UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

BLUE CROSS BLUE SHIELD OF TEXAS, A DIVISION OF HEALTH CARE SERVICE CORPORATION, A MUTUAL LEGAL RESERVE COMPANY, *Plaintiff*, vs. HALOMD, LLC, ALLA LAROQUE, and SCOTT LAROQUE, *Defendants*.	Case No. 5:25-cv-00132

PLAINTIFF'S SUR-REPLY IN OPPOSITION TO DEFENDANTS' MOTIONS TO DISMISS AND FOR JUDICIAL NOTICE

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INTRODUCTION

This case concerns a widespread and ongoing fraud scheme by Defendants, plain and simple. Defendants repeatedly made blatant and verifiable misrepresentations to Plaintiff ("BCBSTX"), entities overseeing the Independent Dispute Resolution ("IDR") Processes, and state and federal governments. Defendants often made these misrepresentations ***after*** being informed multiple times of their falsity and even implemented dramatic "delay-and-dump" tactics with the hope that their lies would not be caught. And Defendants knew that their misrepresentations would be relied upon because the IDR Process is an honor system based on the initiating party making accurate and truthful attestations.

According to Defendants, this Court (and all others) must now sit idle while Defendants continue to engage in their campaign of abusing federal and state legislation and defrauding health plans across the country. This is contrary to established principles of statutory interpretation, controlling authority, hornbook law, and common sense. Defendants' attempt to hide behind the technical defenses raised in their motion to dismiss must be rejected. Nor do the public agency records that Defendants cite do anything to bolster their arguments for dismissal. Accordingly, BCBSTX respectfully requests that the Court deny Defendants' motion to dismiss in its entirety.

ARGUMENT

I. The NSA does not foreclose judicial review of Defendants' misconduct.

Nothing in the NSA bars judicial review of BCBSTX's claims. The statutory section relied on by Defendants in support of their "no judicial review" argument, 42 U.S.C. § 300gg-111(c)(5)(E), states that "[a] determination of a certified IDR entity under subparagraph (A) . . . shall not be subject to judicial review, except in a case described in any of paragraphs (1) through (4) of section 10(a) of title 9." Section 300gg-111(c)(5) is titled "Payment Determination." The

only "determination" IDREs make under subparagraph (A) in this section is "the amount of ***payment***" for a "qualified IDR item or service." *Id.* § 300gg-111(c)(5)(A) (emphasis added).

BCBSTX is ***not*** seeking judicial review of the "amount of payment" ordered for any "qualified" IDR item or service. Rather, BCBSTX is challenging Defendants' overall scheme of submitting ***ineligible*** (not "qualified") services or items to the IDREs, falsely attesting that those services or items are eligible ("qualified") for the IDR process. This scheme has allowed HaloMD to wrongly obtain awards its clients' were never entitled to in the first place, while also causing BCBSTX to incur substantial economic harms as a result of the fees, costs, and time that must be (wrongly) allocated to the IDR process for these ineligible submissions. D.E. 1 ("Compl.") ¶ 12.[1]

Because BCBSTX's claims relate only to ***eligibility*** decisions, they are subject to review by this Court. The most natural reading of Section 300(gg-111(c)(5) ("Payment Determination") limits application of the section, and its judicial review provision, to just those claims specifically challenging the payment determination. *Guardian Flight I* and *II*—relied on extensively by Defendants—are inapposite because they both specifically involve challenges related to the final payment determination. In *Guardian Flight I*, two air ambulance providers sued a health plan for failing to timely pay final IDR awards. *Guardian Flight, L.L.C. v. Health Care Serv. Corp.*, 140 F.4th 271, 273 (5th Cir. 2025). Because the plaintiffs in that case were seeking to enforce a final award, it is unsurprising that the *Guardian Flight I* court did not address eligibility determinations.

[1] Defendants also advance the non-sensical claim that subparagraph (A)'s use of the words "qualified" and "applicable" shows that an "eligibility determination" "must ***precede*** the payment determination" and is also therefore immune from review. D.E. 28 at 3 (emphasis in original). However, as to eligibility, the relevant regulations only require the IDRE to "review the information submitted in the notice of IDR initiation"—which only contains the attestations submitted by the provider, without any input (or opportunity for rebuttal) from a health plan like BCBSTX—"to determine whether the Federal IDR process applies." 45 C.F.R. § 149.510(b)(2)(iii) (contents of notice of IDR initiation do not include a non-initiating party's objections); 45 C.F.R. § 149.510(c)(1)(v) (requiring IDREs to review notice of IDR initiation, but not requiring review of any other documents from the IDR portal, or any other submissions from the non-initiating party).

Likewise, Defendants' own quotation of the *Guardian Flight II* holding recognizes that it imposes a limitation on the "***judicial review of [IDR] awards***." D.E. 28 at 5 (emphasis in original). *Guardian Flight II* concerned allegations by an emergency air-ambulance provider against a health benefits plan regarding the calculation of the health benefit plan's QPA (*e.g.*, "the median of the contracted rates recognized by the plan or issuer") as part of the IDRE's application of the factors for "consideration" under Section 300(gg-111(c)(5)(C). *Guardian Flight, L.L.C. v. Med. Evaluators of Tex. ASO, L.L.C.*, 140 F.4th 613, 618–20 (5th Cir. 2025). Thus, because the provider's claims related solely to a final payment determination, the claims were squarely within the confines of Subparagraph A and its judicial review provisions. *Id*. at 620–22. Here, in contrast, BCBSTX challenges HaloMD's pattern of initiating IDR Processes for ineligible services and items. BCBSTX does not challenge the application of the factors that must be considered as part of reaching a final award determination. Accordingly, Defendants' reliance upon *Guardian Flight II* is unavailing. Judicial review remains available—and proper—for BCBSTX's asserted claims.

II. The collateral attack doctrine is inapplicable to BCBSTX's claims.

Contrary to Defendants' continued suggestions, the collateral attack doctrine does ***not*** bar every suit that involves a prior arbitration or lawsuit. Instead, the collateral attack doctrine is only applicable where a party attacks the ***outcome***—the substantive results—of a prior litigation or arbitration. *See Rein v. Providian Fin. Corp.*, 270 F.3d 895, 902 (9th Cir. 2001) ("[T]he collateral attack doctrine does not apply to [plaintiff] because his claims were never addressed by a prior order or judgment."). That is not the case here. BCBSTX is attacking Defendants' fraudulent scheme as a whole that extends beyond any individual proceeding, and which is ongoing. Moreover, IDR proceedings are not true arbitrations, so the collateral attack doctrine should not apply at all in this context.

