UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

METROPOLITAN LIFE INSURANCE COMPANY and TRINET HR XI, INC., Plaintiffs, v. DURIN MUNDAHL, individually and as the personal representative of the Estate of Joye M. Braun, and MORGAN BRINGS PLENTY, individually, Defendants.	Case No.: 3:24-cv-03029-RAL **REPLY IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**

Plaintiffs Metropolitan Life Insurance Company ("MetLife") and TriNet HR XI, Inc. ("TriNet"), through their attorney, Sarah Collins of Gordon Rees Scully Mansukhani, LLP, files this Reply in Support of their Motion for Preliminary Injunction pursuant to Fed. R. Civ. P. 65.

INTRODUCTION

This lawsuit involves a dispute over life insurance benefits pursuant to an employee welfare benefit plan ("Plan") subject to the Employee Retirement Income Security Act, 29 U.S.C. § 1001 *et seq*. ("ERISA"). The decedent was a worksite employee of TriNet and a participant under the Plan whereunder MetLife served as the claim administrator. After her death, and pursuant to the terms of the Plan, MetLife issued payment for certain benefits to the decedent's husband. Defendants Durin Mundahl and Morgan Brings Plenty, the adult children of the decedent, challenged MetLife's determination and initiated a lawsuit in the Cheyenne River Sioux Tribal Court asserting common law claims. In addition to filing a Motion to Dismiss based on the lack of jurisdiction and ERISA preemption, MetLife and TriNet commenced this action requesting that

this Court exercise jurisdiction under ERISA, declare the rights and obligations of the parties, and enjoin defendants from continuing to pursue their common law claims in tribal court. Correspondingly, MetLife and TriNet filed a Motion for Preliminary Injunction seeking to enjoin defendants from further pursuing their lawsuit in tribal court during the pendency of this action.

In response, defendants argue that the tribal court has proper jurisdiction and, at least, MetLife and TriNet are required to first exhaust tribal remedies before challenging jurisdiction before this Court. They assert that MetLife's and TriNet's conduct occurred on the reservation where they broadly targeted members of the tribe and the decedent specifically. Defendants also contend that MetLife acted inequitably by ignoring a beneficiary form of the decedent and instead paying the benefit to her estranged husband. Finally, defendants assert that MetLife and TriNet fail to meet the *Dataphase* factors required for injunctive relief and, even if they do, a significant bond is required.

This Court should grant the Motion for Preliminary Injunction. The Response wholly ignores case law cited in the Motion based on ERISA's express jurisdictional and preemptive framework, which foregoes any tribal exhaustion. It remains unchallenged that MetLife and TriNet seek to enforce the terms of an ERISA-governed plan. ERISA occupies the field and correspondingly vests jurisdiction in federal court. The tribal court also lacks personal jurisdiction over MetLife and TriNet as neither targeted the tribe, its members, or the decedent. Contrary to defendants' argument, the equities demonstrate that MetLife made its determination based on the terms of the Plan and both MetLife and TriNet seek to properly enforce their rights in federal court. These facts also support each *Dataphase* factor. Finally, defendants fail to justify their extraordinary bond request, which is unsupported by law or evidence and vastly exceeds any potential harm from a properly issued injunction.

FACTS

Defendants do not respond to the "Facts" section in the Motion for Preliminary Injunction. Notably, they do not dispute the authenticity or completeness of the administrative record attached thereto or the contents therein. Specifically, defendants do not contest the Plan document, that the decedent received it, or that it repeatedly references the application of ERISA.[1] (Response, p. 12). They admit the decedent was a participant in the Plan through her employment.[2] *Id.* They acknowledge that the decedent did not have a beneficiary designation on the date of her death. (Answer, ¶ 13). Defendants do not dispute that the Plan outlines how benefits are paid in the absence of a designated beneficiary or that the decedent was still legally married when she died.

While defendants contend that the decedent submitted a beneficiary designation prior to her death, they rely on information that reveals the attempted change was through open enrollment for the upcoming year, which expressly did not take effect until the beginning of 2023—after her death. The Response curiously quotes only the first part of the confirmation email, which states: "Thank you for submitting your TriNet benefit elections ***for the upcoming benefits plan year (January 1, 2023 – December 31, 2023)***." (Emphasis supplied) (*Compare* quote at Response, p.

[1] The Plan states explicitly that it is subject to ERISA. Motion at Ex. A at AR_000052–000057. The Plan further provides that a claimant whose benefits are denied may file suit in either *state or federal court*, not tribal court. *Id.* at AR_000056.

