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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

SOUTHERN DIVISION

ANTHEM BLUE CROSS LIFE AND HEALTH INSURANCE COMPANY, a California corporation, BLUE CROSS OF CALIFORNIA DBA ANTHEM BLUE CROSS, a California corporation,

Plaintiff,

v.

HALOMD, LLC; ALLA LAROQUE; SCOTT LAROQUE; MPOWERHEALTH PRACTICE MANAGEMENT, LLC; BRUIN NEUROPHYSIOLOGY, P.C.; iNEUROLOGY, PC; N EXPRESS, PC; NORTH AMERICAN NEUROLOGICAL ASSOCIATES, PC; SOUND PHYSICIANS EMERGENCY MEDICINE OF SOUTHERN CALIFORNIA, P.C.; and SOUND PHYSICIANS ANESTHESIOLOGY OF CALIFORNIA, P.C.,

Defendants.

Case No. 8:25-cv-01467-KES

DEFENDANTS MPOWERHEALTH PRACTICE MANAGEMENT, LLC; BRUIN NEUROPHYSIOLOGY, PC; iNEUROLOGY, PC; N EXPRESS, PC; AND NORTH AMERICAN NEUROLOGICAL ASSOCIATES, PC'S NOTICE OF MOTION AND MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM UNDER FED. R. CIV. PRO. 12(B)(6)

Hearing Date: March 10, 2026
Hearing Time: 10:00 a.m.
Courtroom: 6D

Honorable Karen E. Scott
Magistrate Judge

PLEASE TAKE NOTICE THAT on March 10, 2026 at 10:00 a.m., or as soon thereafter as counsel may be heard, counsel will appear before the Honorable Karen E. Scott in Courtroom 6D of the United States District Court for the Central District of California, located at Ronald Reagan Federal Building and United States Courthouse, Santa Ana, located at 411 West 4th Street, Room 1053, Santa Ana, CA 92701-4516.

Defendants MPOWERHealth Practice Management, LLC; Bruin Neurophysiology, PC; iNeurology, PC; N Express, PC; and North American Neurological Associates, PC will and hereby do move this Court to dismiss Plaintiffs Anthem Blue Cross Life and Health Insurance Company, a California corporation, and Blue Cross of California DBA Anthem Blue Cross, a California corporation ("Anthem")'s Amended Complaint. This motion is made pursuant to Federal Rule of Civil Procedure 12(b)(6) on the grounds that Anthem has failed to plead a plausible claim against Defendants MPOWERHealth Practice Management, LLC; Bruin Neurophysiology, PC; iNeurology, PC; N Express, PC; and North American Neurological Associates, PC. This Motion will be based on this Notice of Motion, the concurrently filed Memorandum of Points and Authorities and Declaration of James L. Poth, the pleadings on file herein, and any further argument presented at the hearing of this Motion.

This Motion is made following the telephonic conference of counsel pursuant to L.R. 7-3, which took place on December 3, 2025. *See* Declaration of James L. Poth ¶¶ 3-4.

Dated: December 12, 2025

Respectfully submitted,

JONES DAY

By: _____

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Defendants.

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DEFENDANTS MPOWERHEALTH PRACTICE MANAGEMENT, LLC; BRUIN NEUROPHYSIOLOGY, P.C.; iNEUROLOGY, PC; N EXPRESS, PC; AND NORTH AMERICAN NEUROLOGICAL ASSOCIATES, PC'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM UNDER FED. R. CIV. PRO. 12(B)(6)

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TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page

CASES

TABLE OF AUTHORITIES
(continued)

Page

TABLE OF AUTHORITIES
(continued)

Page

TABLE OF AUTHORITIES
(continued)

Page

TABLE OF AUTHORITIES
(continued)

TABLE OF AUTHORITIES
(continued)

Page

RULES

REGULATIONS

OTHER AUTHORITIES

TABLE OF AUTHORITIES
(continued)

Page

I. INTRODUCTION

Plaintiff Anthem Blue Cross and Blue Shield litigated in a congressionally-mandated dispute resolution process and denied that it underpaid medical providers who cared for the company's insureds. Dissatisfied with the fact that it lost the majority of those proceedings, Anthem attempts a collateral attack in this Court. Anthem asserts eight theories of relief—all predicated on statements made by the defendants during arbitrations and awards issued by arbitrators. Anthem seeks to convert the fact that the defendants and arbitrators disagreed with its assertions (regarding whether disputes qualified for the arbitration process and the value of the underlying services) into violations of RICO, Fraud, Misrepresentation, Unlawful Business Practices, Grounds for Vacatur, and Equitable Relief under ERISA. But disputes adjudicated in litigation and decided against an aggrieved party do not provide basis for these theories of relief. Moreover, Anthem repeatedly challenges the entire process which Congress established as including flaws that the defendants "exploit." (First Amended Complaint ("FAC") ¶ 10, ¶ 116, ¶ 123, and ¶ 125). The FAC reads far more like a press release or a petition to Congress to change the arbitration process. It comes nowhere close to stating any claim for relief.

Given the fatal deficiencies apparent in the FAC, MPOWERHealth Practice Management, LLC**;** Bruin Neurophysiology, P.C.; iNeurology, PC; N Express, PC; and North American Neurological Associates, PC (collectively "Providers") seek to dismiss the matter. As a dispositive matter, the Court lacks subject-matter jurisdiction over most of Anthem's claims. The No Surprises Act expressly limits judicial review to only viable claims seeking to *vacate* awards under the Federal Arbitration Act. As such, Anthem cannot seek monetary or prospective injunctive relief in this Court under any circumstances.

Anthem's unambiguous attempt to re-litigate issues decided in the arbitration necessarily implicates issue preclusion. Anthem's theories rely on allegedly false eligibility attestations. Yet for every dispute now in contention, that

issue was presented to and resolved by an Independent Dispute Resolution Entity (IDRE). Anthem cannot get a second bite at the apple in court.

Further, Anthem has not alleged any of its claims with particularity under Rule 9(b). Anthem has not particularly alleged the Providers' role in the fraud, that the Providers proximately caused Anthem's injuries, or that Anthem actually suffered an injury traceable to each Provider's supposedly illegal actions.

