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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

REPLY IN SUPPORT OF DEFENDANTS HALOMD AND THE LAROQUES' SPECIAL MOTION TO STRIKE PURSUANT TO CAL. CODE CIV. PROC. § 425.16

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

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I. Preliminary Statement.

Anthem cannot circumvent the No Surprises Act's ("NSA") judicial review prohibition by collaterally attacking binding awards issued by neutral Independent Dispute Resolution Entities ("IDREs"). All of Anthem's state law claims are premised on attestations of belief of IDR process eligibility submitted when initiating IDR proceedings. Such attestations are protected by the litigation privilege and fall squarely within the purview of California's anti-SLAPP statute, Civ. Proc. Code § 425.16.

Presumably aware that Congress intended the IDR process to serve as a substitute litigation forum for out-of-network payment disputes covered by the NSA, Anthem asks this Court to ignore the IDREs' judicial function and federal agency oversight and find that IDR proceedings are not "official proceedings" for purposes of California's anti-SLAPP statute and litigation privilege. But Anthem's arguments rely on inapposite authorities and mischaracterize controlling precedent. California law is clear that statements made in connection with dispute resolution proceedings are protected activities and cannot be used to impose liability.

Anthem's remaining arguments fail. HaloMD and the LaRoques' motion is timely and Anthem fails to allege sufficient facts to support any cause of action under California law.

This Court can and should award HaloMD and the LaRoques their attorneys' fees and costs as prevailing parties.

II. Anthem's Claims Arise From Protected Activity.

Anthem does not dispute that its claims arise from HaloMD's attestations of belief of IDR process eligibility submitted during the initiation of IDR proceedings. Amended Complaint ("AC"), Dkt. 50, ¶¶ 283-354, 368-71. Contrary to Anthem's argument, IDR proceedings are "official proceedings" covered by the anti-SLAPP statute.

Section 425.16 is "construed broadly" and applies to statements "made in

connection with an issue under consideration or review by a […] judicial body, or *any* other official proceeding authorized by law."[1] Cal. Code Civ. Proc. § 425.16 (a), (e)(2) (emphasis added). This includes statements made in or in connection with an "official proceeding established by statute to address a particular type of dispute." *Philipson & Simon v. Gulsvig,* 154 Cal. App. 4th 347, 358 (2007); *see also Mallard v. Progressive Choice Ins. Co*., 188 Cal. App. 4th 531, 542 (2010) (anti-SLAPP protections apply to arbitration of uninsured motorist dispute).

A. IDR Proceedings Are Official Proceedings Authorized by the NSA and Federal Regulations.

Congress created the IDR process to resolve certain out-of-network payment disputes between healthcare providers and commercial healthcare insurers. *See* 42 U.S.C. § 300gg-111(c) (the statutory framework for the IDR process:); 45 C.F.R. § 149.510 *et seq*. (Oct. 7, 2021) (regulations implementing the "Federal IDR process"). IDR proceedings are adjudicated by IDREs, which are certified by the Department of Health and Human Services ("HHS"), in consultation with the Labor and Treasury Departments (collectively, the "Departments"), to adjudicate payment determinations pursuant to permitted statutory and regulatory considerations. 45 C.F.R. § 149.510(e). IDRE determinations are binding upon the parties and generally not subject to judicial review, except in limited circumstances set forth in the Federal Arbitration Act. *See* 45 C.F.R. § 149.510(c)(4)(vii)(A).

In an attempt to evade the anti-SLAPP statute, Anthem argues that IDR proceedings are not "official proceedings" because: (i) the Departments' role is ministerial; and (ii) the IDR process does not involve "formal findings of fact or hearings of any kind." Anthem's Opposition to Defendants' Special Motions to Strike ("Opp."), Dkt. 92 at 1:11, 7:24-26. Neither of Anthem's arguments has merit.

[1] Statements made before such a body also constitute protected activity. Cal. Code Civ. Proc. § 425.16(e)(1).

1. That IDREs Issue Payment Determinations Rather Than the Departments Is Immaterial.

The fact that Congress and the Departments delegated the authority to adjudicate IDR payment determinations to federally certified IDREs[2] does not change the fact that IDR proceedings are "official proceedings established by statute to address a particular type of dispute" within the plain meaning of the anti-SLAPP statute. *See, e.g.*, *Philipson*, 154 Cal. App. 4th at 358 ("concluding that the initiation of a State Bar sponsored fee arbitration proceeding is likewise covered; after all, it is an official proceeding established by statute to address a particular type of dispute."). Anthem's contrary argument that the Departments "themselves" do not make payment determinations and serve only a "ministerial" role highlights a distinction without a difference. *See* Opp., Dkt. 92 at 1, 6-7.

IDR proceedings are proceedings established by Congress in the NSA to adjudicate out-of-network payment disputes. The payment determination is only one step in the overall IDR process administered by the Departments in which IDREs wield adjudicatory authority. The NSA itself empowers the Departments with enforcement authority over the IDR process, authorizing them to impose civil monetary penalties on healthcare insurers that violate their NSA obligations. *See* 42 U.S.C. § 300gg-22(b)(2)(A) (providing for HHS enforcement against some payors for NSA non-compliance).

Anti-SLAPP protections apply to proceedings established by statute to adjudicate a particular type of dispute regardless of whether the statute delegates determinations to a government entity or a private party. *Dorit v. Noe*, 49 Cal. App. 5th 458, 469 (2020) (fee claims under California's Mandatory Fee Arbitration Act ("MFAA") are official proceedings even though adjudicated by private organizations). None of the anti-SLAPP decisions involving statutory dispute

[2] IDREs are subject to comprehensive federal certification requirements, pursuant to which HHS and the Departments also conduct substantial oversight over IDREs. *See* 45 C.F.R. § 149.510(e).

resolution proceedings even consider whether the government's role is "ministerial."[3] *See, e.g.*, *Philipson*, 154 Cal. App. 4th at 358.

Courts have further applied anti-SLAPP protections in the context of petitioning seeking "to establish a property right under a comprehensive federal statutory scheme." *Mindys Cosms., Inc. v. Dakar*, 611 F.3d 590, 596–97 (9th Cir. 2010) (filing trademark application is protected because it is a formal communication seeking official action in a process governed by statute); *Li v. Jin*, 83 Cal. App. 5th at 492-93 (application for IRS tax-exempt status is protected because procedures require IRS to, *inter alia*, interpret and apply the law to specific facts). Initiating an IDR proceeding to obtain fair reimbursement for medical services inarguably relates to the resolution of property rights under a comprehensive federal statutory scheme, *i.e.*, the NSA.

Anthem's opposition further characterizes the IDR system as "an informal offer submission and selection process" (Opp., Dkt. 92 at 6:6) instead of the "baseball-style dispute resolution process" alleged in its Amended Complaint. AC, Dkt. 50, ¶ 113. Semantics aside, IDR is a type of arbitration in a federal litigation forum specially created for resolving a specific type of dispute.[4]

Multiple federal courts, including the Fifth Circuit, have held that IDR proceedings are arbitrations and IDREs are protected by arbitrator immunity. *Guardian Flight, L.L.C. v. Med. Evaluators of Texas ASO, L.L.C.*, 140 F.4th 613, 623

[3] All of the authorities relied upon by Anthem are unrelated to dispute resolution. *See, e.g.*, *Blackburn v. Brady*, 116 Cal. App. 4th 670, 677 (2004) (ministerial event of a Sheriff's auction "does not concern an issue under review or determine some disputed matter"); *City of Indus. v. City of Fillmore*, 198 Cal. App. 4th 191, 217 (2011) (State Board of Equalization transmission of local sales tax revenues to local jurisdictions does not involve either a "proceeding" or "an issue under consideration or review" warranting SLAPP protection); *Li v. Jin*, 83 Cal. App. 5th 481, 492-93 (2022) (filing articles of incorporation, corporate statement, and Franchise Tax Board application for state tax-exempt status involve non-discretionary review).

[4] The United States has filed multiple statements of interest in other actions and takes the position that an IDR proceeding is a type of arbitration. *See* Brief for United States as Amicus Curiae, *Guardian Flight, L.L.C. v. Med. Evaluators of Texas ASO, L.L.C.*, No. 24-20051, Dkt. 111 (5th Cir. Oct. 15, 2024); Brief for the United States as Amicus Curiae, *Reach Air Medical Services LLC v. Kaiser Foundation Health Plan Inc. et al.*, Case No. 24-10135, Dkt. 54 (11th Cir. Aug. 28, 2024).

(5th Cir. 2025) ("*Guardian Flight II*") (explaining that IDREs function "exactly like arbitrators"); *see also Med-Trans Corp. v. Cap. Health Plan, Inc.*, 700 F. Supp. 3d 1076, 1087 (M.D. Fla. 2023) (holding that IDREs are immune in their capacities as arbitrators); *Avraham Plastic Surgery LLC v. Aetna, Inc.*, No. 25-CV-784 (OEM) (SDE), 2025 WL 3779084, at *4 (E.D.N.Y. Dec. 30, 2025) ("The NSA may designate IDR decisionmakers as [IDREs] rather than 'arbitrators' and uses the term 'IDR' rather than 'arbitration,' but the role of [an IDRE] as a neutral decisionmaker making a binding judgment to resolve a dispute between two parties makes them virtually indistinguishable from arbitrators and functionally akin to judges.").

These features are more than sufficient to establish that IDRs are "official proceeding[s] established by statute to address a particular type of dispute." *Philipson*, 154 Cal. App. 4th at 358 (concluding attorney's MFAA arbitrations are "official proceedings" because they are created by statute).

2. There Is No Threshold Procedural Requirement for an Arbitration to Qualify as an "Official Proceeding."

Anthem's argument that IDR proceedings are not "official proceedings" because they have streamlined processes is meritless. Anthem cherry-picks language from cases involving quasi-judicial proceedings to invent a threshold procedural requirement for an "official proceeding" that simply does not exist. Specifically, Anthem argues the anti-SLAPP statute only applies to proceedings that include: (1) an "actual hearing"; (2) "traditional discovery"; and (3) a ruling containing "specific rationale or findings of fact." Opp., Dkt. 92 at 8-11. In so arguing, Anthem conflates dispute resolution proceedings created by statute (e.g., *Philipson*) with inapposite "quasi-judicial proceedings that are part of a 'comprehensive' statutory licensing scheme and 'subject to judicial review by administrative mandate." *Kibler v. N. Inyo Cnty. Loc. Hosp. Dist.*, 39 Cal.4th 192, 199-200 (2006) (hospital peer review).

For example, Anthem cites to *Zaslavsky* for the proposition that "official proceedings" must "display properties like those paradigmatic of a legal proceeding."

Zaslavsky v. Consumer Att'ys Ass'n of Los Angeles, No. 2:23-cv-06460-SPG-RAO, 2024 WL 1706627, at *6 (C.D. Cal. Mar. 14, 2024). But *Zaslavsky* addressed whether a private association's internal procedures qualified as proceedings "authorized by law" under the quasi-judicial proceeding analysis in *Kibler*. *Id.* In that context, the analysis turned on whether a private bar association's internal proceedings had sufficient procedures to be "authorized by law." *Id.*[5] By contrast, a dispute resolution proceeding created by statute to address a specific type of dispute is, on its face, "authorized by law." *Philipson*, 154 Cal. App. 4th at 358.

None of the cases involving dispute resolution proceedings established by statute suggest, much less hold, that there is a threshold procedural requirement for anti-SLAPP protections to apply. Anthem misconstrues *Dorit* to argue otherwise, but *Dorit* found that MFAA arbitrations qualify as "official proceedings" because they are "*both* established by statute" (as in *Philipson* and *Mallard*) and part of a "comprehensive licensing scheme" (as in *Kibler*). *Dorit*, 49 Cal. App. 5th at 469-71 (emphasis added). *Dorit* explained the attorney fee arbitration was before the Bar Association of San Francisco, but still "governed by the MFAA so the same analysis [as in *Philipson*] applies." *Id.* at 469. *Dorit* further held that an MFAA arbitration also satisfies the standard for a quasi-judicial proceeding under the *Kibler* analysis. *Id.* at 470-71. It was in the latter context that *Dorit* addressed the MFAA's procedural features. *Id.*

In the same vein, Anthem falsely argues that *Mallard* and *Mission Beverage*

[5] Anthem's remaining authorities likewise do not involve statutory dispute resolution proceedings and apply the quasi-judicial analysis in *Kibler*. *See Altman v. Azrilyan*, No. B195061, 2008 WL 4182422, at *8 (Cal. Ct. App. Sept. 12, 2008) (notaries do not exercise discretion because they simply acknowledge receipt of "satisfactory evidence" to confirm identity); *Elec. Waveform Lab, Inc. v. EK Health Servs., Inc.*, No. B249840, 2015 WL 576595, at *1, 8 (Cal. Ct. App. Feb. 11, 2015) (applying *Kibler* rather than *Philipson* because the utilization review process by which independent medical professionals review treatment prescriptions for injured workers is informal and non-binding compared to "arbitration, a traditional litigation substitute"); *Swanson v. Cnty. of Riverside*, 36 Cal. App. 5th 361, 371 (2019) (distinguishing peer review process in *Kibler* from statute governing detention of persons with mental health conditions because they do not involve matters of public significance).

Co., suggest that "official proceedings" must provide for discovery. But *Mallard* only discusses discovery because the underlying claim arose from the issuance of a subpoena. *Mallard*, 188 Cal. App. 4th at 540. *Mallard* holds that uninsured motorist arbitration is "required by statute" within the meaning of the anti-SLAPP law because the parties "were statutorily required to contractually agree to submit any dispute regarding uninsured motorist claims to contractual arbitration." *Id.* at 541-42. And *Mission Beverage Co.*, does not even mention discovery to support its holding that "arbitration undoubtedly qualifies as an official proceeding under the governing precedent." *Mission Beverage Co. v. Pabst Brewing Co., LLC*, 15 Cal. App. 5th 686, 704 (2017). *See* Opp., Dkt. 92 at 9 (injecting arguments about Cal. Bus. & Prof. Code § 25000.2(f) never raised in the court's opinion).

Finally, while Anthem wishes that IDR proceedings were more burdensome on providers, Anthem fails to explain why IDR proceedings do not have sufficient processes to qualify as "official proceedings." Indeed, IDR proceedings are governed by extensive regulatory procedures established by the Departments. *See* 42 U.S.C. § 300gg-111(c) (the statutory framework for the IDR process); 45 C.F.R. § 149.510 *et seq*. (Oct. 7, 2021) (regulations implementing the IDR process).

Accordingly, IDR proceedings are official proceedings authorized by law for purposes of California's anti-SLAPP statute.

III. Defendants' Anti-SLAPP Motion Is Timely.

Defendants' motion is timely under both Rule 12 of the Federal Rules of Civil Procedure and the Court's orders.

Under state law, an anti-SLAPP motion may be filed within sixty days of service of the complaint "or, in the court's discretion, at any later time upon terms it deems proper." Cal. Code Civ. Proc. § 425.16(f). The California Supreme Court has explained the policy behind the deadline is to resolve meritless cases "promptly and inexpensively." *Newport Harbor Ventures, LLC v. Morris Cerullo World Evangelism*, 4 Cal. 5th 637, 645 (2018) (rejecting anti-SLAPP motion because case

had been in litigation for two years and discovery was conducted).

In the Ninth Circuit, anti-SLAPP motions raising purely legal challenges are analyzed under Rule 12(b)(6) to prevent California procedural rules from usurping federal rules. *Planned Parenthood Fed'n of Am., Inc. v. Ctr. for Med. Progress*, 890 F.3d 828, 834-35 (9th Cir. 2018); *see also Sarver v. Chartier*, 813 F.3d 891, 900 (9th Cir. 2016) (timing requirements in "Cal. Code Civ. Proc. § 425.16(f) directly collide with the more permissive" Rule 56 timeline). As Rule 12(b) provides, a defendant may file a motion to dismiss any time before a responsive pleading is filed.

Here, Defendants filed their anti-SLAPP motion on December 12, 2025, the responsive pleading deadline set by the Court.[6] Defendants thus complied with the Court's Order and Rule 12(b) and their motion is timely.[7]

Anthem's argument to the contrary is based on an unpublished decision where the defendant filed an unsuccessful anti-SLAPP motion and then reiterated the same losing argument in response to an amended complaint. *See Novel v. Los Angeles Cnty. Sheriff's Dep't*, No. 2:19-cv-01922-RGK-AGR, 2020 WL 2089488, at *3 (C.D. Cal. Feb. 19, 2020); *Novel v. Los Angeles Cnty. Sheriff's Dep't et al.*, 2:19-cv-01922-RGK-AGR, 2020 WL 3884437, at *1 (C.D. Cal. Mar. 30, 2020). Unlike the *Novel* defendants, who attempted to take a second bite at the apple, here, Defendants filed their anti-SLAPP motion in lieu of a responsive pleading within the timeframe ordered by the Court. Strictly interpreting the anti-SLAPP law's sixty-day deadline on these facts, as Anthem urges, would neglect this Court's prior orders, undermine

[6] On October 8, 2025, the Court "stayed" Defendants' deadline to respond, ordered Anthem to file an amended complaint by October 17, 2025, and ordered Defendants to respond within twenty-eight days. Dkt. 48. Thereafter, the Court ordered Defendants' to "file an answer, motion, or otherwise respond" by December 12, 2026. Dkt. 57. Defendants timely filed their anti-SLAPP motion pursuant to the Court's order. Dkt. 78.

[7] To hold otherwise would also mean that a federal court clerk is obligated to schedule a hearing within thirty days after service of an anti-SLAPP motion. Cal. Code Civ. Proc. § 425.16(f). State procedural rules cannot dictate how federal courts conduct their business or usurp federal procedure. *See, e.g.*, *Martin v. Pierce Cnty.*, 34 F.4th 1125, 1132 (9th Cir. 2022) ("The Supreme Court has rejected every challenge to the Federal Rules that it has considered under the Rules Enabling Act.").

the policy behind the anti-SLAPP statute, and elevate California procedure above federal procedural rules. Anthem's position thus lacks merit.

Defendants' anti-SLAPP motion is timely and the Court should grant it. *See Gardner v. Martino*, 563 F.3d 981, 991 (9th Cir. 2009) ("a first amended complaint is subject to anti-SLAPP remedies"); *Lam v. Ngo*, 91 Cal. App. 4th 832, 840 (2001) (anti-SLAPP deadline is not jurisdictional).

IV. Anthem Cannot Demonstrate a Probability of Prevailing on the Merits.

For the reasons set forth by HaloMD in its Motion to Dismiss and Reply, Anthem's state law claims are barred by the NSA's judicial review prohibition and the *Noerr-Pennington* doctrine. But those are only two of several reasons why Anthem's claims should be dismissed.

A. The Litigation Privilege Bars Anthem's Claims.

To avoid application of the litigation privilege, which provides a complete defense to Anthem's state law claims, Anthem reiterates the same flawed argument that Federal IDR proceedings are not official proceedings because they do not have the same procedural features as other quasi-judicial proceedings conducted by administrative agencies and private entities. Anthem's argument fares no better in the litigation-privilege context.

As an initial matter, although Anthem is correct that the litigation privilege under Cal. Code Civ. Code § 47 is substantively different from the anti-SLAPP statute, that distinction supports Defendants' position because the litigation privilege is broader. The California Supreme Court has explained that the litigation privilege has "broad application" reaching "any publication required or permitted by law in the course of a judicial proceeding to achieve the objects of the litigation, even though the publication is made outside the courtroom and no function of the court or its officers is involved." *Silberg v. Anderson*, 50 Cal.3d 205, 212 (1990). By extension, the litigation privilege applies to "all arbitration proceedings because of the analogy to a judicial proceeding." *Rasidescu v. Midland Credit Mgmt., Inc*., 496 F. Supp. 2d

1155, 1160 (S.D. Cal. 2007). The underlying policies supporting the litigation privilege include that open communication to judicial and quasi-judicial bodies is a "fundamental adjunct to the right of access to judicial and quasi-judicial proceedings" and the "external threat of liability is destructive of this fundamental right and inconsistent with the effective administration of justice." *Silberg*, 50 Cal. 3d at 213. "Any doubt as to whether the privilege applies is resolved in favor of applying it." *Adams v. Superior Ct.*, 2 Cal. App. 4th 521, 529 (1992).

Since Congress intended the IDR process to serve as a substitute for traditional litigation in payment disputes covered by the NSA between healthcare providers and commercial healthcare insurers, statements made to initiate the IDR process are afforded the same privilege as pleadings submitted in court or arbitration. *See Moore v. Conliffe*, 7 Cal. 4th 634, 652 (1994) (reasoning that a private contractual arbitration proceeding is "much more analogous to a traditional court proceeding" than a quasi-judicial peer review hearing because arbitration is "conducted before a neutral decision maker and intended to resolve a controversy that otherwise would require resort to a court"). To hold otherwise would mean that insurance companies, like Anthem, could initiate lawsuits to collaterally attack IDR awards anytime they were dissatisfied with an IDRE determination, or even more nefariously, to intimidate healthcare providers from participating in the IDR process through threats of costly litigation. Such a ruling would undermine the primary purpose of the litigation privilege, which is to afford litigants "the utmost freedom of access" to processes to resolve their disputes. *See Silberg*, 50 Cal.3d at 213.

Anthem's attempt to distinguish cases applying the litigation privilege to statements made in connection with arbitration falls flat. None of the cases holding that arbitration is a judicial proceeding hinge on the procedural features of arbitration. Instead, they focus on the dispute-resolution function.

For example, in *Moore*, the California Supreme Court explained that "an arbitration hearing falls within the scope of [the litigation] privilege because of its

analogy to a judicial proceeding." *Moore*, 7 Cal.4th at 647 (quoting *Ribas v. Clark*, 38 Cal. 3d 355, 364 (1985)). There, the Court explained that "[j]udicial proceedings include all proceedings in which an officer or tribunal exercises judicial functions." *Id.* at 649. Further, it reasoned that finding arbitration to be a judicial proceeding follows logically from the parallel treatment accorded officers who exercise a judicial function. *Id.* at 650.[8] The same rationale applies to the IDR process. *See Guardian Flight, LLC*, 140 F.4th 613.

Anthem's arguments to the contrary are based on cases involving the "official proceeding" privilege, not the litigation privilege. *See, e.g.*, *Tiedemann v. Superior Ct.*, 83 Cal. App. 3d 918, 921-22 (1978) (proceeding conducted by enforcement agency of the United States Treasury is quasi-judicial); *Picton v. Anderson Union High Sch. Dist.*, 50 Cal. App. 4th 726, 730 (1996) (Commission on Teacher Credentialing is quasi-judicial); *Cirrus Beijing Corp. v. Adams*, 772 F. App'x 600, 601 (9th Cir. 2019) (Chinese stock exchange is not quasi-judicial). None of Anthem's cases discussing the "official proceeding" privilege involve statements made in in connection with dispute resolution proceedings or arbitration.[9]

Regardless, even if the Court accepts Anthem's suggestion that the IDR process should be analyzed under the "official proceeding" privilege rather than the litigation privilege, the IDR process still falls within the "wide range of administrative and quasi-judicial proceedings" that implicate the privilege. *See Butler v. McCain and Assocs.*, No. C074654, 2016 WL 1726018 at *5 (Cal. Ct. App.

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[8] *See also Rasidescu*, 496 F. Supp. 2d at 1161 (referencing the submission of evidence and a full hearing because it "strongly implies that a decision on the record will issue"); *Nickoloff v. Wolpoff & Abramson, L.L.P.*, 511 F. Supp. 2d 1043, 1045 (C.D. Cal. 2007) (holding litigation privilege applies to arbitration without further analysis).

[9] Anthem's authorities unrelated to the litigation privilege are not instructive. *See Murray v. Alaska Airlines, Inc.*, 50 Cal. 4th 860, 881 (2010) (listing indicia of "administrative proceedings" undertaken in a judicial capacity for purposes of collateral estoppel outside the context of a privilege analysis); *DotConnectAfrica Tr. v. Internet Corp. for Assigned Names & Numbers*, 68 Cal. App. 5th 1141, 1158 (2021) (discussing features of arbitration in the context of judicial estoppel).

Apr. 27, 2016) (distinguishing administrative functions of a County Surveyor from bodies vested with discretion that render determinations by applying the law to facts).

As Anthem's own authority points out, there are several "factors" courts consider when determining whether a proceeding is quasi-judicial. *Picton*, 50 Cal. App. 4th at 737. None of Anthem's authorities suggest that any single factor is determinative or that a hearing and discovery are necessary for a proceeding to be quasi-judicial. To the contrary, *Maheshwari* explains that the term "proceeding," as used in "section 47 has a broad meaning and includes any transaction." *Maheshwari v. Vista Hosp. Sys., Inc*., No. E031768, 2003 WL 22079563, at *15 (Cal. Ct. App. Sept. 9, 2003) (citing *Ascherman v. Natanson*, 23 Cal. App. 3d 861, 865 (1972)). And *Ascherman* notes that the "most important[ ]" factor to determine the nature of the proceeding is whether the presiding officer's "power affects the personal or property rights of private persons," regardless of whether the officer is "called commissioner, judge, referee, hearing officer, etc." *Ascherman*, 23 Cal. App. 3d at 866; *see also Pettus v. Cole*, 49 Cal. App. 4th 402, 437 (1996) ("Section 47(b)(2) has been extended to quasi-judicial proceedings where those proceedings involve an administrative body or agency's decision-making process.").

Although the IDR process falls squarely within the requirements for a judicial proceeding, it also satisfies the requirements of a quasi-judicial or other official proceeding authorized by law because IDREs are empowered by Congress to make binding payment determinations that affect the property rights of parties to IDR proceedings. The fact that Congress created a dispute resolution system where IDREs exercise discretion to make payment determinations based on written submissions rather than through live hearings is irrelevant to the analysis, because the IDR process is the mechanism for healthcare providers and payors to resolve payment disputes.

Finally, Anthem argues that even if the litigation privilege applies, it does not apply to Anthem's Unfair Competition Law claims based on violations of federal laws. As explained in HaloMD's Motion to Dismiss, however, Anthem fails to state

a claim under any federal law. There is no basis to conclude that the NSA preempts the California litigation privilege with respect to the submission of attestations of belief of eligibility for the IDR process.

B. Anthem's Misrepresentation Claims Fail.

Anthem does not cite a single example of a misrepresentation made by HaloMD, the LaRoques, or any other Defendant.

Anthem argues that its allegations satisfy Rule 9(b) because it is permitted to allege "examples." However, Anthem's supporting authority is distinguishable. In the *Almont* case, United described "with great specificity" the allegedly fraudulent scheme and furnished examples of conduct impacting forty individual plan members. *Almont Ambulatory Surgery Ctr., LLC v. UnitedHealth Grp., Inc*., No. CV 14-03053 MWF(VBKx), 2015 WL 12778048, at *8 (C.D. Cal. Oct. 23, 2015). Even then, the Court found the issue "a close one." *Id.*

By contrast, here, Anthem asks the court to find its allegations are sufficient based on four instances where HaloMD allegedly submitted attestations of belief of eligibility for IDR, Anthem sent communications stating that claims were ineligible for IDR or objected to eligibility, and IDREs issued awards in the providers' favor. AC, Dkt. 50, ¶¶ 171, 176, 181, 187. None of Anthem's examples support a plausible inference that HaloMD knowingly submitted ineligible claims with the intent to defraud. All Anthem alleges is that HaloMD should have known claims were ineligible for IDR at the outset either because Anthem sent communications disputing eligibility, Anthem objected to eligibility at IDR, or HaloMD should have had indirect access to information demonstrating ineligibility (from its clients, who should have received it from facilities, who should have received it from patients, many of whom were presenting in emergency situations). Even "taken collectively," these allegations do not "give rise to a strong inference of scienter." *Zucco Partners, LLC v. Digimarc Corp*., 552 F.3d 981, 1006 (9th Cir. 2009) (affirming dismissal of complaint that failed to allege scienter with particularity). The allegations do not even

demonstrate knowledge, much less intentional misconduct.

Further, even if the handful of examples Anthem alleges supported an inference of misrepresentation (they do not), they are insufficient to support an inference that Defendants "deliberately and intentionally" submitted hundreds of other attestations of belief of eligibility for claims ineligible for IDR. *See Almont Ambulatory Surgery Ctr., LLC*, 2015 WL 12778048, at *10 ("[T]he FACC inadequately alleged fraud by providing a limited number of detailed examples as to the types of fraud alleged, and then extrapolating these examples to all Counter-Defendants through an impermissible 'everyone did everything' theory."). That remains true regardless of whether Anthem must plead scienter with specificity because Anthen's allegations are not "specific enough to give defendants notice of the particular misconduct." *Vess v. Ciba-Geigy Corp. USA*, 317 F.3d 1097, 1106 (9th Cir. 2003) (affirming dismissal with prejudice for failure to allege fraud sufficiently under Rules 9(b) and 12(b)(6)).

Anthem also seeks to downplay the fact that the statements at issue are attestations of belief of eligibility rather than definitive factual assertions. But *Hanon v. Dataproducts Corp*., upon which Anthem relies, involved fraud under the federal securities laws. *Hanon v. Dataproducts Corp*., 976 F.2d 497, 501 (9th Cir. 1992). That decision is limited to the context of securities fraud, where market manipulation is a central concern. Regardless, the statements at issue in *Hanon* did not have qualifying language like the attestations of eligibility here, and still the statements did not support a finding of fraud because they did not "guarantee" the success of the defendant's product. *Id.* Since attestations of belief of eligibility have qualifying language and do not guarantee eligibility, *Hanon* supports Defendants' position, not Anthem's.

C. Anthem's UCL Claim Fails.

Anthem's attempt to circumvent the NSA's judicial review prohibition by purporting to state a claim under the UCL fails because Anthem has not alleged any

unlawful business practices that caused its alleged harm. As to the LaRoques, Anthem has alleged no specific conduct whatsoever. Even if the attestations of belief of IDR eligibility did not constitute privileged litigation communications (they do) and were not protected by the anti-SLAPP statute (they are), the submission of such attestations cannot support liability because the NSA and IDR process "clearly permit[]" and contemplate that IDREs will objectively consider and determine eligibility in every single proceeding. *See Davis v. HSBC Bank Nevada, N.A.*, 691 F.3d 1152, 1164 (9th Cir. 2012).

Further, although Anthem is correct that the litigation privilege may not apply where a federal or state statute specifically prohibits conduct underlying the unlawful business claim, Anthem fails to identify any law prohibiting submission of attestations of belief of eligibility–even if based on a mistaken belief. *See People v. Potter Handy, LLP*, 97 Cal. App. 5th 938, 948 (2023) (affirming dismissal of UCL claims premised on filed lawsuits resting on false standing allegations).

Anthem argues that it states a claim under the UCL vis-à-vis 18 U.S.C. § 1347, the federal criminal health care statute, based on its conclusory allegations that Defendants engaged in a scheme to obtain money under control of a health care benefit program. But Anthem does not cite any authority suggesting that initiating a payment dispute pursuant to a dispute resolution process established by a federal statute constitutes fraud, regardless of the alleged merits of the disputed claim. Anthem also does not identify any authority suggesting that a party who initiates such a proceeding can be held liable for causing the other party's damages based on an adverse award rendered by a neutral arbitrator.

As for Anthem's purported claim under Cal. Penal Code § 550(b)(1), Anthem simply recites the statute, ignores that its application is limited to claims made "pursuant to an insurance policy," and concludes, without further explanation, that the Amended Complaint "pleads precisely such a violation." Opp., Dkt. 92 at 23:25-26. If anything, Anthem's attempt to fit its claim within this statute reinforces the

conclusion that Anthem's entire complaint constitutes an impermissible collateral attack on the IDR process.

V. HaloMD and the LaRoques Are Entitled to Their Fees and Costs.

Anthem makes two arguments against awarding HaloMD and the LaRoques their statutory attorney's fees and costs under the anti-SLAPP statute. Both arguments fail.

First, Anthem argues that if its federal claims survive, the litigation would not be sufficiently altered by dismissal of its state law claims to warrant fees under the anti-SLAPP statute. Anthem's authorities do not support such a proposition. *See Brown v. Elec. Arts, Inc.*, 722 F. Supp. 2d 1148, 1157 (C.D. Cal. 2010) (fees not awarded under anti-SLAPP statute because court did not reach the merits by declining to exercise supplemental jurisdiction over the state law claims); *Moran v. Endres*, 135 Cal. App. 4th 952, 954 (2006) (dismissing plaintiff's causes of action for conspiracy because it is not a cause of action separate from the underlying wrong, and thus "added little or nothing" to the plaintiffs' case).

Here, while all of Anthem's claims should be dismissed, even if the Court determined that Anthem stated a plausible federal claim, dismissing Anthem's state law claims would significantly change the scope of this lawsuit. Granting the anti-SLAPP motion would also establish precedent that Anthem's state law theories of relief are not viable.

Second, Anthem erroneously argues that if the Court dismisses its federal claims, then it cannot exercise supplemental jurisdiction over Anthem's state law claims and rule on the anti-SLAPP motion. However, the authorities Anthem cites involve instances where the court dismissed federal claims for lack of personal or subject matter jurisdiction, and as a result, could not exercise supplemental jurisdiction over the remaining state law claims. Opp., Dkt. 92 at 27 (collecting cases).

By contrast, here, this Court can and should dismiss Anthem's federal claims on the merits. If it does, nothing prevents this Court from exercising its supplemental jurisdiction to rule on Anthem's state law claims, dismissing them pursuant to the anti-SLAPP statute, and awarding fees. Doing so would be in the interest of judicial economy consistent with the policy behind pendant federal jurisdiction.

VI. The Anti-SLAPP Statute Applies in Federal Court.

Finally, Anthem incorrectly argues that California's anti-SLAPP statute cannot apply in federal court despite clear Ninth Circuit precedent to the contrary. *See, e.g.*, *Verizon Delaware, Inc. v. Covad Commc'ns Co.*, 377 F.3d 1081, 1091 (9th Cir. 2004).

Anthem's reliance on the recent United States Supreme Court decision in *Berk v. Choy* to argue otherwise overstates the Court's narrow holding. *Berk v. Choy*, --- U.S. ---, No. 24-440, 2026 WL 135974 (U.S. Jan. 20, 2026). *Berk* involved a specific provision in the Delaware code providing a plaintiff may not sue for medical malpractice unless a medical professional attests to the suit's merit in an affidavit of merit accompanying the complaint. Del. Code, Tit. 18, § 6853(a)(1). The majority held that because the specific provision in the Delaware Code requiring an affidavit of merit directly conflicts with Rule 8, which only requires "a short and plain statement of the claim showing that the pleader is entitled to relief," the affidavit requirement does not apply in federal court. *Id.* at *1.

Anthem seeks to stretch *Berk* to mean that if a statutory scheme contains a single procedural provision that conflicts with the Federal Rules, the entire statutory scheme cannot be enforced in federal court. But *Berk* does not go so far. Anthem emphasizes that in *Berk*, the Court reasoned that it could not rewrite the portion of the Delaware Code serving a gatekeeping function because it would result in a "free-floating" evidentiary requirement. *Berk*, 2026 WL 135974, at *5. But *Berk* did not expressly reject the notion that a court could excise portions of a statute that conflict with federal procedural rules.

Here, unlike the affidavit requirement in *Berk*, California's anti-SLAPP statute is a comprehensive statutory scheme that has both substantive and procedural elements. Cal. Code Civ. Proc. § 425.16. Anthem fails to explain how enforcing the anti-SLAPP statute's substantive features that do not conflict with federal procedural rules would not be consistent with the California Legislature's guidance that the statute be "construed broadly." *Id.* § 425.16(a). Nor does Anthem explain how enforcing the substantive fee-shifting provisions in the anti-SLAPP statute would violate the Federal Rules. *Id.* § 425.16(c)(1). *See e.g.*, *U.S. ex rel. Newsham v. Lockheed Missiles & Space Co.*, 190 F.3d 963, 973 (9th Cir. 1999) (anti-SLAPP statute "serve[s] an interest not directly addressed by the Federal Rules").

Instead, Anthem cites a litany of concurring and dissenting opinions from the Ninth Circuit expressing frustration with the anti-SLAPP statute. Based on those non-binding opinions, Anthem incorrectly suggests that this Court should interpret the Supreme Court's decision in *Berk* to prohibit anti-SLAPP motions in federal courts. Opp., Dkt. 92 at 27-32. But Anthem's list of concurring and dissenting opinions serves only to show that in the Ninth Circuit, the controlling approach is to permit anti-SLAPP motions and sever any procedural features of the statute that are at odds with the federal rules. Until the Ninth Circuit or Supreme Court directs otherwise, that is precisely what this Court should do here.

VII. Conclusion.

For the reasons above and in HaloMD and the LaRoques' special motion to strike, the Court should grant the motion, dismiss Anthem's state law claims, and

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order Anthem to pay HaloMD and the LaRoques' attorneys' fees in an amount according to proof by separately noticed motion.

Dated: February 24, 2026

NIXON PEABODY LLP

By: */s/ Jonah D. Retzinger*
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CERTIFICATION 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 5,974 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

NIXON PEABODY LLP

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