IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

BLUE CROSS BLUE SHIELD HEALTHCARE PLAN OF GEORGIA, INC., Plaintiff, v. HALOMD, LLC, *et al.*, Defendants.	Civil Case No. 1:25-cv-02919-TWT District Judge: Hon. Thomas W. Thrash, Jr.

DEFENDANT HALOMD'S FIFTH NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF ITS MOTION TO DISMISS

Defendant HaloMD, LLC respectfully submits this Fifth Notice of Supplemental Authority in support of its pending motion to dismiss Plaintiff Blue Cross Blue Shield Healthcare Plan of Georgia, Inc.'s ("BCBSGA's") Amended Complaint, namely, a ruling dismissing state law counterclaims asserted by other large commercial healthcare insurers against several providers of air ambulance services based on the initiation of Independent Dispute Resolution ("IDR") proceedings under the No Surprises Act ("NSA").

On June 16, 2026, the United States District Court for the District of Connecticut issued its Ruling on Motion to Dismiss Counterclaims ("Ruling") granting the providers of air ambulance services' motion to dismiss the counterclaims asserted by affiliates of Aetna Life Insurance Company ("Aetna") in

Guardian Flight LLC et al. v. Aetna Life Insurance Company, et al., No. 3:24-cv-00680-MPS, 2026 WL 1734646 (D. Conn. June 16, 2026) (the "*Guardian Flight* Counterclaim Decision"), a copy of which is attached as **Exhibit A**.

Aetna's amended counterclaims relating to the *Guardian Flight* Counterclaim Decision are attached as **Exhibit B**. Aetna asserted state law counterclaims materially similar to several claims asserted by BCBSGA in this case, including counterclaims for: (i) fraudulent misrepresentation; (ii) money had and received; and (iii) violations of the Connecticut Unfair Trade Practices Act ("CUTPA"). Specifically, Aetna alleged that the providers of air ambulance services were liable because they submitted ineligible claims through the IDR process and materially misrepresented the nature and quality of their services to IDR entities.

The *Guardian Flight* Counterclaim Decision is relevant to this Action as it addresses many of the same arguments made by the parties here. In ruling on those arguments, the court dismissed the entirety of Aetna's state law counterclaims with prejudice, holding that they were barred by the NSA's restriction on judicial review. *See Guardian Flight* Counterclaim Decision at *3–7.

[SIGNATURE PAGE FOLLOWS]

Respectfully submitted this 24th day of June 2026.

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CERTIFICATE OF COMPLIANCE

I hereby certify that on June 24, 2026, the foregoing has been prepared in Times New Roman, 14-point font, in conformance with LR 5.1(C), NDGa.

This 24th day of June, 2026.

/s/ Michael C. Duffey
Michael C. Duffey

CERTIFICATE OF SERVICE

I hereby certify that on this day I caused to be served a true and correct copy of the foregoing **DEFENDANT HALOMD'S FIFTH NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF ITS MOTION TO DISMISS** by filing the same with the Court's electronic case management system, which automatically serves counsel of record.

This 24th day of June, 2026.

/s/ Michael C. Duffey
Michael C. Duffey

2026 WL 1734646
Only the Westlaw citation is currently available.
United States District Court, D. Connecticut.

GUARDIAN FLIGHT LLC, REACH AIR MEDICAL SERVICES LLC, CALSTAR AIR MEDICAL SERVICES LLC, MED-TRANS CORPORATION, AIR EVAC EMS, INC., and AIRMED INTERNATIONAL LLC, Plaintiffs,

v.

AETNA LIFE INSURANCE COMPANY, AETNA HEALTH, INC., AETNA HEALTH AND LIFE INSURANCE COMPANY, and CIGNA HEALTH AND LIFE INSURANCE COMPANY, Defendants.

No. 3:24-cv-00680-MPS
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Filed 06/16/2026

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RULING ON MOTION TO DISMISS COUNTERCLAIMS

Michael P. Shea, U.S.D.J.

***1** After being sued by six "air ambulance" companies for allegedly failing to pay Independent Dispute Resolution ("IDR") awards, Defendants Aetna Life Insurance Company, Aetna Health Inc., and Aetna Health and Life Insurance Company (collectively, "Aetna") now bring counterclaims against the air ambulance companies. Aetna alleges that these companies—Guardian Flight LLC, Reach Air Medical Services LLC, CALSTAR Air Medical Services LLC, Med-Trans Corporation, Air Evac EMS, Inc., and AirMed International LLC (collectively, "the Air Ambulance Companies")—have manipulated the IDR process by submitting ineligible or "bifurcated" claims and materially misrepresenting the nature and quality of their services to IDR entities. Aetna brings counterclaims alleging fraudulent misrepresentation, money had and received, and violations of the Connecticut Unfair Trade Practices Act ("CUTPA"), Conn. Gen. Stat. § 42-110a, *et seq*. The Air Ambulance Companies have moved to dismiss the counterclaims under Federal Rule of Civil Procedure 12(b)(6). For the reasons below, I GRANT their motion.

I. BACKGROUND

I incorporate by reference the factual and procedural background set forth in the ruling on Aetna's and Cigna's motion to dismiss. *See* ECF No. 264 at 5-8. I also assume familiarity with the No Surprises Act ("NSA"), including its purposes and general operation. *See id.* at 2-4. The facts below are drawn from Aetna's amended counterclaims, ECF No. 291, and are accepted as true for the purposes of this ruling.

A. Factual Background

The Airline Deregulation Act of 1978 "prohibits states from regulating the price, route, or service of an air carrier, such as [the Air Ambulance Companies]." *Id.* ¶ 14. "The unintended consequence of the ADA's passage was that air ambulance companies ... charged exorbitant prices to hospitals, patients, and insurers that ... far outweighed the costs incurred by [them]." *Id.* "[A]ir ambulance companies ... would prey on vulnerable patients in urgent need of emergency services, only to blind-side them with astronomical medical bills." *Id.* ¶ 15. "Though many payors sought to bring these providers in-

network to protect patients and rein in costs, such negotiations routinely failed due to providers' refusal to moderate their inflated pricing demands." *Id*. "In order to protect patients from financial devastation, payors were frequently pressured into paying excessive and unjustified charges." *Id.* ¶ 17.

"Recognizing this national crisis, the United States Congress enacted the [NSA] ... to curb the abuse of surprise billing practices, particularly by air ambulance providers who weaponized the ADA's preemption to avoid meaningful oversight." *Id.* ¶ 18. " '[T]he NSA protects patients from surprise bills incurred when they receive emergency services from out-of-network providers by, *inter alia*, relieving patients from liability and creating an [IDR] process for resolving billing disputes between providers and insurers.' " *Id.* (quoting *Guardian Flight, L.L.C. v. Med. Evaluators of Tex. ASO, L.L.C.*, 140 F.4th 613, 617-18 (5th Cir. 2025)).