[2] While defendants claim she was solicited online at her home, the Plan is a group benefit plan offered through her employer, not an individually purchased policy. (Response, p. 12). In this regard, defendants state that the decedent was an employee of the Indigenous Environmental Network ("IEN"). While partially accurate, TriNet is a professional employer organization ("PEO") that entered into a services agreement with IEN to provide payroll and other administrative services to IEN. As a result, TriNet is considered a co-employer for certain limited purposes, including sponsoring the Plan at issue. TriNet did not specifically target members of the tribe or the decedent; instead it offered plan benefits to all eligible employees of IEN and other employers served by it.

15, ¶ 15 *with* Ex. 9 thereto). This email reveals that the decedent was informed that the designation would not take effect until January 1, 2023. *Id.*

Defendants also rely on self-serving affidavits to recount purported conversations with the decedent. However, these statements are hearsay and subject to no stated exception, particularly where the decedent is unavailable for cross-examination. An affidavit may not be used when it contains an out-of-court statement that is inadmissible hearsay. *See Pink Supply Corp. v. Hibert, Inc.*, 788 F.2d 1313, 1319 (8th Cir. 1986). An affidavit must, *inter alia*, set forth facts that would be admissible in evidence. *See* Fed. R. Civ. P. 56(e). Also, defendants did not submit any such affidavits or statements with their administrative claim, and therefore, they are beyond the contents of the administrative record. "In ERISA cases, the general rule is that review is limited to evidence that was before the administrator." *Jones v. ReliaStar Life Ins. Co.*, 615 F.3d 941, 945 (8th Cir. 2010). Nevertheless, even if considered, these self-serving accounts directly conflict with the undisputed documentary evidence in the record as summarized in the Motion for Preliminary Injunction. *See Martinson v. Holso*, 424 N.W.2d 664, 668 (S.D. 1988) ("self-serving testimony is alone insufficient and must be corroborated.")

LEGAL ANALYSIS

I. Exhaustion of Tribal Remedies Is Not Required Under ERISA.

Defendants fail to address the legal authority cited in the Motion for Preliminary Injunction establishing that exhaustion of tribal remedies is not required where federal law provides exclusive jurisdiction, such as under ERISA. (Motion, p. 14). ERISA's comprehensive enforcement and preemption scheme expressly vests federal courts with exclusive jurisdiction over claims involving employee welfare benefit plans.

In *Coppe v. Sac & Fox Casino Healthcare Plan*, No. 14-2598-RDR, 2015 WL 1137733,

at *1 (D. Kan. Mar. 13, 2015), a former employee of the Sac & Fox Casino filed suit regarding a plan subject to ERISA for unpaid medical expenses. *Id.* The defendant sought dismissal or stay, arguing that the plaintiff must first exhaust tribal remedies. *Id.* at *1-2. The court rejected this argument, holding that ERISA preempts tribal court jurisdiction over nongovernmental plans and that exhaustion of tribal remedies is not required. *Id.* at *2-5. The court emphasized that Congress intended ERISA claims to be adjudicated in state or federal courts, not tribal courts, due to ERISA's broad preemptive and jurisdictional provisions. *Id.* The court cited *Montana v. United States*, 450 U.S. 544 (1981)—a case now heavily relied on by these defendants—by emphasizing that its exceptions allowing tribal jurisdiction over nonmembers do not apply where Congress has expressly preempted the field, as with ERISA, and therefore tribal courts lack adjudicatory authority over such claims that would require exhaustion. *Id.* at *5.

Similarly, in *Vandever v. Osage Nation Enter., Inc.*, No. 06-CV-380-GKF-TLW, 2009 WL 702776, at *1 (N.D. Okla. Mar. 16, 2009), the plaintiffs brought ERISA and Consolidated Omnibus Budget Reconciliation Act claims concerning health benefits. The defendants argued for dismissal based on tribal sovereign immunity and alternatively sought abstention pending exhaustion of tribal remedies. *Id.* The court rejected both arguments, holding that ERISA's preemptive force foreclosed tribal immunity and rendered abstention inappropriate. *Id.* at *2-4. The court confirmed that it had jurisdiction under ERISA and denied the request for abstention. *Id.* at *2-6.

