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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,

Plaintiffs,

vs.

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. 25-cv-1467-KES

Before the Honorable Karen E. Scott, United States Magistrate Judge

DEFENDANT HALOMD'S REPLY IN SUPPORT OF ITS MOTION TO DISMISS ANTHEM'S AMENDED COMPLAINT

Hearing Date: March 10, 2026
Time: 10:00 A.M.
Courtroom: 6D

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I. Preliminary Statement.

If there was any question why Anthem Blue Cross Life and Health Insurance Company and Blue Cross of California d/b/a Anthem Blue Cross (collectively, "Anthem") brought this case, Anthem's opposition answers it. This case is not about any illicit enterprise involving HaloMD, LLC ("HaloMD") or any of the other Defendants. This case is a prohibited administrative appeal and challenge to federal rulemaking masquerading as a fraud action. This case—and all the identical cases by Anthem's affiliates against other healthcare providers and hospitals across the country—is about preserving Anthem's power and control. It is Anthem's attempt to chill use of the No Surprises Act's ("NSA") independent dispute resolution ("IDR") process and hamstring those that must access it.[1]

Anthem is losing in the IDR process, 85% of the time. Amended Complaint, Dkt. 50 ("AC"), ¶¶ 82, 120. Independent Dispute Resolution Entities ("IDRE") are overwhelmingly determining that Anthem's rates and payment offers are indefensible and unfair. Indeed, in every IDR proceeding purportedly at issue in this case, the IDRE reviewed the parties' submissions and made a payment determination.

Rather than address its own unfair payment practices, Anthem has elected to sue those who access the IDR process, hoping to bury them for revealing its exploits. But try as Anthem might to support its implausible theories of liability, Anthem may not ignore federal rules, the NSA's clear text, and existing regulatory processes. Anthem's opposition takes positions contrary to both the law and the positions of Anthem's affiliates and its own counsel in other actions. This Court should dismiss the entirety of Anthem's Amended Complaint with prejudice.

[1] Anthem's affiliates recently launched two more lawsuits against other healthcare providers and hospitals who rely on the IDR process when Anthem refuses to pay fair rates for healthcare items and services. *See Anthem Blue Cross and Blue Shield et ano. v. AGS Health, Inc. et al.*, No. 7:25-cv-00804 (W.D. Va.); *Anthem Blue Cross Life and Health Ins. Co. et ano. v. Prime Healthcare Servs. et al.*, No. 8:26-cv-00023-MRA-ADS (C.D. Cal.); *see also* HaloMD's Motion to Dismiss Anthem's Amended Complaint ("HaloMD MTD"), Dkt. 76-1 at 9 n. 5 (noting the other actions filed by Anthem's affiliates against HaloMD).

II. Anthem Cannot Plausibly Plead Fraud by Misrepresenting the IDR Process.

Anthem's description of the IDR process contradicts federal regulations and clear federal agency directives. Anthem argues that the IDR process is an "honor system, under which providers and their IDR agents self-certify dispute eligibility." Anthem's Opposition to Defendants' Motions to Dismiss ("Opp."), Dkt. 93 at 1:10-11. But the Court need not, and should not, accept Anthem's legal mischaracterizations. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (when ruling on motions to dismiss, courts need not accept as true legal conclusions lacking further factual support or couched as factual allegations).

It is true that, when initiating the IDR process, a party must attest that it believes the items and services under dispute qualify for IDR adjudication. 45 C.F.R. § 149.510(b)(2)(iii)(A)(6) (Oct. 7, 2021); HaloMD's Request for Judicial Notice ("HaloMD RJN"), Ex. A (Notice of IDR Initiation Form), Dkt. 76-4 at 8 (containing the attestation of belief of eligibility). But the party initiating the IDR process does not determine eligibility— that determination is granted to the IDRE and the IDRE alone.

There is a specific regulatory process designed to address eligibility which is discussed repeatedly throughout federal agency guidance documents. *See* 45 C.F.R. §§ 149.510(c)(1)(iii), (v) (Oct. 7, 2021); HaloMD RJN, Ex. B, Dkt. 76-5 at 18, § 5.5 (providing agency guidance in instances when the non-initiating party believes the IDR process does not apply); HaloMD RJN, Ex. C, Dkt. 76-6 at 17-19, § 4.4 (same), § 4.6.2 (providing guidance to IDREs determining whether the IDR process applies to the dispute). IDREs are required to determine eligibility in every single IDR proceeding. IDREs are not required (or instructed) to rely on the initiating party's attestation. Instead, IDREs are directed to request and evaluate evidence related to eligibility from disputing parties. *Id*. An IDRE is only authorized to proceed if the

documentation shows the dispute is eligible. Anthem cannot plausibly state its claims by misrepresenting these explicit processes.

III. Anthem Cannot Challenge Agency Implementation of the IDR Process Through Fraud Claims.

Like Anthem's pleading, much of Anthem's opposition is devoted to complaining about the NSA and the IDR process. Anthem protests that the process does not have: (i) more discovery, more evidentiary requirements, more hearings, more testimony, more transparency, and more process in general (*i.e.*, more burdens that Anthem can leverage); (ii) a different process to resolve eligibility disputes; (iii) a different way of compensating IDREs; and (iv) ceilings on offers submitted by disputing parties.[2] Opp., Dkt. 93 at 5-8. But this is not a debate on Capitol Hill or a federal agency solicitation for comments. This is a purported fraud action pending before a federal court. Anthem's feelings regarding the IDR process have no place here. *See Mitchell F. Reiter MD PC v. Horizon Blue Cross Blue Shield of New Jersey*, No. 2:25-CV-12526 (WJM), 2025 WL 3514300, at *5 (D.N.J. Dec. 8, 2025) (dismissing the healthcare provider's complaint and noting in response to the provider's contentions that the NSA's enforcement mechanism was insufficient that "the wisdom of Congress's policy choice is beyond our judicial ken."). Anthem's dissatisfaction with the IDR process provides no basis for a legal claim against HaloMD or any other Defendant. Anthem has ample channels to lobby the government. Simply because Congress and federal agencies did not create Anthem's

[2] Anthem alleges that HaloMD is liable, in part, because HaloMD submits offers exceeding billed charges in the IDR process. But multiple federal judges have concluded that the NSA does not restrict the value of offers that disputing parties may submit in the IDR process. These conclusions were made in cases in which Anthem's affiliates (and its counsel of record in this case) contended that the NSA permits parties to submit zero-dollar offers. *See Plastic & Reconstructive Surgery Grp. v. Aetna, Inc.*, No. 3:25-CV-211-SVN, 2025 WL 3786117, at *3 (D. Conn. Dec. 31, 2025) (noting that the court was unaware of any restriction on offers to IDREs); *Avraham Plastic Surgery LLC et al. v. Aetna, Inc. et al.*, No. 25-CV-784, 2025 WL 3779084, at *7 (E.D.N.Y. Dec. 30, 2025) ("*Avraham*") (magistrate's report and recommendation noting that the NSA requires an IDRE to select a zero-dollar offer if the IDRE believes the zero-dollar offer is the more appropriate offer).

preferred IDR process does not entitle Anthem to manufacture malicious fraud claims against those challenging Anthem's unfair payment practices.

Anthem's argument that the Court should disregard the agency guidance offered by HaloMD reinforces that Anthem seeks to use this action to attack the IDR process itself.[3] The guidance materials are not HaloMD documents—they were published by federal agencies to provide explanation and direction to disputing parties and IDREs regarding the IDR process, including the process for determining eligibility. HaloMD RJN, Ex. A-E, Dkt. 76-4 to 76-8. While the IDR process is central to every single allegation in this lawsuit, Anthem argues that the Court should disregard this guidance because it is "nonbinding,"[4] "is not evidence of a full and fair process," and it "contradicts the plain language of the NSA." Opp., Dkt. 93 at 40. In support, Anthem cites *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024) ("*Loper Bright*"). Opp., Dkt. 93 at 40 n. 18. In so arguing, Anthem asks the Court to ignore the reality that the IDR process accounts for the complexity of eligibility determinations and the information asymmetry between healthcare insurers and healthcare providers. Anthem thus wants this Court to *change* the IDR process to shift the burdens imposed on Anthem to healthcare providers.

In *Loper Bright*, the Supreme Court overruled the *Chevron* doctrine and held that the Administrative Procedure Act ("APA") requires courts to exercise independent judgment in deciding whether federal agencies have acted within their statutory authority. *Loper Bright*, 603 U.S. at 412. But Anthem did not bring this suit

[3] Anthem only addresses the guidance documents submitted by HaloMD in its argument against collateral estoppel, but HaloMD did not even request that the Court judicially notice the guidance documents in support of a collateral estoppel argument.

[4] The standard U.S. Department of Health and Human Services ("HHS") disclaimer appearing in the IDR process guidance documents has a complicated history. The former regulation that required the disclaimer in all HHS guidance documents, 45 C.F.R. § 1.3, was repealed on July 25, 2022, and was only in effect from January 6, 2021, to August 4, 2022. *See* HHS, Final Rule, *Department of Health and Human Services Repeal of HHS Rules on Guidance, Enforcement, and Adjudication Procedure*, 87 Fed. Reg. 44002-40025 (Jul. 25, 2022). But critically, it does not change that the guidance documents reflect: (i) federal agency implementation of the IDR process, and (2) federal agency expectations for IDR proceedings.

under the APA against federal agencies. If Anthem believes that federal agencies have impermissibly implemented the IDR process, the APA provides a mechanism for Anthem to assert that claim. Indeed, federal agency implementation of the IDR process already has been—and currently is—the subject of many such challenges. *See*, *e.g.*, *Texas Med. Ass'n v. United States Dep't of Health & Hum. Servs.*, 110 F.4th 762 (5th Cir. 2024) (affirming the vacatur of certain IDR process regulations because they conflicted with the NSA); *Neurological Surgery Prac. of Long Island, PLLC v. U.S. Dep't of Health & Hum. Servs.*, No. 24-CV-4503 (HG), 2025 WL 1489603 (E.D.N.Y. May 23, 2025) (dismissing the plaintiff healthcare provider's APA challenge to federal agency implementation of the IDR process based on alleged gamesmanship by commercial healthcare insurers).

Here, Anthem claims fraud by private parties. Any position that Anthem may take regarding the validity of federal agency implementation of the IDR process is irrelevant for purposes of the Court's evaluation of whether Anthem has sufficiently stated its claims.[5] The guidance documents explain and describe existing IDR processes. The fact that the guidance *exists* demonstrates that Anthem's claims are based on false pretenses. Anthem offers no legitimate reason why the Court should disregard the guidance or its relevancy to Anthem's claims.

A. The *Amici di Anthem* Reveal this Lawsuit's True Agenda.

The *amici curiae* briefs supporting Anthem's positions only reinforce that this lawsuit is an illegitimate attempt to curtail the IDR process because it is exposing the unfair payment practices of Anthem and other large commercial healthcare insurers.

America's Health Insurance Plans, Inc.'s ("AHIP") brief is blatant propaganda. AHIP—of which Anthem's parent company, Elevance Health, Inc., is a member—complains that providers submit too many claims to the IDR process,

[5] Anthem implicitly concedes as much by not responding to HaloMD's argument that the guidance documents offered by HaloMD are incorporated by reference into Anthem's complaint.

which AHIP's members expected would be a "rarely needed, last-resort process."[6] AHIP Brief, Dkt. 99-3 at 5:6. And, like Anthem, AHIP complains that federal agencies created an IDR process biased against healthcare insurers.

In support, AHIP invokes the findings of a self-serving "AHIP/BCBSA Survey" that AHIP conducted with the Blue Cross Blue Shield Association ("BCBSA").[7] AHIP Brief, Dkt. 99-3 at 4. As a preliminary matter, the Court is not obligated to, nor should it, accept as true the "facts" AHIP offers, including its own survey findings. But more importantly, AHIP's press release associated with its survey reveals that even AHIP recognizes that Anthem's claims should be before the legislature and regulators, not judges:

> To address ongoing issues with the IDR process, **policymakers** should eliminate the misaligned incentives for IDREs to push unnecessary disputes through the arbitration process and provide better oversight and accountability over IDR.[8] (emphasis added).

The brief for the American Benefits Council, the ERISA Industry Committee, and the Business Group on Health (collectively, "*Amici*") echoes this point. Anthem's claims are all based in fraud, yet *Amici*'s brief begins by stating that there is "a significant structural defect in the IDR process." *Amici* Brief, Dkt. 101-1 at 3. Again, this matter is not before Congress, and Anthem's claims do not arise under the APA. If *Amici* want to challenge or influence regulation or legislation, they have channels to do so. But simply because *Amici* do not like the IDR process does not mean that

[6] *See* AHIP, Our Member Organizations, available at https://www.ahip.org/members (listing Elevance Health as an AHIP Member); Anthem's Certificate of Interested Parties, Dkt. 3 (identifying Elevance Health, Inc. as the parent company of Anthem).

[7] Anthem is an independent licensee of BCBSA.

[8] See AHIP, Press Release, *New AHIP/BCBSA Survey Shows Nearly 40% of Providers' Surprise Billing Disputes Are Ineligible Under No Surprises Act* (Oct. 24, 2025), available at https://www.ahip.org/news/press-releases/new-ahip-bcbsa-survey-shows-nearly-40-of-providers-surprise-billing-disputes-are-ineligible-under-no-surprises-act; *see also* AHIP Brief, Dkt. No. 99-3 at 9 (referencing AHIP's comment letter to federal agencies regarding IDR process regulations).

their members have colorable claims for fraud against parties who access that process to obtain fair payment for healthcare services.[9]

The AHIP and *Amici* briefs are also case studies in hypocrisy. AHIP proclaims it is "committed to market-based solutions" and decries that providers are able to access the IDR process to obtain payments in excess of what AHIP deems to be "reasonable negotiated market rates." AHIP Brief, Dkt. 99-3 at 1-2. *Amici* further lament that the IDR process enables providers to obtain payments "far above market rates." *Amici* Brief, Dkt. 101-1 at 7. But the IDR process has revealed that the rates of Anthem and other large healthcare insurers are unreasonable and do not reflect a fair market. Otherwise, IDREs would select Anthem's offers more often. Additionally, disputes only *reach* the IDR process after healthcare insurers refuse to fairly pay providers. If Anthem fairly paid healthcare providers in the first instance, there would be no need for providers to access the IDR process at all.

Indeed, shortly before Anthem filed its Amended Complaint in this action, another district court approved a class action settlement requiring BCBSA to pay $2.8 billion to resolve antitrust claims based on allegations that Anthem and other BCBSA licensees underpaid healthcare providers.[10] This followed a separate settlement in the same action in which BCBSA agreed to pay $2.67 billion to resolve allegations that it violated antitrust laws in the market for healthcare insurance. Both settlements contained broad, sweeping injunctive relief.

If AHIP and *Amici* truly want to address the failures of the American healthcare marketplace, perhaps they can start with their membership.

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[9] *See* American Benefits Council, Member Companies, available at https://www.americanbenefitscouncil.org/about/member-companies/ (listing Elevance Health as a current member); Business Group on Health, Current Members, available at https://www.businessgrouphealth.org/who-we-are/our-members (listing Anthem as a current member).

[10] *In re: Blue Cross Blue Shield Antitrust Litigation*, Case No. 2:13-cv-20000 (N.D. Ala.)

IV. The NSA's Judicial Review Prohibition Bars Anthem's Claims.

Anthem argues that the NSA's "extremely narrow" judicial review provision does not apply to IDRE eligibility determinations, and thus does not bar Anthem's claims. Opp., Dkt. 93 at 25. Anthem's effort to carve out IDR eligibility determinations misreads the NSA's statutory text and is incompatible with its structure. It is no more defensible than if a healthcare insurer interpreted its policy to deny coverage for a patient diagnosed with a myocardial infarction because its policy only covered "heart attacks."

Prior to making a payment determination, IDREs must first resolve numerous threshold issues (*e.g.*, whether timing requirements were satisfied, whether parties paid required fees, *etc*.). Neither the NSA nor implementing regulations bifurcate IDRE determinations into reviewable and unreviewable functions. Eligibility is a gateway determination that the IDRE must make in every IDR proceeding. Treating that gateway as severable from the payment determination effectively asks this Court to rewrite the NSA and render the NSA's judicial review prohibition meaningless.

Anthem is wrong to insist that there is a general presumption of judicial review that applies here. As Anthem acknowledges, the presumption may be overcome by "clear and convincing indications that Congress meant to foreclose review." Opp., Dkt. 93 at 24:15-16. Here, Congress incorporated provisions of the Federal Arbitration Act ("FAA"), 9 U.S.C. §§ 10(a)(1)-(4), as the exclusive grounds for vacatur of IDRE determinations. That specific statutory provision limiting judicial oversight is the necessary "clear and convincing" indication.

While multiple federal district and circuit courts have held that the NSA expressly limits judicial review of IDR awards to the grounds provided in 9 U.S.C. §§ 10(a)(1)-(4), no federal court has held that a disputing party is entitled to judicial review of eligibility determinations. *See*, *e.g.*, *Reach Air Med. Servs. LLC v. Kaiser Found. Health Plan Inc.*, 160 F.4th 1110, 1117 (11th Cir. 2025) ("*Reach Air*") ("…judicial review of IDR awards is limited to the grounds available under the

FAA,…and cannot be expanded to include circumstances where facts may be misrepresented to the IDR arbitrator."); *Guardian Flight, L.L.C. v. Health Care Serv. Corp.*, 140 F.4th 271, 275 (5th Cir. 2025) ("*Guardian Flight I*") ("The NSA expressly *bars* judicial review of IDR awards *except* as to the specific provisions borrowed from the FAA") (emphasis in original); *see also SpecialtyCare, Inc. et al. v Meritain Health, Inc.*, No. CV 25-198-MN, 2026 WL 353259, at *7 (D. Del. Feb. 9, 2026) (concluding that the plaintiffs could not circumvent the lack of a private right of action in the NSA through a state law theory).[11]

Anthem's contention that the NSA permits collateral attacks because the NSA does not incorporate the FAA's procedural provisions is similarly meritless. Opp., Dkt. 93 at 26-30. The NSA prohibits Anthem's claims regardless of whether the FAA's procedural provisions apply to a claim for vacatur of an IDR award. Even Anthem must appreciate the implausibility of its argument, as Anthem's counsel and Anthem's affiliates have relied upon the NSA's judicial review prohibition to dismiss claims when healthcare providers seek to compel payment after Anthem's affiliates refuse to pay IDR awards. *See*, *e.g.*, *T.V. Seshan M.D., P.C. v. Blue Cross Blue Shield Ass'n*, No. 25-CV-1255 (CS), 2025 WL 3496382 (S.D.N.Y. Dec. 5, 2025) (granting BCBSA's motion to dismiss the plaintiff's complaint to compel payment of IDR awards because the NSA precludes judicial review). Anthem thus is in the awkward position of arguing in this case that the NSA's judicial review prohibition permits its claims when Anthem believes IDREs wrongly decided eligibility, while arguing in other cases that the NSA's judicial review bar prohibits healthcare providers from asserting claims when Anthem's affiliates fail to pay IDR awards.

Further, whether the NSA incorporates the FAA's procedure for vacatur is far from settled. In arguing as much, Anthem primarily relies on a Middle District of Florida decision, *Med-Trans Corp. v. Cap. Health Plan, Inc.*, 700 F. Supp. 3d 1076

[11] *Guardian Flight I* was appealed to the Supreme Court, which recently denied certiorari. *See Guardian Flight, L.L.C . v. Health Care Serv. Corp.* No. 25-441, 2026 WL 79855 (U.S. Jan. 12, 2026) (publication pending).

(M.D. Fla. 2023) ("*Med-Trans*"). Even the *Med-Trans* court—which only decided whether the NSA created a private cause of action to enforce IDR awards—acknowledged that "the FAA does control judicial review of IDR decisions." *Id*. at 1084. On appeal, the Eleventh Circuit did not even address whether the NSA incorporates the FAA's procedural requirements for vacating an IDR payment determination. *See Reach Air*, 160 F.4th 1110.

And while it is true that some other federal courts have held that the NSA does not incorporate the FAA's process for confirming arbitration awards, 9 U.S.C. § 9, they did so while simultaneously holding that the NSA's judicial review prohibition foreclosed the plaintiffs' claims. *See Guardian Flight I*, 140 F.4th 271 (holding that the NSA explicitly barred judicial review of IDR awards and created no private right of action); *SpecialtyCare, Inc.*, 2026 WL 353259, at *3 (listing federal court decisions declining to find that the NSA creates either an express or implied private right of action); *but see Guardian Flight LLC v. Aetna Life Ins. Co.*, 789 F. Supp. 3d 214, 227 (D. Conn. 2025) (holding the NSA created a private cause of action to enforce IDR awards but affirming the NSA prohibits courts from "entertain[ing] collateral attacks on [IDR] awards").

No court has ever interpreted the NSA to permit challenges to IDR awards except via a vacatur claim in narrow circumstances. The Court should decline Anthem's invitation to do what the NSA plainly prohibits, and what no other federal court has ever done.

V. Anthem Cannot Escape the *Noerr-Pennington* Doctrine.

Anthem's arguments against the application of the *Noerr-Pennington* doctrine both misstate the law and contradict Anthem's own allegations in this case.

First, contrary to Anthem's contention, courts in the Ninth Circuit routinely dismiss claims under the *Noerr-Pennington* doctrine at the pleading stage. *See Sosa v. DIRECTV, Inc.,* 437 F.3d 923, 942 (9th Cir. 2006) (affirming dismissal of claims under the *Noerr-Pennington* doctrine); *Ford Motor Co. v. Knight L. Grp.*, No. 2:25-

CV-04550-MWC-PVC, 2025 WL 3306280 (C.D. Cal. Nov. 24, 2025) (granting the defendants' motion to dismiss on *Noerr-Pennington* grounds). Anthem offers no explanation for why the Court may not resolve the question of *Noerr-Pennington* applicability now. The Court absolutely can, and should.

Second, Anthem argues that the doctrine is inapplicable because IDR proceedings involve "private payment dispute[s] before private companies." Opp., Dkt. 93 at 34:13. But Anthem also alleges in its pleading:

> HHS administers the IDR initiation process. Any submission made through this system is a statement made to the federal government, and any attestation made as part of the submission process is also made to the federal government.

AC, Dkt. 50, ¶ 67. Anthem again cannot have it both ways.

Anthem's other arguments against *Noerr-Pennington* further miss the point. In *California Motor Transp. Co. v. Trucking Unlimited*, 404 U.S. 508 (1972), the plaintiff highway carrier alleged that the defendant highway carriers were liable for allegedly engaging in concerted action to oppose the plaintiff's applications to state and federal transportation commissions. In holding that the *Noerr-Pennington* doctrine applied to the alleged conduct, the Supreme Court stated:

> The same philosophy [protecting attempts to influence the legislative or executive branches] governs the approach of citizens or groups of them to administrative agencies (which are both creatures of the legislature, and arms of the executive) and to courts, the third branch of Government. Certainly the right to petition extends to all departments of the Government. The right of access to the courts is indeed but one aspect of the right of petition.
>
> It would be destructive of rights of association and of petition to hold that groups with common interests may not…use the channels and procedures of state and federal agencies and courts to advocate their causes and points of view respecting resolution of their business and economic interests....

Id. at 510–11.

The IDR process was established by Congress and is administered by federal agencies. The Centers for Medicare & Medicaid Services ("CMS") certifies and oversees IDREs. *See* 45 CFR §§ 149.510(e)-(f) (Oct. 7, 2021). That IDREs act as

arbitrators and make payment determinations rather than administrative law judges is immaterial for purposes of application of the *Noerr-Pennington* doctrine. *See generally, Guardian Flight, L.L.C. v. Med. Evaluators of Texas ASO, L.L.C.*, 140 F.4th 613, 622–23 (5th Cir. 2025) ("*Guardian Flight II*") (concluding IDREs are protected by arbitral immunity for their role in the IDR process). The same philosophy articulated by the Supreme Court in *Trucking Unlimited* extends the *Noerr-Pennington* doctrine to IDR proceedings.

Anthem's attempt to distinguish *Viriyapanthu v. California*, No. SACV172266JVSDFMX, 2018 WL 6136150 (C.D. Cal. Sept. 24, 2018) is as illogical as it is unpersuasive. In *Viriyapanthu*, the plaintiff attorney participated in an Orange County Bar Association ("OCBA") fee arbitration with a former client. *Id*. at *1. When the attorney did not prevail, he filed a petition to vacate the arbitration award in state court, which was denied by the trial court and on appeal. *Id*. at *2. Thereafter, the plaintiff filed suit against, among other defendants, the attorneys representing the former client in both the OCBA arbitration and the state court proceedings based on their alleged misrepresentations about the plaintiff in connection with such proceedings. *Id*. at *8. The court dismissed the claims against the defendant attorneys on *Noerr-Pennington* grounds, noting that another Court had applied the *Noerr-Pennington* doctrine to quasi-public entity arbitration proceedings. *Id*. at *7-10 (citing *Eurotech, Inc. v. Cosmos European Travels Aktiengesellschaft*, 189 F. Supp. 2d 385, 392–93 (E.D. Va. 2002)).

Here, Anthem summarily argues that the Court should disregard *Viriyapanthu* because: (i) OCBA rulings "are reviewable via a trial de novo," so "unlike IDR, there is a direct relationship between [OCBA proceedings] and litigation;" and (ii) the plaintiff in *Viriyapanthu* did not dispute that *Noerr-Pennington* applied to the OCBA arbitration. Opp., Dkt. 93 at 36. In other words, Anthem just thinks—without offering any authority providing otherwise—that the Court in *Viriyapanthu* made the wrong decision. Further, Anthem's position regarding the materiality of the reviewability of

an OCBA arbitration decision completely undermines its prior arguments. On the one hand, Anthem alleges that IDRE eligibility determinations are reviewable and collateral attacks are permitted. On the other hand, Anthem alleges that IDRE determinations, unlike OCBA rulings, are not reviewable, so *Noerr-Pennington* does not apply. The arguments not only lack integrity, they require impossible mental gymnastics.

Anthem's reliance on *Noerr-Pennington*'s sham exception is similarly misplaced. Anthem argues that it only relies on one prong of the sham exception: "making intentional misrepresentations" in an adjudicatory proceeding. *See* Opp., Dkt. 93 at 37-38 (citing *Sosa*, 437 F.3d at 938). But Anthem does not actually allege that HaloMD made intentional misrepresentations that deprived any IDR proceedings of their legitimacy. *See Ford Motor Co.*, 2025 WL 3306280, at *9 ("[I]f the purportedly unlawful conduct 'consists of making intentional misrepresentations to the court, litigation can be deemed a sham if 'a party's knowing fraud upon, or its intentional misrepresentations to, the court deprive the litigation of its legitimacy.'").

Anthem's fleeting attempt to distinguish *Ford Motor Co.* in a parenthetical cannot hide the flaws in Anthem's argument. *See* Opp., Dkt. 93 at 38:18-22. In *Ford Motor Co*., the plaintiff asserted RICO claims against the defendant Lemon Law firms based on allegations that they submitted inflated and false fee petitions in Lemon Law suits. The Court dismissed the plaintiff's claims under the *Noerr-Pennington* doctrine, holding, among other things, that the defendants' conduct was based on protected petitioning activity and the sham exception did not apply. In so holding, the Court determined that, even accepting as true the plaintiff's allegation that some fee petitions were fictitious, "that misrepresentation is not sufficient on its own to deprive the entire fee petition process—let alone the entire lawsuit—of legitimacy." *Id.* at *11.

Anthem claims that this Court should issue a contrary holding in this case because in *Ford Motor Co*., the plaintiff "conceded defendants were entitled to some

portion of the requested fees." *See* Opp., Dkt. 93 at 38:21-22. But Anthem's contention is less a legitimate effort to identify a material distinction than an attempt to hide that Anthem's argument is even weaker here. In *Ford Motor Co*., the defendants allegedly made factual misrepresentations regarding the work that they performed in petitions to the Court. *Ford Motor Co.*, 2025 WL 3306280, at *1-5. Here, Anthem does not allege any factual misrepresentations. Instead, Anthem alleges only that HaloMD submitted attestations of belief of IDR process eligibility in connection with allegedly ineligible disputes. Even assuming Anthem's allegations to be true, federal agencies designed the IDR process to resolve eligibility disputes. The IDR process itself contemplates that IDREs will evaluate eligibility independent of a disputing party's attestation, which is itself a legal conclusion. Anthem has a right to object to eligibility during the IDR process and Anthem admits that it often exercises that right.[12] Just because an IDRE may have overruled Anthem's objections does not mean that the IDR proceeding was illegitimate.

VI. Anthem Fails to Allege Grounds for Vacatur.

Anthem's argument for vacatur is contrary to fundamental pleading rules, the opinions of other circuit courts, and the legal positions of Anthem's own affiliates.

Anthem argues that it may plead vacatur across an indeterminate universe of IDR awards because the NSA does not expressly incorporate the FAA's procedural provisions. Opp., Dkt. 93 at 26-30. But Fed. R. Civ. P. 8 and 9(b) are independent of the FAA, and Anthem's pleading violates both rules. No federal court has held that a claim for vacatur of an IDR award is exempt from Fed. R. Civ. P. 8 and 9(b).

The Eleventh Circuit's opinion in *Reach Air*, 160 F.4th 1110, is instructive.[13] There, the court addressed pleading requirements in connection with a claim for

[12] CMS also created a post-determination reconsideration process to remedy jurisdictional errors, which Anthem could have accessed for any of the IDR proceedings purportedly at issue. *See* HaloMD's RJN, Ex. E, Dkt. 76-8.

[13] The *Reach Air* opinion was issued in the appeal of the *Med-Trans* decision relied upon by Anthem. The *Med-Trans* district court simultaneously dismissed two different cases brought by air ambulance services providers seeking to vacate IDR awards. After both plaintiffs appealed, Med-Trans Corporation settled its dispute and

vacatur of IDR awards. The plaintiff air ambulance services provider sought to vacate an IDR award on the grounds that: (a) the award was procured by fraud, and (b) the IDRE exceeded its powers (*i.e.*, the exact same grounds that Anthem asserts here). Specifically, the plaintiff alleged: (i) the defendant insurer misrepresented the relevant median contracted rate (otherwise known as the "qualifying payment amount" or "QPA") during the IDR proceeding and (ii) the IDRE impermissibly applied an illegal presumption in favor of the allegedly misrepresented QPA.

The district court dismissed for failure to state a claim for vacatur and the Eleventh Circuit affirmed, dispelling the contention that the IDRE exceeded its powers under 9 U.S.C. § 10(a)(4):

> It is not enough to show that the arbitrator committed an error – or even a serious error…Under our current scheme, an arbitrator's actual reasoning is of such little importance to our review that it need not be explained -- the decision itself is enough…Our sole question under § 10(a)(4) is whether the arbitrator (even arguably) performed the assigned task, not whether she got the outcome right or wrong.

Reach Air, 160 F.4th at 1119-20 (internal quotations and citations omitted).

Applying these principles, the Eleventh Circuit concluded that the plaintiff had not plausibly pleaded any ground for vacatur. After first determining that "none of the[] circumstances [in which an arbitrator exceeds its authority], or anything even remotely resembling them [were] present," the Eleventh Circuit rejected the plaintiff's "conclusory argument" that the IDRE exceeded its authority. *Id*. The court further concluded that the plaintiff had not sufficiently alleged fraud as a basis for vacatur as required by Fed. R. Civ. P. 9(b). *Id*. at 1121-23 (noting that the complaint failed to allege numerous key details including: the "time and place of each statement and the person responsible for making" the statement, "the manner in which the [fraudulent statements] misled" the plaintiff, what the insurer "obtained as a result of the alleged fraud," and how the alleged misrepresentation was connected to the IDRE's determination).

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its appeal was dismissed, leaving only Reach Air Medical Services LLC's appeal pending. *Reach Air*, 160 F.4th at 1124, n.1.

Here, Anthem's claim for vacatur is again weaker. Apart from a handful of IDR proceedings, Anthem alleges no facts with respect to the "hundreds of thousands" of IDR payment determinations that it seeks to vacate, which Anthem contends is "expected to increase during the pendency of the case." AC, Dkt. 50, ¶ 359; Opp., Dkt. 93 at 52:16-17. Anthem also fails to allege any concrete facts that would establish that HaloMD engaged in fraudulent conduct, let alone any conduct that was not discoverable before or during the course of any IDR proceeding. Indeed, Anthem's theory of fraud is singularly based on its belief that some disputes that proceed through the IDR process are ineligible, despite IDRE determinations.

Anthem cites no authority suggesting that the submission of information believed to be true at the time of submission amounts to fraud within the meaning of the FAA. Instead, Anthem cites *Bonar v. Dean Witter Reynolds, Inc.*, 835 F.2d 1378 (11th Cir. 1988), and *Pac. & Arctic Ry & Nav. Co. v. United Transp. Union*, 952 F.2d 1144 (9th Cir. 1991), to invoke the FAA fraud exception. Opp., Dkt. 93 at 30-31. But *Bonar* and *Pac. & Arctic* cite, and Anthem ignores, long-standing Ninth Circuit law: "the alleged fraud must not have been discoverable upon the exercise of due diligence prior to or during the arbitration." *Bonar*, 835 F.2d at 1383; *Pac. & Arctic.*, 942 F.2d at 1148. Nor does Anthem allege any facts establishing that HaloMD subjectively believed that any attestations were false and submitted the attestations anyway. Regardless, eligibility is squarely within the IDRE's authority to decide. IDREs must make eligibility determinations in every IDR proceeding. *See* Section II, *supra*.

Anthem's affiliates and counsel have made the same arguments challenging vacatur claims against Anthem's affiliates when Anthem prevails in the IDR process. In *Avraham*, 2025 WL 3779084, healthcare providers sought vacatur for 108 IDR awards based on allegations that the IDRE misapplied the law and exceeded its powers by selecting "zero-dollar" offers by several Anthem affiliates and others. On behalf of Anthem's affiliates, Anthem's counsel argued that: (i) the court should sever the action into individual proceedings because the 108 IDR awards at issue

involved "different parties, patients, and services that have nothing to do with each other;" and (ii) the NSA barred judicial review of IDR awards based on alleged legal errors. *Id*. at *6-10.

The magistrate judge agreed and recommended denying the petition because "legal error is not one of the limited circumstances by which a court can vacate [an IDR award under the NSA]."[14] *Id.* at *6; *see also Guardian Flight II*, 140 F.4th at 622 (affirming dismissal of vacatur claims based on alleged QPA misrepresentations because plaintiffs "allege[d] nothing to show that this was anything other than an inadvertent error"); *GPS of New Jersey MD, P.C. v. Aetna, Inc.,* No. CV2205487ESJSA, 2024 WL 414042, at *5 (D.N.J. Feb. 5, 2024) (dismissing a vacatur claim and holding that the court was "not at liberty to review" an alleged mistake of law). Anthem again is in the suspect position of arguing in this case that it may pursue a vacatur claim *en masse* because IDREs wrongly decided eligibility, but arguing in other cases that healthcare providers may not pursue bundled vacatur claims based on allegations that IDREs committed other legal errors.

Further, while a plaintiff *in some circumstances* may satisfy Fed. R. Civ. P. 9(b) by pleading representative examples, particularly where the relevant facts are exclusively within a defendant's knowledge, no such circumstances warranting exemplar pleading are present here. *See Neubronner v. Milken*, 6 F.3d 666, 672 (9th Cir. 1993) ("This court has held that the general rule that allegations of fraud based on information and belief do not satisfy Rule 9(b) may be relaxed with respect to matters within the opposing party's knowledge."). Here, Anthem is the *only* party that presumably has the information showing that a particular payment dispute was ineligible for the IDR process. That is precisely why IDR process regulations obligate Anthem to provide that information to the IDRE, and why the IDRE must determine eligibility in every IDR proceeding. Anthem cannot rely upon purported

[14] The magistrate recommended both denying the petition and finding Anthem's affiliates' severance motion moot.

representative examples to satisfy Fed. R. Civ. P. 9(b)'s particularity requirement when Anthem is simply choosing not to identify or plead with particularized facts the IDR awards that it seeks to vacate.

VII. Anthem Fails to Plausibly Allege a RICO Violation.

None of Anthem's arguments overcome Anthem's failure to plausibly plead RICO violations.

A. The Litigation Activities Doctrine Bars Anthem's RICO Claims.

Conceding that courts "generally do not allow litigation filings to serve as a basis for RICO predicates acts," Anthem asks the Court to permit its RICO claims because: (i) "policy reasons behind the doctrine do not apply to IDR;" and (ii) Defendants allegedly deceived not just IDREs, but also federal agencies and other insurers. Opp., Dkt. 93 at 47. These arguments lack merit.

First, Anthem's policy theory would open congressionally closed floodgates by inviting losing parties in the IDR process (especially multi-billion-dollar insurance companies) to relitigate and collaterally attack thousands of IDRE determinations by re-labeling opponents' submissions as "wire fraud." That is precisely the type of retaliatory action that the litigation activities doctrine is intended to prevent. *See generally, Kim v. Kimm*, 884 F.3d 98, 104-05 (2d Cir. 2018) (explaining the policy arguments supporting the litigation activities doctrine).

Second, CMS assigned responsibility for eligibility determinations to IDREs. The IDR process provides non-initiating parties with multiple opportunities to object to eligibility, and IDREs must evaluate eligibility in every IDR proceeding. CMS also created a reconsideration process to resolve jurisdictional errors. *See* HaloMD's RJN, Ex. E, Dkt. 76-8. Allowing Anthem to weaponize RICO to attack IDR initiations would upend the entire NSA regulatory framework. No policy consideration favors such an outcome.

Third, the cases Anthem cites to argue against the litigation activities doctrine are unavailing. For example, although the court in *United States v. Koziol*, 993 F.3d

1160 (9th Cir. 2021), declined to apply the doctrine to categorically bar criminal prosecution of Hobbs Act violations, since *Kim*, numerous courts, including this Court and others in the Ninth Circuit, have applied the doctrine to civil RICO claims, recognizing "allegations of frivolous, fraudulent, or baseless litigation activities—without more—cannot constitute a RICO predicate act." *See*, *e.g.*, *Acres Bonusing, Inc. v. Ramsey*, No. 19-cv-05418-WHO, 2022 WL 17170856, at *11 (N.D. Cal. Nov. 22, 2022) (quoting *Kim*, 884 F.3d at 104) (gathering cases); *Rose v. Slater, Slater & Schulman, LLP*, No. 2:25-06112 CV (ADS), 2025 WL 3691864, at *5 (C.D. Cal. Nov. 19, 2025) (same).

In *United States v. Lee*, 427 F.3d 881 (11th Cir. 2005), the defendants never actually filed, or intended to file, a lawsuit. *Id*. at 890. Moreover, *Lee* recognized that *United States v. Pendergraft*, 297 F.3d 1198 (11th Cir. 2002), another criminal case Anthem cites, did not turn on policy considerations but on "the absence of an intent to deceive." *Lee*, 427 F.3d at 890.

In *Carroll v. U.S. Equities Corp.*, No. 18-cv-667, 2020 WL 11563716, at *9 (N.D.N.Y. Nov. 30, 2020), the defendants committed a variety of additional acts that "went beyond any of the particular disputes between the litigants." *Id.* at *9. Here, Anthem's RICO claims all rest on submissions in IDR proceedings. The litigation activities doctrine thus bars them.

B. Anthem Cannot Establish Proximate Causation.

IDREs make eligibility determinations and payment determinations, in that order. Anthem fails to meaningfully address the IDREs' adjudicative role and instead argues that IDREs are "part of the scheme" and not an independent factor, citing *Bridge v. Phoenix Bond & Indem. Co.*, 553 U.S. 639 (2008). *Bridge*, however, undermines Anthem's position because it involved RICO claims by bidders on tax liens who lost to defendants who made false representations to a county treasurer to compete in the lien auctions. *Id.* at 643-44. The Court focused on reliance questions but never had occasion to analyze the situation here, namely where a party places the

issue of eligibility before an arbitrator. Nonetheless, the Court noted that, if the county knew the attestations were false but permitted the defendants to participate anyway, then its "actions would constitute an intervening cause breaking" the causal chain. *Id.* at 659. Here, IDREs decide every case and the outcome of each IDR proceeding is unforeseeable given: (a) the IDREs' mandate to determine eligibility and select an offer of payment, and (b) Anthem's positions with respect to all IDRE determinations. The IDREs' independent decision-making thus broke the causal chain in every case.

VIII. Anthem May Not Rely on ERISA to Restrict Access to the IDR Process.

Anthem argues that it has pleaded a violation of the Employee Retirement Income Security Act of 1974 ("ERISA") by alleging that Defendants "failed to properly initiate or engage in open negotiations prior to initiating the IDR Process" and that Defendants "falsify…required information" to initiate IDR proceedings. Opp., Dkt. 93 at 65. In support, Anthem cites: 29 U.S.C. § 1185e(c)(1)(B) (providing that disputing parties may access the IDR process if open negotiations fail); 29 U.S.C. § 1185e(c)(2)(A) (directing federal agencies to establish the IDR process); 29 C.F.R. § 2590.716-8(b)(2)(i) (providing that disputing parties may initiate the federal IDR process); 29 C.F.R. § 2590.716-8(b)(2)(iii)(A) (providing what must be included in the notice of IDR initiation).

While IDREs make payment determinations only in eligible disputes, none of the authorities cited by Anthem provide that it is an ERISA violation to initiate IDR proceedings. Indeed, Anthem's ERISA claim is little more than a veiled attempt to restrict the Defendants' ability to access the IDR process.

IX. Anthem Fails to Demonstrate That It Has Plausibly Stated Any Claim with Particularity.

Anthem's opposition does not demonstrate why the Court should not dismiss all of Anthem's causes of action pursuant to Fed. R. Civ. P. 12(b) for the other many reasons argued in HaloMD's Motion to Dismiss and Defendants HaloMD and the

LaRoques' Special Motion to Strike Pursuant to Cal. Code Civ. Proc. § 425.16, including because Anthem fails to plausibly plead any of its claims with the requisite particularity to satisfy Fed. R. Civ. P. 8 and 9(b).

X. Conclusion.

For these additional reasons, this Court should dismiss the entirety of Anthem's Amended Complaint with prejudice. The Court should not grant leave to amend. This lawsuit has been brought in bad faith by Anthem and is not truly a fraud action. Amendment would be futile. *See Rutman Wine Co. v. E. & J. Gallo Winery*, 829 F.2d 729, 738 (9th Cir. 1987) ("Denial of leave to amend is not an abuse of discretion where the pleadings before the court demonstrate that further amendment would be futile.").

Respectfully submitted,

Dated: February 24, 2026

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L.R. 11-6.1 CERTIFICATE OF COMPLIANCE

Pursuant to Section 28 of the Procedures of the Honorable Karen E. Scott, the undersigned, counsel of record for Defendants HALOMD, LLC, ALLA LAROQUE, and SCOTT LAROQUE, certifies that, excluding the caption, the table of contents, the table of authorities, the signature block, and any indices and exhibits, this brief contains 6,970 words, which:

[X] complies with the word limit of L.R. 11-6.1.

___ complies with the word limit set by court order dated [*date*].

Dated: February 24, 2026

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