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 OPPOSITION TO
DEFENDANTS' MOTIONS TO DISMISS AND FOR JUDICIAL NOTICE

Oral argument requested pursuant to L.R. CV-7(g)

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Rules

Other Authorities

INTRODUCTION

In response to egregious balance billing by out-of-network providers, Texas and federal legislators enacted laws that prohibited balance billing for certain types of services and established processes—called Independent Dispute Resolution ("IDR")—for determining reasonable out-of-network reimbursement rates for services subject to those statutes. Both the federal legislation (the No Surprises Act) and the Texas legislation (Texas Senate Bill 1264) have limited applicability—only certain services are eligible for each IDR process. This lawsuit is about Defendant HaloMD, LLC's abuse of these IDR processes, at the direction of Defendants Alla LaRoque and Scott LaRoque, whereby Defendants intentionally initiated tens of thousands of disputes for claims, services, and items that are *ineligible* for the IDR processes. As a result of Defendants' intentional misconduct, Defendants have wrongly obtained awards related to services not eligible for the IDR processes totaling more than $100 million, as well as more than $30 million in administrative fees and expenses from Plaintiff ("BCBSTX") and its plan sponsors.

In an effort to escape accountability and discovery at all costs, Defendants now raise a hodgepodge of various arguments in their motion to dismiss. Each of these arguments fail. Moreover, no part of Defendants' 41-page motion to dismiss attempts to justify how *any* of the IDR submissions outlined in BCBSTX's Complaint that resulted in awards being issued on ineligible services could be interpreted as anything other than fraud. The Complaint alleges in painstaking detail the precise fraudulent scheme at issue, the manner in which Defendants carried out the scheme, representative examples of the fraud, and the resulting harm caused to BCBSTX and its plan sponsors. None of the different technical defenses raised by Defendants are applicable here and, for the reasons set forth herein, BCBSTX respectfully requests that the Court deny Defendants' motion dismiss in its entirety.

BACKGROUND

I. The Federal No Surprises Act and Texas Senate Bill 1264.

Prior to federal and state legislation, patients could get surprise "balance bills" from providers when they unwittingly received care from an out-of-network healthcare provider. D.E. 3 ("Compl.") ¶¶ 30–32. These balance bills often had no relation to the actual cost of care or market rates and posed a significant hardship for patients. *Id.* ¶¶ 30–31. To protect patients from these billing practices, federal and state lawmakers passed two pieces of legislation relevant to this dispute: the Federal No Surprises Act ("NSA") and Texas Senate Bill 1264. *Id.* ¶ 33.

A. The Federal No Suprises Act and the Federal IDR Process.

The NSA was enacted in 2020 to shield patients from unexpected out-of-network bills and establish a payment that is fair to both providers and plans that also does not increase aggregate healthcare system costs. *Id.* ¶¶ 34–35. The NSA established an IDR process—the "Federal IDR Process," overseen by the Departments of Health and Human Services ("HHS"), Labor ("DOL"), and Treasury (collectively, the "Departments")—for determining reimbursement rates for services or items rendered by out-of-network medical providers. *Id.* ¶ 36 (citing 42 U.S.C. § 300gg-111(c)).

The Federal IDR Process imposes strict eligibility requirements. *Id.* ¶ 37. Only services or items rendered by out-of-network providers in connection with emergency services, non-emergency services at participating facilities, or air ambulance services may be subject to the Federal IDR Process. *Id.* ¶ 37(b) (citing 42 U.S.C. § 300gg-111(c)(1)(B)). The Federal IDR Process is unavailable where a "specified state law" governs the dispute based on the applicable health benefits plan. *Id.* ¶ 37(a) (citing § 300gg-111(a)(3)(I)). Prior to initiating the process, a party (almost always the provider) must engage in a 30-day open negotiation period within 30 days of the health plan's first notice of payment or denial for the item or service. *Id.* ¶ 37(d)–(e) (citing § 300gg-111(c)(1)(A)–(B)). The provider then has four days after exhaustion of the open

negotiations period to initiate the formal Federal IDR Process. *Id*. ¶ 37(f) (citing § 300gg-111(c)(1)(B)).