In *Peabody Holding Co., LLC v. Black*, No. CV-12-08252-PCT-DGC, 2013 WL 2370620, at *1 (D. Ariz. May 29, 2013), the court similarly rejected the notion of tribal exhaustion in an interpleader action under ERISA involving competing claims by tribal members to a decedent's 401(k) benefits. The court held that it had exclusive federal jurisdiction under § 1132(e)(1), and

that requiring exhaustion of tribal remedies would violate ERISA's statutory framework and undermine its goal of uniformity. *Id.* at *2-6.

The Supreme Court's reasoning in *El Paso Nat. Gas Co. v. Neztsosie*, 526 U.S. 473 (1999) largely forms the bases for the above decisions. In that case, the court held that tribal court exhaustion does not apply where Congress has vested exclusive federal jurisdiction—in that case, under the Price-Anderson Act. *Id.* at 483. The court emphasized that extending tribal exhaustion would frustrate congressional intent to ensure efficient resolution in federal court. *Id.* Similar to the Price-Anderson Act, ERISA preempts the field in the area of employee welfare benefit plans expressly subject to its provisions.

These cases confirm that tribal court jurisdiction is foreclosed when federal law occupies the field, as ERISA has. *Montana* and its limited exceptions do not apply in this context because they presuppose the absence of congressional preemption—an assumption that does not hold under ERISA. Defendants' analysis fails to go further than *Montana* and address these interpretative authorities cited in the Motion. Federal courts are the proper forum for ERISA-related disputes and requiring exhaustion of tribal remedies under such circumstances would contravene congressional intent and frustrate ERISA's purpose. Accordingly, this Court has jurisdiction and tribal exhaustion is not required.

II. Tribal Court Lacks Personal Jurisdiction over MetLife and TriNet.

In addition to lacking subject matter jurisdiction, the tribal court also lacks personal jurisdiction over MetLife and TriNet—non-tribal entities with no relevant contacts, conduct, or contractual ties to the tribe or its territory. Defendants again disregard the case law cited in the Motion for Preliminary Injunction and attempt to recharacterize this case as involving an individual insurance transaction that somehow implicates tribal sovereignty. However, the Plan is

a group benefit plan offered through TriNet to all eligible individuals, without regard to any tribal or non-tribal status, residency, or location. Defendants offer no evidence, as opposed to argument, that this Plan was somehow marketed, negotiated, sold, or administered exclusively on tribal lands for tribal members. Instead, the decedent just happened to be a tribal member and lived on the tribe's reservation. Moreover, as claimed beneficiaries, defendants are even one step removed from the decedent and set forth no independent argument that they—as opposed to the decedent—somehow relied on tribal sovereignty or jurisdiction. Instead, the Plan, which defendants acknowledge they have received, informs them that it is subject to ERISA and that they may file a lawsuit in state or federal court, not tribal court. Motion at Ex. A at AR_000056.

As cited in the Motion and established in *Ford Motor Co. v. Todecheene*, 221 F. Supp. 2d 1070, 1081 (D. Ariz. 2002) and *Hornell Brewing Co. v. Rosebud Sioux Tribal Court*, 133 F.3d 1087, 1089-1090 (8th Cir. 1998), tribal courts may not assert jurisdiction over nonmembers absent meaningful consent or conduct implicating tribal governance. (Motion, pp. 14-15). The only asserted basis for jurisdiction here is the decedent's status as a tribal member and her residence on the reservation—facts that, without more, are plainly insufficient under *International Shoe v. Washington*, 326 U.S. 310 (1945) and *Red Fox v. Hettich*, 494 N.W.2d 638 (S.D. 1993), as well as other authorities cited in the Motion yet unaddressed by defendants. (Motion, p. 12). Tribal courts must meet a heightened "minimum contacts" standard when attempting to assert long-arm jurisdiction over nonmembers, and that standard is unaddressed by defendants let alone satisfied.

III. Equitable Principles Do Not Bar Relief in this Case.

Defendants argue that MetLife and TriNet should be barred from seeking equitable relief in this Court because, in their view, they have not "done equity" by choosing to assert their rights outside of tribal court after allegedly profiting from business conducted on the reservation. This

argument conflates legal entitlement under ERISA with generalized equitable maxims that are inapplicable here. MetLife and TriNet are not seeking "pure" equitable relief but are asserting statutory rights under ERISA, which authorizes federal court jurisdiction regardless of tribal court proceedings. Moreover, there is no evidence that MetLife and TriNet acted unjustly or in bad faith by asserting their claimed rights in a federal forum.