On top of this, the Noerr-Pennington doctrine shields the Providers from liability for accessing the federally created dispute procedures. The Noerr-Pennington doctrine prevents plaintiffs from predicating liability on protected speech. Here, the Providers' statements and submissions to IDRE arbitrators qualify as protected speech, so Anthem's claims for monetary and prospective injunctive relief must be dismissed.

Finally, Anthem's claims suffer individual defects. The reasons are many, but the outcome is straightforward. This Court should dismiss Anthem's Amended Complaint.

II. FACTUAL BACKGROUND

A. Congress Enacts The No Surprises Act To End Surprise Billing And Resolve Payment Disputes.

Effective January 1, 2022, Congress enacted the No Surprises Act. The statute protects patients from bills for certain out-of-network services when the patient's insurance company refuses to pay. 42 U.S.C. § 300gg-111. If the insurer and provider disagree on the proper amount to be paid, the NSA requires them to negotiate rather than bill the patient. If negotiations fail, either side can invoke binding arbitration (known as the Independent Dispute Resolution Process ("IDR")) where an arbitrator will determine a reasonable payment amount. *Id.* § 300gg-111(c)(2). During pre-IDR negotiations, the parties have their *first* chance to raise

eligibility issues.[1] If negotiations fail, either side can initiate IDR arbitration. *Id.* § 300gg-111(c)(1)(B). The initiating party attests the dispute is eligible for the proceedings. 45 C.F.R. § 149.510(b)(2)(iii)(A)(6) (2024). Importantly, the IDR initiation form requires the party to attest only "to the best of [its] knowledge." FAC ¶ 64. The parties then jointly participate in the selection of an arbitrator called an Independent Dispute Resolution Entity ("IDRE"). 42 U.S.C. § 300gg-111(c)(1)(B), (c)(4). After an IDRE's selection, each party pays a fee to compensate the IDRE. 26 C.F.R. § 54.9816-8T(d)(1) (2024).

At the start of each proceeding, the IDRE must find that the dispute is eligible for IDR.[2] 45 C.F.R. § 149.510(c)(1)(v) (2024). IDREs receive their fee partially for "the costs incurred in determining" eligibility. Federal Independent Dispute Resolution (IDR) Process Administrative Fee and Certified IDR Entity Fee Ranges, 88 Fed.Reg. 88494, 88505 (Dec. 21, 2023). The non-initiating party then gets its *second* chance to raise eligibility concerns. "[I]f the non-initiating party believes that the Federal IDR process is not applicable, the non-initiating party *must* . . . provide information regarding the Federal IDR process's inapplicability *through the Federal IDR portal*[.]" 45 C.F.R. § 149.510(c)(1)(iii) (2024) (emphases added). Agency guidance echoes the same.[3] And from this information, "[t]he certified IDR entity must determine whether the Federal IDR Process is applicable." HHS et al., *Federal IDR Process Guidance for Disputing Parties* 17 (updated Dec. 2023), https://www.cms.gov/files/document/federal-idr-guidance-

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[1] *See* HHS et al., *Federal IDR Process Guidance for Disputing Parties* 13 (updated Dec. 2023), https://www.cms.gov/files/document/federal-idr-guidance-disputing-parties-march-2023.pdf.

[2] "[T]he certified IDR entities are responsible for ensuring that eligibility and payment determinations are accurate." CMS, *Federal Independent Dispute Resolution (IDR) Technical Assistance for Certified IDR Entities and Disputing Parties* 2 (June 2025), https://www.cms.gov/files/document/idr-ta-errors-after-dispute-closure.pdf.

[3] *Federal IDR Process Guidance for Disputing Parties*, *supra* n.2 at 17 (non-initiating party "must notify" the agency of non-eligibility).

disputing-parties-march-2023.pdf.

This disclosure requirement exists due to the asymmetries of information between insurers and providers. Regulations try to balance these asymmetries by requiring insurers to submit applicable insurance plan coverage information to the IDRE. 29 C.F.R. § 2590.716-8(c)(4)(i)(A)(3)(iii) (2024); *see also* FHAS, *Important Updates to CMS IDR Portal Web Forms: What You Need to Know* (Sept. 12, 2025)[4] (IDR portal requires insurers to "attest to whether the health plan type selected by the initiating party is correct" and fix accordingly). Given the FAC's extensive focus on the eligibility issue, one would expect Anthem to address its mandatory requirement to dispute eligibility through the portal. The FAC is tellingly silent on that point. If the IDRE finds a dispute ineligible, it "must notify . . . the parties." 45 C.F.R. § 149.510(c)(1)(v) (2024). To remain certified, IDREs must properly perform their duties. 42 U.S.C. § 300gg-111(c)(4)(A).

The parties then each submit one payment offer to the IDRE, along with supporting information. *Id.* § 300gg-111(c)(5)(B), (C). Participants now have a *third* chance to challenge jurisdiction and award—the parties can submit "any information relating to such offer submitted by either party," including objections to the underlying dispute. *Id.* § 300gg-111(c)(5)(B)(ii); *see* 29 C.F.R. § 2590.716-8(c)(4)(i)(B) (2024). In baseball-style arbitration, the IDRE considers the information submitted and then picks the offer that is most reasonable. 42 U.S.C. § 300gg-111(c)(5)(A); FAC ¶ 75. By law, in choosing the most reasonable offer, IDREs cannot consider the provider's billed charges—or the rate that would have been paid by Medicare or Medicaid—for the procedure. *Id.* § 300gg-111(c)(5)(D); FAC ¶ 76. Arbitration awards are "binding." *Id.* § 300gg-111(c)(5)(E)(i)(I).

The Centers for Medicare & Medicaid Services ("CMS"), which oversees the program, has introduced multiple ways for the losing party to seek relief. Here, an

[4] Archived at https://perma.cc/D93L-AMYB

aggrieved party gets its *fourth* chance to dispute eligibility.[5] CMS provided that for "errors identified after dispute closure," parties may re-open closed arbitration proceedings for "jurisdictional error[s]" such as where the IDRE "incorrectly determines" eligibility.[6] Parties can even "petition to revoke" an IDRE's certification.[7]

Congress has strictly limited judicial review. "A determination of a certified IDR entity . . . *shall not be subject to judicial review*, except in a case" that would allow a court to vacate an award under section 10(a) of the Federal Arbitration Act. 42 U.S.C. § 300gg-111(c)(5)(E)(i)(II) (emphasis added); *see* 9 U.S.C. § 10(a)(1)–(4).

B. HaloMD And The Providers Bring IDR Arbitrations, And IDREs Often Select Their Offers Over Anthem's.

Bruin Neurophysiology, P.C.; iNeurology, PC; N Express, PC; and North American Neurological Associates, PC provided intraoperative neuromonitoring and other critical services for Anthem-insured patients. FAC ¶ 7. Those providers then asserted that Anthem underpaid them. The FAC leaves no doubt that is it predicated on providers initiating those disputes by asserting they "flooded the IDR system" with underpayment assertions. FAC ¶ 92.

Although Anthem bemoans the results, it alleges it has more success than most. Anthem alleges "providers prevailed in 85 percent of IDR payment determinations." FAC ¶ 82. But when Anthem alleges examples of claims it places at issue, it concedes it has secured far better results. FAC ¶ 112: alleging Anthem

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[5] *Federal Independent Dispute Resolution (IDR) Technical Assistance for Certified IDR Entities and Disputing Parties supra* n.3 at 1.

[6] *Id.* at 1, 3.

[7] CMS, *Submit a Petition to Revoke the Certification of a Current IDR Entity Providing Dispute Services*, (Sept. 10, 2024, 6:18 p.m. EST), https://www.cms.gov/nosurprises/help-resolve-payment-disputes/submit-feedback-on-certified-organizations.

was ordered to pay additional costs in 65 [51%] out of 126 proceedings.[8] Despite its relative success (and fairly even outcomes) Anthem nevertheless blames Defendants. On its face, the FAC establishes that Anthem will only be willing to concede the IDR process was valid if it wins every one of them (the only IDRs excluded from this action are those where Anthem prevailed).

Anthem alleges that HaloMD and the Providers have concocted a scheme through which they (1) initiated ineligible IDR proceedings, (2) flooded the system with claims, and (3) submitted inflated payment offers. *Id.* ¶ 93. But the FAC undoes these assertions. Moreover, Anthem is silent with respect to a fourth, and necessarily dispositive step: jointly selected IDREs reviewed the eligibility information, concluded the dispute is eligible, reviewed both offers and supporting evidence, and *then selected HaloMD and the Providers' offer*. This omission is telling.

First, Anthem alleges that HaloMD falsely attested that claims are eligible for the IDR process. *Id.* ¶¶ 96–104.[9] But Anthem *admits* it was aware of these alleged issues. *See e.g., id.* ¶¶ 171, 176. Even now, Anthem knows the number of supposedly ineligible IDR awards it has lost and the reasons for purported ineligibility. *Id.* ¶¶ 9, 90. Anthem does not allege, however, that any IDRE failed to perform an eligibility determination. *See* 45 C.F.R. § 149.510(c)(1)(v) (2024).

Anthem next alleges that HaloMD "flooded" the IDR system with disputes. FAC ¶¶ 105–118. But Anthem fails to identify any limit on the number of disputes a Provider may bring when it is repeatedly underpaid. Thus, Anthem's "flood" is more of a mirage. Indeed, Anthem's complaints about timing merely attack the

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[8] Anthem fails to allege it paid these awards. That omission obscures that Anthem cannot point to actual damages.

[9] Anthem briefly suggests HaloMD submitted untimely claims. *See* FAC ¶¶ 168–72. But submitting an untimely claim would not constitute a fraudulent misrepresentation and this allegation suffers the same defects as Anthem's other alleged misrepresentations.

system Congress established. Anthem contradictorily alleges that it "processes tens of millions of health care claims annually"[10] while also asserting the submission of "hundreds" of claims rendered it "unable to investigate" them. *Cf.,* FAC ¶ 30 & ¶ 323.

Anthem also alleges HaloMD fraudulently submitted "inflated" offers "above the Providers[']billed charges." *Id.* ¶ 119. But Anthem concedes that IDREs by law "cannot consider the provider's charges" at all. *Id.* ¶ 122; *see* 42 U.S.C. § 300gg-111(c)(5)(D). The FAC, thus, concedes there is no basis that any payment offer was inflated. Beyond this concession, Anthem does not explain how these "inflated" offers violate the NSA's text or regulations. Nor does it acknowledge the key point: If the Providers' offers were "inflated" when compared to Anthem's offers, then Anthem would have won, not lost, the IDRs it puts at issue.

Finally, HaloMD and the Providers purportedly round out their "scheme" when certified, neutral IDREs—whom Anthem had a role in selecting—look at the evidence and select HaloMD and the Providers' offer. FAC ¶¶ 120, 124. But, Anthem's omissions are telling. Anthem does not allege bribery or corruption. Anthem does not allege the IDREs considered impermissible factors. And Anthem does not allege why neutral IDREs rejected Anthem's offers.

How has Anthem responded? Anthem has *not* sought to re-open the supposedly ineligible and inflated IDR awards. Anthem has *not* challenged the credentials of any IDRE. Instead, Anthem brought this and other lawsuits in an attempt to punish providers for their success and to chill them from pursuing future IDR arbitrations. Anthem pleaded a shotgun assortment of claims and asks to vacate thousands of IDR awards without describing the alleged errors in each individual award.

After Anthem filed suit, certain Defendants sent Anthem a letter addressing

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[10] Equating to a minimum of 27,000 claims at day.

that the Complaint contained false allegations in violation of its Rule 11 obligations. Anthem filed an amended complaint removing certain allegations.

III. LEGAL STANDARD

Rule 12(b)(1) allows motions to dismiss based on lack of subject-matter jurisdiction. FED. R. CIV. P. 12(b)(1). Rule 12(b)(6) permits dismissal where the allegations, "taken as true, fail to plausibly show a legal violation." *Election Integrity Project California, Inc. v. Weber*, 113 F.4th 1072, 1081 (9th Cir. 2024). A court accepts the complaint's well-pleaded allegations as true, but not "[c]onclusory statements, unreasonable inferences, and legal conclusions couched as factual allegations." *Id.* (citation omitted).

Moreover, because Anthem's claims all sound in fraud, it must plead its allegations with particularity under Rule 9(b). *In re Finjan Holdings, Inc.*, 58 F.4th 1048, 1057 (9th Cir. 2023). Rule 9(b) plays a vital role in vetting RICO claims. "[T]he mere invocation of the [RICO] statute has such an in terrorem effect that it would be unconscionable to allow it to linger in a suit and generate suspicion and unfavorable opinion of the putative defendant unless there is some articulable factual basis which, if true, would warrant recovery under the statute." *Polzin v. Barna & Co.*, No. 3:07-cv-127, 2007 WL 2710705, at *4 (E.D. Tenn. Sept. 14, 2007).

IV. ARGUMENT

A. This Court Lacks Subject-Matter Jurisdiction (Counts I, III, V, VII, IX, XII, XIII).

Congress was emphatic in the NSA: "A determination of a certified IDR entity . . . *shall be binding* upon the parties involved . . . and . . . *shall not be subject to judicial review*, except in a case" that would allow a court to *vacate* the award under the Federal Arbitration Act. 42 U.S.C. § 300gg-111(c)(5)(E)(i) (emphases added); *see* 9 U.S.C. § 10(a)(1)–(4). Given this express incorporation, the *exclusive means* to challenge an IDR award is to seek vacatur under the FAA. *Guardian*

Flight, L.L.C. v. Med. Evaluators of Tex. ASO, L.L.C., 140 F.4th 613, 620 (5th Cir. 2025) ("*Guardian Flight II*"); *Worldwide Aircraft Servs. v. Worldwide Ins. Servs.*, No. 8:24-cv-840, 2024 WL 4226799, at *1–2 (M.D. Fla. Sept. 18, 2024). Indeed, the "NSA expressly *bars* judicial review of IDR awards *except* as to the specific provisions borrowed from the" Federal Arbitration Act that allow vacatur. *Guardian Flight, L.L.C. v. Health Care Serv. Corp.*, 140 F.4th 271, 275 (5th Cir. 2025) ("*Guardian Flight I*").

The FAA, in turn, prohibits direct actions that seek "damages…for alleged wrongdoing that compromised an arbitration award," which amounts to "an impermissible collateral attack on the award itself." *Nickoloff v. Wolpoff & Abramson, L.L.P.*, 511 F.Supp.2d 1043, 1044 (C.D. Cal. 2007). A party cannot bring a non-FAA claim seeking "to reverse the outcome [of an arbitration] in the subsequent proceeding or alleg[e] that the party was harmed by a wrongful act's impact on the award." *Wachovia Securities, LLC v. Wiegand*, No. 07CV243, 2007 WL 9776732, at *4 (S.D. Cal. Apr. 16, 2007) (citation omitted); *see Sander v. Weyerhaeuser Co.*, 966 F.2d 501, 502–03 (9th Cir. 1992). This principle applies to claims of fraud committed by the parties to the arbitration. *See Sander*, 966 F.2d at 503. In short, FAA vacatur is the "*exclusive remedy*" against improper IDR proceedings.[11] *Nickoloff*, 511 F.Supp.2d at 1044 (emphasis added).

Congress can limit courts' ability to hear cases. *Santos-Zacaria v. Garland*, 598 U.S. 411, 416 (2023). Some limits are jurisdictional, which "set[] the bounds of the court's adjudicatory authority." *Id.* While Congress must "clearly state[]" when a rule is jurisdictional, no "magic words" are needed. *Id.*; *Riley v. Bondi*, 606

[11] Anthem has administrative avenues to relief still open to it. Anthem can seek to re-open the awards if it truly believes the underlying claims were ineligible. *Federal Independent Dispute Resolution (IDR) Technical Assistance for Certified IDR Entities and Disputing Parties*, *supra* n.3 at 1.

U.S. 259, 261 (2025). For example, a jurisdictional rule uses "language demarcating a court's power." *Riley*, 606 U.S. at 261.

Here, the NSA's limit on judicial review speaks to the court's power, not litigants' duties—in other words, it uses "language demarcating [the] court's power." *See id.* And the Act's carveout for judicial review to vacate implies that none other is permitted. *See, e.g.*, *Pakootas v. Teck Cominco Metals, Ltd.*, 646 F.3d 1214, 1224 (9th Cir. 2011). Given this jurisdictional limitation imposed by Congress, Anthem cannot pursue claims for money damages or prospective injunctive relief. *See Sander*, 966 F.2d at 502–03.

The Ninth Circuit has held similar collateral attacks improper. *Sander,* 966 F.2d at 503 (holding that it would not "upset the streamlined nature of arbitration by permitting the launching of collateral attacks."). Fraud is a ground for vacatur under the FAA, so the FAA's requirements would be "meaningless" if a party could circumvent them via a "an independent direct action." *Id.* (quotation omitted); *see also Gulf Petro Trading Co. v. Nigerian Nat'l Petroleum Corp.*, 512 F.3d 742, 750 (5th Cir. 2008) (affirming dismissal of RICO claims and holding that federal law bars most claims "alleging that wrongdoing had tainted the arbitration proceedings and caused unfair awards.").

Congress's choice to insulate the judiciary from these types of collateral challenges makes sense. Congress created the IDR process to help efficiently resolve out-of-network disputes. These cases are complex. *Cf. Almont Ambulatory Surgery Ctr., LLC v. UnitedHealth Grp., Inc.*, No. CV-14-03053-MWF-AFM, 2016 WL 10651033, at *1 (C.D. Cal. May 16, 2016). Allowing losing parties to litigate—and re-litigate—the merits of these disputes would sap judicial resources. Congress accordingly preferred "an administrative enforcement mechanism" to "handle most award disputes instead of throwing open the floodgates of litigation." *Guardian Flight I*, 140 F.4th at 277.

B. Issue Preclusion Estops Anthem From Re-Litigating The Idres' Determinations (Counts I, III, V, VII, IX, XII, And XIII).

Issue preclusion also requires dismissal of claims seeking monetary or prospective injunctive relief. Anthem had a full opportunity to dispute eligibility and lost, so issue preclusion bars Anthem from re-litigating the eligibility of those same disputes in this Court. Issue preclusion "prevents the relitigation of a claim previously tried and decided." *Clark v Bear Stearns & Co*. 966 F.2d 1318, 1320 (9th Cir. 1992). Issue preclusion includes administrative determinations and arbitration awards. *B & B Hardware, Inc. v. Hargis Indus.*, 575 U.S. 138, 148 (2015). Where Congress authorizes administrative adjudicators to resolve disputes, Congress is presumed to have "legislated with the expectation that the principle [of issue preclusion] will apply" to those adjudicators' decisions except those limited circumstances "when a statutory purpose to the contrary is evident." *Id.* (citation omitted). The Ninth Circuit has made clear that issue preclusion can attach to arbitration decisions. *See Hansen v. Musk*, 122 F.4th 1162, 1172–73 (9th Cir. 2024).

Federal common law determines the preclusive effect of a federal tribunal's decision, like an IDRE's determinations. *See Taylor v. Sturgell*, 553 U.S. 880, 891 (2008). Issue preclusion attaches if four elements are met: "(1) the issue at stake was identical in both proceedings; (2) the issue was actually litigated and decided in the prior proceedings; (3) there was a full and fair opportunity to litigate the issue; and (4) the issue was necessary to decide the merits." *Hansen*, 122 F.4th at 1173.

In this case, issue preclusion prohibits Anthem from re-litigating the previous IDRE eligibility determinations. Congress did not disturb the presumption of preclusion. *See B & B Hardware*, 575 U.S. at 148. And all four issue preclusion elements are satisfied. *First*, for each contested award, the IDRE ruled against Anthem on eligibility—the cornerstone of Anthem's fraud-scheme theory. *E.g.*, FAC ¶¶ 82, 93. *Second*, every IDR award necessarily relies on an eligibility

finding; ineligible disputes did not result in awards. 45 C.F.R. § 149.510(c)(1)(v) (2024). *Third*, each IDR award represents a final judgment on the merits. *Fourth*, Anthem had a full and fair opportunity to contest eligibility in each IDR proceeding. *Id.* § 149.510(c)(1)(iii) (2024); *see Hansen*, 122 F.4th at 1174–75 (holding that arbitration procedures provided full and fair opportunity to litigate). *See e.g.*, FAC ¶¶ 171, 176, 181 (Anthem admitting it argued disputes were ineligible); *supra* 3–6 (discussing many times where an insurer can—and must—contest eligibility during the IDR process). Both under the NSA's text and issue preclusion law, this Court cannot entertain Anthem's claims for monetary and prospective relief.

A. Anthem Has Not Alleged Fraud With Particularity Under Rule 9(b) (Counts I, III, V, VII, IX, XI, XII and XIII).

All of Anthem's claims, including its vacatur claim, also fail to allege fraud with particularity under Rule 9(b). Anthem asserts that thousands of individual proceedings were subject to fraud without providing details to sustain such wide-ranging claims. The Federal Rules do not permit such tactics.

1. <u>Anthem has not particularly alleged the Providers' roles.</u>

First, Anthem fails to sufficiently distinguish its fraud allegations for the Providers from its fraud allegations for the other defendants. Rule 9(b) "does not allow a complaint to merely lump multiple defendants together, but 'require[s] plaintiffs to differentiate their allegations" "and inform each defendant separately of the allegations surrounding his alleged participation in the fraud.'" *Swartz v. KPMG LLP*, 476 F.3d 756, 764–75 (9th Cir. 2007). "In the context of a fraud suit involving multiple defendants, a plaintiff must, at a minimum, 'identif[y] the role of [each] defendant[] in the alleged fraudulent scheme.'" *Id*. at 765

Here, despite suing ten defendants, Anthem repeatedly alleges that "Defendants" engaged in a racketeering scheme, without specifying each defendant's specific role in causing the *thousands* of supposedly fraudulent IDR

awards. *E.g.*, FAC ¶¶ 86, 90, 93, 96–102. Even where Anthem breaks out a handful of supposedly improper IDR proceedings, it does not even bother to allege that the Providers *themselves* made the allegedly false attestations. *See e.g., id.* ¶¶ 169, 171, 175. Instead, Anthem attempts to bootstrap the Providers into this case by alleging—without further specificity—that false statements were submitted by HaloMD "on behalf of and in coordination with" the Providers. *Id.* These vague allegations fall short of Rule 9(b)'s requirements. *See Swartz*, 476 F.3d at 765 (holding mere allegations that defendants "were acting in concert with" other defendants were insufficient under Rule 9(b)).

Anthem alleges the Providers *received* awards in excess of billed amounts for their medical services (although, as discussed below, Anthem does not allege it actually *paid* those awards). *E.g.*, FAC ¶¶ 172, 177, 182. But, Anthem never specifies what the Providers actually *did*—beyond caring for Anthem's insureds. As one court put it, these allegations are "little more than a bare assertion that [each of the providers] somehow share blame for [another defendant's] conduct." "Rule 9(b) requires more—much more." *In re Pac One, Inc.*, Nos. 01-85207MGP; 1:06-cv-118-WSD, 2007 WL 2083817, at *8 (N.D. Ga. July 17, 2007).

Anthem also alleges the Providers knew that HaloMD submitted illegible disputes on their behalf. FAC ¶¶ 103–104. But this allegation at most goes to knowledge; it does nothing to prove any one provider or MPOWERHealth acted to further a fraud scheme. *See Nuñag-Tanedo v. E. Baton Rouge Par. Sch. Bd.*, 790 F.Supp.2d 1134, 1148–49 (C.D. Cal. 2011) (describing scienter as a separate element for RICO wire fraud); *see also Swartz*, 476 F.3d at 765 (holding allegation that defendants "knew that" other defendants were making false statements insufficient under Rule 9(b)).

2. <u>Anthem has not particularly alleged proximate causation.</u>

Anthem has likewise failed to plead with particularity that the alleged misrepresentations proximately caused Anthem's damages. Proximate causation

requires "some direct relation between the injury asserted and the injurious conduct alleged." *Holmes v. Sec. Inv. Prot. Corp.*, 503 U.S. 258, 268 (1992). At the outset, the supposed "misrepresentations" did not even *purport* to be conclusive on the question of IDR eligibility, as the IDR initiation form requires attestation of eligibility only "to the best of [the initiating party's] knowledge." FAC ¶ 64. And for every award being challenged, a neutral IDRE performed an independent investigation, found eligibility satisfied, and then "caused" the supposed injury by selecting the higher offer (and indeed was required to perform this investigation rather than relying upon the mere attestation of the party). *See* FAC ¶¶ 3–4. In doing so, the IDREs broke the causal chain between the supposed eligibility misrepresentations and the awards. *See Evans Hotels, LLC v. Unite Here! Loc. 30,* No. 18-cv-2763, 2021 WL 10310815 at *23 (S.D. Cal. Aug. 26, 2021).