***2** "Unable to continue exploiting patients directly through surprise billing as a result of the NSA, [the Air Ambulance Companies] ... engineered a second scheme, this time manipulating the IDR process itself to continue inflating payments and driving profits." *Id.* ¶ 19. "In this new scheme, [the Air Ambulance Companies] devised a series of tactics, including but not limited to, overwhelming the IDR system, misrepresenting service data, misrepresenting the nature and value of the services provided, and improperly extracting payments from payors all to perpetuate their profit-maximizing model." *Id.* The particulars of this alleged scheme are set forth below.

i. Ineligible Claims

"The IDR process is only available for a 'qualified IDR item or service,' " and to be "qualified," an item or service must meet certain conditions. *Id.* ¶ 22 (citing 42 U.S.C. § 300gg-111(c)(1)). "When initiating the IDR process, providers must submit '[a]n attestation that the items and services under dispute are qualified IDR items or services' within the scope of the IDR process." *Id.* ¶ 23 (citing 45 C.F.R. § 149.510(b)(2)(iii)(A)(6)). The Air Ambulance Companies "have submitted hundreds of disputes that were entirely ineligible for the IDR process." *Id.* ¶ 24. "Until recently, at least 16% of the claims that [they] submitted to the IDR process were ineligible," and such claims "had the dual effect of overwhelming the IDR system and allowing [the Air Ambulance Companies] to fraudulently secure improper IDR payments from Aetna." *Id.* "Moreover, when ineligible claims are identified following an IDR award, Aetna must then undertake administrative burden and cost to effectively appeal any award." *Id.* ¶ 26.

ii. Bifurcated Claims

The Air Ambulance Companies "have [also] regularly increased the volume of IDR claims by submitting two separate disputes under the [ ] IDR process for what is a single, bundled claim for a transport encompassing both the base rate and mileage rate." *Id.* ¶ 29. "Each separate IDR submission imposes two layers of cost: (1) a non-refundable administrative fee, payable by both parties, and (2) an IDR entity fee, which the losing party is obligated to pay." *Id.* ¶ 31. Moreover, "[s]eparate submissions fail to provide IDR entities with the complete picture of offers being submitted relative to costs that may have already been paid on the transport." *Id.* ¶ 30. "This unbundling scheme": 1) "[i]ncreas[es] the probability of success by isolating components of the claim;" 2) "[a]mplif[ies] administrative and financial burdens on Aetna and other payors;" 3) "[o]verwhelm[s] the IDR system to induce delay and dysfunction; and" 4) "[c]oerc[es] Aetna into contractual agreements by rendering the current reimbursement structure untenable ...." *Id.* ¶ 32.

iii. Material Misrepresentations

Finally, the Air Ambulance Companies "make knowing material misrepresentations and false statements concerning the nature, quality, and value of their equipment and services provided in an effort to inflate the IDR valuation awards." *Id.* ¶ 33. "Examples of such false statements and misrepresentations include, but are not limited to": 1) "[c]laiming to operate 'state of the art aircraft,' when in fact they are operating older, lowest cost aircraft;" 2) "[o]verstating the minimum qualifications and experience of the pilots that operate the aircraft, including the minimum number of pilot flight hours required for eligibility;" 3) "[i]nflating the claimed percentage of air ambulances under commercial contracts with payors; and" 4) "[m]aking false representations and/or withholding information concerning the safety record of the air ambulances, pilots, and crew members." *Id.* "Such false representations ... lead to artificially inflated IDR valuations, resulting in higher awards collected from Aetna for [the Air Ambulance Companies'] services, and furthering [the Air Ambulance Companies'] effort to coerce Aetna into entering contractual agreements." *Id.* ¶ 34.

***3** Based on these factual allegations, Aetna claims that the Air Ambulance Companies made fraudulent misrepresentations and violated CUPTA; they also assert a claim for "money had and received."

B. Procedural History

After the Air Ambulance Companies moved to dismiss Aetna's initial counterclaims, *see* ECF No. 283, I provided Aetna with an opportunity to amend. ECF No. 284. Aetna has now filed amended counterclaims, ECF No. 291, and the Air Ambulance Companies have again moved to dismiss. ECF No. 294.

II. LEGAL STANDARD

To avoid dismissal under Rule 12(b)(6), a plaintiff must allege "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). I accept as true all of the complaint's factual allegations when evaluating a motion to dismiss, *id.*, and "draw all reasonable inferences in favor of the nonmoving party." *Vietnam Ass'n for Victims of Agent Orange v. Dow Chem. Co.*, 517 F.3d 104, 115 (2d Cir. 2008). "[T]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements," however, "do not suffice" to survive a motion to dismiss. *Mastafa v. Chevron Corp.*, 770 F.3d 170, 177 (2d Cir. 2014) (citation omitted).

III. DISCUSSION

In seeking dismissal, the Air Ambulance Companies argue: 1) that "federal law preempts Aetna's claims," ECF No. 294 at 3; 2) that "choice of law principles bar Aetna's Connecticut law claims," *id.* at 11; 3) that "CUPTA does not apply" to them, *id.* at 14; 4) that "Aetna has failed to state a claim," *id.* at 19; and 5) that "Aetna's Declaratory Judgment Act and injunctive relief claims are improper."[1] *Id.* at 34. I agree that Aetna's counterclaims are preempted under the NSA or are otherwise excepted from CUPTA's application and decline to address the other arguments.

A. Preemption by the NSA

The Air Ambulance Companies argue that the "NSA preempts state law challenges to IDR awards or the process that resulted in them." ECF No. 294 at 5. While preemption is an affirmative defense, such a defense "may be raised by a pre-answer motion to dismiss under Rule 12(b)(6) ... if the defense appears on the face of the complaint." *Pani v. Empire Blue Cross Blue Shield*, 152 F.3d 67, 74 (2d Cir. 1998).[2] The Air Ambulance Companies claim that the NSA provides the sole basis for judicial review of an IDR determination, *see* ECF No. 294 at 5, and that "Congress's express decision [was] to delegate to the Departments [of HHS, Labor, and Treasury] the authority to determine the rules, regulations, and guidance on the IDR process under the NSA." *Id.* at 7. Aetna's counterclaims, they say, "seek to upend the NSA by challenging what occurred during the IDR process ... without asserting a basis for judicial review under the NSA itself." *Id.* at 6.

***4** I find that Aetna's counterclaims would undermine the restriction on judicial review in the NSA and is therefore barred by conflict preemption. "Conflict preemption ... refers to situations where compliance with both state and federal law is a physical impossibility, or ... where the state law at issue stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Marentette v. Abbott Lab'ys, Inc.*, 886 F.3d 112, 117 (2d Cir. 2018) (internal quotations omitted). To be sure, to the extent that the counterclaims seek to impose penalties on the Air Ambulances Companies for alleged fraud, that wouldn't conflict with the NSA's goals. I previously held that imposing state law penalties for a failure to timely pay IDR awards "would not create any obstacles to the NSA's purposes and objectives, as untimely payments are already proscribed by the NSA." *Guardian Flight LLC v. Aetna Life Ins. Co.*, 789 F. Supp. 3d 214, 236 (D. Conn. 2025). The same logic would apply to state law penalties predicated on alleged fraudulent conduct, as such conduct is similarly proscribed. *See* 42 U.S.C. § 300gg-111(c)(5)(E)(i)(I) ("A determination of a certified IDR entity ... shall be binding upon the parties involved, *in the absence of a fraudulent claim or evidence of misrepresentation of facts* presented to the IDR entity involved regarding such claim.") (emphasis added). Like the penalties associated with untimely IDR payments, such penalties would support rather than undermine Congress's objectives insofar as they "could help to ensure that parties ... refrain from engaging in unfair practices to circumvent [the

NSA's] provisions."[3] *Guardian Flight LLC*, 789 F. Supp. 3d at 236.

Although these counterclaims are consistent with the NSA's rejection of awards derived by fraud, the statute specifies an exclusive procedure to challenge such awards, and allowing Aetna to bring these counterclaims would conflict with that exclusive procedure. 42 U.S.C. Section 300gg-111(c)(5)(E)(i) states in part, "A determination of a certified IDR entity ... shall not be subject to judicial review, except in a case described in any of paragraphs (1) through (4) of section 10(a) of title 9." 42 U.S.C. § 300gg-111(c)(5)(E)(i)(II). "[S]ection 10(a) of title 9" forms part of the FAA, which in "paragraphs (1) through (4)" provide grounds for vacating an arbitral award—including "where the award was procured by corruption, fraud, or undue means." 9 U.S.C. § 10(a)(1). The Air Ambulance Companies argue that "nothing in [Section 300gg-111(c)(5)(E)(i)] authorizes *state-law* actions for fraud and misrepresentation" and that "[v]acatur is the sole means for judicial review of IDR awards and the process that led to them." ECF No. 301 at 2–3 (emphasis in original). I agree.