The *Gulf Petro* case relied on heavily by Defendants expressly recognized that not all claims "arising from conduct relating to arbitration" constitute a collateral attack; rather, the question is whether the conduct has caused harm "independent of its effect on the arbitration award." *Gulf Petro Trading Co., Inc. v. Nigerian Nat. Petroleum Corp.*, 512 F.3d 742, 751 & n.5 (5th Cir. 2008). *Gulf Petro* acknowledges multiple other types of permissible lawsuits involving a previous arbitration or lawsuit. *See id. at* 749 n.3 (discussing the decision in *Mian v. Donaldson, Lufkin & Jenrette Securities Corp.*, 7 F.3d 1085, 1087 (2d Cir. 1993) to permit civil rights claim to proceed even though "a major component of the damages sought would consist of the amount of the arbitration award");[2] *id.* at 751 n.5 (describing potentially permissible RICO claims).

Here, BCBSTX's claims extend beyond any individual IDR. BCBSTX's claims are based on Defendants' coordinated scheme to submit tens of thousands of ineligible claims and engage in "delay-and-dump" tactics designed to overwhelm the IDR Processes. Compl. ¶¶ 93, 200–06, 289, 291. There is no way to assess this conduct by looking at one isolated IDR award; Defendants' scheme, as a whole, must be evaluated.

Defendants attempt to rebut BCBSTX's arguments by claiming that *Gulf Petro* also involved a "scheme." D.E. 28 at 6–7. But the "scheme" in *Gulf Petro* involved a ***single arbitration*** involving bribery amongst the arbitrators. 512 F.3d at 744–46. Defendants' reliance on *Ibarzabal v. Morgan Stanley DW, Inc.*, No. 07-cv-2273, 2007 WL 9753006 (S.D.N.Y. Dec. 5, 2007) is similarly misplaced. In that case, a class of eight plaintiffs challenged "a total of five arbitration proceedings" on the grounds that the respondent in the arbitrations failed to produce relevant discovery, and misrepresented that it did not exist. *Id.* at *1, 3–4. Five arbitration proceedings,

[2] Although *Gulf Petro* distinguished the claims before it from those in *Mian*, *see Gulf Petro*, 512 F.3 at 749 n.3, the instant case aligns far more closely with the facts in *Mian*. Like in *Mian*, BCBSTX does not seek to relitigate the substantive merits of the arbitration; instead, it seeks to challenge a broader course of misconduct by a private company—HaloMD—engaging in systemic efforts to exploit the NSA.

challenged by eight separate plaintiffs, is a far cry from a scheme to wrongly submit the ***tens of thousands of IDRs***, with intent to defraud and abuse a statutory scheme.[3]

BCBSTX also seeks relief that is entirely different than that available through the IDR Processes, including an injunction prohibiting future misconduct. Compl. ¶¶ 340–42. Defendants argue that BCBSTX's prospective-looking injunctive relief claims are barred by the collateral attack doctrine, citing *Texas Brine Co., L.L.C. v. Am. Arb. Ass'n, Inc.*, 955 F.3d 482, 489 (5th Cir. 2020). But in that case, there was nothing prospective looking or injunctive about the relief the plaintiff sought, which was for "defendants [to] fully disgorge themselves of all amounts paid during the arbitration proceedings." *Id.* (cleaned up). Defendants have no answer for how BCBSTX's injunctive relief claim could collaterally attack IDRs that have ***not yet been commenced***.

Additionally, BCBSTX seeks damages for the "administrative and staffing expenses" that are distinct from any particular IDR proceeding. BCBSTX was forced to incur these expenses to build up its ability to manage Defendants' improper IDR submissions, both before and during the IDR Processes, including staffing costs to respond to open negotiations and overhead expenses for data tracking and storage. Compl. ¶¶ 12, 206, 235, 253, 266, and 269. These claims are not recoverable via IDR, and are wholly different than the expenses sought in *Gulf Petro,* which were for the costs incurred in the arbitration and subsequent legal challenges themselves. *See* 512 F.3d at 549. BCBSTX also settled certain claims with Defendants based on misrepresentations, and thus those damages are also separate from the IDR awards. Compl. ¶¶ 266–68.

[3] While Defendants argue their scheme is immune from suit because "there is no multi-arbitration exception to the collateral attack doctrine," (D.E. 28 at 6), they fail to cite a single instance where the collateral attack doctrine has been applied by the Fifth Circuit or elsewhere to a similar fact pattern involving tens of thousands of awards suffering from ineligibility issues.

Moreover, unlike in the collateral attack cases cited by Defendants, BCBSTX has not "already arbitrated" its claims." *Cf. Ibarzabal*, 2007 WL 9753006, at *3. Multiple courts have recognized that IDR proceedings do not constitute arbitration. *See Mod. Orthopaedics of NJ v. Premera Blue Cross*, No. 2:25-CV-01087, 2025 WL 3063648, at *8 (D.N.J. Nov. 3, 2025); *T.V. Seshan M.D., P.C. v. Blue Cross Blue Shield Ass'n*, No. 25-CV-1255, 2025 WL 3496382, at *5 (S.D.N.Y. Dec. 5, 2025) (same). Defendants can point to no court that says otherwise. There are key differences between arbitration and IDR. While arbitration is voluntary, pursuant to mutual agreement, and permits parties to define the scope of the proceedings, the NSA is mandated by statute and operates within a tightly prescribed regulatory framework. Arbitration also provides procedural safeguards such as discovery, motion practice, evidentiary submissions, briefing, and oral arguments and hearings. In contrast, the IDR Processes allow limited submissions with no discovery, live testimony, or opportunity for rebutting the opposing party's submissions. Nor does it afford the procedural formality or breadth of review characteristic of arbitration or litigation. And importantly, there is no guarantee that the IDREs even consider eligibility objections, because IDREs operate pursuant to regulations that are silent on this point. *See* 45 C.F.R. § 149.510(c)(1)(v) (requiring IDREs to only review notice of IDR initiation and not any objections to eligibility). Accordingly, the collateral attack doctrine does not apply this context.

III. Texas Senate Bill 1264 does not insulate Defendants from BCBSTX's claims.

Defendants first contend that "BCBSTX has not pleaded any alleged fraud or ineligible awards as to any specific Texas IDR disputes." D.E. 28 at 9. Not true. The Complaint details how HaloMD initiated more than 5,400 overlapping IDR proceedings ***for the same services*** under both the federal and Texas IDR Processes, even though the two IDR Processes' eligibility requirements are mutually exclusive. Compl. ¶ 10. The Complaint walks through specifics on two representative instances of this occurring. *Id.* ¶¶ 164–87. Moreover, the Complaint explains how Defendants'

scheme operated similarly in both the federal and Texas IDR Processes. *Id.* ¶¶ 90–94. Defendants cannot claim they are not on notice of the who, what, when, how, and why of their scheme.

Defendants next claim that, because the Texas Department of Insurance ("TDI") is the "gatekeeper for eligibility," BCBSTX's claims suffer from a lack of traceability, causation, and reliance. D.E. 28 at 9. As addressed further below, these contentions fail. Defendants knew that the TDI and IDREs would rely upon their representations and attestations. And without Defendants' false representations and attestations, BCBSTX would face none of the fraudulent awards, expenses, and costs at issue in this lawsuit.

Defendants' final argument is that "[c]hallenging eligibility necessarily seeks to vacate the resulting 'arbitrator's decision' predicated on that eligibility," so an eligibility challenge must be within Tex. Ins. Code 1467.089(b)'s 45-day deadline. D.E. 28 at 9–10. But the only decision that the 45-day deadline applies to is a "decision under Section 1467.088"—which asks "whether the billed charge or the payment made by the health benefit plan issuer or administrator…is the closest reasonable amount for the services or supplies." *Id*. 1467.088(a). Through this lawsuit, BCBSTX is ***not*** challenging whether the awarded amount, in any IDR, was "the closest to the reasonable amount for the services or supplies." Instead, BCBSTX is challenging Defendants' broad ranging and coordinated scheme to submit thousands of ineligible claims. Compl. ¶ 12.[4] As is the case with the NSA's judicial review provision, BCBSTX's claims in this lawsuit are fundamentally different than the type of claims subject to the Texas Insurance Code's 45-day window.

IV. Neither displacement nor preemption applies.

Displacement and preemption are both inapplicable here. Displacement applies to federal statutes that displace federal common law. Defendants fault BCBSTX for not "address[ing] the

[4] In fact, Defendants' argument cuts against Defendants, because Defendants concede that eligibility is, at best, a ***separate*** decision from a payment decision. The Texas Legislature's decision to only apply this limitation to judicial review of a payment decision must be followed.

Supreme Court's relevant displacement factors from *Credit Suisse*," D.E. 28 at 11, but those factors only apply "when a court decides whether securities law precludes antitrust law." 551 U.S. 264, 275 (2007). Indeed, the first factor looks at "the existence of regulatory authority *under the securities law* to supervise the activities in question." *Id.* (emphasis added).

But even if *Credit Suisse* were to apply more broadly, its factors confirm BCBSTX's ability to bring these claims, as the NSA does not "supervise the activities in question." *Id.* BCBSTX's claims are not addressing "conduct squarely ***within*** the heartland of [the agency's] regulations." *Id.* at 285 (emphasis added). As noted above, BCBSTX is not challenging the agency's final determinations—the IDRE's payment determination and analysis of relevant factors. BCBSTX is challenging a fraudulent scheme that takes advantage of the agency's regulations. Compl. ¶¶ 282–96, 315–32. This is conduct that that NSA does not regulate or provide "conflicting guidance" on. *Credit Suisse*, 551 U.S. at 275. Indeed, the NSA does not address fraud at the ***eligibility*** stage at all. Nor does Section 10(a), likely because arbitrations are generally agreed to in contract.

Defendants' other cited cases are also distinguishable because they only address whether mere noncompliance with federal statutes that did not contain a private right of action could constitute a pattern of racketeering under RICO. In *McCulloch v. PNC Bank*, the plaintiffs based their RICO claims on a breach of duty arising under the Higher Education Act ("HEA"), rather than affirmative misrepresentations. 298 F.3d 1217, 1226 (11th Cir. 2002). The court concluded that because the HEA did not confer a private right of action, the alleged "breach of that duty would not constitute mail or wire fraud." *Id.* Similarly, in *Danielsen v. Burnside-Ott Aviation*, the plaintiffs relied on a "breach" of the Service Contract Act ("SCA"), which also did not provide a private right of action. 941 F.2d 1220, 1227–29 (D.C. Cir. 1991). The court concluded such a breach could not form the basis for a RICO claim and further explained that "fall[ing] short of the contract requirements of the SCA" does not clearly amount to "devi[sing] of a scheme or artifice

to defraud." *Id.* at 1229. In contrast, BCBSTX's wire fraud claims are based on a coordinated scheme to defraud BCBSTX through affirmative misrepresentations and concealment. The fact that the NSA does not contain a private right of action to enforce IDR determinations is irrelevant to this current case. The NSA and BCBSTX's RICO claims, as pled, can co-exist without conflict.

Defendants' preemption arguments fail for the same reason. For conflict preemption to apply, there must be a serious conflict between a state law claim and the federal statute. *Aldridge v. Miss. Dep't of Corr.*, 990 F.3d 868, 875 (5th Cir. 2021). Because BCBSTX's state law claims attack Defendants' overall scheme comprising fraudulent misrepresentations, there is no conflict. As explained above, BCBSTX is challenging the conduct of knowingly submitting tens of thousands of ineligible claims to the IDR process in ways that confuse and mislead the IDREs, not the final payment determinations themselves. *See supra* Section I; Compl. ¶¶ 93, 200–06, 289, 291. There is no conflict, let alone a serious conflict, between BCBSTX's state law claims and the NSA, including Section 10(a) of the NSA.

V. BCBSTX pleads standing.

First, contrary to Defendants' assertions, BCBSTX has adequately cleared the "low causation bar" that traceability presents at the pleading stage. *See Est. of Parker v. Mississippi Dep't of Pub. Safety*, 140 F.4th 226, 237 (5th Cir. 2025). Defendants argue that because the IDREs themselves made decisions on eligibility, there can be no "traceability" or "causation." Not so. Article III standing can be found where there is an "indirect causal relationship," where the defendant's conduct was just "one of multiple contributing causes," where the defendant was "only one of several persons who caused the harm," or where defendant's actions are ***not*** "the very last step in the chain of causation." *Id.* at 236–37 (citations omitted); *Wieland v. U.S. Dep't of Health & Hum. Servs.*, 793 F.3d 949, 955 (8th Cir. 2015).

Here, HaloMD's false misrepresentations on eligibility had the predictable effect of causing the IDREs to wrongly decide eligibility in Defendants' favor. BCBSTX has identified specific examples of Defendants initiating disputes and the IDREs permitting disputes to proceed for ineligible services based on HaloMD's misrepresentations regarding eligibility. Compl. ¶¶ 101–87. Had Defendants accurately represented the information underlying the services and claims at issue, no dispute would have ever been initiated for ineligible items or services.[5]

Second, Defendants continue to assert that BCBSTX has not met Article III's "injury requirement" because BCBSTX has not alleged that it paid any of the IDR awards at issue, and it lacks standing to sue for its third-party plan sponsors. But BCBSTX has alleged that it paid that vast majority of these awards (and Defendants would surely know if BCBSTX had not paid them). *Id.* ¶¶ 12, 101–87. Additionally, BCBSTX plainly pleads it suffered damages (i.e., that it paid monies unnecessarily) in the form of, among other things, Federal and Texas IDR awards that BCBSTX paid. *Id.* ¶ 235. Moreover, BCBSTX has pled that it provides administrative services for government and employer-sponsored self-funded health plans and that both BCBSTX and its plan sponsors were harmed by Defendants' misconduct. *Id*. ¶¶ 12, 99.