In *Evans*, for example, another California federal court dismissed a RICO claim because the Plaintiff's alleged injuries resulted from a third party's actions rather than the Defendant's alleged actions. *Id.* at *14. Anthem faces the same problem here, because the alleged conduct "giving rise to the harm"—the IDRE awards in the Providers' favor—are "distinct from the [alleged] predicate offense"—supposedly false IDRE eligibility statements. IDREs assessed eligibility in every arbitration. So even assuming someone misrepresented eligibility, IDREs had the obligation to examine that question (after Anthem was required to submit materials contesting eligibility), and that IDRE determination is the proximate cause of any of Anthem's harms. Relatedly, Anthem theorizes that the Providers submitted "inflat[ed]" offers. FAC ¶ 164. Anthem fails to allege how inflated bids proximately caused injury when, in every case, the IDRE remained free to select Anthem's lower proposal. In fact, Anthem alleges that neutral IDREs sometimes did *not* select the Providers' proposals after reviewing all the evidence. FAC ¶ 120. Here as well, IDREs that *did* select the Providers' proposals broke any causal chain.

3. Anthem has not particularly alleged injury.

Anthem also has not particularly alleged any injury traceable individually to each Provider. Anthem likes to brandish the sum total of IDR *awards* it has lost.[12] *See* FAC ¶ 118. But Anthem notably does not allege that it actually *paid* this total. Nor does it allege any particular number of awards it paid, if any. "[W]hen a complaint omits facts that, if they existed, would clearly dominate the case, it seems fair to assume that those facts do not exist." *Scheid v. Fanny Farmer Candy Shops, Inc.*, 859 F.2d 434, 437 (6th Cir. 1988). Anthem's omissions speak loudly.

C. The Noerr-Pennington Doctrine Bars Anthem's Claims (Counts I, III, V, VII, IX, XII, And XIII).

Anthem's claims for monetary and prospective injunctive relief, also fail for another reason: they are barred by the Noerr-Pennington doctrine. This longstanding First Amendment doctrine safeguards the right to petition, including to agencies. *See United Mine Workers of Am. v. Pennington*, 381 U.S. 657, 669–70 (1965); *Kaiser Foundation Health Plan, Inc. v. Abbott Laboratories, Inc.,* 552 F.3d 1033, 1044 (9th Cir. 2009). The doctrine also protects against any claim based on that petitioning, including civil RICO claims and state tort claims. *See, e.g.*, *Sosa v. DIRECTV, Inc.* 437 F.3d 923, 932 (9th Cir. 2006); *KBS Holdco, LLC v. City of West Hollywood,* No. 2:22cv05750, 2024 WL 4800072, at *3 (C.D. Cal. July 8, 2024).

Here, the Noerr-Pennington doctrine shields the Providers' petitioning through the IDR process. To start, the IDR process is a government-established adjudication before a neutral decisionmaker. 42 U.S.C. § 300gg-111(c). So the

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[12] Anthem alleges it paid fees. *See, e.g.*, FAC ¶ 118. For civil RICO claims, the alleged predicate offense itself—here, wire fraud—must proximately cause the injury. *Hemi Grp., LLC v. City of New York*, 559 U.S. 1, 9 (2010). But fees are due in every dispute regardless of outcome. 26 C.F.R. § 54.9816-8T(d)(2) (2024). And Anthem only pays IDRE fees if the IDRE rules against Anthem, breaking any causal chain to fees as a form of damages. *Id.* § 54.9816-8T(d)(1) (prevailing party is refunded its IDRE fee). Therefore, IDRE fees cannot satisfy the injury element of Anthem's claims.

IDR procedure has the character of an agency adjudication. *See Allied Tube & Conduit Corp. v. Indian Head, Inc.*, 486 U.S. 492, 506–07 (1988). Next, the same core allegations regarding IDR misrepresentations animate each of Anthem's claims. Thus, Noerr-Pennington gives the Providers presumptive immunity against Anthem's claims. *See Sosa*, 437 F.3d at 942 (explaining the Ninth Circuit "construe[s] federal statutes so as to avoid burdens on activity arguably falling within the scope of the Petition Clause of the First Amendment.").

Anthem has the burden of establishing some exception applies. *Evans*, 2021 WL 10310815 at *6. None does. While courts have recognized a narrow exception for "sham litigation," that does not save Anthem's claims. *Sosa,* 437 F.3d at 934. Critically, a "winning lawsuit is by definition a reasonable effort at petitioning for redress and therefore not a sham." *Pro. Real Estate Inv., Inc. v. Columbia Pictures, Indus.*, 508 U.S. 49, 60 n.5 (1993) ("PRE") And given the exceedingly high standard required to invoke the exception, it is unsurprising that the Ninth Circuit has routinely dismissed claims under the Noerr-Pennington doctrine for failure to adequately plead the sham litigation exception. *See, e.g., B&G Foods N. Am., Inc. v. Embry*, 29 F.4th 527, 539 (9th Cir. 2022); *Manistee Town Ctr. v. City of Glendale,* 227 F.3d 1090, 1095 (9th Cir. 2000).

Noerr-Pennington mandates dismissal. Anthem has not met its burden to plausibly allege that the "extraordinarily narrow" sham exception applies. *U.S. Futures Exch., L.LC. v. Bd. of Trade of the City of Chic., Inc.*, 953 F.3d 955, 963 (7th Cir. 2020). It does not plausibly allege that the IDR proceedings were "not genuinely aimed at procuring favorable government action[.]" *City of Columbia v. Omni Outdoor Advert., Inc.*, 499 U.S. 365, 380 (1991). Nor has Anthem plausibly alleged that "no reasonable litigant could realistically expect success" in the IDR proceedings. *PRE*, 508 U.S. at 60. Just the opposite. Anthem openly admits that Defendants *consistently prevailed*. FAC ¶ 82. And to the extent Anthem contests whether some of the claims were *eligible*, Anthem had the relevant information for

contesting eligibility—and the obligation to contest it. Yet the IDREs' awards necessarily meant that they found eligibility on the information provided to them. Anthem's supposed "wire fraud" examples only further prove why this Court should dismiss Anthem's claims. *See* FAC ¶¶ 168–205. In each, Anthem supposedly had an objection to eligibility. Yet in each, IDREs found eligibility satisfied and ruled for HaloMD and the Providers. So "[t]he fact that [the Providers] succeeded" on their IDRE actions "strongly suggests" these actions "[were] not baseless." *Boulware v. State of Nev., Dep't of Hum. Res.*, 960 F.2d 793, 798 (9th Cir. 1992).

