

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITEDHEALTH GRP. INC. &	:	
THE UNITEDHEALTH GRP. INC. EMPLOYEE	:	
HEALTH BENEFIT PLAN,	:	CIVIL ACTION
Plaintiffs,	:	NO. 16-1026
v.	:	
	:	
MACELREE HARVEY, LTD. & ELLEN F.	:	
NEFF,	:	
Defendants.	:	

ORDER

AND NOW, upon consideration of Defendants' Motion to Certify this Court's August 23, 2016 Memorandum and Order for Interlocutory Review pursuant to 28 U.S.C. § 1292(b) and Stay Pending Appeal, (Dkt No. 15), Memorandum of Law in support thereof, (Dkt No. 15-2), and Plaintiffs' Response in opposition thereto, (Dkt No. 17), it is hereby ORDERED that said Motion is GRANTED. The Court certifies the following question for interlocutory appeal pursuant to 28 U.S.C. 1292(b):

Whether the terms of an ERISA Plan requiring a plan participant to reimburse the Plan in full without reduction for attorney's fees preempts or supersedes a claim brought by a third party attorney against the Plan for unjust enrichment under the common fund doctrine where the Plan has been reimbursed in full by the plan beneficiary.

FURTHER, it is hereby ORDERED that all proceedings shall be stayed pending the appeal. The Clerk of Court is directed to place this case on the Court's suspense docket.

BY THE COURT:

/s/ C. Darnell Jones, II

C. Darnell Jones, II J.