Once a health plan receives notice of a formal IDR dispute initiation, the plan has only four business days to object that the items or services in dispute are not eligible, regardless of how many hundreds or thousands of items or services the provider has submitted.[1] Once appointed, an IDR Entity ("IDRE") has only three business days to submit its attestations to the Departments; for the dispute to proceed forward, the IDRE must attest that they have determined that the claims in dispute are eligible for the Federal IDR Process.[2] 45 C.F.R. § 149.510(c)(1)(v). In making their evaluation, the IDRE is only required to consider "the information submitted in the notice of IDR initiation" by the provider; no provision of the NSA obligates the IDRE to even consider the health plan's submissions (or, for that matter, eligibility objections). *Id.*

To prevent the filing of ineligible disputes under the Federal IDR Process, providers are required to provide information and attest that the service or item at issue meets eligibility requirements. *Id*. ¶ 40. The process of initiating a formal dispute begins with providers having to input information into an online portal created by the Departments—including the health benefits plan type, name of the plan issuer or carrier, and date the open negotiations period commenced. *Id*. ¶¶ 42–49. Further, a provider is required to sign and date an "**ATTESTATION**" that the "item(s) and/or service(s) at issue are qualified item(s) and/or services(s) within the scope of the Federal IDR process." *Id.* ¶ 50. A provider is unable to initiate the formal Federal IDR Process if

[1] Federal Independent Dispute Resolution (IDR) Process Guidance for Disputing Parties, December 2023 Update to October 2022 Guidance, § 5.5, Available at: https://www.cms.gov/files/document/federal-independent-dispute-resolution-guidance-disputing-parties.pdf ("If the non-initiating party believes that the Federal IDR Process is not applicable, the non-initiating party must notify the Departments by submitting the relevant information through the Federal IDR portal . . . not later than 1-business-day after the end of the 3-business-day period for certified IDR entity selection").

[2] An IDRE who does not make this evaluation within the 3-business-day period will be fired and the parties must select another IDRE. 45 C.F.R. § 149.510(c)(1)(v), 29 C.F.R. § 2590.716-8(c)(1)(v).

they enter information that establishes that a service is not eligible for the Federal IDR Process or if they fail to provide the attestation. *Id.* ¶¶ 45, 50.

B. Texas Senate Bill 1264 and the Texas State IDR Process.

In 2019, the Texas Legislature passed Texas Senate Bill 1264, which was intended to "prohibit[] all non-network . . . providers from sending surprise balance bills to consumers." *Id.* ¶ 51. SB 1264 also implemented an "Out–of–Network Claim Dispute Resolution" process (herein referred to as the "Texas IDR Process"). *Id.* ¶ 53 (citing Tex. Ins. Code § 1467.081).

The Texas IDR Process also has strict eligibility requirements. *Id.* ¶ 55. For instance, the Texas IDR Process applies only to claims for members that have health benefit plans regulated by the Texas Department of Insurance ("TDI"), which includes Texas fully insured HMOs, PPOs, and the Employee Retirement System and Teachers Retirement System plans. *Id.* ¶ 55(a) (citing Tex. Ins. Code § 1467.002(1)–(3)). The Texas IDR Process also only applies to services for out-of-network emergency care; health care, medical services or supplies provided by a facility-based provider in a facility that is a participating provider; an out-of-network laboratory service; or an out-of-network diagnostic imaging service. *Id.* ¶ 55(b) (citing Tex. Ins. Code § 1467.084(a)(2)(A)–(D)).

A provider must request a Texas IDR dispute to be opened via the TDI's online portal no later than 90 days after receiving initial payment on a claim for services subject to SB 1264. *Id.* ¶ 56(a). Within 30 days thereafter, all parties must participate in an informal settlement teleconference. *Id.* ¶ 56(b). If there is no resolution, a Texas IDR Neutral ("TDI Neutral" or "Neutral") is either mutually agreed by the parties or appointed by the TDI. *Id.* ¶ 56(c). The Neutral then sets a schedule for submissions by the parties and must issue an award within 20 days after receiving the parties' submissions, based on a prescribed set of criteria to determine which offer is the most reasonable amount. *Id.* ¶ 56(d)–(f).

The Texas IDR Process also has provisions in place to prevent the filing of ineligible disputes. *Id.* ¶ 58. Prior to initiating a dispute, providers must input information into a portal on the TDI's website, including the applicable health plan and the date of service and payment. *Id.* ¶¶ 60–64. If the information entered by the provider does not meet eligibility criteria, a message appears informing the provider, "You can't file a dispute for this claim," and the provider is unable to initiate the Texas IDR Process. *Id.* ¶¶ 63–64. A provider must also attest to a prompt that asks, "Is everything you entered true and accurate? (Legal action may be taken if you provide false information.)." *Id.* ¶ 65. Again, a provider is unable to initiate the Texas IDR Process without signing the attestation. *Id.* ¶ 66.

II. Misuse and abuse of the Federal IDR Process.

Congress expected that most items and services submitted to the Federal IDR process would be paid at or around the Qualified Payment Amount ("QPA"), which is the median in-network rate for the same services or items. *Id.* ¶ 3. That has not proven to be the case—the median awarded rate in the Federal IDR Process is now more than *four times greater* than the QPA.[3] *Id.* ¶ 71. As a result, the costs associated with the Federal IDR Process are now "generating billions of dollars in extra costs for the healthcare system" without delivering more or better services to patients. *Id.* ¶ 69. These results have provided an incentive for a handful of providers to abuse the IDR Processes. *Id.* ¶¶ 73–76.

[3] Defendants make much ado about lawsuits brought by the Texas Medical Association ("TMA") "squarely rebut[ting]" BCBSTX's allegations regarding "IDR awards that exceeded the QPAs." D.E. 15 at 8. But the TMA litigation only concerned how IDREs should weigh the QPA alongside other enumerated factors to reach their determination. *See Tex. Med. Ass'n v. United States Dep't of Health & Human Servs.*, 110 F.4th 762, 774 (5th Cir. 2024). None of this does or can change Congress' intent of having awards issued at or around the QPA. *See* H.R. REP. 116-615, 53 (Dec. 2, 2020) (goal of the NSA is to combat "inflated out-of-network prices").

III. The LaRoques create HaloMD.

Scott and Alla LaRoque gained extensive experience with out-of-network billing through their company, MPowerHealth, and its web of affiliated intraoperative neuromonitoring and surgical assist companies ("MPowerHealth Affiliates"). *Id.* ¶ 79. Through this work, the LaRoques realized a massive financial opportunity to game the system after the enactment of the NSA and Texas Senate Bill 1264, by helping out-of-network providers challenge reimbursement through the IDR Processes and earn more than prevailing in-network market rates. *Id.* ¶ 80.

Accordingly, in 2022, Alla and Scott LaRoque created another company, HaloMD, which advertises itself as "the premier expert in Independent Dispute Resolution." *Id.* ¶ 81. In just a few years, HaloMD became one of the top submitters of Federal IDR disputes nationally. *Id*. ¶ 86. By 2024, it was among the five entities responsible for approximately *two-thirds* of all Federal IDR disputes submitted nationwide. *Id*. ¶ 87. The majority of those disputes are for MPowerHealth Affiliates. *Id*. ¶ 82. As outlined below, however, HaloMD's business model is built on lies and misrepresentations, leading to more than a hundred million dollars in awards on ineligible items and services. *Id.* ¶ 89.

IV. HaloMD's abuse of the Federal and Texas IDR Processes.

HaloMD's scheme works as follows. First, HaloMD establishes relationships with out-of-network providers and the providers authorize HaloMD to initiate out-of-network payment disputes related to their services, including through the Texas and Federal IDR Processes. *Id.* ¶ 91–92. HaloMD does this work on a contingency basis. *Id*.

To maximize its revenue, HaloMD initiates open negotiations periods for claims, services, and items that are *ineligible* for the respective IDR Processes. *Id.* ¶ 94. Although BCBSTX often notifies HaloMD of eligibility issues, HaloMD proceeds anyway and initiates formal IDR Processes. *Id.* ¶¶ 95–96. In doing so, HaloMD makes misrepresentations to BCBSTX, entities

overseeing the IDR Processes, and state and federal agencies to make the claims, items, and services appear eligible when they know they are not. *Id.* Examples of HaloMD's misrepresentations include:

- Misrepresenting the type of applicable health benefits plan, including by stating that the applicable health benefits plan is a "partially or fully self-insured private (employment-based) group health plan" when, in reality, HaloMD knows the plan is provided through Medicare (id. ¶¶ 101–26);
- Misrepresenting the date that an open negotiations period commenced and that a "cooling off period" applied, when HaloMD knows neither is true (id. ¶¶ 127–40); and
- Misrepresenting that the parties had completed an open negotiations period when, in reality, HaloMD knows they had not (*id.* ¶¶ 141–51).

To make matters worse, HaloMD stockpiles services from a provider for a certain health plan and submits massive numbers of open negotiations and IDR initiations all at once, often over holidays or weekends. *Id.* ¶ 200. This strategy is designed to overwhelm BCBSTX's ability to meaningfully respond to HaloMD's IDR initiations or contest eligibility within the limited time constraints. *Id.* ¶ 201.

As a result of HaloMD's misrepresentations and tactics, HaloMD procures awards against BCBSTX—typically at dramatic rates—on ineligible items, services, and claims. *Id.* ¶ 97. In many instances, these awards are as high as 1,000% higher than the QPA (*i.e.*, median in-network rate), and sometimes even higher than the provider's own billed charges. *Id.* ¶¶ 111, 188–98. On top of these inflated amounts, BCBSTX is forced to pay administrative fees, expenses, and take on additional overhead. *Id.* ¶ 98.

HaloMD's scheme has gotten so brazen that HaloMD has begun initiating 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. *Id.* ¶¶ 10, 154–87. This

has enabled HaloMD to procure *multiple* awards against BCBSTX for the *same underlying service*. *Id.* ¶¶ 155–56.

V. HaloMD bypasses controls intended to prevent the submission of ineligible disputes.

HaloMD's practice of procuring awards on ineligible claims, services, and items has continued despite steps taken by state and federal regulators to stop it. *Id.* ¶ 207. For instance, TDI modified its portal for the submission of formal Texas IDR Processes to require the entry of the impacted benefit plan's group number so it can ensure the group is eligible for the Texas IDR Process. *Id.* ¶ 209. To get around this, HaloMD began entering fictitious group numbers. *Id.* ¶ 210. BCBSTX has also been informed that TDI had direct conversations with HaloMD and Alla LaRoque regarding the submission of ineligible claims into the Texas IDR Process. *Id.* ¶ 211. Federal regulators have also raised concerns about the volume of ineligible claims being submitted, and made some efforts to attempt to curb ineligible submissions. *Id.* ¶¶ 212–13. But because HaloMD knows these IDR Processes operate under an honor system and ineligible claims will continue to slip by, HaloMD has not stopped initiating ineligible disputes. *Id.* ¶ 214.

All told, HaloMD has wrongly obtained awards in excess of $100 million from BCBSTX by initiating tens of thousands of IDR Proceedings for ineligible items, services, and claims. *Id.* ¶ 12. In addition, HaloMD's improper submissions have caused BCBSTX to incur more than $30 million in administrative fees, and additional administrative and staffing expenses, all of which continue to accrue due to HaloMD's continued improper submissions. *Id.*

LEGAL STANDARD

"To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the

reasonable inference that the defendant is liable for the misconduct alleged." *Id.* "[T]he court must accept the factual allegations of the complaint as true, view them in a light most favorable to the plaintiff, and draw all reasonable inferences in favor of the plaintiff." *Miles v. Port Arthur ISD*, 772 F. Supp. 3d 770, 779 (E.D. Tex. 2025).

ARGUMENT

I. The NSA and Texas Senate Bill 1264 do not immunize Defendants from committing fraud.

Defendants cannot avoid judicial review of their fraud. Nothing in the NSA or Texas Senate Bill 1264 forecloses judicial review of fraud in the IDR submission process. Accepting Defendants' arguments otherwise would mean that middleman companies like HaloMD are immune from liability when intentionally submitting large quantities of ineligible disputes to the IDR Processes, knowing that BCBSTX and the entities and individuals overseeing the Federal and Texas IDR Processes rely on HaloMD's eligibility attestations. There is nothing in the statutory schemes, nor the law, that prevents this Court from adjudicating BCBSTX's claims against Defendants.

A. The NSA's judicial review limitations do not apply to Defendants' claims.

Defendants' arguments that the NSA bars judicial review of BCBSTX's claims fail for two reasons. *First*, the NSA's judicial review provision that Defendants rely upon—42 U.S.C. § 300gg-111(c)(5)(E)—explicitly refers to "payment determination[s]," not *eligibility* decisions, and BCBSTX's claims concern eligibility. *Second*, BCBSTX's claims are not a collateral attack on IDR determinations because they seek different damages and relief.

i. The judicial review provision applies to payment determinations, not eligibility.