D. Anthem Has Not Plausibly Alleged Civil RICO Claims (Counts I And III).

Anthem has also failed to plausibly allege either civil RICO claim on additional grounds. To plead a civil RICO claim, the plaintiff must allege the defendants participated in "(1) the conduct of (2) an enterprise that affects interstate commerce (3) through a pattern (4) of racketeering activity or collection of unlawful debt. In addition, the conduct must be (5) the proximate cause of harm to the victim." *Eclectic Props. E., LLC v. Marcus & Millichap Co.*, 751 F.3d 990, 997 (9th Cir. 2014). The fourth element of "[r]acketeering activity," "requires predicate acts." *Id.* Anthem predicates its claim on wire fraud. FAC ¶¶ 251, 266.

Anthem's civil RICO claim falls short. First, Anthem's RICO wire fraud allegations suffer the Rule 9(b) pleading defects described above. *Supra* Part C.

Second, litigation activities, like IDR proceedings, cannot give rise to a civil RICO claim absent corruption. *Acres Bonusing, Inc. v. Ramsey*, No. 19-cv-05418-WHO, 2022 WL 17170856 at *10–11 (N.D. Cal. Nov. 22, 2022) (collecting cases). Otherwise, "every unsuccessful lawsuit could spawn a retaliatory action," which "would inundate the federal courts with procedurally complex RICO pleadings." *Id.* at *11. Here, the FAC says the Providers' fraud scheme entailed false IDR submissions. FAC ¶¶ 96–104. IDR arbitrations are government-sponsored

adjudications before neutral decisionmakers, meaning Anthem effectively bases its civil RICO claim on supposedly fraudulent litigation activities. But "the overwhelming weight of authority" rejects this approach. *Pompy v. Moore*, No. 19-10334, 2024 WL 845859, at *15–16 (E.D. Mich. Feb. 28, 2024); *see Acres*, 2022 WL 17170856 at *10-12 (citing Ninth Circuit case law). Anthem makes no allegation that IDREs have succumbed to corruption.

The point is further emphasized by considering how Anthem's position would apply had its repeated losses occurred in state court, rather than arbitration. If the Providers had brought multiple lawsuits in court against Anthem over underpayments for which Anthem suspected the court lacked jurisdiction, and Anthem either failed to raise jurisdictional arguments in those state proceedings or did raise them and repeatedly lost, could Anthem thereafter skip over to federal court to re-litigate the state courts' determinations regarding their own jurisdiction? Surely not.

Third, Anthem has not plausibly alleged that the Providers sufficiently directed the enterprise to create liability. For civil RICO claims, "[s]imply performing services for the enterprise" is insufficient. *Walter v. Drayson*, 538 F.3d 1244, 1249 (9th Cir. 2008). Anthem nowhere alleges the Providers took steps to "control the enterprise." Its claims fail.

E. Anthem Has Not Alleged A Claim To Vacate Awards En Masse (Count XI).

Anthem likewise fails to plausibly allege a claim for vacatur. Anthem's vacatur request must satisfy 9 U.S.C. § 10(a)'s rigorous requirements—the exclusive basis for vacating an IDR award. *Reach Air Medical Services v. Kaiser Foundation Health Plan*, No. 24-10135, 2025 WL 322820 at *6 (11th Cir. Nov. 20, 2025) (affirming dismissal of attempt to vacate NSA IDR awards because plaintiff knew the alleged truth such that defendant's statements to the IDRE did not mislead plaintiff). Anthem's two attempts to satisfy this standard fail.

Anthem first contends the awards should be vacated for fraud or undue means. FAC ¶ 357; 9 U.S.C. § 10(a)(1). That standard requires plaintiffs to demonstrate (1) "clear and convincing evidence" of fraud, (2) the fraud "not be discoverable by due diligence before or during the proceeding," and (3) the fraud "be materially related to the submitted issue." *Pac & Arctic Ry. & Nav. Co. v. United Transp. Union,* 952 F.2d 1144, 1148 (9th Cir. 1991).

Anthem's allegations fall short. IDR initiation forms required attestations of IDR eligibility only to "the best of [the initiating party's] knowledge," FAC ¶ 64, and Anthem does not allege any facts establishing that HaloMD or the Providers subjectively believed the attestations were false. For another, Anthem concedes the supposed fraudulent facts were discoverable as it alleges it knew the supposed facts "during" the IDR proceedings. *Pac & Arctic Ry. & Nav. Co.*, 952 F.2d at 1148; *see Agrasanchez v. Argranchez*, No. 23-55110, 2024 WL 3384199 at *1 (9th Cir. July 12, 2024); FAC *e.g.* ¶¶ 171, 176, 181. In fact, Anthem claims that it "often directly notifies Defendants that the items or services at issue in their IDR initiation violate the NSA's eligibility requirements." *Id.* ¶ 101.

Anthem also suggests the IDREs exceeded their authority under 9 U.S.C. § 10(a)(4); FAC ¶ 358. "This is a very high standard for vacatur," and it is "not enough for petitioners to show that the panel committed an error—or even a serious error." *Sanchez v. Elizondo*, 878 F.3d 1216, 1221 (9th Cir. 2018) (citations omitted). An arbitral panel exceeds its authority only where an award is "completely irrational" or exhibits a "manifest disregard of law." *Id.* at 1221–22. Anthem comes nowhere close, contending only that the IDREs erred by "issuing payment determinations" "that are not qualified IDR items and services within the scope of the NSA's IDR process." FAC ¶ 358. But IDREs unquestionably have authority to make those eligibility and payment determinations. *See* 45 C.F.R. § 149.510(c)(1)(v) (2024). Anthem can disagree with those determinations, but that disagreement does not suffice for vacatur.