Defendants also do not and cannot contest well-settled law that a health insurer has standing to assert claims on behalf of the parties funding self-funded plans. *See* D.E. 21 at 21. For example, in *Aetna Inc. v. People's Choice Hosp., LLC*, the court found that even if the plaintiff-health insurer had not pled it was authorized to file claims for the self-funded plans it provided administrative services for, Aetna met its burden to plead standing: Aetna pled general injuries against both its fully-insured and self-funded plans, and that Aetna expended its own resources to investigate and respond to the fraudulent claims. *Aetna Inc. v. People's Choice Hosp., LLC*, No.

[5] Defendants also repeat the same unsupported argument that IDRE's "must" consider evidence submitted against eligibility. But as explained above, such a requirement simply does not exist in the regulations. *See supra* n.1.

SA-18-CV-00323-OLG, 2019 WL 12536916, at *6 (W.D. Tex. Mar. 28, 2019). Indeed, "District Courts from around the country have concluded that plan administrators have a concrete and particularized interest in paying only valid claims," for two reasons. *Cigna Health & Life Ins. Co. v. BioHealth Lab'ys, Inc.*, No. 3:19-CV-01324 (JCH), 2025 WL 1450727, at *6 (D. Conn. May 20, 2025) (citations omitted). As explained by the *BioHealth* court, first, "as a plan administrator, [the health insurer] has a business interest in only paying out valid claims," which alone can suffice for standing. *Id.* And second, a health insurer has standing where it "expended its own time and resources in investigating." *Id.* at *7 (citations omitted).

So too here: BCBSTX has pled general injuries against both its fully-insured and self-funded plans (Compl. ¶ 99), and that it expended its own resources to investigate and respond to Defendants' fraud. *See id*. ¶¶ 98, 206. BCBSTX has sufficiently pled it meets the injury-in-fact requirement to have standing for its claims.

VI. The pleadings satisfy 9(b).

As a threshold matter, Defendants assert that BCBSTX has "waived" arguments related to 9(b). D.E. 28 at 17–18. Defendants are wrong. Just as Defendants addressed their "Rule 9(b)" arguments in a single, one-page section of their opening brief (D.E. 15 at 27), BCBSTX also responded to those arguments in a single section of its opposition brief. D.E. 21 at 22–24. Indeed, by combining the analysis, Defendants acknowledge that the same fraudulent conduct underlies each of BCBSTX's claims that contain an element of fraud. And notably, Defendants fail to identify a single 9(b) argument from their motion to dismiss that BCBSTX did not address.[6]

Moreover, there can be no serious contention that BCBSTX has failed to plead its fraud claims with sufficient particularity. Defendants' substantive argument is that BCBSTX failed to

[6] It seems Defendants' waiver theory rests not on an actual omission but an overly literal reading of a section heading. That is not a basis for finding waiver.

include the "newspaper details" of its fraud claims, relying primarily on *Torrey v. Infectious Diseases Society of America*. No. 17-cv-00190, 2018 WL 10124894, at *14 (E.D. Tex. Sept. 27, 2018). But *Torrey* is readily distinguishable because the plaintiffs there alleged generally that the defendants engaged in a wide range of predicate acts but failed to provide even a single instance of any of these predicate acts.[7] *Id.* In contrast, BCBSTX has provided extensive details and specific examples of Defendants' submission of fraudulent claims in the IDR Processes, including "newspaper details" such as "when the fraudulent communications were made and between whom these communications were made." *Id.*; *see* Compl. ¶¶ 114–51, 164–87. Moreover, BCBSTX is allowed to group Defendants together as long as the Complaint elsewhere designates who did what, which the Complaint plainly does. *See* D.E. 21 at 23–24; Compl. ¶¶ 5–6, 78–82, 211, 279–80, 284–85, 289, 294, 311–12, 317–18, 325–27.

VII. BCBSTX pleads fraudulent inducement.

Defendants also incorrectly argue that BCBSTX's claim for fraudulent inducement must be dismissed because BCBSTX allegedly failed to identify a "contract" that "it was fraudulently induced to enter." D.E. 28 at 20. But BCBSTX ***did*** identify the contracts at issue—settlement agreements that BCBSTX was induced to enter into on claims that were submitted but not actually eligible for the IDR process. *See* Compl. ¶¶ 255–69; *see also id.* ¶ 266 ("This further induced BCBSTX to settle with HaloMD on certain ineligible claims submitted . . . .").

Moreover, BCBSTX has alleged that it was fraudulently induced to enter these contracts. As BCBSTX alleged that at time, in light of Defendants' "delay-and-dump" tactics, BCBSTX was unable to review and object to eligibility (particularly where HaloMD dumped thousands of claims on BCBSTX, and BCBSTX had only a few business days to object). Compl. ¶¶ 199–206, 263. It

[7] A side-by-side comparison of the complaint in *Torrey* to the Complaint here underscores the stark contrast in detail and specificity. *See* Complaint ¶ 99, *Torrey*, 2018 WL 10124894 (D.E. 1), 2017 WL 5457660.

is reasonable for BCBSTX, which is involved in countless IDR disputes on a daily basis, to rely on the presumed truthfulness in a provider's submitted information when the quantity of submissions makes it impossible to individually screen each submission for ineligibility.

VIII. BCBSTX pleads reliance.

Defendants argue that BCBSTX's allegations that the NSA "forced" BCBSTX to rely on its misrepresentations is "conclusory, implausible, and nonsensical." D.E. 28 at 21. Not so. As other courts within the Fifth Circuit have recognized, "one who makes a fraudulent misrepresentation is subject to liability to the persons *or class of persons* whom he intends *or has reason to expect* to act or to refrain from action in reliance upon the misrepresentation . . . ." *In re Mounce*, 390 B.R. 233, 248 (Bankr. W.D. Tex. 2008) (quoting Restatement (Second) of Torts § 531) (emphasis in *Mounce*)). As that court recognized, "[a]s an example, if a bankruptcy court ordered a debtor to pay a creditor's costs, what choice would that debtor have?" *Id.* at 254 n.27 (finding reliance properly pled).[8]

Here too, BCBSTX alleges that "once the Federal and Texas IDR Processes were allowed to proceed as a result of HaloMD's misrepresentations to third-parties, BCBSTX was forced, by statute, to rely upon HaloMD's misrepresentations and to participate in the Federal and Texas IDR Processes." Compl. ¶ 228. BCBSTX has thus pled that Defendants made false representations, and Defendants intended (had reason to expect) that both the IDREs and BCBSTX would rely on those allegations, in terms of the IDREs issuing awards and BCBSTX paying those awards. There is nothing conclusory or implausible about such allegations.

