

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**D.L. MARKHAM DDS, MSD, INC. 401(K)
PLAN; and D.L. MARKHAM DDS, MSD,
INC., as plan administrator;**

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Case No. 4:22-cv-00974

Plaintiffs,

v.

**THE VARIABLE ANNUITY LIFE
INSURANCE COMPANY; VALIC
FINANCIAL ADVISORS, INC.; VALIC
RETIREMENT SERVICES COMPANY;
and 2929 Allen Parkway, Houston, Texas,
77019;**

Defendants.

PLAINTIFFS' NOTICE OF APPEAL

Notice is hereby given that Plaintiffs D.L. Markham DDS, MDS, INC. 401(K) Plan and D.L. Markham DDS, MDS, Inc. ("Plaintiffs") appeal to the United States Court of Appeals for the Fifth Circuit from: (1) the Memorandum Opinion and Order dated October 5, 2022 (ECF No. 66), which granted the motion to dismiss filed by Defendant The Variable Annuity Life Insurance Company, denied as moot the motion to dismiss filed by Defendant VALIC Financial Advisors, Inc., and denied Plaintiffs' request for leave to amend; (2) the Final Judgment dated October 5, 2022 (ECF No. 67), which dismissed the case with prejudice; and (3) all other orders and rulings merged or referenced therein and each and every part thereof. Plaintiffs file this appeal against all Defendants.

Dated: October 11, 2022

Respectfully Submitted,

BAKER CURTIS & SCHWARTZ, P.C.

/s/ Chris Baker
Chris Baker*
Cal. Bar No. 181557
1 California Street, Suite 1250
San Francisco, California 94111
Telephone: (415) 433-1064
Facsimile: (415) 366-2525
cbaker@bakerlp.com

Robert Dolinko**
Cal. Bar No. 76256
rdolinko@bakerlp.com

Adam Kmett**
Cal. Bar No. 329597
akmett@bakerlp.com

Baker Curtis & Schwartz, P.C.
1 California Street, Suite 1250
San Francisco, California 94111
Telephone: (415) 433-1064
Facsimile: (415) 366-2525

David Crutcher**
Cal. Bar No. 135407
790 Mission Avenue
San Rafael, CA 94901
david@crutcherlaw.com

John S. "Jack" Edwards, Jr.
Texas Bar No. 24040851
S.D. Tex. No. 38095
Pennzoil Place – South Tower
711 Louisiana, Suite 2150
Houston, TX 77002
Telephone: (713) 860-1600
Facsimile: (713) 860-1699
jedwards@ajamie.com

**Attorney-in-charge and admitted pro hac vice*

***Admitted pro hac vice*

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I certify that on October 11, 2022, a true and correct copy of the foregoing document was filed with the Clerk of Court using the CM/ECF system, which will send electronic notification of such filing to all counsel of record.

/s/ Chris Baker
Chris Baker