But there is more. Anthem must particularly allege the error infecting *each* challenged award under Rule 9(b). *See Semegen v. Weidner,* 780 F.2d 727, 731 (9th Cir. 1985). Instead, Anthem seeks a blanket vacatur of "hundreds" of individual IDR awards since January 2024. FAC ¶ 86. Anthem does not even bother to set a number to the challenged awards, let alone identify each award and the supposed error that affected each proceeding. Anthem cannot plead vacatur en masse through generalized allegations—particularly where Anthem contends the specific acts of fraud varied across IDR awards.

F. Anthem Cannot Invoke ERISA (Counts XII And XIII).

Nor can Anthem use ERISA to evade the NSA's limits on judicial review. The ERISA provisions Anthem invokes are the provisions added by the NSA. *See Tex. Med. Ass'n v. HHS*, 110 F.4th 762, 768 n.6 (5th Cir. 2024); 29 U.S.C. § 1185e. But the Act limits judicial review of IDR determinations solely to vacatur under the FAA. *Supra* Part A. And it is common "statutory construction that the specific governs the general[.]" *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 384 (1992).

G. Anthem's State Claims Fail (Counts V, VI, VII, IX, And XIII).

First, Anthem's Unfair Competition Law ("UCL") claim (Count IX) has the same defects as the civil RICO claim. *Supra* Part E. In addition, state claims are barred by the litigation privilege under California Civil Code § 47. That privilege applies to "any communication (1) made in judicial or quasi-judicial proceedings; (2) by litigants or other participants authorized by law; (3) to achieve the objects of the litigation; and (4) that have some connection or logical relation to the action." *Komarova v. Natl. Credit Acceptance, Inc.*, 175 Cal.App.4th 324, 336 (Cal. App. 1st Dist. 2009) (quoting *Silberg v. Anderson*, 50 Cal.3d 205, 212 (2009)). The privilege also applies to arbitration. *Id.*; *see Moore v. Conliffe*, 7 Cal.4th 634, 642, 648–49 (1994). The privilege is absolute and applies "regardless of malice." *Komarova*, 175 Cal.App.4th at 336.

Here, the alleged communications forming the basis of all of Anthem's state law based misrepresentation and UCL claims—"false attestations of eligibility"—were all made in IDR arbitration by participants to achieve the objects of the arbitration. FAC ¶ 316; *see id.* ¶¶ 284, 340. And by definition, the eligibility of the disputes for IDR arbitration "have some connection or logical relation" to those arbitrations. *Home Ins. Co. v. Zurich Ins. Co*., 96 Cal.App.4th 17, 19 (Cal. Ct. App. 2002). The privilege forecloses Anthem's misrepresentation and UCL claims. *See id. at* 23 (noting privilege applies to fraud and misrepresentation claims); *Rubin v. Green*, 4 Cal.4th 1187, 1204 (1993) (same for UCL claims seeking injunctive relief).

Moreover, an essential element of fraudulent misrepresentation (Counts V, VI) and negligent misrepresentation (Count VII) is reliance. *See Vess v. Ciba-Geigy Corp*., 317 F.3d 1097, 1105 (9th Cir. 2003) (noting justifiable reliance is an "indispensable element[]" of fraud claims under California law) (citations omitted). But the FAC alleges that far from relying on Provider's eligibility statements, Anthem objected to them. (FAC ¶¶ 115, 118, 171, 187, 199, 234, 240, 247, 316). That necessarily destroys any basis for "reliance" rendering these claims meritless.[13]

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[13] Anthem seeks to obscure the absence of reliance by alleging it was "compelled to rely" on the putatively false statements. (FAC ¶ 288, 304, 319, 342). While the law does not recognize the concept of "compelled" reliance, what Anthem is referencing here is that its objections were overruled and it then had to proceed with the IDR.

V. CONCLUSION

This Court should dismiss all claims against the Providers with prejudice.[14]

Dated: December 12, 2025

Respectfully submitted,

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[14] The Providers expressly incorporate arguments made by their co-defendants' motions to dismiss.

CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for the Providers certifies that this brief contains 6,598 words, which complies with the word limit of L.R. 11-6.1.

Dated: December 12, 2025

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

SOUTHERN DIVISION

ANTHEM BLUE CROSS LIFE AND HEALTH INSURANCE COMPANY, a California corporation, BLUE CROSS OF CALIFORNIA DBA ANTHEM BLUE CROSS, a California corporation,

Plaintiff,

v.

HALOMD, LLC; ALLA LAROQUE; SCOTT LAROQUE; MPOWERHEALTH PRACTICE MANAGEMENT, LLC; BRUIN NEUROPHYSIOLOGY, P.C.; INEUROLOGY, PC; N EXPRESS, PC; NORTH AMERICAN NEUROLOGICAL ASSOCIATES, PC; SOUND PHYSICIANS EMERGENCY MEDICINE OF SOUTHERN CALIFORNIA, P.C.; and SOUND PHYSICIANS ANESTHESIOLOGY OF CALIFORNIA, P.C.,

Defendants.

Case No. 8:25-cv-01467-KES

[PROPOSED] ORDER GRANTING DEFENDANTS MPOWERHEALTH PRACTICE MANAGEMENT, LLC; BRUIN NEUROPHYSIOLOGY, PC; iNEUROLOGY, PC; N EXPRESS, PC; NORTH AMERICAN NEUROLOGICAL ASSOCIATES, PC'S MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM UNDER FED. R. CIV. PRO. 12(B)(6)

Hearing Date: March 10, 2026
Hearing Time: 10:00 AM
Courtroom: 6D

Honorable Karen E. Scott
Magistrate Judge

This matter comes before the Court on Defendants MPOWERHealth Practice Management, LLC; Bruin Neurophysiology, PC; iNeurology, PC; N Express, PC; and North American Neurological Associates, PC's Motion to Dismiss for Failure to State a Claim Under Fed. R. Civ. Pro. 12(B)(6).

This Court GRANTS Defendants MPOWERHealth Practice Management, LLC; Bruin Neurophysiology, PC; iNeurology, PC; N Express, PC; and North American Neurological Associates, PC's Motion to Dismiss for Failure to State a Claim Under Fed R. Civ. Pro. 12(B)(6) and ORDERS that Plaintiffs' Anthem Blue Cross Life and Health Insurance Company, a California corporation and Blue Cross of California DBA Anthem Blue Cross, a California corporation ("Anthem")'s Amended Complaint is dismissed in its entirety with prejudice.

IT IS SO ORDERED.

Dated:

The Honorable Karen E. Scott
Magistrate Judge