Beyond that, even if the Court were to credit Defendants' arguments that BCBSTX could not be found to have reasonably relied upon Defendants' misrepresentations as to those IDRs in

[8] To be sure, in 2008, the Supreme Court clarified that RICO fraud claims do not require reliance. *Bridge v. Phoenix Bond & Indem. Co.*, 553 U.S. 639 (2008).

which BCBSTX challenged eligibility (which it should not), BCBSTX ***did not*** challenge eligibility for ***all*** IDRs. To the contrary, BCBSTX has specifically pled that "HaloMD's 'delay and dump' tactics prevent BCBSTX from contesting eligibility for many Federal and Texas IDRs.[9] Thus, BCBSTX has to reasonably and justifiably rely upon HaloMD's submission of information and attestations that the underlying services and claims are eligible for the Federal and Texas IDR Processes. Compl. ¶ 227; *see also id.* ¶¶ 93, 201, 233 (delay and dump tactics).[10]

IX. BCBSTX properly pleads claims against Scott and Alla LaRoque.

BCBSTX has properly pled its claims against the individual Defendants Scott and Alla LaRoque. BCBSTX explained this in its opposition brief (D.E. 15 at 23, 27–29), which is entirely ignored by Defendants, who instead assert, without analysis, that BCBSTX's allegations "amount to no more than generalized assertions . . . ." D.E. 28 at 19. But BCBSTX's allegations are specific to each individual defendant and his/her role in the scheme.

In contrast to *MVConnect*, where the plaintiff failed to "alleg[e] any facts regarding their personal participation," *MVConnect, LLC v. Recovery Database Network, Inc.*, No. 3:10-cv-1948, 2011 WL 13128799, at *10 (N.D. Tex. May 27, 2011), here BCBSTX has included particularized allegations as to each individual: Mr. LaRoque identified the opportunity for the fraud, directed the scheme, and used both his control of MPower Affiliates, along with his relationships with other providers, to funnel business through HaloMD (*see* D.E. 21 at 23 (citing Compl. ¶¶ 6, 78–80, 280, 284, 289, 295, 312)) and Ms. LaRoque founded HaloMD, set up its business model, directed the misrepresentations at issue, and was personally involved in helping HaloMD bypass efforts to

[9] For example, HaloMD initiated 1,851 disputes over the Thanksgiving holiday in 2024 (of which, nearly 20% were ineligible for the federal IDR Process) and 3,411 disputes initiated just before Christmas in 2024 (of which, over 10% were ineligible). Compl. ¶ 204.

[10] Moreover, the Federal IDR Process affords a health plan only four business days after a provider has initiated the IDR Process to object that the items or services in dispute are not eligible, regardless of whether the provider submitted a single item or service, or a batch containing thousands of items and services. *See generally* Compl. ¶ 37. Thus, it is plausible that BCBSTX would be ***unable*** to even review, much less object, to the majority of the IDR submissions.

curtail their procurement of fraudulent awards. *See id.* (citing Compl. ¶¶ 89, 208–15, 258–59, 289, 616). Moreover, the LaRoques control certain entities generating claims and the entity submitting them, positioning them to benefit on both ends of the scheme. Compl. ¶¶ 78–82.

Thus, unlike in Defendants' cited case, BCBSTX does not rely on a "single bald assertion," *see Addison v. Allstate Ins. Co.*, 58 F. Supp. 2d 729, 732 (S.D. Miss. 1999), nor does BCBSTX merely assume that the LaRoques "should have known" about the fraud, *see Chandler v. Phoenix Services*, 419 F. Supp. 3d 972, 988–89 (N.D. Tex. 2019). Lastly, the Complaint alleges direct communications between TDI and Ms. LaRoque concerning HaloMD's "practice of submitting huge volumes of ineligible claims"—which continues to this day—demonstrating her knowledge of the very practices at issue. Compl. ¶ 211. In sum, BCBSTX alleges control, coordination, financial incentive, and direct communications concerning the challenged conduct—far more than the conclusory allegations rejected in Defendants' cited authorities.

X. BCBSTX pleads RICO wire fraud.

A. The RICO "litigation activities" exemption is inapplicable in IDR proceedings.

To succeed on their "litigation activities" argument, Defendants must establish (1) that IDRs are akin to litigation or arbitration, and (2) that no further exception, such as the corruption or multiplicity of action exceptions, apply. Defendants fail on both grounds.

First, as explained above, IDRs are not akin to arbitration, let alone to litigation. To that end, no court has ever found that the routine, statutorily-prescribed submissions to the IDR Processes are equivalent to "litigation activities," nor concluded that such activities cannot serve as a predicate act in a civil RICO claim and instead should be brought as malicious prosecution claims. Defendants' repeated and unsupported assertions to the contrary fail. Moreover, the policy reasons behind this exemption simply do not apply in the IDR context. The litigation activities exemption is intended protect parties from sanctions and malicious prosecution claims based on

filing a civil lawsuit, preventing a chilling effect whereby the public may lose trust in the court system. *United States v. Pendergraft*, 297 F.3d 1198, 1206–09 (11th Cir. 2002).

Defendants' argument that allowing BCBSTX's claims to proceed would "undeniably chill legitimate IDR petitioning" and "throw open the litigation floodgates contrary to Congress's intent" is contrary to common sense. D.E. 28 at 22. It is not plausible that holding Defendant accountable for tens of thousands of ***illegitimate*** IDR filings would lead to a "chilling" effect on ***legitimate*** IDR filings. But either way, because IDRs are not akin to litigation or arbitration, the litigation activities exception does not apply and the Court's inquiry ends.

Second, even if the Court finds that the litigation exception applies, Defendants' systematic and fraudulent scheme properly invokes the corruption and "multiplicity" exceptions. As to the corruption exception, BCBSTX has detailed Defendants' fraudulent scheme. *See* Compl. ¶¶ 90–99; 199–206; 275–339. Several courts have declined to apply the RICO litigation exception where the conduct alleged "is not lawful, privileged, litigation conduct but a conspiracy to defraud." *Diamond Consortium, Inc. v. Manookian*, No. 4:16-CV-00094, 2017 WL 2927440, at *4 (E.D. Tex. June 27, 2017); *id.* at *3 (litigation-related activities sufficed as RICO predicate acts where suing plaintiffs was part of a larger scheme to defame plaintiffs' business names and extort millions of dollars from them); *In re Burzynski*, 989 F.2d 733, 742 (5th Cir. 1993) (finding "allegedly fraudulent pleadings" served as RICO predicate act). As to the "multiplicity of wrongful suits" exception, Defendants' alleged conduct clearly constitutes a pattern or scheme of actions without regard to (or despite) the merits, sufficient to invoke the multiplicity exception. For example, in *Lemelson v. Wang Laboratories, Inc.*, a company brought a RICO claim against a patent holder, alleging a scheme to deliberately prolong the patent process, empowering him to bring patent lawsuits against numerous companies and extort millions of dollars from those companies in the process. 874 F. Supp. 430, 434 (D. Mass. 1994). The *Lemelson* court denied the patent holder's

motion to dismiss the RICO claim, finding the allegations of extortion through a pattern of litigation and subsequent settlement sufficient as a RICO fraud predicate act. *Id.* Moreover, as explained in BCBSTX's opposition brief, Defendants' continued reliance on cases like *Kim v. Kimm* is misplaced, as those cases only involve single actions. D.E. 21 at 30–31.

Similarly, Defendants' reliance on *USS-POSCO Indus. v. Contra Costa Cnty. Bldg. & Const. Trades Council, AFL-CIO*, 31 F.3d 800 (9th Cir. 1994) is also misplaced. First, the case addresses the *Noerr Pennington* doctrine, but ***not*** a RICO claim. *Id.* at 809–11. Second, the decision is readily distinguishable because BCBSTX has plausibly alleged that Defendants have ***knowingly*** instituted ***thousands*** of meritless IDR proceedings. Compl. ¶¶ 199–206. In contrast, in *USS-POSCO*, the court found the fact that 15 out of 29 total lawsuits were valid and overrode the exception. *USS-POSCO Indus.*, 31 F.3d at 811. Here, where ***thousands*** of meritless IDRs are filed, with hundreds filed on single days, the multiplicity exception is met.

B. BCBSTX pleads RICO injury and causation.

For the same reasons, BCBSTX has standing to bring this matter, BCBSTX has properly pled RICO injury and causation. *See supra* Section V. Defendants' only additional rebuttal is to cite to a recent Fifth Circuit decision, *Allstate Indem. Co. v. Bhagat*, 164 F.4th 426 (5th Cir. 2026). But, as explained in BCBSTX's opposition brief, *Bhagat* cuts ***against*** Defendants.

First, the Fifth Circuit in *Bhagat* found the district court ***erred*** in dismissing the plaintiff's RICO claims, noting that fraud-based RICO claims do not require reliance. *Id.* at 432–33. Second, the Court found the district court ***erred*** in finding that "the settlements severed the causal link between the allegedly fraudulent mailings and the payments," and instead concluded that the plaintiff sufficiently alleged the defendant's scheme "proximately caused [plaintiff] to pay for fraudulently billed services as part of the settlements between [plaintiff] and the relevant patients." *Id.* at 433. There, the Court cited a Supreme Court case where the plaintiffs had "satisfied

proximate cause" because the plaintiffs' harms were "a foreseeable and natural consequence of [the] scheme." *Id.* (citing *Bridge*, 553 U.S. at 658).

Here, too, BCBSTX has alleged proximate cause in its RICO mail and wire fraud claims, as BCBSTX has alleged that Defendants' RICO scheme foreseeably caused BCBSTX to pay fraudulently procured awards and administrative fees for items and services that were not eligible for the IDR Processes, and further that "BCBSTX would not have settled or otherwise engaged in negotiations on ineligible claims but for HaloMD's misrepresentations that such claims were eligible for the Federal and Texas IDR Processes." Compl. ¶ 268.

Finally, the Fifth Circuit noted that but-for causation, which is "not a difficult burden," was met where the plaintiff "pled that but for the allegedly fraudulent bills, it would not have paid money to settle the claims for those bills." *Bhagat*, 164 F.4th at 434. BCBSTX, too, has overcome the low burden of but-for causation. *See* Compl. ¶ 268.

C. BCBSTX pleads a RICO enterprise.

BCBSTX has alleged two separate RICO enterprises: the first is the legal entity HaloMD, and the second is an association-in-fact enterprise, which is comprised of Defendants and the providers that contracted with them ("OON Enterprise"). *Id.* ¶¶ 277, 306–09. As to the former, the ***only*** argument Defendants advance in their reply brief is that the enterprise fails because BCBSTX's claims against the LaRoques fail. As articulated above, BCBSTX adequately alleges the LaRoques' individual involvement in the scheme. *See supra* Section IX.

Defendants similarly provide no basis to challenge the OON Enterprise. The Supreme Court has recognized three features of an association-in-fact enterprise: "a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit these associates to pursue the enterprise's purpose." *Boyle v. United States*, 556 U.S. 938, 946 (2009). BCBSTX has alleged all three features in its Complaint.

The OON Enterprise members had the common purpose of enriching themselves through their participation in a fraudulent scheme involving the IDR Processes. Compl. ¶ 307. The Complaint also explains the relationships among those associated with the enterprise. Alla and Scott LaRoque's roles are explained in detail above. *See supra* Section IX; Compl. ¶ 308. In turn, the providers provided the underlying items and services, contracted with HaloMD, and authorized HaloMD to initiate IDR Processes for ineligible items and services. Compl. ¶ 308. HaloMD then submitted the ineligible claims and engaged in tactics to conceal its misrepresentations. *Id.* ¶¶ 199–206, 210, 308. The LaRoques, HaloMD, and the providers "could not have engaged in the alleged fraud if they were not working together because the alleged fraud required a coordinated effort." *Harris Cnty. v. Eli Lilly & Co.*, No. H-19-4994, 2020 WL 5803483, at *9 (S.D. Tex. 2020). Finally, Defendants do not dispute that the Complaint alleges longevity.

Defendants' assertion that there is "no allegation that any providers knowingly participated" in this scheme, D.E. 28 at 24, ignores the facts alleged in the Complaint. The Complaint explains that the providers were put on notice by BCBSTX that their claims were not eligible for the IDR Process, yet they still allowed HaloMD to submit these ineligible claims and then profited off of the submissions. Compl. ¶¶ 102, 104, 115, 116, 131. The Complaint also alleges motive—the providers were able to derive profits that are much greater than they previously were able to obtain, absent their participation in the scheme. *See Harris Cnty.*, 2020 WL 5803483, at *8 (finding a RICO enterprise adequately alleged where the complaint demonstrated a motive). This is more than enough to plausibly allege their participation in the enterprise.

Defendants' assertion that the Complaint fails to allege that "HaloMD submitted ineligible claims on behalf of MPowerHealth," D.E. 28 at 24, also misses the mark because MPowerHealth Affiliates refers to not one provider but a web of interrelated companies that are affiliated with MPowerHealth. Compl. ¶ 79. The Complaint alleges the unusual interrelatedness between these

companies, as well as their close ties to the LaRoques. *Id.* ¶¶ 79, 82–85. Although Defendants dismiss the level of integration as "routine" and "innocuous," D.E. 28 at 24, it nonetheless demonstrates "ties to one another" that go beyond independent "contractual relationships." *See Allstate Ins. Co. v. Benhamou*, 190 F. Supp. 3d 631, 654 (S.D. Tex. 2016). In other words, BCBSTX does not rely on mere parallel conduct of independent businesses. And even with respect to the providers not part of MPowerHealth Affiliates, the Complaint plausibly alleges that these entities "are doing something more than simply conducting business as usual"—they authorized HaloMD to submit services and items into the IDR Process, despite being on notice that the claims were ineligible, to enrich themselves. *Harris Cnty.*, 2020 WL 5803483, at *9.

XI. The *Noerr-Pennington* doctrine does not immunize defendants.

The *Noerr-Pennington* doctrine does not apply to NSA IDR disputes, where parties submit their documents to *private* IDREs, and that private entity makes determinations. The doctrine is intended to ensure "uninhibited access ***to government policy makers***;" "[t]he crux of the *Noerr-Pennington* immunity is the need to protect ***efforts directed to governmental officials*** for the purpose of seeking redress." *Mid-Texas Commc'ns Sys., Inc. v. Am. Tel. & Tel. Co.*, 615 F.2d 1372, 1382 (5th Cir. 1980) (citation omitted) (emphasis added); *see also id.* at 1383 ("*Noerr-Pennington* immunity should not extend to actions occurring in an essentially private context.").[11]

While the NSA dictates that the federal government agencies that oversee the federal IDR Process certify individuals as eligible to serve as IDREs (42 U.S.C. § 300gg-111(c)(4)(A)), crucially, the statute specifies that both the eligibility determination and the payment determination

[11] Defendants are stuck in a catch-22, arguing elsewhere in their motion that IDRs are akin to arbitration (D.E. 21 at 8), but failing to rebut the fact that the *Noerr-Pennington* doctrine does not "protect private adjudications carried out before a privately selected arbitrator." *In re Morrison*, No. 05-45926, 2009 WL 1856064, at *3 (Bankr. S.D. Tex. June 26, 2009); *Ford Motor Co. v. Nat'l Indem. Co.*, 972 F. Supp. 2d 862, 868 (E.D. Va. 2013) (arbitrations or adjudications "before a private organization does not implicate" the First Amendment protections that underpins the doctrine). If IDRs truly are akin to an arbitration (which they are not), then *Noer Pennington* does not apply for that reason.

are the province of the private IDRE, *not* the government. *See* 45 C.F.R. § 149.510(c)(1)(v) (eligibility determination); 42 U.S.C. § 300gg-111(c)(5) (payment determination).

Moreover, Defendants do not dispute that *Noerr-Pennington* does not apply "where the government does not perform any independent review of the validity of the statements, does not make or issue any intervening judgment and instead acts in direct reliance on the private party's representations." *In re Buspirone Pat. Litig.*, 185 F. Supp. 2d 363, 370 (S.D.N.Y. 2002). Even if the IDRE is considered part of the government (which it is not), the NSA only permits the IDRE to take certain factors into account (and prohibits consideration of others), only requires the IDRE to review the provider's submitted information, and only empowers the IDRE to pick one of the two proposed offers—no other form of relief may be granted from the IDRE. 42 U.S.C. § 300gg-111(c)(5)(A); 45 C.F.R. § 149.510(c)(1)(v). The IDRE does not perform any independent review of the validity of those statements, e.g. through an evidentiary hearing or the like. Indeed, far from IDR participants petitioning the *government*, the government's role is primarily regulatory and administrative rather than adjudicatory, merely certifying private organizations as eligible to serve as IDREs and appointing IDREs where the parties cannot agree, but not making any eligibility or payment determinations itself. 42 U.S.C. § 300gg-111(c)(4); 45 C.F.R. § 149.510(c)(1).

Even if the *Noerr-Pennington* doctrine applied, Defendants' scheme would nevertheless fit into the "sham" exception. When a party "mak[es] intentional misrepresentations to the court," that suit 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.'" *Drs. Hosp. of Laredo v. Cigarroa*, No. SA-21-CV-01068, 2024 WL 3432554, at *5 (W.D. Tex. July 16, 2024) (quoting *Kottle v. Nw. Kidney Ctrs.*, 146 F.3d 1056, 1060 (9th Cir. 1998)).[12] While "a misrepresentation

[12] *Drs. Hosp. of Laredo* also described the sham exception as when (1) "the lawsuit is objectively baseless in the sense that no reasonable litigant could realistically expect success on the merits" and (2) "the baseless lawsuit conceals an attempt to interfere directly with the business relationships of a competitor, through the use of the governmental

alone does not cause *Noerr-Pennington* to fall away," "the cloak of *Noerr-Pennington* fades where a litigant has made a material misrepresentation that affects the very core of a litigant's case." *Id*. (internal quotation marks omitted) (citation modified).

Here, BCBSTX has plausibly alleged that Defendants made intentional misrepresentations to the IDREs and BCBSTX in the form of inaccurate eligibility attestations—which go to "the very core" of the IDR Process, as there would be no formal IDR Process if Defendants had accurately represented that the items and services it submitted to the IDR Process were not eligible for NSA IDR. Compl. ¶¶ 222, 242, 267–68, 282, 315. In fact, Defendants' own cited case law confirms that the "sham" exception applies when the "allegedly unlawful conduct consists of making intentional misrepresentations to the court" such that the misrepresentations "deprive the litigation of its legitimacy." *See Relevant Grp., LLC v. Nourmand*, 116 F.4th 917, 928 (9th Cir. 2024) (internal citations omitted). That is exactly what BCBSTX has alleged.

Finally, the "[sham exception] inquiries are typically only properly analyzed through a consideration of evidence outside of the pleadings . . . and as such, are not appropriately considered in the present Rule 12(b)(6) context." *Wolf v. Cowgirl Tuff Co.*, No. 1:15-CV-1195 RP, 2016 WL 4597638, at *9 n.7 (W.D. Tex. Sept. 2, 2016); *see also Teso LT, UAB v. Luminati Networks Ltd.*, No. 2:20-CV-00073-JRG, 2020 WL 7364606, at *7 (E.D. Tex. Dec. 15, 2020) (Noerr Pennington is "not grounds for 12(b)(6) dismissal."). As such, at a minimum, this determination is premature.

process—as opposed to the outcome of that process—as an anticompetitive weapon." *Drs. Hosp. of Laredo*, 2024 WL 3432554, at *5 (quoting *Pro. Real Est. Invs., Inc. v. Columbia Pictures Indus., Inc*., 508 U.S. 49, 60–61 (1993)). The court ultimately found that "these two formulations are flip sides of the same coin." *Id.* While Defendants cite an unpublished Fifth Circuit opinion as stating the Fifth Circuit has yet to consider this exception, numerous district courts within the Circuit have applied it to preclude application of *Noer Pennington*. *See id.*; *see also United States v. Schanzle*, No. 1:19-CR-254-LY, 2021 WL 1566454, at *3 (W.D. Tex. Apr. 21, 2021) (a party does not enjoy Noerr-Pennington immunity when their actions involve "deliberately false or misleading" statements).

XII. Texas's judicial proceedings privilege does not apply to IDR proceedings.

Texas's judicial proceedings privilege provides no refuge for Defendants' fraudulent scheme. As discussed above, *see supra* Section II, IDR proceedings are not equivalent to litigation or arbitrations. Defendants cite to no court finding that an IDR dispute constitutes a "quasi-judicial" proceeding—likely because any court analyzing the issue would come to the opposite conclusion, given how dissimilar IDR proceedings are from traditional arbitrations.

Texas's judicial proceedings privilege only extends to bodies that have quasi-judicial power. To determine whether that power exists, Texas courts look to six factors, including the power (1) "to exercise judgment and discretion"; (2) "to hear and determine or to ascertain facts and decide"; (3) "to make binding orders and judgments"; (4) "to affect the personal or property rights of private persons"; (5) "to examine witnesses, to compel the attendance of witnesses, and to hear the litigation of issues on a hearing"; and (6) "to enforce decisions or impose penalties." *Hernandez v. Hayes*, 931 S.W.2d 648, 651 (Tex. Ct. App. 1996) (citation omitted). Notably, factors two, five, and six are absent from an IDRE's mandate. *See Consultants in Pain Med., PLLC v. Ellen Boyle Duncan, PLLC*, 690 S.W.3d 739, 763–64 (Tex. Ct. App. 2024) (concluding that even where a CMS contractor had powers to review claims submitted to Medicare and/or Medicaid, those review powers did not "involve the administration of the functions of the branches of government such that quasi-judicial immunity could apply") (citation modified).

Moreover, application of the judicial-proceedings privilege requires "communication to the general public" of the statements at issue. *See* D.E. 28 at 17 (quoting *Shell Oil Co v. Writt*, 464 S.W. 3d 650, 655 (Tex. 2015)). This requirement is entirely consistent with the fact that, as Defendants acknowledge, the judicial-proceedings privilege "originated in the libel context," where libel itself requires a public statement. D.E. 15 at 26 (citing *James v. Brown*, 637 S.W.2d

914, 916 (Tex. 1982)). Here, Defendants do not dispute that statements made in conjunction with IDR proceedings are confidential and not disclosed to the public. D.E. 21 at 38.

XIII. BCBSTX pleads a money-had-and-received claim.

BCBSTX has adequately pled a claim for money had and received. BCBSTX has alleged that it paid for awards that HaloMD fraudulently procured against BCBSTX by falsely attesting that items or services were subject to the federal IDR Process when they were, in fact, not eligible. Compl. ¶¶ 12, 235. BCBSTX's allegations that Defendants hold at least some amount of money that, "in equity, justice, and law" belongs to BCBSTX, is sufficient to meet the "minimal" burden that a money had and received claim poses (particularly at the motion to dismiss stage). *Bhagat*, 164 F.4th at 436 (internal citation omitted).

Defendants advance two arguments; both lack merit. First, they assert that they may only be holding "some" of the money at issue across the entirety of BCBSTX's claims (e.g., not the fees and costs paid to the IDREs), and second, that this claim is again a collateral attack on the IDR awards. D.E. 28 at 25. Taking them in reverse order, the collateral attack argument fails for the same reasons articulated above. BCBSTX's money had and received claim asserts a claim based on the entirety of Defendants' scheme and does not attack individual "awards" or "determinations" as wrongly determined. *See supra* Sections I–II. As to Defendants' argument that they may only hold "some" of the money, the portion of such awards that Defendants pocketed pursuant to HaloMD's contingency agreement with its clients "rightfully belongs" to BCBSTX. *Bhagat*, 164 F.4th at 436. And BCBSTX is not obligated to articulate the exact dollar amount it will recover from each Defendant. *Id.*; *see State Farm Mut. Auto. Ins. Co. v. Misra*, 658 F. Supp. 3d 362, 377 (W.D. Tex. 2023) (denying motion to dismiss money had and received claim, where plaintiffs sufficiently pled defendants "artificially inflated" claims, plaintiffs paid to settle the claims, and the settlement money belonged to the plaintiffs).

XIV. BCBSTX pleads declaratory judgment.

BCBSTX seeks two types of declaratory relief and an injunction. Compl. ¶ 341. Defendants argue this relief is not sufficiently "distinct" from BCBSTX's "substantive claims," and is in fact "duplicative" of those claims. D.E. 28 at 25. But Defendants fail to explain how BCBSTX's request for ***prospective*** relief is duplicative of claims for ***retroactive*** monetary relief. Courts have held this distinction—between forward-looking relief and past damages—is sufficient to allow a declaratory relief claim to stand. *See Robinson v. Hunt Cnty.*, 921 F.3d 440, 451 (5th Cir 2019); *Muslow v. Bd. of Supervisors of La. State Univ. & Agric. & Mech. Coll.*, No. 19-cv-11793, 2020 WL 4471519, at *2 (E.D. La. Aug. 4, 2020).

Further, Defendants' assertion that BCBSTX is seeking a "general injunction" that orders Defendants "to obey the law" is incorrect. D.E. 28 at 25. "The specificity requirement [for injunctions] is not unwieldy." *Meyer v. Brown & Root Const. Co.*, 661 F.2d 369, 373 (5th Cir. 1981). "An injunction must simply be framed so that those enjoined will know what conduct the court has prohibited." *Id.* Here, BCBSTX does not seek a vague command that Defendants must comply with the laws. BCBSTX instead seeks relief prohibiting Defendants from continuing to submit false attestations and from initiating IDR Processes for ineligible items and services—conduct that is specific and readily understood. *See id.* (concluding that an order enjoining a corporation from engaging in stated unlawful employment practices was not impermissibly broad); *SEC v. Life Partners Holdings, Inc.*, 854 F.3d 765, 785 (5th Cir. 2017) (injunction ordering defendants to obey section 13(a) by refraining from specified conduct was not overly broad).

CONCLUSION

For the reasons set forth herein, as well as in BCBTX's opening response, BCBSTX respectfully requests that the Court deny Defendants' motion to dismiss in its entirety.

Dated: March 3, 2026

By: */s/ Jamie R. Kurtz*

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CERTIFICATE OF SERVICE

I hereby certify that on March 3, 2026, a true and correct copy of the above was served via email through the Eastern District of Texas's CM/ECF system.

/s/ Jamie R. Kurtz
Jamie R. Kurtz