

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

CHRISTOPHER FAIN;  
ZACHARY MARTELL; and  
BRIAN MCNEMAR,  
individually and on behalf of all others similarly situated,

Plaintiffs,

v.

CIVIL ACTION NO. 3:20-0740

WILLIAM CROUCH, in his official capacity as  
Cabinet Secretary of the West Virginia  
Department of Health and Human Resources;  
CYNTHIA BEANE, in her official capacity as  
Commissioner for the West Virginia Bureau for  
Medical Services;  
WEST VIRGINIA DEPARTMENT OF HEALTH  
AND HUMAN RESOURCES, BUREAU FOR  
MEDICAL SERVICES;  
TED CHEATHAM, in his official capacity as  
Director of the West Virginia Public Employees  
Insurance Agency; and  
THE HEALTH PLAN OF WEST VIRGINIA, INC.,

Defendants.

**ORDER**

Pending before the Court is Plaintiffs' second Motion for Leave to File Sur-Reply (ECF No. 58). After the Court granted an identical motion (ECF No. 56), the Court Clerk directed plaintiffs to file a signed copy of the Sur-Reply. Plaintiffs instead filed another motion. That motion is **DENIED AS MOOT**, and the Plaintiffs are **DIRECTED** to file the signed Sur-Reply.

The Clerk is **DIRECTED** to send a copy of this Order to counsel of record and any unrepresented parties.

ENTER: May 20, 2021

A handwritten signature in black ink, appearing to read 'R. C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE