

MCDERMOTT WILL & SCHULTE LLP

TALA JAYADEVAN (SBN 288121)

tjayadevan@mwe.com

2049 Century Park East, Suite 3200

Los Angeles, CA 90067-3206

Telephone: (310) 277-4110

Facsimile: (310) 277-4730

LAURA MCLANE (appearing *pro hac vice*)

lmclane@mwe.com

MATTHEW L. KNOWLES (appearing *pro hac vice*)

mknowles@mwe.com

CONNOR S. ROMM (appearing *pro hac vice*)

cromm@mwe.com

200 Clarendon Street

Boston, MA 02116

Telephone: (617) 535-3885

Attorneys for Defendants

Sound Physicians Emergency Medicine of

Southern California, P.C.; and Sound

Physicians Anesthesiology of California, P.C.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Anthem Blue Cross Life and Health
Insurance Company, a California
corporation; Blue Cross of California dba
Anthem Blue Cross, a California
corporation

Plaintiffs,

v.

HaloMD, LLC; Alla LaRoque; Scott
LaRoque; MPOWERHealth Practice
Management, LLC; Bruin
Neurophysiology, P.C.; iNeurology, P.C.;
N Express, P.C.; North American
Neurological Associates, P.C.; 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

**NOTICE OF MOTION AND
MOTION TO STRIKE PURSUANT
TO CAL. CIV. PROC. CODE
§ 425.16**

**Filed concurrently with
Memorandum of Points and
Authorities; Declaration of Matthew
L. Knowles Regarding Meet and
Confer Efforts; [Proposed] Order**

DATE: March 10, 2026**TIME:** 10:00 a.m.**COURTROOM:** 6D**JUDGE:** Karen E. Scott

**AMENDED COMPLAINT FILED:
10/17/2025**

NOTICE OF MOTION AND MOTION**TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that on March 10, 2026 at 10:00 a.m. PDT, or as soon thereafter as the matter may be heard, in the courtroom of the Honorable Karen E. Scott, located at the Ronald Reagan Federal Building and United States Courthouse, 411 West 4th Street, Santa Ana California 92701, Defendants Sound Physicians Emergency Medicine of Southern California, P.C. and Sound Physicians Anesthesiology of California, P.C. (“Sound Physicians”) will, and hereby do, move the Court for an Order granting this special motion to strike pursuant to California’s anti-strategic lawsuit against public participation (“anti-SLAPP”) statute, Cal. Civ. Proc. Code § 425.16 (the “anti-SLAPP motion”). Defendant Sound Physicians moves to strike Plaintiffs Anthem Blue Cross Life and Health Insurance Company’s and Blue Cross of California dba Anthem Blue Cross’s (“Anthem”) state-law claims in its Amended Complaint: Count VI, fraudulent misrepresentation, Count VIII, negligent misrepresentation, and Count X, business acts or practices in violation of Cal. Bus. & Prof. Code § 17200 *et seq.* In addition, Sound Physicians moves this Court for an award of attorney fees and costs in an amount to be determined.

This anti-SLAPP motion is filed to enforce the substantive rights protected under California’s anti-SLAPP statute, Cal. Civ. Proc. Code § 425.16 on the basis that:

(i) Anthem’s state-law claims arise from acts in furtherance of Sound Physicians’

1 constitutional right of petition, and (ii) Anthem cannot establish that there is a
2 probability that it will prevail on its state-law claims.
3

4 This Motion is based on this Notice of Motion and Motion, the accompanying
5 Memorandum of Points and Authorities, all other pleadings and papers filed or to be
6 filed in this action, and any argument that may be presented to the Court at the hearing
7 on this Motion.
8

9 This Motion is made following a meet-and-confer conference of counsel
10 pursuant to Local Rule 7-3, as detailed in Matthew L. Knowles's declaration, filed
11 concurrently. An agreement could not be reached to avoid the need for this Motion.
12

13 Dated: December 12, 2025

MCDERMOTT WILL & SCHULTE LLP

14 By: /s/ Tala Jayadevan
15 Tala Jayadevan

16 Laura McLane (*appearing pro hac vice*)
17 Matthew L. Knowles (*appearing pro hac vice*)
18 Connor S. Romm (*appearing pro hac vice*)

19 *Attorneys for Defendants Sound Physicians*
20 *Emergency Medicine of Southern California,*
21 *P.C. and Sound Physicians Anesthesiology of*
22 *California, P.C.*
23
24
25
26
27
28

MCDERMOTT WILL & SCHULTE LLP

TALA JAYADEVAN (SBN 288121)

tjayadevan@mwe.com

2049 Century Park East, Suite 3200

Los Angeles, CA 90067-3206

Telephone: (310) 277-4110

Facsimile: (310) 277-4730

LAURA MCLANE (appearing *pro hac vice*)

lmclane@mwe.com

MATTHEW L. KNOWLES (appearing *pro hac vice*)

mknowles@mwe.com

CONNOR S. ROMM (appearing *pro hac vice*)

cromm@mwe.com

200 Clarendon Street

Boston, MA 02116

Telephone: (617) 535-3885

Attorneys for Defendants

Sound Physicians Emergency Medicine of

Southern California, P.C.; and Sound

Physicians Anesthesiology of California, P.C.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Anthem Blue Cross Life and Health
Insurance Company, a California
corporation; Blue Cross of California dba
Anthem Blue Cross, a California
corporation

Plaintiffs,

v.

HaloMD, LLC; Alla LaRoque; Scott
LaRoque; MPOWERHealth Practice
Management, LLC; Bruin
Neurophysiology, P.C.; iNeurology, P.C.;
N Express, P.C.; North American
Neurological Associates, P.C.; 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

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
SOUND PHYSICIANS' SPECIAL
MOTION TO STRIKE**

**Filed concurrently with Notice of
Motion and Motion; Declaration of
Matthew L. Knowles Regarding Meet
and Confer Efforts; [Proposed] Order**

DATE: March 10, 2026

TIME: 10:00 a.m.

COURTROOM: 6D

JUDGE: Karen E. Scott

**AMENDED COMPLAINT FILED:
10/17/2025**

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	BACKGROUND.....	3
A.	The parties.....	3
B.	The IDR process.....	3
III.	LEGAL STANDARD.....	5
IV.	ARGUMENT	7
A.	Prong One: Anthem’s claims arise out of protected activity.	8
1.	Submissions to HHS and those made in IDR arbitrations are protected statements.....	9
2.	Anthem’s fraud allegations do not render the activity unprotected.....	11
B.	Prong Two: Anthem cannot demonstrate a probability of prevailing on the merits.	12
1.	Federal law bars these state-law claims.....	13
2.	The <i>Noerr-Pennington</i> doctrine bars Anthem’s claims.....	15
3.	Litigation privilege bars Anthem’s claims.	16
4.	Anthem’s claims constitute impermissible collateral attacks against arbitration awards.	19
5.	Anthem fails to meet the required pleading standards for its claims.	19
V.	REQUEST FOR ATTORNEY FEES AND COSTS.....	28
VI.	CONCLUSION.....	28

TABLE OF AUTHORITIES

Page(s)

Cases

<i>A.G. Edwards & Sons, Inc. v. McCollough</i> , 967 F.2d 1401 (9th Cir. 1992)	13, 14
<i>Almont Ambulatory Surgery Ctr., LLC v. UntiedHealth Grp., Inc.</i> , 121 F. Supp. 3d 950 (C.D. Cal. 2015)	25
<i>Ashcroft v. Iqbal</i> , 556 U.S. 662 (2009).....	6, 7, 27
<i>Beckwith v. Dahl</i> , 141 Cal. Rptr. 3d 142 (Cal. Ct. App. 2012).....	21, 22
<i>Berry v. Frazier</i> , 307 Cal. Rptr. 3d 778 (Cal. Ct. App. 2023).....	21
<i>Briggs v. Eden Council for Hope & Opportunity</i> , 969 P.2d 564 (Cal. 1999).....	16, 18
<i>Brown v. Kennard</i> , 113 Cal. Rptr. 2d 891 (Cal. Ct. App. 2001).....	16
<i>United States ex rel. CA Challenger LLC v. Emanate Health</i> , 2024 WL 4868644 (C.D. Cal. Sept. 3, 2024)	24
<i>Cel-Tech Commc'ns, Inc. v. L.A. Cellular Tel. Co.</i> , 973 P.2d 527 (Cal. 1999).....	23, 26
<i>Chapman v. Skype Inc.</i> , 162 Cal. Rptr. 3d 864 (Cal. Ct. App. 2013).....	21
<i>In re Cloudera, Inc.</i> , 121 F.4th 1180 (9th Cir. 2024)	20
<i>Credit Suisse AG v. Graham</i> , 553 F. Supp. 3d 122 (S.D.N.Y. 2021)	19
<i>Curtin Mar. Corp. v. Pac. Dredge & Constr., LLC</i> , 291 Cal. Rptr. 3d 639 (Cal. Ct. App. 2022).....	7

1	<i>Dandong Shuguang Axel Corp. v. Brilliance Mach. Co.,</i>	
2	2001 WL 637446 (N.D. Cal. June 1, 2001).....	14
3	<i>Dean v. Kaiser Found. Health Plan, Inc.,</i>	
4	562 F. Supp. 3d 928 (C.D. Cal. 2022).....	9, 11
5	<i>Entrepreneur Media, Inc. v. Dermer,</i>	
6	2019 WL 4187466 (C.D. Cal. July 22, 2019)	15
7	<i>Eurotech, Inc. v. Cosmos Eur. Travels Aktiengesellschaft,</i>	
8	189 F. Supp. 2d 385 (E.D. Va. 2002).....	15
9	<i>Fitbit, Inc. v. Laguna 2, LLC,</i>	
10	2018 WL 306724 (N.D. Cal. Jan. 5, 2018).....	15
11	<i>Flatley v. Mauro,</i>	
12	139 P.3d 2 (Cal. 2006).....	12
13	<i>Forsyth v. Motion Picture Ass’n of Am., Inc.,</i>	
14	2016 WL 6650059 (N.D. Cal. Nov. 10, 2016).....	7
15	<i>People ex rel. Gallegos v. Pac. Lumber Co.,</i>	
16	70 Cal. Rptr. 3d 501 (Cal. Ct. App. 2008).....	11, 12, 17, 18
17	<i>People ex rel. Gov’t Emps. Ins. Co. v. Cruz,</i>	
18	198 Cal. Rptr. 3d 566 (Cal. Ct. App. 2016).....	24
19	<i>Graham v. Bank of Am., N.A.,</i>	
20	172 Cal. Rptr. 3d 218 (Cal. Ct. App. 2014).....	23
21	<i>Guardian Flight, L.L.C. v. Med. Evaluators of Texas ASO, L.L.C.,</i>	
22	140 F.4th 613 (5th Cir. 2025).....	13
23	<i>Jarrow Formulas, Inc. v. LaMarche,</i>	
24	74 P.3d 737 (Cal. 2003).....	2, 6
25	<i>J-M Mfg. Co. v. Phillips & Cohen LLP,</i>	
26	201 Cal. Rptr. 3d 782 (Cal Ct. App. 2016).....	8
27	<i>Kashian v. Harriman,</i>	
28	120 Cal. Rptr. 2d 576 (Cal. Ct. App. 2002).....	11, 12
	<i>Kearns v. Ford Motor Co.,</i>	
	567 F.3d 1120 (9th Cir. 2009) (UCL)	20

1	<i>Kibler v. N. Inyo Cnty. Loc. Hosp. Dist.,</i>	
2	138 P.3d 193 (Cal. 2006).....	10
3	<i>Kottle v. Nw. Kidney Ctrs.,</i>	
4	146 F.3d 1056 (9th Cir. 1998)	16
5	<i>Masimo Corp. v. Mindray DS USA, Inc.,</i>	
6	2013 WL 12131174 (C.D. Cal. Nov. 15, 2013)	5
7	<i>Moore v. Conliffe,</i>	
8	871 P.2d 204 (Cal. 1994).....	17
9	<i>MSP Recovery Claims, Series LLC v. Amgen Inc.,</i>	
10	787 F. Supp. 3d 1046 (C.D. Cal. 2025)	6
11	<i>Nickoloff v. Wolpoff & Abramson, L.L.P.,</i>	
12	511 F. Supp. 2d 1043 (C.D. Cal. 2007)	16, 17, 19
13	<i>Octane Fitness, LLC v. ICON Health & Fitness, Inc.,</i>	
14	572 U.S. 545 (2014).....	15
15	<i>Pac. & Arctic Ry. & Navigation Co. v. United Transp. Union,</i>	
16	952 F.2d 1144 (9th Cir. 1991)	13
17	<i>Philipson & Simon v. Gulsvig,</i>	
18	64 Cal. Rptr. 3d 504 (Cal. Ct. App. 2007).....	10
19	<i>Planned Parenthood Fed’n of Am., Inc. v. Ctr. for Med. Progress,</i>	
20	890 F.3d 828 (9th Cir. 2018)	6
21	<i>Podolsky v. First HealthCare Corp.,</i>	
22	58 Cal. Rptr. 2d 89 (Cal. Ct. App. 1996).....	13, 17, 27
23	<i>Rasidescu v. Midland Credit Mgmt., Inc.,</i>	
24	496 F. Supp. 2d 1155 (S.D. Cal. 2007)	17
25	<i>Reach Air Medical Services LLC v. Kaiser Found. Health Plan Inc.,</i>	
26	2025 WL 3222820 (11th Cir. Nov. 19, 2025)	17
27	<i>Republican Nat’l Comm. v. Google LLC,</i>	
28	742 F. Supp. 3d 1099 (E.D. Cal. 2024)	26
	<i>Saunders v. Superior Ct.,</i>	
	33 Cal. Rptr. 2d 438 (Cal. Ct. App. 1994).....	27

<i>Schoendube Corp. v. Lucent Techs., Inc.</i> , 442 F.3d 727 (9th Cir. 2006)	15
<i>Silberg v. Anderson</i> , 786 P.2d 365 (Cal. 1990).....	16, 17, 18
<i>Six4Three, LLC v. Facebook, Inc.</i> , 330 Cal. Rptr. 3d 661 (Cal. Ct. App. 2025).....	7
<i>Soo Park v. Thompson</i> , 851 F.3d 910 (9th Cir. 2017)	6
<i>Spencer v. DHI Mortg. Co.</i> , 642 F. Supp. 2d 1153 (E.D. Cal. 2009)	20
<i>Tanasescu v. Sohail I. Simjee, DMD, Inc.</i> , 2024 WL 2739313 (C.D. Cal. Mar. 20, 2024)	17, 18
<i>United States v. Univ. of S. Cal.</i> , 2023 WL 2682298 (C.D. Cal. Feb. 9, 2023)	24
<i>Vess v. Ciba-Geigy Corp. USA</i> , 317 F.3d 1097 (9th Cir. 2003)	<i>passim</i>
<i>Viriyapanthu v. California</i> , 2018 WL 6136150 (C.D. Cal. Sept. 24, 2018).....	15
<i>Watson Lab'ys, Inc. v. Rhone-Poulenc Rorer, Inc.</i> , 178 F. Supp. 2d 1099 (C.D. Cal 2001).....	27
<i>Zetz v. Bos. Sci. Corp.</i> , 398 F. Supp. 3d 700 (E.D. Cal. 2019)	20
<i>Zhang v. Superior Ct.</i> , 304 P.3d 163 (Cal. 2013).....	23
Statutes	
9 U.S.C. § 10.....	13, 14
18 U.S.C. § 1347.....	24, 25
18 U.S.C. § 1962.....	26
29 U.S.C. § 1185e.....	25

1	42 U.S.C. § 300gg-111	<i>passim</i>
2	Cal. Bus. & Prof. Code § 17200	20, 23
3	Cal. Civ. Code § 47	16
4	Cal. Civ. Proc. Code § 425.16	2, 5, 7, 8
5		
6	Other Authorities	
7	29 C.F.R. § 2590.716-8.....	25
8	45 C.F.R. § 149.510	<i>passim</i>
9	Fed. R. Civ. P. 9(b)	19, 20, 25
10	Fed. R. Civ. P. 12(b)(6)	6
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

I. INTRODUCTION

Congress passed the No Surprises Act, 42 U.S.C. § 300gg-111 (“NSA”) to protect patients from large out-of-network medical bills. The NSA requires insurance companies (like plaintiff Anthem¹) and medical providers (like defendant Sound Physicians) to negotiate about how much the insurer will pay the provider for a patient’s medical care. If negotiations fail, either side can invoke binding arbitration (known as Independent Dispute Resolution or “IDR”) where an arbitrator will determine a reasonable payment. The arbitrators are certified and appointed by a federal agency, the Department of Health and Human Services (“HHS”), and federal law and regulations provide detailed rules for these arbitrations.

Anthem does not like this system, and does not like that the arbitrators frequently order insurers to pay for medical care provided to Anthem’s insureds. Anthem’s response is strategic litigation. It has invoked California law in an effort to relitigate and recover damages for arbitrations it lost. And it argues that Sound Physicians’ submissions to the government to initiate arbitration are actionable as fraud and unfair business practices. *See* AC ¶¶ 299-314, 327-38, 347-59. In short, Anthem is suing Sound Physicians for petitioning the government to initiate

¹ This brief refers to plaintiffs Anthem Blue Cross Life and Health Insurance Company and Blue Cross of California dba Anthem Blue Cross together as “Anthem” and to defendants Sound Physicians Emergency Medicine of Southern California, P.C. and Sound Physicians Anesthesiology of California, P.C. together as “Sound Physicians.” “AC” citations refer to the operative amended complaint (Docket No. 50).

1 arbitration, and for the content of the submissions that Sound Physicians made during
2 this government-run arbitration process.

3
4 California law prohibits what Anthem has done here, and requires Anthem to
5 compensate Sound Physicians for the attorney fees and costs it has incurred in
6 responding to this lawsuit. Sound Physicians brings this special motion to strike under
7 California’s anti-strategic lawsuit against public participation (“anti-SLAPP”) statute,
8 Cal. Civ. Proc. Code § 425.16.

9
10 Anthem’s state-law claims arise from Sound Physicians participating in
11 protected activity: petitioning the government to initiate arbitration, and making
12 submissions during the arbitration process. These filings are statements before an
13 “official proceeding authorized by law.” Cal. Civ. Proc. Code § 425.16(e)(1). Anthem
14 admits this, as its complaint pleads that:

15
16
17 HHS administers the IDR initiation process. Any submission made
18 through this system is a statement made to the federal government, and any
19 attestation made as part of the submission process is also made to the
20 federal government.

21
22 AC ¶ 67. Yet Anthem expressly seeks to recover damages because, in its opinion,
23 Sound Physicians’ initiation submissions were not accurate; Sound Physicians sought
24 arbitration more often than Anthem likes; and Sound Physicians sought (and the
25 arbitrators often awarded) more compensation than Anthem thinks is fair. *See id.* ¶ 3.
26 Under California’s anti-SLAPP law, the burden shifts to Anthem to show that its
27 claims are likely to succeed on the merits. *Jarrow Formulas, Inc. v. LaMarche*, 74 P.3d
28

1 737, 746 (Cal. 2003). But Anthem cannot establish any probability of prevailing on
2 the merits. For the reasons below, each claim fails on multiple fronts, such that Anthem
3 flunks its burden under the anti-SLAPP statute.
4

5 Thus, the Court should strike Anthem’s fraudulent misrepresentation, negligent
6 misrepresentation, and Unfair Competition Law (“UCL”) claims, and award attorney
7 fees and costs to Sound Physicians.
8

9 II. BACKGROUND

10 A. The parties

11 Anthem Blue Cross is a health care service plan and Anthem Blue Cross Life
12 and Health Insurance Company is a large healthcare insurance carrier, both operating
13 in California. AC ¶¶ 12, 13. Anthem has sued defendants Sound Physicians, HaloMD,
14 LLC (“HaloMD”), MPOWERHealth Practice Management LLC, and Scott and Alla
15 LaRoque in this case. *Id.* ¶¶ 14-27.
16
17

18 Sound Physicians is comprised of “over 4,000 physicians, advanced practice
19 providers, CRNAs, and nurses.” *Id.* ¶ 25. HaloMD administers the IDR process on
20 behalf of healthcare organizations, including Sound Physicians. *Id.* ¶ 153. Anthem
21 alleges that HaloMD submitted and administered some, but not all, of the IDR claims
22 at issue here. *Id.* ¶ 215.
23
24

25 B. The IDR process

26 Congress enacted the NSA to address the practice of “surprise billing” to
27 patients for out-of-network medical care. *Id.* ¶ 1. The NSA created a process for
28

1 resolving disputes about payment for out-of-network medical services with the goal of
2 taking the consumer out of billing disputes between insurers and providers. *Id.* ¶ 2.
3
4 This process involves three steps: open negotiations, IDR submissions, and then a
5 binding payment determination by arbitrators known as IDREs. *Id.* ¶ 43; *see also* 42
6 U.S.C. § 300gg-111(c).
7

8 ***Open negotiations:*** Upon receipt of a claim subject to the NSA, an insurer will
9 either make an initial payment or send a notice of denial of payment. AC ¶ 44. If the
10 payment is unsatisfactory, the provider may initiate open negotiations with the insurer
11 to determine an agreed-upon amount. *Id.* ¶ 45; 42 U.S.C. § 300gg-111(c)(1)(A). In the
12 event the parties do not agree on an amount, either may initiate the IDR process. AC
13 ¶ 46; 42 U.S.C. § 300gg-111(c)(1)(B).
14
15

16 ***IDR submissions:*** A provider or insurance company initiates the IDR process
17 through an online government portal. AC ¶ 54. At the end of the process, the provider
18 or insurance company must attest that the “item(s) and/or service(s) at issue are
19 qualified...within the scope of the Federal IDR process.” *Id.* ¶ 64. After a party
20 initiates IDR, the parties select an IDRE (*i.e.*, arbitrator)—or if they cannot agree, a
21 government agency appoints one. *See* 42 U.S.C. § 300gg-111(c)(4)(F).
22
23

24 ***Arbitration:*** The complaint acknowledges that the first step of the IDR process
25 is for the arbitrator to determine whether the claim is eligible for IDR. AC ¶ 73. The
26 arbitrators are expressly authorized and indeed required to make this determination.
27 *Id.*; *see also* 45 C.F.R. § 149.510(c)(1)(v). A dispute only moves forward—and there
28

1 can only be an award—if the IDRE determines that it is eligible. 45 C.F.R.
2 § 149.510(c)(1)(v).
3

4 After confirming that the dispute is eligible, the arbitrator reviews the two
5 proposed payment amounts (one from each side), and applying criteria specified in the
6 NSA, must select whichever of these it determines is the most reasonable one under
7 the government-supplied criteria. 45 C.F.R. § 149.510(c)(4)(ii)(A).
8

9 III. LEGAL STANDARD

10 The anti-SLAPP statute was intended to permit defendants to challenge lawsuits
11 that tend to chill the rights of petition and free speech. Cal. Civ. Proc. Code
12 § 425.16(a). It provides a way to weed out baseless claims “arising from any act of that
13 person in furtherance of the person’s right of petition or free speech under the United
14 States Constitution or the California Constitution in connection with a public issue.”
15
16 *Id.* § 425.16(b)(1).
17

18 A defendant may move “to strike a state law claim under California’s anti-
19 SLAPP statute...in federal court” including in federal-question cases. *Vess v. Ciba-*
20 *Geigy Corp. USA*, 317 F.3d 1097, 1109 (9th Cir. 2003); *Masimo Corp. v. Mindray DS*
21 *USA, Inc.*, 2013 WL 12131174, at *1 (C.D. Cal. Nov. 15, 2013).
22
23

24 The California legislature instructs that the statute should be “construed
25 broadly.” Cal. Civ. Proc. Code § 425.16(a). Federal courts considering an anti-SLAPP
26 motion conduct a two-part inquiry. “First, a defendant must make an initial prima facie
27 showing that the plaintiff’s suit arises from an act in furtherance of the defendant’s
28

1 rights of petition or free speech.” *Vess*, 317 F.3d at 1110 (quotations omitted).
2 “Second, once the defendant has made a prima facie showing, the burden shifts to the
3 plaintiff to demonstrate a probability of prevailing on the challenged claims.” *Id.*
4 (quotations omitted). A plaintiff fails to demonstrate a probability of prevailing when
5 it fails to “state and substantiate a legally sufficient claim.” *Jarrow Formulas, Inc.*, 74
6 P.3d at 746 (cleaned up).
7

8
9 An anti-SLAPP challenge can come in two forms: a legal or factual challenge.
10 Sound Physicians’ present motion brings a legal challenge, which contests “the legal
11 sufficiency of a claim” under prong two. *Planned Parenthood Fed’n of Am., Inc. v.*
12 *Ctr. for Med. Progress*, 890 F.3d 828, 834 (9th Cir. 2018). Thus, under prong two of
13 the analysis, the Court “should apply the Federal Rule of Civil Procedure 12(b)(6)
14 standard and consider whether a claim is properly stated.” *Id.*
15

16
17 Under Rule 12(b)(6), a court must dismiss a complaint that “fail[s] to state a
18 claim upon which relief can be granted.” *MSP Recovery Claims, Series LLC v. Amgen*
19 *Inc.*, 787 F. Supp. 3d 1046, 1059 (C.D. Cal. 2025). To survive, a complaint must “state
20 a claim to relief that is plausible on its face.” *Soo Park v. Thompson*, 851 F.3d 910,
21 918 (9th Cir. 2017); *see also Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A claim is
22 plausible only when it contains sufficient factual allegations for the court “to draw the
23 reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*,
24 556 U.S. at 678. The plausibility standard demands “more than a sheer possibility that
25 a defendant has acted unlawfully.” *Id.* Thus, “[w]here a complaint pleads facts that are
26
27
28

1 ‘merely consistent with’ a defendant’s liability, it ‘stops short of the line between
2 possibility and plausibility.’” *Id.* (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544,
3 557 (2007)). Legal conclusions and recitations of claim elements are not enough. *Id.*

4 5 IV. ARGUMENT

6 Counts 6, 8, and 10 assert claims against Sound Physicians under California law.
7 Fraudulent misrepresentation (Count 6), negligent misrepresentation (Count 8), and
8 UCL claims (Count 10) are all causes of action subject to anti-SLAPP motions.
9 *Six4Three, LLC v. Facebook, Inc.*, 330 Cal. Rptr. 3d 661, 667-68, 680 (Cal. Ct. App.
10 2025); *Curtin Mar. Corp. v. Pac. Dredge & Constr., LLC*, 291 Cal. Rptr. 3d 639, 645,
11 657 (Cal. Ct. App. 2022); *Forsyth v. Motion Picture Ass’n of Am., Inc.*, 2016 WL
12 6650059, at *1, 5 (N.D. Cal. Nov. 10, 2016).

13
14
15
16 The Court should strike these claims under California’s two-prong anti-SLAPP
17 test. Under prong one, Anthem’s claims “arise[] from an act in furtherance of the
18 defendant’s rights of petition or free speech” because initiating IDR, filing attestations
19 of eligibility, and making other submissions during IDR constitute “any written or oral
20 statement or writing made before a legislative, executive, or judicial proceeding, or
21 any other official proceeding authorized by law.” *Vess*, 317 F.3d at 1110; Cal. Civ.
22 Proc. Code. § 425.16(e)(1). Under prong two, Anthem cannot sustain the legal
23 sufficiency of its claims because: (i) federal law prohibits review of IDR awards except
24 under narrow circumstances not present here; (ii) the claims are barred under the
25 *Noerr-Pennington* doctrine; (iii) the claims are barred by litigation privilege; (iv)
26
27
28

1 Anthem's state-law claims constitute prohibited collateral attacks on arbitration
2 rulings; and (v) Anthem fails to adequately plead each claim.

3
4 **A. Prong One: Anthem's claims arise out of protected activity.**

5 To satisfy its burden under prong one of the anti-SLAPP analysis, Sound
6 Physicians need only "make an initial prima facie showing that the plaintiff's suit arise
7 from an act in furtherance of the defendant's rights of petition or free speech." *Vess*,
8 317 F.3d at 1110. "A defendant meets this burden by demonstrating that the act
9 underlying the plaintiff's cause...fits one of the categories spelled out in section 425.16
10 subdivision (e)...." *J-M Mfg. Co. v. Phillips & Cohen LLP*, 201 Cal. Rptr. 3d 782, 790
11 (Cal Ct. App. 2016). Under subdivision (e), an "act in furtherance of a person's right
12 of petition or free speech" includes "any written or oral statement or writing made
13 before a legislative, executive, or judicial proceeding, or any other official proceeding
14 authorized by law." Cal. Civ. Proc. Code § 425.16(e)(1).

15
16
17
18 Paragraph 3 of Anthem's complaint describes the conduct for which it seeks to
19 recover:

20
21 Defendants: (1) use interstate wires to knowingly submit false and
22 fraudulent attestations of eligibility for services and disputes that they
23 know are ineligible for the IDR process, (2) strategically initiate massive
24 volumes of IDR disputes simultaneously against Anthem, and (3)
25 improperly inflate payment offers that far exceed what the...Sound
Physicians Providers could have received in a competitive market....

26 AC ¶ 3. Each of these three theories constitutes protected petitioning activity, and
27 Anthem's claims fail as a matter of law as to each.

1 **1. Submissions to HHS and those made in IDR arbitrations are**
2 **protected statements.**

3 An IDR proceeding is an official proceeding authorized by the law. It is a
4 government proceeding statutorily authorized by the NSA and implemented by HHS
5 to resolve payment disputes after failed negotiations between insurer and provider. 42
6 U.S.C. § 300gg-111(c)(1)(B), 2(A). The government sets the rules for the proceedings,
7 certifies the arbitrators, picks the arbitrator for each particular case (unless the parties
8 agree on one), and reviews and monitors arbitrators' performance. *Id.* § 300gg-
9 111(c)(4)(A), (C), (F)(ii); 45 C.F.R. § 149.510(b)(2), (c)(4).
10

11 Anthem alleges that requests for IDR, including attestations of eligibility,
12 constitute statements made to the government. It pleads that information about the
13 dispute is submitted through a portal and distributed to the non-initiating party, the
14 IDRE, and HHS. AC ¶¶ 58-65; *see id.* ¶ 67. In its complaint, Anthem states that HHS
15 “administers the IDR initiation process. Any submission made through this system is
16 a statement made to the federal government, and any attestation made as part of the
17 submission process is also made to the federal government.” *Id.* ¶ 67. This concedes
18 prong one.
19

20 Indeed, the scope of conduct protected under anti-SLAPP is even broader; it is
21 not limited to proceedings before governmental entities, but extends to proceedings
22 permitted by law even if conducted by private parties and quasi-government bodies.
23
24
25
26
27 *See Dean v. Kaiser Found. Health Plan, Inc.*, 562 F. Supp. 3d 928, 934 (C.D. Cal.
28

2022) (agreeing that a Uniform Domain-Name Dispute-Resolution Policy proceeding qualified as an official proceeding under the anti-SLAPP statute because the Internet Corporation for Assigned Names and Numbers (“ICANN”) operated the proceeding under authority delegated by the U.S. Department of Commerce and ICANN performed a quasi-public function in resolving domain name disputes); *Kibler v. N. Inyo Cnty. Loc. Hosp. Dist.*, 138 P.3d 193, 196-97 (Cal. 2006) (reasoning that a hospital peer review process is an official proceeding authorized by the law under the anti-SLAPP statute where the procedure is required under a California law that has a “comprehensive scheme that incorporates the peer review process into the overall process for licensure of California physicians,” has mandatory reporting requirements to the medical board, and is “subject to judicial review”); *Philipson & Simon v. Gulsvig*, 64 Cal. Rptr. 3d 504, 513 (Cal. Ct. App. 2007) (holding that a defendant met its burden under the first prong of the anti-SLAPP analysis where defendant initiated “a State Bar sponsored fee arbitration proceeding” because “it is an official proceeding established by statute to address a particular type of dispute”).

Anthem’s allegations fit squarely within these bounds. Here, an IDR proceeding is an “official proceeding authorized by law” under the anti-SLAPP statute. The IDR process is authorized by Congress through the NSA to resolve disputes regarding payment amount for out-of-network services covered by the NSA. 42 U.S.C. § 300gg-111(c)(1)(B); 45 C.F.R. § 149.510(b)(2)(i); *see Philipson & Simon*, 64 Cal. Rptr. 3d at 513. Further, the IDRE operates in a “quasi-public” role. IDREs are entities for which

1 Congress and HHS prescribe certification and selection for their involvement in the
2 IDR process. 42 U.S.C. § 300gg-111(c)(4)(A), (F); *see Dean*, 562 F. Supp. 3d at 934.
3
4 Importantly, Congress, the Secretary of HHS, the Secretary of Labor, and the Secretary
5 of the Treasury delegate authority to the IDRE to make eligibility and payment
6 determinations to resolve payment disputes under the NSA. 45 C.F.R.
7 § 149.510(c)(1)(v); 42 U.S.C. § 300gg-111(c)(5); *see Dean*, 562 F. Supp. 3d at 934.
8
9 Thus, an IDR proceeding is an official proceeding authorized by law, and any
10 statement made before it is protected.
11

12 **2. Anthem’s fraud allegations do not render the activity**
13 **unprotected.**

14 Protected activity remains protected even where the other side alleges that it was
15 fraud. *See Kashian v. Harriman*, 120 Cal. Rptr. 2d 576, 590 (Cal. Ct. App. 2002)
16 (calling the anti-SLAPP statute “meaningless” if “conduct that would otherwise come
17 within the scope of the anti-SLAPP statute...lose[s] its coverage...simply because it
18 is *alleged* to have been unlawful or unethical.” (emphasis in original)); *cf. People ex*
19 *rel. Gallegos v. Pac. Lumber Co.*, 70 Cal. Rptr. 3d 501, 508 (Cal. Ct. App. 2008)
20 (holding that the California litigation privilege protected defendant’s “allegedly
21 fraudulent conduct in communicating information to government agencies” because
22 such communications, “whether fraudulent or not, fall squarely within the scope of the
23 litigation privilege” and litigation privilege applies “to *any* communication...,
24 irrespective of the communication’s maliciousness or untruthfulness” (emphasis in
25
26
27
28

1 original) (quotations omitted)). Thus, the anti-SLAPP rule applies where the
2 lawfulness of the petitioning activity is contested. *Kashian*, 120 Cal. Rptr. 2d at 590
3 (defendant disputed the unlawfulness of the actions).

4
5 Here, Anthem's fraud allegations do not remove its claims from the anti-SLAPP
6 protection. That it alleges that Sound Physicians' statements about eligibility were
7 incorrect does not render them unprotected. *See People ex rel. Gallegos*, 70
8 Cal. Rptr. 3d at 508 (litigation privilege applies irrespective of communication's
9 untruthfulness); *Flatley v. Mauro*, 139 P.3d 2, 17 (Cal. 2006) (stating that courts look
10 "to the litigation privilege as an aid in construing the scope of subdivision (e)(1)...with
11 respect to the first step of the two-step anti-SLAPP inquiry"). Furthermore, the other
12 facets of Anthem's theory (filing for IDR more often than Anthem prefers and asking
13 for awards that Anthem thinks are too high) do not assert fraud in any form.
14
15
16

17 **B. Prong Two: Anthem cannot demonstrate a probability of prevailing**
18 **on the merits.**

19 Because the first prong is met, the burden then shifts to Anthem to show that it
20 can prevail on its claim. *Vess*, 317 F.3d at 1110. Anthem cannot, for the reasons below
21 and as further described in Sound Physicians' motion to dismiss, filed together with
22 this motion to strike.
23
24
25
26
27
28

1 **1. Federal law bars these state-law claims.**

2 The NSA explicitly limits judicial review to specific circumstances that are
3 inapplicable here. Because there can be no judicial review on the grounds Anthem
4 raises, its claims fail, and in turn, it fails the second prong of the anti-SLAPP analysis.

5 The NSA states that: a “determination of a certified IDR entity under
6 subparagraph (A)...shall not be subject to judicial review, except in a case described
7 in any of paragraphs (1) through (4) of section 10(a)” of the Federal Arbitration Act
8 (“FAA”), which set the grounds for vacatur. 42 U.S.C. § 300gg-111(c)(5)(E)(i)(II); 9
10 U.S.C. § 10(a). Indeed, vacatur under the FAA is the exclusive means to challenge an
11 IDR award. *Guardian Flight, L.L.C. v. Med. Evaluators of Texas ASO, L.L.C.*, 140
12 F.4th 613, 620 (5th Cir. 2025). Vacatur requires clear and convincing evidence that
13 one of the enumerated grounds is met. *A.G. Edwards & Sons, Inc. v. McCollough*, 967
14 F.2d 1401, 1404 (9th Cir. 1992). Anthem has failed to meet the standard for vacatur
15 under the FAA, and this is not a close call.

16 *First*, Anthem has failed to show that any arbitration award was procured by
17 fraud, corruption, or undue means as required under § 10(a)(1). In the Ninth Circuit, a
18 party moving for vacatur under § 10(a)(1) must establish fraud, by clear and
19 convincing evidence, that was *not discoverable* upon the exercise of due diligence
20 prior to or during the arbitration. *Pac. & Arctic Ry. & Navigation Co. v. United Transp.*
21 *Union*, 952 F.2d 1144, 1148 (9th Cir. 1991). Anthem’s allegations defeat its claim
22 here. It alleges that Sound Physicians misrepresented that claims were eligible for IDR
23
24
25
26
27
28

1 arbitration under the NSA, but that Anthem contested this eligibility at the arbitrations,
2 and the arbitrator ruled in Sound Physicians’ favor and against Anthem. *See, e.g.*, AC
3 ¶¶ 4, 9, 86, 90 101, 309. Even if the alleged misrepresentations were somehow clear
4 and convincing evidence of fraud (they are not), Anthem fails to meet the requirement
5 for vacatur that the fraud must not have been discoverable upon the exercise of due
6 diligence prior to or during the arbitration. Here, Anthem pleads it was aware of the
7 supposed misstatements, argued to the arbitrator that the statements were wrong, but
8 it still lost. *E.g., id.* ¶¶ 228, 234, 240, 247. Anthem’s attempt at a “second bite at the
9 apple” is forbidden. *A.G. Edwards & Sons*, 967 F.2d at 1404.

13 Nor does Anthem allege anything even close to undue means. “Undue means”
14 in the context of § 10(a) refers to conduct that “is immoral if not illegal.” *Id.* at 1403.
15 Vacatur under this provision “requires a showing of bad faith during the arbitration
16 proceedings, such as bribery, undisclosed bias of the arbitrator, or willfully destroying
17 evidence, and further requires that such evidence of fraud was unavailable to the
18 arbitrator during the course of the proceeding.” *Dandong Shuguang Axel Corp. v.*
19 *Brilliance Mach. Co.*, 2001 WL 637446, at *5 (N.D. Cal. June 1, 2001). No evidence
20 (or even allegation) of intentional conduct like bribery, destruction of evidence, or
21 undisclosed bias is present here, nor does Anthem allege anything remotely close to it.
22 At most, Anthem argues that Sound Physicians submitted a large number of
23 arbitrations, and that its settlement demands were larger than Anthem thinks they
24 should have been. *E.g.*, AC ¶ 3.

1 *Second*, Anthem has failed to show that any arbitrator exceeded its powers under
2 § 10(a)(4). The arbitrators are plainly authorized to decide eligibility and to decide
3 between the parties’ proposed awards for compensating the medical provider. *See* AC
4 ¶¶ 73, 75; *see also* 45 C.F.R. § 149.510(c)(1)(v); 42 U.S.C. § 300gg-111(c)(5)(A).
5 This precludes Anthem’s § 10(a)(4) argument. The question is whether the arbitrators
6 were authorized to decide, not whether they made the wrong decision. *See Schoendube*
7 *Corp. v. Lucent Techs., Inc.*, 442 F.3d 727, 733 (9th Cir. 2006) (“[Th]e arbitrator’s
8 interpretation of the scope of his powers is entitled to the same level of deference as
9 his determination on the merits.”).

13 **2. The *Noerr-Pennington* doctrine bars Anthem’s claims.**

14 The anti-SLAPP law is coextensive with the *Noerr-Pennington* doctrine. *Fitbit,*
15 *Inc. v. Laguna 2, LLC*, 2018 WL 306724, at *9 (N.D. Cal. Jan. 5, 2018). As detailed
16 in Sound Physicians’ motion to dismiss § IV.D, the *Noerr-Pennington* doctrine
17 precludes all of Anthem’s claims against Sound Physicians because the claims target
18 Sound Physicians’ First Amendment right to petition the government.
19

20 The right to petition the government extends to acts in and around litigation,
21 including arbitration proceedings. *Octane Fitness, LLC v. ICON Health & Fitness,*
22 *Inc.*, 572 U.S. 545, 555-56 (2014); *Viriyapanthu v. California*, 2018 WL 6136150, at
23 *7 (C.D. Cal. Sept. 24, 2018); *Entrepreneur Media, Inc. v. Dermer*, 2019 WL 4187466,
24 at *2 (C.D. Cal. July 22, 2019); *Eurotech, Inc. v. Cosmos Eur. Travels*
25 *Aktiengesellschaft*, 189 F. Supp. 2d 385, 392-93 (E.D. Va. 2002). When a complaint
26
27
28

1 alleges conduct that implicates the First Amendment, the Ninth Circuit applies a
2 heightened pleading standard that requires more than labelling disputed issues as
3 misrepresentations. *Kottle v. Nw. Kidney Ctrs.*, 146 F.3d 1056, 1063 (9th Cir. 1998).

4
5 Anthem has failed to allege sufficient facts to overcome *Noerr-Pennington*
6 immunity here, as the Complaint is based entirely on arbitration conduct and
7 statements made to initiate and then as part of arbitrations. That Anthem calls Sound
8 Physicians' representations of eligibility false is insufficient to overcome *Noerr-*
9 *Pennington*. E.g., AC ¶¶ 96, 97, 115; see *Kottle*, 146 F.3d at 1063.

10
11
12 **3. Litigation privilege bars Anthem's claims.**

13 California's litigation privilege precludes liability for (1) communications made
14 in a legislative or judicial proceeding or any other official proceeding authorized by
15 law, including arbitration proceedings; "(2) by litigants or other participants authorized
16 by law; (3) to achieve the objects of the litigation; and (4) that have some connection
17 or logical relation to the action." *Silberg v. Anderson*, 786 P.2d 365, 369 (Cal. 1990);
18 Cal. Civ. Code § 47(b); *Nickoloff v. Wolpoff & Abramson, L.L.P.*, 511 F. Supp. 2d
19 1043, 1045 (C.D. Cal. 2007). Even communications in *preparation* of an action fall
20 within the purview of California's broad litigation privilege. See *Briggs v. Eden*
21 *Council for Hope & Opportunity*, 969 P.2d 564, 569 (Cal. 1999).

22 This privilege is "absolute," and "applies without regard to malice or evil
23 motives." *Brown v. Kennard*, 113 Cal. Rptr. 2d 891, 895 (Cal. Ct. App. 2001).
24 Litigation privilege applies even where the other side alleges that the statements were
25
26
27
28

1 fraudulent. *People ex rel. Gallegos*, 70 Cal. Rptr. 3d at 508 (“[T]he absolute privilege
2 is interpreted broadly to apply to any communication, not just a publication, having
3 some relation to a judicial or quasi-judicial proceeding, irrespective of the
4 communication’s maliciousness or untruthfulness.” (cleaned up)).
5

6 If conduct is protected by litigation privilege, then “the plaintiff cannot meet its
7 second-step burden” under the anti-SLAPP law “and the claims based on privileged
8 conduct must be stricken.” *Tanasescu v. Sohail I. Simjee, DMD, Inc.*, 2024 WL
9 2739313, at *11 (C.D. Cal. Mar. 20, 2024).
10

11 Here, Sound Physicians’ act of submitting IDR eligibility attestations is
12 protected by litigation privilege. *First*, litigation privilege applies to arbitration. *See*
13 *Nickoloff*, 511 F. Supp. 2d at 1045; *Rasidescu v. Midland Credit Mgmt., Inc.*, 496
14 F. Supp. 2d 1155, 1160 (S.D. Cal. 2007) (“The [California litigation] privilege applies
15 to all arbitration proceedings because of the analogy to a judicial proceeding.”); *Reach*
16 *Air Medical Services LLC v. Kaiser Found. Health Plan Inc.*, 2025 WL 3222820, at
17 *1 (11th Cir. Nov. 19, 2025) (confirming that IDR proceedings are arbitrations); *cf.*
18 *Moore v. Conliffe*, 871 P.2d 204, 219 (Cal. 1994) (“[S]tatements made in the course of
19 a private contractual arbitration proceeding are protected by the [California] litigation
20 privilege....”).
21

22 *Second*, the statements were made by participants authorized by law to make
23 them. *Silberg*, 786 P.2d at 369. Anthem alleges that Sound Physicians or HaloMD—
24
25
26
27
28

1 entities that the NSA authorized to partake in the IDR process, 42 U.S.C. § 300gg-
2 111(c)(1)(B)—made the attestations of eligibility. AC ¶¶ 86, 215.

3
4 *Third*, the attestations of eligibility were made to “achieve the objects of the”
5 proceeding. *Silberg*, 786 P.2d at 369. Sound Physicians made such attestations to
6 initiate the IDR process and resolve payment disputes with Anthem. AC ¶ 96; 45
7 C.F.R. § 149.510(b)(2)(i), (iii)(A)(6) (noting that, to initiate the IDR process, a party
8 must submit a written notice of IDR initiation, which includes an attestation of
9 eligibility).
10

11
12 *Fourth*, there is a connection between the statements and the action. *See Silberg*,
13 786 P.2d at 369. The initiating party must provide an attestation of eligibility in
14 preparation for the IDR proceeding, 45 C.F.R. § 149.510(b)(2)(i), (iii)(A)(6), after
15 which an IDRE determines whether the claim is actually eligible, *id.*
16 § 149.510(c)(1)(v); AC ¶ 73. The attestation is the gateway to the proceeding and
17 payment determination. That the attestation is made in preparation for the IDR
18 proceeding does not change this outcome. *See Briggs*, 969 P.2d at 569.

19
20
21 *Fifth*, Anthem’s allegations that the attestations were fraudulent do not destroy
22 the litigation privilege because the absolute privilege is maintained even if the
23 communications were untruthful (which they were not). *See, e.g.*, AC ¶¶ 300, 328,
24 348; *People ex rel. Gallegos*, 70 Cal. Rptr. 3d at 508.

25
26
27 Thus, because the communications are privileged, Anthem fails its burden under
28 anti-SLAPP’s second prong. *See Tanasescu*, 2024 WL 2739313, at *11.

1 **4. Anthem’s claims constitute impermissible collateral attacks**
2 **against arbitration awards.**

3 As shown in more detail in Sound Physicians’ motion to dismiss § IV.C,
4 Anthem’s state-law claims are collateral attacks on arbitration awards and are thus
5 impermissible. *See Nickoloff*, 511 F. Supp. 2d at 1044. Anthem attempts to use state
6 law “to avoid the stringent time frames and procedural and substantive requirements
7 of the FAA by claiming not that the award should be vacated but that the conduct of
8 the arbitrator or its adversary constituted an independent tort and the award should not
9 be enforced.” *Credit Suisse AG v. Graham*, 553 F. Supp. 3d 122, 133 (S.D.N.Y. 2021).
10 But Federal law and California law both prohibit this, and courts applying California
11 law must dismiss such efforts to circumvent the FAA. *See Nickoloff*, 511 F. Supp. 2d
12 at 1044-45 (granting motion for judgment on the pleadings where plaintiff brought a
13 claim under the California Fair Debt Collection Practices Act to challenge an
14 arbitration because “[t]he arbitrator’s conclusion can properly be attacked only through
15 a motion to vacate, modify, or correct the award pursuant to the Federal Arbitration
16 Act or the Plaintiff can seek to reopen the arbitration proceeding....”).
17
18
19
20
21

22 **5. Anthem fails to meet the required pleading standards for its**
23 **claims.**

24 Anthem’s state-law claims are additionally deficient because (i) Anthem has not
25 met the heightened Rule 9(b) pleading standard required for pleading a claim of fraud;
26 (ii) Anthem pleads facts contrary to an essential element of its misrepresentation
27
28

1 claims; and (iii) Anthem’s fails to plead facts necessary to its California UCL claims,
2 Cal. Bus. & Prof. Code § 17200 *et seq.*

3
4 **a) Anthem’s pleadings do not meet the required 9(b)**
5 **standard.**

6 Anthem fails to plead its fraudulent misrepresentation, negligent
7 misrepresentation, and UCL claims—all of which are subject to the heightened
8 pleading standard—with particularity. *Spencer v. DHI Mortg. Co.*, 642 F. Supp. 2d
9 1153, 1163 (E.D. Cal. 2009) (intentional and negligent misrepresentation); *Kearns v.*
10 *Ford Motor Co.*, 567 F.3d 1120, 1127 (9th Cir. 2009) (UCL); *Zetz v. Bos. Sci. Corp.*,
11 398 F. Supp. 3d 700, 713 (E.D. Cal. 2019) (negligent misrepresentation). Likewise,
12 under the Federal Rule of Civil Procedure 9(b), fraud claims must be pled with
13 particularity. This requires that plaintiffs allege “the who, what, when, where, and
14 how” of the wrongdoing. *E.g.*, *Vess*, 317 F.3d at 1106-07 (holding that a plaintiff failed
15 to meet the 9(b) standard where the plaintiff did not offer specifics regarding timing,
16 actors, locations, or the alleged processes that defendant was alleged to have ignored).
17 Fraud allegations “must provide an account of the time, place, and specific content of
18 the false representations as well as the identities of the parties to the
19 misrepresentations.” *In re Cloudera, Inc.*, 121 F.4th 1180, 1187 (9th Cir. 2024)
20 (cleaned up). “Most importantly, the complaint must explain what is false or
21 misleading about the purportedly fraudulent statement, and why it is false.” *Id.*
22 (quotations omitted).
23
24
25
26
27
28

Here, Anthem’s allegations do not meet the particularity requirement. Anthem’s complaint is based on generalities and vague statements. Anthem only identifies *four* IDRs in reference to Sound Physicians. AC ¶¶ 224-48. This is a far cry from the “many hundreds” that “Defendants” initiated and for which Anthem seeks to recover damages. *Id.* ¶ 9. Anthem relies on general and conclusory allegations to assert claims of fraud, which are plainly insufficient.

b) Anthem pleads facts contrary to its misrepresentation claims.

Anthem does not sufficiently plead its misrepresentation claims because it fails to plead actual reliance. To successfully “give rise to a cause of action for...intentional misrepresentation” a plaintiff must allege: “(a) misrepresentation (false representation, concealment, or nondisclosure); (b) knowledge of falsity (or scienter); (c) intent to defraud, i.e., to induce reliance; (d) actual and justifiable reliance; and (e) resulting damage.” *Berry v. Frazier*, 307 Cal. Rptr. 3d 778, 789 (Cal. Ct. App. 2023). The elements for negligent misrepresentation are nearly identical. *See Chapman v. Skype Inc.*, 162 Cal. Rptr. 3d 864, 875 (Cal. Ct. App. 2013). Notably, both require actual reliance. *See id.*

To plead actual and justifiable reliance, “[t]he plaintiff must plead that he believed the representations to be true...and that in reliance thereon (or induced thereby) he entered into the transaction.” *Beckwith v. Dahl*, 141 Cal. Rptr. 3d 142, 162 (Cal. Ct. App. 2012) (alterations in original) (emphasis added).

Here, Anthem not only fails to plead reliance, it alleges the opposite in its complaint. **Anthem pleads that it did not believe Sound Physicians’ supposed misrepresentations to be true.** *See Beckwith*, 205 Cal.App.4th at 162. For example:

- “After they fraudulently obtain access to the IDR process, they falsely attest that the disputes ‘are qualified item(s) and/or service(s) within the scope of the Federal IDR process.’ Defendants do so despite Anthem’s repeated communications that services and disputes are ineligible for the IDR process.” AC ¶ 4.
- “In addition, even when Defendants manage to push through ineligible claims by submitting false statements to the federal IDR portal, Anthem often directly notifies Defendants that the items or services at issue in their IDR initiation violate the NSA’s eligibility requirements.” AC ¶ 101.
- “Since at least 2024, nearly half of the disputes from Defendants that reached a payment determination were ineligible for the IDR process, often despite objections from Anthem.” AC ¶ 118.
- “[Anthem] responded to the IDR initiation to assert that IDR was not applicable to the dispute....” AC ¶ 228.
- “[Anthem] submitted an objection to eligibility, asserting that the dispute was ineligible for IDR under the NSA because it involved a ‘Medicare/ Medicaid claim ineligible for NSA.’” AC ¶ 234.
- “[Anthem] submitted an objection to eligibility asserting that IDR was not applicable to the dispute because ‘a state surprise billing law applies.’” AC ¶ 240.

- “Anthem submitted an objection to eligibility, which was also addressed to SPAC, asserting: ‘The claim(s) is ineligible for IDR under the NSA because a state surprise billing law applies.’” AC¶ 247.

Anthem cannot circumvent the reliance requirement by stating that the IDRE believed the eligibility attestations to be true and compelled Anthem to partake in the IDR process, injuring Anthem. Indeed, Anthem’s argument is squarely foreclosed by *Wescott v. Daniel*, in which the court stated that it was not aware of any authority under California law holding that a plaintiff states a viable misrepresentation claim where he “does not allege that he himself relied on [defendant’s] purportedly false statements..., but instead that he was injured by the [third party’s] reliance.” 2022 WL 1105079, at *5 (N.D. Cal. Apr. 13, 2022). Such a theory is untenable, and thus, Anthem’s misrepresentation claims fail.

c) Anthem does not plead a UCL claim.

Cal. Bus. & Prof. Code § 17200 defines “‘unfair competition’ as ‘any unlawful, unfair or fraudulent business act or practice.’” *Zhang v. Superior Ct.*, 304 P.3d 163, 167 (Cal. 2013). The statute “establishes three varieties of unfair competition—acts or practices which are unlawful, or unfair, or fraudulent.” *Cel-Tech Commc’ns, Inc. v. L.A. Cellular Tel. Co.*, 973 P.2d 527, 540 (Cal. 1999).

(1) Anthem fails to plead an unlawful business act or practice.

California courts hold that “[a] violation of another law is a predicate for stating a cause of action under the UCL’s unlawful prong.” *Graham v. Bank of Am., N.A.*, 172

1 Cal. Rptr. 3d 218, 231 (Cal. Ct. App. 2014) (quotations omitted). Here, Anthem
2 attempts to plead this UCL variant by citing five laws as predicates: (i) California Penal
3 Code § 550, (ii) the Federal Health Care Fraud Statute (18 U.S.C. § 1347), (iii) the
4 NSA and its implementing regulations, (iv) RICO, and (v) California common law
5 regarding fraudulent and negligent misrepresentation. AC ¶ 351. Anthem fails to
6 sufficiently plead any of these predicate offenses.
7

8
9 ***California Penal Code § 550:*** California Penal Code § 550 “prohibits the
10 knowing submission of false claims to insurers.” *United States v. Univ. of S. Cal.*, 2023
11 WL 2682298, at *8 (C.D. Cal. Feb. 9, 2023). To allege a violation of § 550, a plaintiff
12 must allege that (i) the defendant knowingly presented a false claim (ii) with intent to
13 defraud. *People ex rel. Gov’t Emps. Ins. Co. v. Cruz*, 198 Cal. Rptr. 3d 566, 574 (Cal.
14 Ct. App. 2016). A § 550 claim must be pled with particularity pursuant to Federal Rule
15 Civ Procedure 9(b). *See United States ex rel. CA Challenger LLC v. Emanate Health*,
16 2024 WL 4868644, at *7-8 (C.D. Cal. Sept. 3, 2024) (dismissing claim that failed to
17 detail its allegations with particularity); *Univ. of S. Cal.*, 2023 WL 2682298, at *8-9
18 (dismissing relators’ Insurance Fraud Prevention Act claim, which was predicated on
19 California Penal Code § 550, for failing to meet the 9(b) pleading requirement). As
20 discussed above in § IV.B.5.a), Anthem’s allegations fall short of the heightened 9(b)
21 standard. This claim also fails because the *Noerr-Pennington* doctrine and California’s
22 litigation privilege protects the targeted conduct, as set out above in § IV.B.2IV.B.3.
23
24
25
26
27
28

1 **18 U.S.C. § 1347:** 18 U.S.C. § 1347 is a criminal health care fraud statute that
2 criminalizes the (i) knowing and willful, (ii) execution or attempt at an execution of a
3 scheme or lie, (iii) related to the delivery of or payment for health care benefits, items,
4 or services, (iv) for the purpose of either defrauding any health care benefit program
5 or obtaining (by false or fraudulent pretenses, representations, or promises) any of the
6 money or property owned by or under the control of any health care benefit program.
7
8 18 U.S.C. § 1347(a). A party must meet the heightened 9(b) standard when pleading
9 18 U.S.C. § 1347 as a predicate for UCL’s “unlawful” prong. *See Almont Ambulatory*
10 *Surgery Ctr., LLC v. UnitedHealth Grp., Inc.*, 121 F. Supp. 3d 950, 976 (C.D. Cal.
11 2015) (“[The insurer] has failed to sufficiently allege ‘unlawful’ conduct regarding the
12 making of false statements as it has failed to satisfy the requirements of Rule 9(b)”
13 where “[insurer’s] allegations based upon these predicate statutes”—including 18
14 U.S.C. § 1347—“are still tied to the underlying fraud allegations.”). A UCL claim
15 premised on 18 U.S.C. § 1347 fails because Anthem’s complaint lacks the required
16 particularity, as discussed in § IV.B.5.a) above, and impermissibly targets
17 constitutionally protected activity, detailed in § IV.B.2.
18
19
20
21
22

23 ***The NSA, 29 U.S.C. § 1185e and 42 U.S.C. § 300gg-111, and its implementing***
24 ***regulations, 29 C.F.R. § 2590.716-8 and 45 C.F.R. § 149.510:*** Anthem alleges that
25 Sound Physicians violated the NSA and its implementing regulations by “submitting
26 false attestations” of eligibility, “initiating the IDR process” for unqualified items and
27 services, and “procuring IDR determinations” for unqualified items and services. AC
28

¶ 351. Yet, as discussed under § IV.B.2, claims premised on this protected activity fail because it is protected by *Noerr-Pennington*.

RICO, 18 U.S.C. § 1962(c), (d): As set forth in Sound Physicians’ motion to dismiss § IV.E and § IV.F, a RICO claim fails because (i) the allegations fail to meet the heightened 9(b) standard, (ii) arbitration submissions cannot be wire or mail fraud, (iii) Anthem fails to identify an enterprise under 1962(c), and (iv) Anthem cannot show a 1962(d) violation because there is no 1962(c) violation, and no agreement to operate a RICO enterprise.

Fraudulent and Negligent Misrepresentation: A claim predicated on common-law fraudulent and negligent misrepresentation fail for the same reasons as discussed above in § IV.B.5.a) (allegations do not meet 9(b) standard), § IV.B.5.b) (fails to allege actual reliance), § IV.B.2 (conduct protected by *Noerr-Pennington*), and § IV.B.3 (conducted protected by litigation privilege).

(2) *Anthem fails to plead an unfair business practice.*

Anthem has not alleged an unfair business practice. To do so, a plaintiff must allege “an incipient violation of an antitrust law,” conduct that “violates the policy or spirit of one of those laws..., or otherwise significantly threatens or harms competition.” *Cel-Tech Commc’ns, Inc.*, 973 P.2d at 544. As an initial matter, this prong of the UCL does not apply to any harm suffered by Anthem because as an insurer, it is not a competitor of Sound Physicians, a healthcare provider. *See Republican Nat’l Comm. v. Google LLC*, 742 F. Supp. 3d 1099, 1119 (E.D. Cal. 2024)

1 (“[T]he Court cannot find, any case where an unfair practice claim was based on a
2 harm not suffered by either a consumer or competitor.”). Even if Anthem were a
3 “competitor,” which it is not, Anthem must allege an “incipient violation of antitrust
4 law” or a significant harm to competition to state a claim for an “unfair” business act
5 or practice. Anthem has failed to do so.
6
7

8 A party may also violate the “unfair” prong if its conduct “is immoral, unethical,
9 oppressive, unscrupulous or substantially injurious to consumers.” *Podolsky v. First*
10 *HealthCare Corp.*, 58 Cal. Rptr. 2d 89, 98 (Cal. Ct. App. 1996). Anthem asserts that
11 consumers will experience “downstream harm” via increased costs of healthcare
12 because Sound Physicians sought payment under the NSA. AC ¶ 352. These
13 allegations are insufficient and threadbare. *See Iqbal*, 556 U.S. at 678. Indeed, the same
14 assertion could be made as to any request for payment under the NSA—but this is the
15 system that Congress created, and California law (such as the UCL) cannot trump it.
16
17

