

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

FEDERATION OF AMERICANS §
FOR CONSUMER CHOICE, INC; §
JOHN LOWN d/b/a LOWN §
RETIREMENT PLANNING; §
DAVID MESSING; MILES §
FINANCIAL SERVICES, INC.; JON §
BELLMAN d/b/a BELLMAN §
FINANCIAL; GOLDEN AGE §
INSURANCE GROUP, LLC; §
PROVISION BROKERAGE, LLC; §
and V. ERIC COUCH, §

Plaintiffs, §

v. §

UNITED STATES DEPARTMENT §
OF LABOR and MARTIN J. §
WALSH, in his official capacity as §
SECRETARY OF LABOR, §

Defendants. §

Civ. Action No. 3:22-CV-0243-K-BT

**ORDER ACCEPTING FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

The Court has made an independent review of the pleadings, files, and record in this case, and the Findings, Conclusions, and Recommendation of the United States Magistrate Judge dated June 30, 2023, on Plaintiffs' Motion for Summary Judgment (Doc. No. 19) and Defendants' Cross-Motion to Dismiss for Lack of Jurisdiction or, in the Alternative, for Summary Judgment (Doc. No. 39). The Court has considered Plaintiffs' Objections to Findings, Conclusions, and Recommendation of the United

States Magistrate Judge and Brief in Support (Doc. Nos. 72 & 73), Defendants' Brief in Opposition to Plaintiffs' Objections (Doc. No. 74), Plaintiffs' Reply Brief in Support of Plaintiffs' Objections (Doc. No. 75), Plaintiffs' Supplemental Brief in Support of Plaintiffs' Objections (Doc. No. 78), and Defendants' Supplemental Brief in Opposition to Plaintiffs' Objections (Doc. No. 79). Further, the Court has considered Plaintiffs' Notice of Supplemental Authority (Doc. No. 80), regarding *Loper Bright Enterprises v. Raimondo*, 144 S.Ct. 2244 (2024), Defendants' Response to Plaintiffs' Notice of Supplemental Authority (Doc. No. 81), and Plaintiffs' Reply to Defendants' Response Regarding Notice of Supplemental Authority (Doc. No. 82).

Having made a de novo review of those portions of the proposed Findings, Conclusions, and Recommendation to which objections were made, the Objections are **OVERRULED**. The Court finds that the Findings and Recommendation of the Magistrate Judge are correct and they are **accepted** as the Findings, Conclusions, and Recommendation of the Court.

IT IS, THEREFORE, ORDERED that the Findings, Conclusions, and Recommendation of the United States Magistrate Judge are **accepted**. Defendants' Motion to Dismiss for Lack of Jurisdiction (Doc. No. 39) is **DENIED**. Plaintiffs' Motion for Summary Judgment (Doc. No. 19) is **GRANTED in part and DENIED in part**. Defendants' Cross-Motion for Summary Judgment (Doc. No. 39) is **GRANTED in part and DENIED in part**. The Court **VACATES** the portions of PTE 2020-02's text and preamble that allow consideration of Title II investment advice

relationships when determining Title I fiduciary status, including the New Interpretation's (i) allowance of review that a single rollover "can be the beginning of an ongoing advice relationship" to Title II plans, PTE 2020-02, 85 Fed. Reg. at 82806; (ii) inclusion of potential "future, ongoing relationships" to Title II plans, id. at 82805; and (iii) conclusion that "an ongoing advisory relationship spanning both the Title I Plan and the IRA satisfies the regular basis prong," id. at 82807; these provisions exceed the DOL's authority under ERISA and constitute arbitrary and capricious interpretations of the five-part test to determine whether financial professionals are acting as "investment advice fiduciaries."

SO ORDERED.

Signed July 9th, 2025.


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UNITED STATES DISTRICT JUDGE