While the text of Section 300gg-111(c)(5)(E)(i)(II) limits judicial review to "case[s] described" in paragraphs (1) through (4) of Section 10 of the FAA and does not expressly limit judicial review to actions for vacatur, the weight of authority favors that interpretation. *See* *Richard Agag, MD, Plaintiff, v. Cigna Health & Life Ins. Co., Defendant.*, No. 3:25-cv-00498 (SRU), 2026 WL 1021213, at *15 (D. Conn. Apr. 15, 2026) ("Judicial review of an NSA IDR award is *only* permissible when a party moves to vacate an award under the grounds outlined in paragraphs (1) through (4) of Section 10(a) of the FAA.") (emphasis in original) (citing 42 U.S.C. § 300gg-111(c)(5)(E)(i)(II)); *Avraham Plastic Surgery LLC v. Aetna, Inc.*, No. 25-cv-784, 2025 WL 3779084, at *2 (E.D.N.Y. Dec. 30, 2025) *report and recommendation adopted*, No. 25-cv-784 (E.D.N.Y. Jan. 20, 2026) ("Under the NSA, the [IDR entity]'s determinations are binding on the parties and are not subject to judicial review, except that a party may file a petition seeking vacatur of an IDR award under the limited circumstances listed in § 10(a)(1–4) of the Federal Arbitration Act ...."); *PHI Health, LLC v. Optimum Choice, Inc.*, No. 25-cv-2320, 2026 WL 850453, at *11 n.12 (D. Md. Mar. 27, 2026) ("Congress did not authorize any 'appeal' from an IDR determination; rather, it limited parties with disputes about IDR determinations to seek judicial orders vacating such determinations.") (citing 42 U.S.C. § 300gg-111(c)(5)(E)(i)(II)).

***5** Aetna does not contest the meaning of the NSA's judicial review restriction but rather its application. Aetna argues that "[v]acatur under the FAA is a remedy for 'bad faith' during a *particular* arbitration proceeding," and here "Aetna's state-law claims seek recovery for [the Air Ambulance Companies]' *systemic* misconduct, obscured within thousands of IDR proceedings." ECF No. 300 at 6-7 (emphasis in original). To find any merit in this argument would be to permit a workaround to the barrier to plenary judicial review Congress imposed. It would allow payors or providers to simply consolidate multiple adverse determinations and obtain plenary review of those determinations by presenting their claim as one challenging "systemic" misconduct. Aetna's focus on the above distinction obscures the real issue; regardless of whether its state-law counterclaims involve a single IDR determination or many, if adjudicating those counterclaims would have the effect of subjecting the adverse IDR determinations to judicial review other than in the confined manner specified in Section 10(a) of the FAA, the counterclaims are unreviewable under the NSA and must be dismissed.

Most of Aetna's counterclaims would require judicial review of multiple IDR determinations because the alleged fraudulent and abusive conduct is inextricably tied to those determinations. *See* ECF No. 291 ¶¶ 39, 43 (fraudulent misrepresentation: alleging that the Air Ambulance Companies knowingly submitted false attestations and representations "to extract money" and obtain "inflated payments"); *id.* ¶ 62 (money had and received: alleging that the Air Ambulance Companies "benefitted from the receipt and retention of [ ] monies ... paid as a result of IDR determinations made on the basis of ... mistaken submissions and representations"); *id.* ¶ 53 (CUTPA: alleging, in part, that the Air Ambulance Companies' "false attestations" and representations caused Aetna to suffer "ascertainable losses of money ... including payment of IDR determinations for ineligible claims[ ] [and] payment of IDR determinations that were based on misrepresentation"). Indeed, at least as to the allegations of fraudulent misrepresentation, Aetna only has standing insofar as this alleged conduct "inflated IDR dispute awards," ECF No. 291 ¶ 37, and therefore caused injury. Because of the clear causal nexus between the alleged conduct and the awards, to rule that the conduct was illegal would be to rule as to the merits of those awards and

therefore engage in judicial review.[4] *See* *Richard Agag, MD*, 2026 WL 1021213, at *11 (concluding that "judicial review" under the NSA involves considering the merits of an IDR award). But such review is limited to motions for vacatur. Accordingly, Aetna's fraudulent misrepresentation counterclaim, its counterclaim for money had and received, and a portion of its CUTPA counterclaim must be dismissed.[5]

Aetna argues that my earlier decision denying its own motion to dismiss the Air Ambulance Companies' claims, which held that the NSA's binding language contemplates the enforcement of IDR awards in a private action, means that I must also deny the Air Ambulance Companies' motion to dismiss their counterclaims. But as I pointed out in that ruling, there is a distinction between enforcing a ruling made by an IDR entity and reviewing it. *Guardian Flight LLC*, 789 F. Supp. 3d at 227–28. My earlier ruling, which was based on the way the issue was framed in the parties' briefs, *see* ECF No. 295, found only that the Air Ambulance Companies could enforce in court awards they had already won, in part because such enforcement did not entail review of the awards and so did not run afoul of the NSA's restriction on judicial review in Section 300gg-111(c)(5)(E)(i)(II). Aetna's counterclaims, by contrast, would thrust the Court into reviewing the substance of a wide swath of IDR awards, which was plainly prohibited by Congress. So my earlier ruling does not help Aetna here.

B. "Bifurcated" Claims

***6** Not all of Aetna's state-law counterclaims would entail judicial review of an IDR determination. Aetna alleges that the Air Ambulance Companies "have regularly increased the volume of IDR claims by submitting two separate disputes under the NSA's IDR process for what is a single, bundled claim for a transport encompassing both the base rate and the mileage rate." ECF No. 291 ¶ 29. This conduct, according to Aetna, violates CUTPA insofar as it seeks to "overwhelm[ ] the IDR process," "coerce Aetna ... into direct contractual agreements" with the Air Ambulance Companies, and increase the "costs and administrative burden" associated with addressing this "volume of IDR disputes." *Id.* ¶¶ 53, 55. I could address this counterclaim without engaging in judicial review of an IDR determination; deciding whether these "bifurcated" claims caused delay in the IDR process or duplicative administrative fees would not involve scrutinizing the merits of any award.

The Air Ambulance Companies argue, however, that the challenged practice is exempted from CUTPA itself. ECF No. 294 at 17. They point to Conn. Gen. Stat. Section 42-110c—CUTPA's "exceptions" provision. That provision states, in part, "Nothing in this chapter shall apply to ... [t]ransactions or actions otherwise permitted under law as administered by any regulatory board or officer acting under statutory authority of the state or of the United States." Conn. Gen. Stat. § 42-110c(a). When determining whether an exception under Section 42-110c exists, "courts focus on the broader pattern of activity by the defendant, not the specific allegations of misconduct." *Sterling v. Securus Techs., Inc.*, No. 3:18-cv-1310 (VAB), 2019 WL 3387043, at *7 (D. Conn. July 26, 2019) (internal quotations omitted). Moreover, the exemption "does not require that the activity at issue be 'specifically directed' or 'required' but only [requires] that the actions be permitted and be subject to regulation by a regulatory board or officer." *Garcia v. Fry*, 186 F. Supp. 3d 228, 234 (D. Conn. 2016) (alterations in original).

Here, while the allegations of misconduct concern "a deliberate and calculated strategy" to "unbundle" IDR submissions and "flood the system," ECF No. 300 at 27, the Air Ambulance Companies argue that the "submission of a payment dispute for each service code (base and mileage) is the 'transaction or action[ ]' at issue." ECF No. 294 at 19. I find that the case law supports defining the activity more broadly. *See* *Connelly v. Hous. Auth. of City of New Haven*. 213 Conn. 354, 361 (1990) (holding that, in a case involving allegations that a housing authority failed to "provide adequate and stable heat and hot water to tenants," the activity at issue was the "continued leasing or renting of subsidized apartments to low-income tenants"). I therefore define the activity as "the submission of bifurcated claims" rather than the submission of base rate and mileage rate claims, in particular.

When defined in this manner, the activity at issue—submitting bifurcating claims—is plainly permitted by the NSA and subject to regulatory oversight by "an officer of the United States." The Air Ambulance Companies point to Section 300gg-111(c)(3)(A) of the NSA, ECF No. 294 at 18, which states that "[u]nder the IDR process, the Secretary shall specify criteria under which multiple qualified IDR dispute items and services are permitted to be considered jointly as part of a single determination by an entity for the purposes of encouraging the efficiency ... of the IDR process." 42 U.S.C. § 300gg111(c)(3)(A). They also argue

that "[t]hree federal agencies ... have created rules for the federal IDR program and plainly allow an IDR proceeding for each line-item payment dispute." ECF No. 294 at 18. I agree. The three officers charged with administering the NSA—the Secretaries of Health and Human Services, Treasury, and Labor—have promulgated rules that (1) clarify when a provider "may" submit and an IDR entity "may" consider items and services jointly, *see* 45 C.F.R. § 149.510(c)(3)(i) (Department of Health and Human Services); 26 C.F.R. § 54.9816-8T(c)(3)(i) (Department of Treasury); 29 C.F.R. § 2590.716-8(c)(3)(i) (Department of Labor), and (2) define a "qualified IDR item or service." *See* 45 C.F.R. § 149.510(a)(2)(xi); 26 C.F.R. § 54.9816-8T(a)(2)(xi); 29 C.F.R. § 2590.716-8(a)(2)(xi). By specifying the circumstances when a provider or IDR entity may "batch" services into a single claim, the NSA and accompanying regulations imply that bifurcation of those services into distinct claims is the default and is therefore permitted; indeed, unless the specified circumstances are satisfied, the language of these regulations suggests that "bifurcation"—or submission of separate items and services individually—is required.

***7** Aetna argues that "there is no legitimate basis to claim this *pattern* of behavior is 'regulated' so as to exempt it from CUTPA," that "[the Air Ambulance Companies] cite no statute, regulation or oversight body that authorizes the specific pattern of conduct at issue," and that "[n]o regulatory body would sanction [the Air Ambulance Companies]' abuse of process, let alone preempt CUTPA's application to it." ECF No. 300 at 27 (emphasis in original). Rather, according to Aetna, this conduct "is exactly the kind of unfair and deceptive business practice that CUTPA was designed to prevent." ECF No. 300 at 27-28. As previously discussed, the inquiry focuses on the permissibility of the Air Ambulance Companies' "broader pattern of activity," not on "the specific allegations of misconduct." *Garcia*, 186 F. Supp. 3d at 234. And here that "broad pattern" is the submission of bifurcated claims, which the NSA allows, as shown. Aetna also appears to suggest that CUTPA's exception does not apply to unfair and deceptive business practices. But that is the *only* conduct to which the exception would apply, and to accept Aetna's argument would be to effectively nullify CUTPA's exception provision altogether. *See* *Pintavalle v. Valkanos*, 216 Conn. 412, 418 (1990) ("A statute should be read as a whole and interpreted so as to give effect to all of its provisions.").

Because the Air Ambulance Companies have provided the relevant statutory authority that resolves this issue, they have met their burden. *See* Conn. Gen. Stat. § 42-110c(b) ("The burden of proving exemption ... shall be upon the person claiming the exemption."). The NSA, as administered by the Secretaries, permits the bifurcation of claims and Aetna's bifurcation allegations are, accordingly, exempted from CUTPA scrutiny.

IV. CONCLUSION

For the reasons stated above, I GRANT the Air Ambulance Companies' motion to dismiss (ECF No. 294) and DISMISS Aetna's counterclaims.

IT IS SO ORDERED.

All Citations

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Footnotes

1 While Aetna brings a counterclaim for "declaratory and injunctive relief," *see* ECF No. 291 at 17-18 (Count Three), such a counterclaim is better characterized as a prayer for relief rather than an independent cause of action. *See also* ECF No. 291 at 19 (Aetna's prayer for relief asking the Court, in part, to "[p]ermanently enjoin the [Air Ambulance Companies] from submitting unqualified IDR items and/or services to IDR and otherwise initiating improper IDR arbitrations against Aetna" and "[d]eclare that IDR awards [the Air Ambulance Companies] obtain against Aetna on ineligible IDR items or services are non-binding and are not payable on a go-forward basis").

2 Aetna does not contest the procedural propriety of litigating preemption on a Rule 12(b)(6) motion. While Aetna does argue that the Air Ambulance Companies have added "new alleged facts" in their brief (ECF No. 300 at 2), I have not relied on the "new alleged facts" in this ruling.

3 The Air Ambulance Companies disagree. They argue that Congress "delegate[d] to the Departments the authority to determine the rules, regulations, and guidance on the IDR process," and that Aetna is using state law to challenge those rules and thereby undermine the Departments' authority. *See* ECF No. 294 at 6; *id.* at 7-8 ("Aetna ... seeks to use state law to challenge the Departments' rules ... the IDR proceedings that led to the awards ... the Departments' requirement that insurers bear their own costs and participate in the eligibility determination process ... and the IDR attestation used to initiate disputes."). This is not a fair characterization of Aetna's counterclaims. Aetna is challenging alleged *abuse* of the IDR framework, rather than the rules, procedures, and requirements themselves. As discussed above, the alleged fraudulent attestations and misrepresentations at issue are already prohibited by the NSA, insofar as they render an IDR determination nonbinding. *See* 42 U.S.C. § 300gg-111(c)(5)(E)(i)(I). As to Aetna's counterclaims regarding the alleged "bifurcation" of disputes, I find that such counterclaims fail for other reasons. *See* Discussion *infra* Section III.B.

4 Even if otherwise framed as a challenge to the Air Ambulance Companies' "systemic" practices, Aetna's allegations leave little doubt that it is also seeking to challenge the propriety of individual IDR determinations. For instance, Aetna points to alleged false statements made in 24 separate IDR disputes and references those disputes by submission number. ECF No. 291 ¶ 44(a)-(x).

5 This is not to suggest that Aetna cannot *defend* itself on the basis of this alleged misconduct. As Aetna points out, "an IDR decision is not binding when the underlying claim is fraudulent or there is evidence of misrepresentation of facts presented to the IDR entity." ECF No. 300 at 5 (citing 42 U.S.C. § 300gg-111(c)(5)(E)(i)(I) ("A determination of a certified IDR entity ... shall be binding upon the parties involved, in the absence of a fraudulent claim or evidence of misrepresentation of facts presented to the IDR entity involved regarding such claim ...."). But it does suggest, contrary to Aetna's position, that Aetna is not "entitled to recover money" it paid for fraudulent, nonbinding awards but is instead limited to seeking vacatur. *See id.* at 5.

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UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

GUARDIAN FLIGHT LLC, *et al*.,	§	
	§	
***Plaintiffs*,**	§	
	§	
v.	§	**Civil Action No. 3:24-cv-00680-MPS**
	§	
AETNA LIFE INSURANCE COMPANY, *et al*.	§	
	§	
***Defendants*.**	§	

AETNA'S FIRST AMENDED COUNTERCLAIMS

Without waiver of any of their defenses, Defendants/Counterclaimants Aetna Life Insurance Company, Aetna Health Inc., and Aetna Health and Life Insurance Company (collectively, "Aetna") assert their First Amended Counterclaims against Plaintiffs/Counterclaim Defendants as follows[1]:

PRELIMINARY STATEMENT

1. Pursuant to this Court's Order dated July 7, 2025 [ECF No. 284], and in light of information obtained through recent investigation and discovery, Aetna respectfully submits this filing and asserts additional claims as warranted.

PARTIES

2. Plaintiff/Counterclaim Defendant REACH Air Medical Services LLC is a California limited liability company with its principal place of business in California.

3. Plaintiff/Counterclaim Defendant CALSTAR Air Medical Services, LLC is a California limited liability company with its principal place of business in California.

[1] Aetna asserts this First Amended Counterclaim without waiver of and subject to any and all of the defenses asserted in its Answer to Plaintiffs' Second Amended Complaint and Counterclaim dated June 11, 2025 [ECF No. 278].

4. Plaintiff/Counterclaim Defendant Guardian Flight LLC is a Delaware limited liability company.

5. Plaintiff/Counterclaim Defendant Med-Trans Corporation is a North Dakota corporation with its principal place of business in Texas.

6. Plaintiff/Counterclaim Defendant Air Evac EMS, Inc., is a Missouri corporation with its principal place of business in Missouri.

7. Plaintiff/Counterclaim Defendant Airmed International, LLC is a Delaware limited liability company. Plaintiff Aetna Health Inc. is a Connecticut corporation with its principal place of business in Connecticut.

8. Defendant/Counterclaimant Aetna Life Insurance Company is a Connecticut corporation with its principal place of business in Connecticut.

9. Defendant/Counterclaimant Aetna Health and Life Insurance Company is a Connecticut corporation with its principal place of business in Connecticut.

10. Defendant/Counterclaimant Aetna Health, Inc. is a Connecticut corporation with its principal place of business in Connecticut.

JURISDICTION & VENUE

11. This Court has jurisdiction over this Counterclaim pursuant to 28 U.S.C. § 1367(a), as the claims asserted herein form part of the same case or controversy as the claims asserted in the Complaint.

12. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because the original action is properly venued here, and the counterclaims arise out of the same transaction, occurrence, or operative facts as the main claims.

BACKGROUND

13. This case arises from a deliberate and evolving series of schemes by Plaintiffs/Counterclaim Defendants, as part of a private–equity–owned air ambulance conglomerate ("Global Medical Response"), to exploit the healthcare system for profit and undermine the safeguards implemented to protect patients and payors. Plaintiffs/Counterclaim Defendants' conduct reflects a relentless pursuit of profit at the expense of integrity, patient protection, and fairness.

14. The first scheme began after the passage of the Airline Deregulation Act of 1978 ("ADA"), which prohibits states from regulating the price, route, or service of an air carrier, such as Plaintiffs/Counterclaim Defendants. 49 U.S.C. § 41713(b)(1). The unintended consequence of the ADA's passage was that air ambulance companies, such as Plaintiffs/Counterclaim Defendants, charged exorbitant prices to hospitals, patients, and insurers that, under information and belief, far outweighed the costs incurred by air ambulance companies.

15. Worse still, air ambulance companies such as Plaintiffs/Counterclaim Defendants would prey on vulnerable patients in urgent need of emergency services, only to blind-side them with astronomical medical bills. Though many payors sought to bring these providers in-network to protect patients and rein in costs, such negotiations routinely failed due to the providers' refusal to moderate their inflated pricing demands. As a result, air ambulance companies remained out-of-network and leveraged their market power to secure inflated payments.

16. This is evidenced by numerous lawsuits filed against Plaintiffs/Counterclaim Defendants alleging that they charged exorbitant prices far exceeding the actual cost of the services provided. *See, e.g., Stan and Rainy Wagner, et al. v. Summit Air Ambulance, LLC, et al.*, MTDC Case No. CV-17-57-BU-NMM (2017); *Danielle Kettler, et al. v. Reach Air Med. Servs., LLC,*

NDCA Case No. 4:20-cv-03021 (2020); *Alphine Bradley, et al. v. Med-Trans Corp.*, SCDC Case No. 3:20-cv-02679 (2020).

17. In order to protect patients from financial devastation, payors were frequently pressured into paying excessive and unjustified charges. In turn, those inflated payments contributed to the broader inflation of healthcare costs for American families, employers, and plan sponsors across the country.

18. Recognizing this national crisis, the United States Congress enacted the No Surprises Act ("NSA"), 42 U.S.C. §§ 300gg-111, 300gg-112, to curb the abuse of surprise billing practices, particularly by air ambulance providers who weaponized the ADA's preemption to avoid meaningful oversight. Enacted effective January 1, 2022, "the NSA protects patients from surprise bills incurred when they receive emergency services from out-of-network providers" by, "*inter alia*, relieving patients from liability and creating an Independent Dispute Resolution ('IDR') process for resolving billing disputes between providers and insurers." *Guardian Flight, L.L.C. v. Med. Evaluators of Tex. ASO, L.L.C.*, 140 F.4th 613, 617–18 (5th Cir. 2025) (citing 42 U.S.C. § 300gg-111(c)(1)–(5)); *see generally Tex. Med. Ass'n v. United States Dep't of Health & Human Servs.*, 110 F.4th 762, 767–78 (5th Cir. 2024) (discussing the NSA).

FACTUAL ALLEGATIONS IN SUPPORT OF AETNA'S CLAIMS

19. Unable to continue exploiting patients directly through surprise billing as a result of the NSA, Plaintiffs/Counterclaim Defendants, upon information and belief, engineered a second scheme, this time manipulating the IDR process itself to continue inflating payments and driving profits. In this new scheme, Plaintiffs/Counterclaim Defendants devised a series of tactics, including but not limited to, overwhelming the IDR system, misrepresenting service data, misrepresenting the nature and value of the services provided, and improperly extracting payments from payors all to perpetuate their profit-maximizing model.

20. Having overwhelmed the IDR system with ineligible and fraudulent claims, Plaintiffs/Counterclaim Defendants are now leveraging the system and the present litigation to coerce Aetna into unfavorable in-network contracts that lock in exorbitant prices for Plaintiffs/Counterclaim Defendants' services.

I. Plaintiffs/Counterclaim Defendants make material misrepresentations to enable their submissions of large volumes of ineligible claims.

21. In an effort to overwhelm the IDR system and extract payment from Aetna, Plaintiffs/Counterclaim Defendants submit hundreds of claims that are categorically ineligible for the IDR process. Plaintiffs/Counterclaim Defendants possess all relevant information to determine claim eligibility, yet knowingly submit large volumes of claims that are ineligible while falsely attesting to the claims' eligibility.

22. The IDR process is only available for a "qualified IDR item or service" eligible for the process. 42 U.S.C. § 300gg-111(c)(1); 45 C.F.R. § 149.510(a)(2)(xi), (b)(1), (b)(2). To qualify for the IDR process, a dispute must meet the following conditions:

a. The underlying services are within the NSA's scope, meaning they are out-of-network emergency services, non-emergency services at participating facilities, or air ambulance services, and also of a coverage type subject to the NSA (e.g., not government programs like Medicare or Medicaid);

b. A state surprise billing law does not apply to the dispute;

c. The services were covered by the patient's health benefit plan;

d. The patient did not waive the NSA's balance billing protections;

e. The provider initiated and exhausted open negotiations;

f. The provider initiated the IDR process within 4 business days after the open negotiations period was exhausted; and

g. The provider did not have a previous IDR determination on the same services and against the same payor in the previous 90 calendar days.

42 U.S.C. § 300gg-111(c)(1)(B); 45 C.F.R. § 149.510(a)(2)(xi), (b)(2).

23. When initiating the IDR process, providers must submit "[a]n attestation that the items and services under dispute are qualified IDR items or services" within the scope of the IDR process. 45 C.F.R. § 149.510(b)(2)(iii)(A)(6). Initiating parties must identify, among other things, the specific date that they initiated open negotiations, the type of health plan coverage for the patient who received the services, and an affirmative attestation that to the best of the initiating party's knowledge the "item(s) and/or service(s) at issue are qualified items and/or service(s) within the scope of the Federal IDR process." Notice of IDR Initiation, Dep't of Labor, *available at* https://www.dol.gov/sites/dolgov/files/ebsa/laws-and-regulations/laws/no-surprises-act/notice-of-idr-initiation.pdf. Therefore, when an initiating party submits a di8spute to IDR for services, it is knowingly submitting ineligible IDR initiations.

24. Plaintiffs/Counterclaim Defendants have submitted hundreds of disputes that were entirely ineligible for the IDR process. Plaintiffs/Counterclaim Defendants knew that such claims were ineligible for the process and submitted false attestations with their ineligible claims.

25. Until recently, at least 16% of the claims that Plaintiffs/Counterclaim Defendants submitted to the IDR process were ineligible for the IDR process. Such ineligible claim submissions had the dual effect of overwhelming the IDR system and allowing Plaintiffs/Counterclaim Defendants to fraudulently secure improper IDR payments from Aetna.

