

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

REACH AIR MEDICAL
SERVICES LLC,

Plaintiff,

v.

Civil Action No.
3:22-cv-01153-TJC-JBT

KAISER FOUNDATION
HEALTH PLAN INC. and C2C
INNOVATIVE SOLUTIONS, INC.,

Defendants.

—

MED-TRANS CORPORATION,

Plaintiff,

v.

CIVIL ACTION NO. 3:22-cv-1077-
TJC-JBT

CAPITAL HEALTH PLAN, INC.
and C2C INNOVATIVE
SOLUTIONS, INC.,

Defendants.

**PLAINTIFFS' RESPONSE TO DEFENDANTS' NOTICE OF
SUPPLEMENTAL AUTHORITY**

This response is submitted in accordance with *Montgomery v. Ion Media Mgmt. Co.*, No. 8:10-CV-429-T-33AEP, 2011 WL 1791294, at *7 (M.D. Fla. May 10, 2011) (declining to strike a short brief responding to a notice of supplemental authority).

Plaintiffs dispute that *GPS of New Jersey v. Horizon Blue Cross & Blue Shield*, No. 22-cv-6614, 2023 WL 5815821 (D.N.J. Sept. 8, 2023) (hereafter “GPS”), an unpublished decision from the District of New Jersey enforcing an IDR award in a case where no fraud or misrepresentation was alleged or discovery sought, supports the arguments for which it was cited and submitted by Defendants Kaiser Foundation Health Plan, Inc. (“Kaiser”) and C2C Innovative Solutions, Inc. (“C2C”)

Issue	Supplemental Authority
Whether the NSA’s IDR process is arbitration.	The references to “arbitration” are unsupported by any analysis or reasoning.
Whether all precedent interpreting the FAA governs IDR award challenges.	This issue is not addressed by the court. “For lack of a better option I will therefore default to generally applicable principles of arbitration law.” <i>GPS</i> at *4.
Whether the FAA applies in its entirety or just Section 10(a).	This issue is not addressed by the court. Notably, the court enforces the IDR award under the NSA, <i>not</i> the FAA. “In this case, <i>the [No Surprises] Act provides that any determination of the IDR entity is binding on the parties</i> and is only subject to judicial review under the circumstances described in Section 10(a) of the Federal Arbitration Act, 9 U.S.C. § 10. § 300gg-111(c)(5)(E). <i>That language indicates the decision is to be “final and binding,” and gives the court the authority</i> to confirm the award.

	<i>GPS</i> at *10 (emphasis added)
Whether FAA procedures (such as motion practice) govern IDR award challenges.	Plaintiff GPS filed a verified complaint, not a motion. <i>See</i> 22-cv-6614 (D.N.J.), Docket #1. The court refers to the verified complaint as a “petition.” <i>GPS</i> at *1.
Whether applying an illegal presumption in favor of the QPA is a sufficient basis for vacatur.	<p>Plaintiff GPS did not establish that a presumption had been applied or seek discovery.</p> <p>“Now it is true that Horizon's offer was equivalent to the QPA, <i>but that fact alone is not enough to show that the IDR entity applied some impermissible presumption in favor of the QPA.</i> The IDR entity did not so much as mention the QPA or give any indication that it accepted Horizon's offer based on a presumption. What it said was that it had considered all the evidence, reviewed the two offers, and found Horizon's the more convincing of the two.”</p> <p><i>GPS</i> at *9.</p>

Dated: September 19, 2023

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on September 19, 2023, a true and correct copy of the foregoing was served via the Court's ECF system on all counsel of record.

/s/ Adam Schramek
Adam Schramek