Defendants similarly argue that MetLife and TriNet come to this Court with "unclean hands" by using allegedly misleading, ambiguous documents that fail to warn tribal members such as the decedent of federal jurisdiction and by targeting tribal members with insurance products while denying them access to tribal courts and its protections. This argument fails for a lack of evidence. The group-based Plan is expressly governed by ERISA and states that disputes may be resolved in federal court, satisfying any required notice to the decedent or these defendants. Defendants identify no misconduct by MetLife or TriNet in administering the Plan in accordance with ERISA's provisions and they produce no evidence that the decedent somehow believed or was told that any dispute would be subject to tribal law and adjudicated in tribal court—despite the Plan's express language to the contrary.

Lastly, defendants argue that MetLife and TriNet are not entitled to equitable relief because they have an adequate remedy at law – specifically, through the Cheyenne River Sioux Tribal Court. Yet this argument mischaracterizes both the nature of the relief sought and the applicability of ERISA. MetLife and TriNet are not seeking to avoid accountability, as they actually filed a lawsuit to address this dispute. Instead, they seek to ensure the applicable law and correct forum apply to the dispute among the parties. In contrast, defendants seek to pursue common law claims with attendant remedies that are not cognizable under ERISA.

IV. MetLife and TriNet Have Met the Factors under *Dataphase.*

When addressing a motion for preliminary injunction, this Court considers the factors set forth in *Dataphase Systems, Inc. v. C.L. Systems, Inc.*, 640 F.2d 109, 113 (8th Cir. 1981) (*en banc*): "(1) the threat of irreparable harm to the movant; (2) the state of the balance between this harm and the injury that granting the injunction will inflict on other parties litigant; (3) the probability that movant will succeed on the merits; and (4) the public interest." *See also Perfetti Van Melle USA, Inc. v. Midwest Processing, LLC*, 135 F. Supp. 3d 1015, 1019 (D.S.D. 2015) (applying *Dataphase* factors).

As set forth in the Motion, MetLife and TriNet are likely to succeed on the merits, not only because the tribal court lacks jurisdiction for the reasons discussed above, but also because defendants have a dubious claim to benefits under the Plan. Importantly, the beneficiary designation form that defendants rely on expressly informed the decedent that it did not take effect until January 1, 2023—after her death. Defendants argue that other provisions in the Plan allowed for an immediately effective change in designation. However, the decedent did not exercise this route and instead chose to proceed through open enrollment, which risked the gap of time between her making the designation and the beginning of the new year. Whatever the decedent's purported intentions, it is inconsistent with the terms of the Plan and the operative date of the open enrollment form.

Essentially, defendants argue that MetLife should ignore the Plan terms, accept an ineffective open enrollment form, and consider that the decedent was allegedly separated from her husband (not divorced), and just proceed to pay them the benefits. They now submit affidavits that state that the decedent expressed her wishes to them to receive the benefits. However, these statements are hearsay and subject to no stated exception. This also includes their self-serving

statements in their affidavits of the decedent's purported express wishes. This Court should strike these statements as inadmissible hearsay. *See Pink Supply Corp. v. Hibert, Inc.*, 788 F.2d 1313, 1319 (8th Cir. 1986); *Jenkins v. Winter*, 540 F.3d 742, 748 (8th Cir. 2008); *Brooks v. Tri-Sys., Inc.*, 425, F.3d 1109 (8th Cir. 2005). Also, defendants did not submit these affidavits during the administrative process and, therefore, MetLife was unable to consider them. Correspondingly, this Court may not now consider them as they are beyond the administrative record. *See Carr v. Anheuser-Busch Companies, Inc.*, 495 F. App'x 757, 764–65 (8th Cir. 2012); *King v. Hartford Life and Accident Ins. Co.*, 414 F.3d 994, 999 (8th Cir. 2005). Nevertheless, even if this Court considered the decedent's purported wishes, this does not override the terms of the Plan because, if it could, then any claimant could merely aver that a decedent expressed this sentiment.

Defendants also mischaracterize the nature of irreparable harm. MetLife and TriNet are not seeking to avoid accountability, but to prevent litigation in a forum that lacks jurisdiction. Being compelled to defend common law claims seeking, *inter alia*, punitive relief in a tribunal without jurisdiction constitutes irreparable harm, particularly where such proceedings threaten ERISA's uniform enforcement structure. Defendants seek a trial by jury and have already pursued written discovery at the outset of that action – items limited under ERISA. The balance of hardships thus favors MetLife and TriNet, which face ongoing jurisdictional overreach, while defendants in contrast, retain the ability to pursue any viable claims in a court of proper jurisdiction.

