

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION

JOANNE BARROWS, SUSAN HAGOOD,  
SHARON MERKLEY, LORRAINE KOHL,  
AND KILLY ALANI, Individually and on  
Behalf of All Others Similarly Situated,

Plaintiffs

v.

Civil Action No. 3:23-cv-654-RGJ

HUMANA, INC.

Defendant

\* \* \* \* \*

**ORDER FOR HEARING**


Defendant Humana, Inc. (“Humana”) moves to dismiss Plaintiffs,’ Joanne Barrows, Susan Hagood, Sharon Merkley, Lorraine Kohl, Dolly Balani, and class members’ (“Plaintiffs”), Complaint for lack of subject matter jurisdiction under Rule 12(b)(1) and for failure to state a claim on which relief can be granted under Rule 12(b)(6). [DE 40].<sup>1</sup> This motion is fully briefed, and this matter is ripe. [DE 43; DE 49]. Plaintiffs also request oral argument. [DE 50]. Oral argument on the issue of preemption will assist the Court, especially as preemption relates to Plaintiffs’ breach of contract claim, breach of implied covenant of good faith and fair dealing claim, and fraud claim. The Court, having reviewed the filings and being otherwise sufficiently advised, **ORDERS** as follows:

1. Humana’s motion to dismiss [DE 28] the original complaint is **DENIED AS MOOT**;
2. Plaintiffs’ motion for oral argument [DE 50] **GRANTED**;

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<sup>1</sup> Plaintiffs’ amended complaint [DE 37] supersedes the original complaint [DE 1], thus making Humana’s motion to dismiss [DE 28] the original complaint moot. *Parry v. Mohawk Motors of Mich., Inc.*, 236 F.3d 299, 306 (6th Cir. 2000) (amended complaint supersedes all previous complaints and becomes the operative pleading).

3. A hearing is scheduled for **April 16, 2025 at 10:30 a.m.** before the Honorable Rebecca Grady Jennings, United States District Judge, in the Gene Snyder U.S. Courthouse, Louisville, Kentucky.
4. Humana's motion to dismiss [DE 40] is **ADMINISTRATIVELY REMANDED** from the Court's active docket, to be reinstated by the Clerk of Court after oral argument is held, and no later than **April 17, 2025**.



Rebecca Grady Jennings, District Judge  
United States District Court

March 27, 2025