18
19 **(3) *Anthem fails to plead a fraudulent business practice.***

20 Finally, Anthem has not alleged a fraudulent business practice. For UCL
21 purposes, “fraudulent...does not refer to the common law tort of fraud but only
22 requires a showing members of the public are likely to be deceived.” *Saunders v.*
23 *Superior Ct.*, 33 Cal. Rptr. 2d 438, 441 (Cal. Ct. App. 1994) (cleaned up) (emphasis
24 added). A plaintiff cannot succeed under the fraudulent prong by alleging that the
25 defendant deceived only the plaintiff. *See Watson Lab’ys, Inc. v. Rhone-Poulenc*
26
27
28

1 *Rorer, Inc.*, 178 F. Supp. 2d 1099, 1121 (C.D. Cal 2001). Anthem has not attempted
2 to allege that the public was deceived under any of its three theories. Thus, this claim
3 fails.
4

5 **V. REQUEST FOR ATTORNEY FEES AND COSTS**

6 The Court should award Sound Physicians its attorney fees and costs.
7 California's anti-SLAPP statute provides for mandatory fee shifting, including an
8 award to a "prevailing defendant on a special motion to strike...to recover that
9 defendant's attorney's fees and costs." 425.16 § (c)(1).
10

11 **VI. CONCLUSION**

12 The Court should strike the state-law claims (fraudulent misrepresentation,
13 negligent misrepresentation, and the UCL claims (Counts 6, 8, and 10)) with prejudice.
14 The Court should also award Sound Physicians its attorney fees and costs.
15
16
17

18 Dated: December 12, 2025

MCDERMOTT WILL & SCHULTE LLP

19 By: /s/ Tala Jayadevan
20 Tala Jayadevan

21 Laura McLane (appearing *pro hac vice*)
22 Matthew L. Knowles (appearing *pro hac vice*)
23 Connor S. Romm (appearing *pro hac vice*)

24 *Attorneys for Defendants Sound Physicians*
25 *Emergency Medicine of Southern California,*
26 *P.C. and Sound Physicians Anesthesiology of*
27 *California, P.C.*
28

CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Defendants Sound Physicians
Emergency Medicine of Southern California, P.C. and Sound Physicians
Anesthesiology of California, P.C., certifies that this brief contains 6,842 words, which
complies with the word limit of L.R. 11-6.1.

Dated: December 12, 2025

MCDERMOTT WILL & SCHULTE LLP

By: /s/ Tala Jayadevan
Tala Jayadevan

Laura McLane (appearing *pro hac vice*)
Matthew L. Knowles (appearing *pro hac vice*)
Connor S. Romm (appearing *pro hac vice*)

*Attorneys for Defendants Sound Physicians
Emergency Medicine of Southern California,
P.C. and Sound Physicians Anesthesiology of
California, P.C.*

MCDERMOTT WILL & SCHULTE LLP
ATTORNEYS AT LAW

MCDERMOTT WILL & SCHULTE LLP

TALA JAYADEVAN (SBN 288121)

tjayadevan@mwe.com

2049 Century Park East, Suite 3200

Los Angeles, CA 90067-3206

Telephone: (310) 277-4110

Facsimile: (310) 277-4730

LAURA MCLANE (appearing *pro hac vice*)

lmclane@mwe.com

MATTHEW L. KNOWLES (appearing *pro hac vice*)

mknowles@mwe.com

CONNOR S. ROMM (appearing *pro hac vice*)

cromm@mwe.com

200 Clarendon Street

Boston, MA 02116

Telephone: (617) 535-3885

Attorneys for Defendants

Sound Physicians Emergency Medicine of

Southern California, P.C.; and Sound

Physicians Anesthesiology of California, P.C.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Anthem Blue Cross Life and Health
Insurance Company, a California
corporation; Blue Cross of California dba
Anthem Blue Cross, a California
corporation

Plaintiffs,

v.

HaloMD, LLC; Alla LaRoque; Scott
LaRoque; MPOWERHealth Practice
Management, LLC; Bruin
Neurophysiology, P.C.; iNeurology, P.C.;
N Express, P.C.; North American
Neurological Associates, P.C.; 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

**DECLARATION OF MATTHEW L.
KNOWLES REGARDING MEET
AND CONFER EFFORTS**

**Filed concurrently with Notice of
Motion and Motion; Memorandum of
Points and Authorities; [Proposed]
Order**

DATE: March 10, 2026

TIME: 10:00 a.m.

COURTROOM: 6D

JUDGE: Karen E. Scott

**AMENDED COMPLAINT FILED:
10/17/2025**

I, MATTHEW L. KNOWLES, declare as follows:

1. I am an attorney licensed to practice in the Commonwealth of Massachusetts, and I am appearing pro hac vice in the above-captioned matter. I am a partner at the law firm of McDermott Will & Schulte LLP, counsel of record for Sound Physicians Emergency Medicine of Southern California, P.C. and Sound Physicians Anesthesiology of California, P.C. (“Sound Physicians”) in this action.
2. If called upon as a witness, I could and would testify to the facts as set forth below, as I know each to be true based on my own personal knowledge.
3. Pursuant to Central District of California Civil Local Rule 7-3, I met and conferred with Jason Mayer and Amir Shlesinger of Crowell & Moring LLP, counsel of record for Plaintiffs Anthem Blue Cross Life and Health Insurance Company and Blue Cross of California by video conference on December 3, 2025, to discuss the substance of this motion. I explained that Sound Physicians intended to move to strike the state-law claims in the Complaint pursuant to California’s anti-strategic lawsuit against public participation (“anti-SLAPP”) statute, Cal. Civ. Proc. Code § 425.16. The parties were unable to come to an agreement that would resolve Sound Physicians’ grounds for its special motion to strike (the “anti-SLAPP Motion”). Accordingly, Sound Physicians therefore brings the concurrently filed anti-SLAPP motion.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12th day of December 2025, in Boston, MA.

Dated: December 12, 2025

MCDERMOTT WILL & SCHULTE LLP

By: /s/ Matthew L. Knowles

MATTHEW L. KNOWLES
Attorney for Defendants Sound Physicians
Emergency Medicine of Southern California,
P.C. and Sound Physicians Anesthesiology of
California, P.C.

MCDERMOTT WILL & SCHULTE LLP

TALA JAYADEVAN (SBN 288121)

tjayadevan@mwe.com

2049 Century Park East, Suite 3200

Los Angeles, CA 90067-3206

Telephone: (310) 277-4110

Facsimile: (310) 277-4730

LAURA MCLANE (appearing *pro hac vice*)

lmclane@mwe.com

MATTHEW L. KNOWLES (appearing *pro hac vice*)

mknowles@mwe.com

CONNOR S. ROMM (appearing *pro hac vice*)

cromm@mwe.com

200 Clarendon Street

Boston, MA 02116

Telephone: (617) 535-3885

Attorneys for Defendants

Sound Physicians Emergency Medicine of

Southern California, P.C.; and Sound

Physicians Anesthesiology of California, P.C.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Anthem Blue Cross Life and Health
Insurance Company, a California
corporation; Blue Cross of California dba
Anthem Blue Cross, a California
corporation

Plaintiffs,

v.

HaloMD, LLC; Alla LaRoque; Scott
LaRoque; MPOWERHealth Practice
Management, LLC; Bruin
Neurophysiology, P.C.; iNeurology, P.C.;
N Express, P.C.; North American
Neurological Associates, P.C.; 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
DEFENDANT SOUND
PHYSICIANS' SPECIAL MOTION
TO STRIKE PURSUANT TO CAL.
CIV. PROC. CODE § 425.16**

**Filed concurrently with Notice of
Motion and Motion; Memorandum of
Points and Authorities; Declaration of
Matthew L. Knowles Regarding Meet
and Confer Efforts**

DATE: March 10, 2026

TIME: 10:00 a.m.

COURTROOM: 6D

JUDGE: Karen E. Scott

**AMENDED COMPLAINT FILED:
10/17/2025**

1 This matter comes before the Court on Defendants Sound Physicians
2 Emergency Medicine of Southern California, P.C.'s and Sound Physicians
3 Anesthesiology of California, P.C.'s ("Sound Physicians") special motion to strike
4 pursuant to California's anti-strategic lawsuit against public participation ("anti-
5 SLAPP") statute, Cal. Civ. Proc. Code § 425.16 (the "anti-SLAPP Motion"). The
6 Court, having considered the papers submitted and the arguments by counsel, hereby
7
8 ORDERS AS FOLLOWS:

- 9
10
- 11 1. The anti-SLAPP Motion of Defendant Sound Physicians is GRANTED.
 - 12 2. The Court strikes Plaintiffs' Counts VI, VIII, and X from the amended
13 complaint with prejudice and without leave to amend.
 - 14 3. The moving party shall file its motion for attorney fees and costs no later than
15
16 _____.

17
18 **IT IS SO ORDERED.**

19
20 DATED: _____

The Honorable Karen E. Scott
Magistrate Judge of the Central
District of California