26. Due to the sheer volume of the claims that Plaintiffs/Counterclaim Defendants submitted to the IDR process, and the quick turnaround time Aetna is mandated to operate under, Aetna had previously issued payment of ineligible IDR dispute awards. Moreover, when ineligible claims are identified following an IDR award, Aetna must then undertake administrative burden and cost to effectively appeal any award.

27. By way of example, Plaintiffs/Counterclaim Defendants have made material misrepresentations by submitting the following ineligible claims to the IDR process:

a. DISP-398471: This claim was ineligible for the IDR process as it was not an Aetna claim;
b. DISP-145587: As part of this claim, multiple line items were submitted in a "batch claim" that was ineligible for the IDR process because payment was made either by different self-insured plans or different issuers; and
c. DISP-292888: The claims were ineligible for the IDR process because the item(s) and/or service(s) submitted were for a Retiree Only plan not subject to the NSA.

28. These are merely examples of the many ineligible IDR submissions.

II. Plaintiff/Counterclaim Defendants submit bifurcated disputes to further increase the volume of IDR claims to be processed.

29. Since approximately October 2023, Plaintiffs/Counterclaim Defendants have regularly increased the volume of IDR claims by submitting two separate disputes under the NSA's IDR process for what is a single, bundled claim for a transport encompassing both the base rate and mileage rate. In other words, Plaintiffs/Counterclaim Defendants submit disputes for the base rate and the mileage rate for a transport in two separate submissions, even though they can (and should) be submitted together.

30. Plaintiffs/Counterclaim Defendants have adopted a deliberate and systematic practice of fragmenting what is functionally a single transport into two distinct IDR submissions: one for the base rate and one for the mileage rate. Separate submissions fail to provide IDR entities with the complete picture of offers being submitted relative to costs that may have already been paid on the transport. In at least some scenarios, the fragmented claims are submitted to separate IDR entities.

31. Each separate IDR submission imposes two layers of cost: (1) a non-refundable administrative fee, payable by both parties, and (2) an IDR entity fee, which the losing party is obligated to pay. By unnecessarily dividing a single transport into multiple IDR filings,

Plaintiffs/Counterclaim Defendants double the required administrative fees and increase the likelihood that Aetna will bear duplicative IDR entity fees.

32. This unbundling scheme appears driven by strategic profiteering, with the aim of:

a. Increasing the probability of success by isolating components of the claim;

b. Amplifying administrative and financial burdens on Aetna and other payors;

c. Overwhelming the IDR system to induce delay and dysfunction; and

d. Coercing Aetna into entering contractual agreements by rendering the current reimbursement structure untenable, evidenced by the fact that Plaintiffs/Counterclaim Defendants, within six months of deliberately choosing to unbundle submissions, sought a national contract with Aetna.

III. Plaintiffs/Counterclaim Defendants make material misrepresentations concerning the nature and quality of the services rendered, in an effort to inflate IDR awards.

33. In conjunction with their IDR submissions, Plaintiffs/Counterclaim Defendants make knowing material misrepresentations and false statements concerning the nature, quality, and value of their equipment and services provided in an effort to inflate the IDR valuation awards. Examples of such false statements and misrepresentations include, but are not limited to:

a. Claiming to operate "state of the art aircraft," when in fact they are operating older, lowest cost aircraft;

b. Overstating the minimum qualifications and experience of the pilots that operate the aircraft, including the minimum number of pilot flight hours required for eligibility;

c. Inflating the claimed percentage of air ambulances under commercial contracts with payors; and

d. Making false representations and/or withholding information concerning the safety record of the air ambulances, pilots, and crew members.

34. Such false representations made during the IDR process lead to artificially inflated IDR valuations, resulting in higher awards collected from Aetna for Plaintiffs/Counterclaim

Defendants' services, and furthering Plaintiffs/Counter-Defendants' efforts to coerce Aetna into entering contractual agreements.

35. Furthermore, Plaintiffs/Counterclaim Defendants charge exorbitant prices for their alleged services, and while the NSA was enacted to curb their surprise-billing abuses, now Plaintiffs/Counterclaim Defendants are abusing the NSA dispute resolution process itself by overwhelming the system with submitting thousands of disputes[2], and is the top initiating provider for both years 2023 and 2024, including, *inter alia*, misleading and ineligible IDR submissions, that drive up the cost and reduce the effectiveness and efficiency of the IDR process. Indeed, Plaintiffs/Counterclaim Defendants have initiated thousands more IDR disputes than all other air ambulances *combined*.

36. As a result of this artificial increase in IDR volume, Aetna and similarly situated payors are being forced to expend significant time and resources responding to duplicative and unnecessary submissions, even where a single consolidated submission would be appropriate, permissible, and attainable. Plaintiffs/Counterclaim Defendants have simultaneously disparaged delays in IDR determinations and payments—including by bringing this lawsuit—while themselves generating the excessive volume that is significantly contributing to such delays, manufacturing the very problem that Plaintiffs/Counterclaim Defendants then seek to leverage against payors including Aetna. This completely undermines the very problem that the NSA was designed to address. In fact, in a report issued by HealthAffairs, should the high volume of IDR cases and prevalence of ineligible claims continue, health care costs and plan premiums will inevitably increase. Jack Hoadley, Kennah Watts, and Zachary Baron, *Independent Dispute Resolution Process 2024 Data: High Volume, More Provider Wins*, Health Affs. Forefront, Apr. 2,

[2] Plaintiffs are the top initiating provider as reported by CMS for the years 2023 and 2024. CMS, *Independent Dispute Resolution Reports*, https://www.cms.gov/nosurprises/policies-and-resources/reports (last visited Sept. 2, 2025).

2024, https://www.healthaffairs.org/content/forefront/independent-dispute-resolution-process-2024-data-high-volume-more-provider-wins.

37. Due to Plaintiff/Counterclaim Defendants' material misrepresentations concerning the nature and quality of their services, Aetna has been forced to pay inflated IDR dispute awards.

CAUSES OF ACTION AGAINST ALL DEFENDANTS

COUNT 1 – FRAUDULENT MISREPRESENTATION

38. Aetna incorporates by reference paragraphs 18-36 as though fully set forth herein.

39. Plaintiffs/Counterclaim Defendants knowingly and willfully executed the scheme described herein with the intent to defraud Aetna by submitting knowingly false attestations of IDR eligibility with the intent to extract money from Aetna and its affiliated health plans under the false pretense that the disputes were eligible for resolution through the IDR process.

40. In every IDR that Plaintiffs/Counterclaim Defendants initiated with Aetna, Plaintiffs/Counterclaim Defendants' submitted a completed version of the mandatory IDR notice of initiation to Aetna, the IDR entities, and the Department of Health & Human Services, which, in part, contained the following attestation:

> I, the undersigned initiating party (or representative of the initiating party), attests that to the best of my knowledge … the item(s) and/or service(s) at issue are qualified item(s) and/or service(s) within the scope of the Federal IDR process.

Notice of IDR Initiation, Dep't of Labor, *available at* https://www.dol.gov/sites/dolgov/files/ebsa/laws-and-regulations/laws/no-surprises-act/notice-of-idr-initiation.pdf.

41. However, hundreds of Plaintiffs/Counterclaim Defendants' attestations were false, as the disputes were ineligible for resolution through the IDR process. These attestations were made with full knowledge of their falsity, as Plaintiffs/Counterclaim Defendants knew that the

item(s) and/or service(s) at issue were not qualified item(s) and/or service(s) within the scope of the Federal IDR process.