Under the plain language of the statute, only judicial review of IDRE ***payment*** determinations is limited under the NSA, not ***eligibility*** determinations. 42 U.S.C. § 300gg-111(c)(5)(E). Accordingly, the judicial review provision—and its incorporated Federal Arbitration Act standards—do not apply to BCBSTX's claims which relate to Defendants' fraudulent submission of tens of thousands of ineligible disputes.

In interpretating judicial review under a federal statute, there is a "well-settled" and "strong presumption" that "favors judicial review." *Guerrero-Lasprilla v. Barr*, 589 U.S. 221, 229 (2020) (cleaned up). To that end, a litigant "attempting to show that Congress 'prohibit[ed] all judicial review . . . bears a 'heavy burden.'" *Mach Mining, LLC v. EEOC*, 575 U.S. 480, 486 (2015) (citation omitted). This burden of foreclosing judicial review can be met only by "clear and convincing evidence." *Reno v. Cath. Soc. Servs., Inc.*, 509 U.S. 43, 64 (1993). Indeed, "where substantial doubt about the congressional intent exists, the general presumption favoring judicial review of administrative action is controlling." *Texas v. United States*, 809 F.3d 134, 164 (5th Cir. 2015) (quoting *Block v. Cmty. Nutrition Inst.*, 467 U.S. 340, 351 (1984)).

There is no indication—let alone a "clear and convincing" one—that Congress intended to foreclose judicial review of Defendants' eligibility scheme in the Federal IDR Process. The NSA provision central to Defendants' argument reads 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." 42 U.S.C. § 300gg-111(c)(5)(E) (emphasis added). The only determination made in subparagraph (A) by the IDR Entity is "the amount of payment." *Id.* § 300gg-111(c)(5)(A). In fact, the title of subparagraph (A) is "Payment Determination." This "discrete" enumeration must be interpreted "narrow[ly]." *Reno v. Am.-Arab*

Anti-Discrimination Comm., 525 U.S. 471, 482–83, 487 (1999). Had Congress intended to limit judicial review to *all* determinations made by an IDR Entity, including eligibility determinations as Defendants contend, it could easily have said so. But instead, Congress only barred review for a "determination . . . under subparagraph (A)," which applies exclusively to payment determinations.[4]

Congress limited this judicial review provision to subparagraph A for a reason. That limitation must therefore be interpreted to have effect and not be superfluous. *See Texas v. United States*, 787 F.3d 733, 755–56 (5th Cir. 2015) (finding a "specific jurisdiction-stripping provisions . . . would be rendered superfluous by application of an implied, overarching principle prohibiting review"). Giving effect to the "payment determination" limitation leaves only one reasonable reading—that the judicial review provision applies only to amount of payment determinations made under subparagraph (A). Defendants' argument otherwise—that this judicial review provision provides the "exclusive" remedy for the *entire* NSA statutory scheme—would nullify the plain text of the NSA.

Defendants' reference to *Guardian Flight, L.L.C. v. Med. Evaluators of Tex. ASO, L.L.C.*, 140 F.4th 613, 620 (5th Cir. 2025) ("*Guardian Flight II*") is unavailing. In *Guardian Flight II*, an emergency air-ambulance provider sued a health benefits plan regarding the calculation of its QPA—*e.g.*, "the median of the contracted rates recognized by the plan or issuer." *Id.* at 618–20. The provider's challenge was directly related to the payment determination, and whether there was a private right of action to enforce or confirm an IDR award. *Id*. at 619. Accordingly, the provider's

[4] The regulations similarly support this interpretation. 45 C.F.R. § 149.510(c)(4)(vii) addresses the "[e]ffects of [a] determination" and states that "[a] determination made by a certified IDR entity under paragraph (c)(4)(ii) of this section . . . [i]s not subject to judicial review, except in a case described" in Section 10(a). Paragraph (c)(4)(ii) refers exclusively to the IDRE's "[p]ayment determination and notification." Notably, the regulation governing the IDRE's eligibility review is in a different section. *See* 45 C.F.R. § 149.510(c)(1)(v).

claims were squarely within the above-referenced judicial review provision (42 U.S.C. § 300gg-111(c)(5)(E)), and therefore had to overcome the incorporated vacatur provision from the Federal Arbitration Act. *Id*. at 620–22. Here, in contrast, BCBSTX does not challenge the specific payment determinations, nor does it seek confirmation of any awards. Instead, BCBSTX challenges HaloMD's pattern of making misrepresentations to initiate ineligible IDRs and engaging in conduct designed to conceal such misrepresentations. *Guardian Flight II* did not consider the scope of the judicial review provision or claims like those asserted here by BCBSTX concerning eligibility issues. In fact, Defendants cite no cases in which the dispute turned on whether the claim submitting to the IDR Process involved a *qualified* service eligible for IDR.

