principal Deputy Assistant Attorney General in charge of the Civil Division at the Department of Justice.

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<sup>1</sup> Under 28 U.S.C. § 517, “[t]he Solicitor General, or any officer of the Department of Justice, may be sent by the Attorney General to any State or district in the United States to attend to the interests of the United States in a suit pending in a court of the United States, or in a court of a State, or to attend to any other interest of the United States.” *Id.*; *see also Jones Truck Lines, Inc. v. AFCO Steel, Inc.*, 849 F. Supp. 1296, 1305 n.4 (E.D. Ark. 1994) (recognizing that the United States may “assert to a court its position . . . in matters of significant interest”).

The United States is unaware of any prejudice to the parties to the settlement or the receiver for the brief extension of time sought by this motion. Reaching the proposed settlement took three separate mediation efforts that began – according to receiver’s litigation counsel – in January 2021, almost two years ago with the third mediation held in August 2022. Affidavit of Ronald J. Schutz, at 7, 9 (Doc. 529-4, Dec. 19, 2022). Three more months passed before the parties formalized a draft settlement on December 16, 2022, just two weeks ago.

Under these circumstances, the United States requests that the deadline for submitting a response or objection to the Motion be extended by two weeks to Friday, January 13 and the hearing date be adjourned to Tuesday, January 17.

December 30, 2022

Respectfully submitted,

BRIAN BOYNTON  
Principal Deputy Assistant Attorney General

PETER D. LEARY  
United States Attorney

BERNARD SNELL  
Assistant United States Attorney

/s/ John R. Kresse  
RUTH A. HARVEY  
MICHAEL J. QUINN  
JOHN R. KRESSE  
Attorneys  
United States Department of Justice  
P.O. Box 875, Ben Franklin Station  
Washington, D.C. 20044-0875  
Phone: (202) 598-3811  
Email: john.kresse@usdoj.gov

Attorneys for the United States

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on December 30, 2022, I electronically filed the foregoing MOTION BY NON-PARTY UNITED STATES OF AMERICA FOR EXTENSION OF TIME TO FILE A STATEMENT OF INTEREST AND TO RESCHEDULE HEARING ON RECEIVER'S MOTION TO CONFIRM AND APPROVE SETTLEMENT with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to all CM/ECF participants.

s/ John R. Kresse  
John R. Kresse  
Trial Attorney  
U.S. Department of Justice