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October 29, 2024

The Honorable Hector Gonzalez, U.S.D.J.
United States District Court for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Long Island Anesthesiologists PLLC v. UnitedHealthcare Insurance Company of New York et al.*, No. 2:22-cv-04040, Notice of Supplemental Authority

Dear Judge Gonzalez:

I represent UnitedHealthcare Insurance Company of New York in this litigation and write to notify the Court of a decision (attached as Exhibit 1) in *Joseph v. Corso*, 2024 NY Slip Op 05170 (App. Div. 3rd Dept.), an appeal to which Plaintiff Long Island Anesthesiologists PLLC (LIA) is also a party. As relevant to UnitedHealthcare's motion to dismiss the Amended Complaint (*see* Dkt. 61-1 at 7–9; Dkt. 67 at 1–2), the Appellate Division affirmed the trial court's ruling in *Joseph* that the New York Surprise Bill Law does not apply to the Empire Plan.

In this litigation, LIA alleges that the New York Department of Civil Services, at United's behest, incorrectly followed the federal No Surprises Act instead of New York's Surprise Bill Law—resulting in lower reimbursements for LIA and other anesthesiology practices that serve the Empire Plan as out-of-network providers. *See generally* Dkt. 58, Am. Compl.

The Appellate Division affirmed the New York Supreme Court's decision rejecting LIA's allegations. It held that “the Empire Plan is not required to use the IDR process of the [New York state] Surprise Bill Law.” Ex. 1, *Joseph v. Corso*, 2024 NY Slip Op 05170 (App. Div. 3rd Dept.) at 7. That holding, along with the state trial court's other unchallenged holding that the New York Department of Civil Services, not United, made the decision to follow the federal No Surprises Act, forecloses LIA's claims. The Court should dismiss LIA's Amended Complaint.

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Respectfully,

/s/ Brian D. Boone

Brian D. Boone

*Attorney for UnitedHealthcare Insurance
Company of New York*