42. Plaintiffs/Counterclaim Defendants nevertheless submitted these false attestations, and did so with the intent that Aetna and the IDR Entities ("IDRE") rely on them. According to federal law, "the certified IDR entity selected must review the information submitted in the notice of IDR initiation," including Plaintiffs/Counterclaim Defendants' false attestations of eligibility for the IDR process, "to determine whether the Federal IDR process applies." 45 C.F.R. § 149.510(c)(1)(v). Plaintiffs/Counterclaim Defendants knew and expected that Aetna and the IDREs would reasonably and foreseeably rely on the misrepresentations in the false attestations, because once the IDRE determines the dispute is eligible based on the information submitted in the notice of initiation, at the time, Aetna proceeds with the IDR process, submits a final offer, and allows the process to continue to a payment determination. Any other approach would result in a default award against Aetna in favor of whatever exorbitant amount(s) Plaintiffs/Counterclaim Defendants included in their submission.

43. Additionally, Plaintiffs/Counterclaim Defendants knowingly made false representations and omissions of material fact in their IDR dispute submissions concerning the value of their air ambulance services. Such false statements and omissions were made with the intent of defrauding Aetna and obtaining inflated payments for the services rendered.

44. For example, Plaintiffs/Counterclaim Defendants made the following false statements in IDR dispute submissions initiated against Aetna:

a. For a transport with a date of service on or about January 3, 2022, Plaintiff/Counterclaim Defendant REACH Air Medical Services, LLC, and/or its attorneys or agents acting on its behalf, stated that its aircraft was "state of the art" and that its pilots "have an average of 5,000 hours experience as pilot in command," or words to that effect, in connection with its IDR Dispute-00400 submission;

b. For a transport with a date of service on or about January 3, 2023, Plaintiff/Counterclaim Defendant REACH Air Medical Services, LLC, and/or its attorneys or agents acting on its behalf, stated that "REACH Air Medical Services provides state-of-the science service to the communities it serves using the most advanced equipment ...," and that "pilots for REACH must have an average of 5,000 hours experience as pilot in command," or words to that effect, in connection with its IDR Dispute-79578 submission;

c. For a transport with a date of service on or about December 27, 2023, Plaintiff/Counterclaim Defendant CALSTAR Air Medical Services, LLC, and/or its attorneys or agents acting on its behalf stated that "more than 70% of commercially insured transports [are] in network," or words to that effect, in connection with its IDR Dispute-527784 submission;

d. For a transport with a date of service on or about December 27, 2023, Plaintiff/Counterclaim Defendant REACH Air Medical Services, LLC, and/or its attorneys or agents acting on its behalf stated that "more than 70% of commercially insured transports [are] in network," or words to that effect, in connection with its IDR Dispute-430029 submission;

e. For a transport with a date of service on or about December 26, 2023, Plaintiff/Counterclaim Defendant Med-Trans Corporation, and/or its attorneys or agents acting on its behalf stated that "more than 70% of commercially insured transports [are] in network," or words to that effect, in connection with its IDR Dispute-527638 submission;

f. For a transport with a date of service on or about December 4, 2023, Plaintiff/Counterclaim Defendant Air Evac EMS, and/or its attorneys or agents acting on its behalf stated that "more than 70% of commercially insured transports [are] in network," or words to that effect, in connection with its IDR Dispute-470883 submission;

g. For a transport with a date of service on or about November 29, 2023, Plaintiff/Counterclaim Defendant Air Evac EMS, and/or its attorneys or agents acting on its behalf stated that "more than 70% of commercially insured transports [are] in network," or words to that effect, in connection with its IDR Dispute-473928 submission;

h. For a transport with a date of service on or about November 28, 2023, Plaintiff/Counterclaim Defendant Med-Trans Corporation, and/or its attorneys or agents acting on its behalf stated that "more than 70% of commercially insured transports [are] in network," or words to that effect, in connection with its IDR Dispute-474106 submission;

i. For a transport with a date of service on or about December 27, 2023, Plaintiff/Counterclaim Defendant Air Evac EMS, Inc., and/or its attorneys or agents acting on its behalf stated that "more than 70% of commercially insured transports [are] in network," or words to that effect, in connection with its IDR Dispute-527471 submission;

j. For a transport with a date of service on or about December 27, 2023, Plaintiff/Counterclaim Defendant CALSTAR Air Medical Services LLC and/or its attorneys or agents acting on its behalf stated that "more than 70% of commercially insured transports [are] in network," or words to that effect, in connection with its IDR Dispute-527804 submission;

k. For a transport with a date of service on or about December 12, 2023, Plaintiff/Counterclaim Defendant Air Evac EMS, Inc., and/or its attorneys or agents acting on its behalf stated that "more than 70% of commercially insured transports [are] in network," or words to that effect, in connection with its IDR Dispute-527476 submission;

l. For a transport with a date of service on or about December 4, 2023, Plaintiff/Counterclaim Defendant Air Evac EMS, Inc., and/or its attorneys or agents acting on its behalf stated that "more than 70% of commercially insured transports [are] in network," or words to that effect, in connection with its IDR Dispute-470947 submission;

m. For a transport with a date of service on or about December 4, 2023, Plaintiff/Counterclaim Defendant Air Evac EMS, Inc., and/or its attorneys or agents acting on its behalf stated that "more than 70% of commercially insured transports [are] in network," or words to that effect, in connection with its IDR Dispute-470961 submission;

n. For a transport with a date of service on or about December 1, 2023, Plaintiff/Counterclaim Defendant Air Evac EMS, Inc., and/or its attorneys or agents acting on its behalf stated that "more than 70% of commercially insured transports [are] in network," or words to that effect, in connection with its IDR Dispute-482407 submission;

o. For a transport with a date of service on or about December 1, 2023, Plaintiff/Counterclaim Defendant Air Evac EMS, Inc., and/or its attorneys or agents acting on its behalf stated that "more than 70% of commercially insured transports [are] in network," or words to that effect, in connection with its IDR Dispute-470867 submission;

p. For a transport with a date of service on or about December 1, 2023, Plaintiff/Counterclaim Defendant Med-Trans Corporation, and/or its attorneys or agents acting on its behalf stated that "more than 70% of commercially insured transports [are] in network," or words to that effect, in connection with its IDR Dispute-527476 submission;

q. For a transport with a date of service on or about December 12, 2023, Plaintiff/Counterclaim Defendant Med-Trans Corporation, and/or its attorneys or agents acting on its behalf stated that "more than 70% of commercially insured transports [are] in network," or words to that effect, in connection with its IDR Dispute-527476 submission;

r. For a transport with a date of service on or about December 1, 2023, Plaintiff/Counterclaim Defendant Med-Trans Corporation, and/or its attorneys or agents acting on its behalf stated that "more than 70% of commercially insured transports [are] in network," or words to that effect, in connection with its IDR Dispute-482630 submission;

s. For a transport with a date of service on or about November 30, 2023, Plaintiff/Counterclaim Defendant Air Evac EMS, Inc., and/or its attorneys or agents acting on its behalf stated that "more than 70% of commercially insured transports [are] in network," or words to that effect, in connection with its IDR Dispute-482364 submission;

t. For a transport with a date of service on or about November 29, 2023, Plaintiff/Counterclaim Defendant Med-Trans Corporation, and/or its attorneys or agents acting on its behalf stated that "more than 70% of commercially insured transports [are] in network," or words to that effect, in connection with its IDR Dispute-474070 submission;

u. For a transport with a date of service on or about November 29, 2023, Plaintiff/Counterclaim Defendant Med-Trans Corporation, and/or its attorneys or agents acting on its behalf stated that "more than 70% of commercially insured transports [are] in network," or words to that effect, in connection with its IDR Dispute-474142 submission;

v. For a transport with a date of service on or about November 29, 2023, Plaintiff/Counterclaim Defendant Air Evac EMS, Inc., and/or its attorneys or agents acting on its behalf stated that "more than 70% of commercially insured transports [are] in network," or words to that effect, in connection with its IDR Dispute-473872 submission;

w. For a transport with a date of service on or about November 28, 2023, Plaintiff/Counterclaim Defendant Med-Trans Corporation, and/or its attorneys or agents acting on its behalf stated that "more than 70% of commercially insured transports [are] in network," or words to that effect, in connection with its IDR Dispute-474145 submission;

x. For a transport with a date of service on or about November 28, 2023, Plaintiff/Counterclaim Defendant Air Evac EMS, Inc., and/or its attorneys or agents acting on its behalf stated that "more than 70% of commercially insured transports [are] in network," or words to that effect, in connection with its IDR Dispute-473948 submission.