Finally, the public interest weighs heavily in favor of injunctive relief. The public has a continuing interest that ERISA-related disputes are uniformly addressed pursuant to applicable law and in recognized forums. The public should have continuing confidence in ensuring national uniformity in employee welfare benefit plan interpretation and adjudication. Allowing a tribal

court to assert jurisdiction and address common law claims and remedies undermines this uniformity and confidence.

All four *Dataphase* factors support a preliminary injunction.

V. Defendants' Suggested Bond Amount is Wholly Disproportionate to this Dispute.

Defendants argue that this Court should require MetLife and TriNet to post a $500,000 bond as security for potential damages stemming from the injunction. They justify this amount by pointing to the $40,000 in benefits, anticipated prejudgment interest, attorney fees, and bad faith and punitive damages claims sought in tribal court. Defendants appear to misinterpret Fed. R. Civ. P. 65(c) by treating the bond amount as a measure of the total damages sought. Instead, the proper function of the bond under Rule 65(c) is to serve as security for damages incurred if the *injunction is ultimately found to have been wrongfully issued*. *See Minnesota Min. & Mfg. Co. v. Rauh Rubber, Inc.*, 130 F.3d 1305, 1309 (8th Cir. 1997) (explaining that a bond set in connection with a preliminary injunction is a "security device," not a cap on damages a defendant may recover if circumstances later warrant such recovery). The bond is intended to reflect the harm a party may suffer due to the delay or disruption caused by the injunction itself, not the full range of damages claimed in the underlying litigation. *See Interbake Foods, L.L.C. v. Tomasiello*, 461 F. Supp. 2d 943, 967 (N.D. Iowa 2006) (describing the bond requirement as a "sound policy," ensuring that a defendant wrongfully enjoined has recourse for damages, which may not exist in the absence of a bond); *see also Richland/Wilkin Joint Powers Auth. v. United States Army Corps of Engineers*, 826 F.3d 1030 (8th Cir. 2016).

When the party opposing an injunction seeks an increase in the bond amount, they must support the proposed figure with specific, factual evidence. *Id.* at 1043. Courts have appropriately declined to require a bond when no potential damages from a wrongful injunction have been

shown. *See Bukaka, Inc. v. County of Benton*, 852 F. Supp. 807, 813 (D. Minn. 1993) (waiving the bond requirement where a government defendant failed to identify any costs or monetary harm it would suffer if enforcement of a proposed statute were enjoined); *In re President Casinos, Inc.*, 360 B.R. 262, 266 (B.A.P. 8th Cir. 2007) (the court denied a request to increase the injunction bond, finding the claimed losses speculative and unsupported by evidence such as customer retention at the proposed higher rate).

Here, defendants have failed to articulate let alone produce evidence of any monetary harm associated with enjoining them from pursuing their claims before the tribal court during the pendency of this action. Notably, no activity has taken place in the tribal court since MetLife and TriNet filed their Motion to Dismiss several months ago. Therefore, an injunction at this point simply preserves the *status quo* rather than interrupts ongoing proceedings or potentially forfeits any substantially incurred expenses. Also, the purpose of the preliminary injunction is not to prevent defendants from pursuing their theories of recovery or to even delay them, but rather to allow them to proceed in the correct forum under applicable law. There is no rational basis connecting a $500,000 bond with any actual harm that would arise. Without specific accounting and evidentiary support justifying this amount, this Court should reject the proposed bond amount. MetLife and TriNet have properly proposed a nominal bond amount reflecting the cost of the filing fee to file a complaint in this Court.

CONCLUSION

WHEREFORE, Plaintiffs Metropolitan Life Insurance Company and TriNet HR XI, Inc. respectfully request that this Court issue a preliminary injunction and enter an order enjoining and barring defendants from continuing any proceedings in the tribal court and preventing them from taking any additional action or seeking any further relief in such court. Such injunction would

remain throughout the pendency of this action until final conclusion, including any request for permanent injunctive relief or further disposition. MetLife and TriNet seek such additional relief as this Court deems appropriate.

DATED this the 5th day of August, 2025.

/s/ Sarah Collins

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the above and foregoing was electronically filed with the Clerk of the United States District Court using the CM/ECF system which will send notification to all counsel of record this 5th day of August, 2025:

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