45. These representations are false and misleading. Barbara Berkowitz, Vice President of Managed Care at Global Medical Response, has admitted that only approximately 50 percent of their commercial transports are performed under contract:

> Q. Yes, ma'am, I'm asking about commercial.
>
> A. Out of the commercial health, about 50 percent of our volume is contracted. So between all of those, it's about 50 percent.
>
> Q. And meaning "all of those," you mean both—
>
> (Simultaneous speaking.)
>
> A. All of my contracted payors.
>
> A. Including both national and regional?
>
> A. Correct.

Berkowitz Dep. (June 25, 2025) at 36:13-22.

46. In its determination, the IDRE is required to consider information submitted by the Plaintiff, including evidence of good faith efforts (or a lack thereof) to enter into network agreements. 45 C.F.R. § 149.520(b)(2)(vi). Accordingly, the accuracy of this factor is paramount.

47. Moreover, contrary to their representations, Plaintiffs/Counterclaim-Defendants' aircraft, equipment, and personnel are not "state of the art," but are standard within the air ambulance industry. Their representations concerning personnel qualifications are likewise overstated and deceptive: while they assert to the IDRE that their pilots average 5,000 hours of flight time, some pilots have as few as 1,800 hours.

48. As a direct and proximate result of Aetna's reliance on the false representations and omissions of material fact of Plaintiffs/Counterclaim Defendants, Aetna has suffered and continues to suffer damages. Aetna is entitled to recover from Plaintiffs/Counterclaim Defendants compensatory and punitive damages.

COUNT 2 - VIOLATION OF CUTPA

49. Aetna incorporates by reference paragraphs 18-47 as though fully set forth herein.

50. Plaintiffs/Counterclaim Defendants have engaged in unfair and deceptive acts or practices in the conduct of trade or commerce in violation of the Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. § 42-110a–q ("CUTPA").

51. Aetna is a "person" within the meaning of Conn. Gen. Stat. § 42-110a(3), in that it is a corporation and/or other legal entity. Plaintiffs/Counterclaim-Defendants are likewise "persons" under Conn. Gen. Stat. § 42-110a(3), as they are corporations, limited liability companies, and/or other legal entities.

52. Plaintiffs/Counterclaim-Defendants are engaged in "trade" and/or "commerce" within the meaning of Conn. Gen. Stat. § 42-110a(4) because, among other things, they provide air ambulance and related healthcare transportation services in the State of Connecticut; conduct Connecticut-based transports that form the basis of IDR disputes at issue; actively participate in IDR proceedings involving services rendered in Connecticut; engage in negotiations with Aetna, a Connecticut-based corporation; market and advertise their services to Connecticut residents and insurers; enter into contracts affecting the delivery and pricing of services in Connecticut; and receive reimbursement for such services through transactions occurring in Connecticut's stream of commerce.

53. Plaintiffs/Counterclaim Defendants have used and employed unfair methods of competition and unfair or deceptive acts or practice in the conduct of trade or commerce, in violation of Conn. Gen. Stat. § 42-110b. These practices include, without limitation: (1) submitting knowingly false attestations of IDR eligibility; (2) falsely representing to Aetna that the disputes were eligible for IDR prior to initiating the IDR process; and (3) overwhelming the IDR process by submitting separate IDR submissions; all done with the intent to extract funds from Aetna,

overwhelm the IDR system, and inhibit Aetna's ability to properly challenge the IDR claims. Plaintiffs/Counterclaim Defendants have engaged in the practices described herein in part to coerce Aetna, a Connecticut corporation with its principal place of business in Connecticut, into direct contractual agreements with Plaintiffs/Counterclaim Defendants.

54. Plaintiffs/Counterclaim Defendants repeatedly have engaged in the practices described herein with Connecticut patients, Connecticut health plans, and Connecticut-based IDR proceedings.

55. Plaintiffs/Counterclaim Defendants' scheme, as described herein, offends public policy (including as embodied by ERISA and the NSA), is immoral, unethical, oppressive, and unscrupulous, and has caused substantial injury to Aetna, consumers, and businesses. Plaintiffs/Counterclaim Defendants' scheme offends public policy including because it manipulates a federal regulatory process for improper financial gain to the detriment of payors such as Aetna. As a direct and proximate result of Plaintiffs/Counterclaim Defendants unfair trade practices, Aetna has suffered ascertainable losses of money or property within the meaning of Conn. Gen. Stat. § 42-110g(a), including payment of IDR determinations for ineligible claims, payment of IDR determinations that were based on misrepresentations, and increased costs and administrative burden and costs incurred to address the volume of IDR disputes that Plaintiffs/Counterclaim Defendants generated in bad faith.

56. Pursuant to Conn. Gen. Stat. § 42-110g(a), Aetna is entitled to an award of punitive damages. Pursuant to Conn. Gen. Stat. § 42-110g(d), Aetna is entitled to recover actual damages, attorneys' fees, and costs, and to such other legal and equitable relief as the Court deems appropriate.

COUNT 3 – DECLARATORY & INJUNCTIVE RELIEF

57. Aetna incorporates by reference paragraphs 18-55 as though fully set forth herein.

58. Aetna seeks a declaration that Plaintiffs/Counterclaim Defendants' conduct in submitting false attestations, initiating IDR for ineligible IDR items or services, and making material misrepresentations in their IDR dispute submissions concerning the nature and quality of items or services rendered is unlawful. Aetna additionally seeks a declaration that IDR awards for such unqualified IDR items or services are not binding. Aetna further seeks a permanent injunction prohibiting Defendants from continuing to submit false attestations and initiating IDR for items or services that are not qualified for IDR, or from seeking to enforce awards entered on items and services that are not qualified for IDR.

59. Aetna reserves all rights to seek discovery for additional factual support for the matters pleaded in its counterclaims herein, and to amend, as necessary and appropriate.

COUNT 4 – MONEY HAD AND RECEIVED

60. Aetna incorporates by reference paragraphs 18-58 as though fully set forth herein.

61. Plaintiffs/Counterclaim Defendants received and retained monies belonging to Aetna when Aetna made payments to Plaintiffs/Counterclaim Defendants under the mistaken belief of, including but not limited to: (a) the IDR submissions were eligible for the IDR process, (b) the claimed amounts were otherwise payable under applicable statutes, and/or (c) the information submitted by Plaintiffs/Counterclaim Defendants to the IDREs were true and accurate.

62. Plaintiffs/Counterclaim Defendants benefitted from the receipt and retention of such monies, which were paid as a result of IDR determinations made on the basis of the foregoing mistaken submissions and representations.

63. In equity and good conscience, Plaintiffs/Counterclaim Defendants ought not to retain such monies, and Aetna is entitled to restitution of all amounts wrongfully received and retained by Plaintiffs/Counterclaim Defendants.

PRAYER FOR RELIEF

WHEREFORE, Aetna respectfully requests that the Court:

a. Award Aetna compensatory, punitive, and treble damages;

b. Permanently enjoin Plaintiffs/Counterclaim Defendants from submitting unqualified IDR items and/or services to IDR and otherwise initiating improper IDR arbitrations against Aetna;

c. Award Aetna costs, attorneys' fees, and interest;

d. Declare that IDR awards Plaintiffs/Counterclaim Defendants obtain against Aetna on ineligible IDR items or services are non-binding and are not payable on a go-forward basis;

e. Restitution of all monies wrongfully received and retained by Plaintiffs/Counterclaim Defendants; and

f. Grant Aetna such other and further relief as the Court deems just and proper.

Respectfully submitted,

By: */s/M. Katherine Strahan*

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed electronically on September 2, 2025. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt.

/s/ M. Katherine Strahan
M. Katherine Strahan