Defendants' argument is also inconsistent with how eligibility is treated in traditional arbitration. Although the IDR Process differs in important respects from arbitration, both systems draw a distinction between threshold eligibility questions and merits determinations. In traditional arbitration, courts routinely decide whether a dispute is arbitrable – *i.e.*, whether the dispute is eligible for arbitration. *See AT&T Techs., Inc. v. Commc'ns Workers of Am.*, 475 U.S. 643, 647 (1986) ("[T]he 'general rule' [is] that the issue of arbitrability is for the courts to decide unless the parties stipulate otherwise."). Here too, the NSA expressly limits judicial review of payment determinations, while leaving eligibility determinations subject to judicial oversight. Defendants' reliance on arbitration precedent to argue for insulation from judicial review is therefore misguided, as that precedent assigns questions of arbitrability—and thus eligibility—to the courts.

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

Defendants' argument that BCBSTX is "collaterally attacking" IDR awards also fails. To decide whether a claim constitutes a collateral attack, courts "look to the requested relief and its relationship to the alleged wrongdoing and purported harm." *Texas Brine Co., L.L.C. v. Am. Arb. Ass'n*, *Inc.*, 955 F.3d 482, 489 (5th Cir. 2020). If the plaintiff's damages are simply the "award it

believes it should have received," then the claim is a collateral attack. *Gulf Petro Trading Co., Inc. v. Nigerian Nat. Petroleum Corp*., 512 F.3d 742, 750 (5th Cir. 2008).

Here, BCBSTX is not seeking damages that it sought but failed to procure in the underlying IDR proceedings. Rather, BCBSTX is challenging Defendants' broadscale fraudulent scheme—which extends far beyond any individual IDR proceeding. Compl. ¶¶ 11–13. Unlike the single-award arbitration cases cited by Defendants, this case involves a pattern of misconduct that cannot be understood or remedied by examining one award in isolation. And the misconduct is *ongoing*, Compl. ¶ 341, which further distinguishes this case from those that Defendants try to rely upon.

Notably, the Fifth Circuit authority that Defendants rely upon 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.*, 512 F.3d at 751 & n.5. BCBSTX's claims fall squarely within this latter category because Defendants' misconduct extends beyond the individual IDR proceedings. BCBSTX alleges that Defendants planned and coordinated a scheme to submit tens of thousands of ineligible claims and further engaged in "delay-and-dump" tactics designed to overwhelm the IDR Processes. None of the cases Defendants rely upon involve a similar coordinated scheme to initiate thousands of ineligible arbitrations as part of a broader fraudulent enterprise.[5]

In addition, BCBSTX seeks categories of damages that were neither recoverable in the IDR processes, nor the result of any IDR award. The Complaint alleges that Defendants are engaging in a scheme designed to overwhelm BCBSTX and the IDR Processes, causing BSBSTX

[5] Moreover, BCBSTX brings a claim for money had and received, an equitable remedy that turns on whether a party has "wrongfully secured a benefit . . . which it would [be] unconscionable to retain." *Allstate Ins. Co. v. Benhamou*, 190 F. Supp. 3d 631, 665 (S.D. Tex. 2016) (citation omitted). BCBSTX can establish that Defendants "hold[] money which in equity and good conscience belongs to [BCBSTX]," without vacating the any of the underlying awards. *Bank of Saipan v. CNG Fin. Grp.*, 380 F.3d 836, 840 (5th Cir. 2004). Indeed, Defendants are not even parties to the underlying awards, yet they retained funds from BCBSTX as a result of their wrongdoing.

operational harm that is independent from the individual payment determinations. Compl. ¶¶ 93, 200–06, 289, 291.[6] Specifically, BCBSTX seeks damages related to costs for the overhead and resources necessary for BCBSTX to respond to Federal and Texas IDR Processes and administrative fees and costs imposed on BCBSTX as part of the Federal and Texas IDR Processes. Compl. ¶ 235. BCBSTX could not recover either category of those damages in the IDR Process or through vacatur, so its claims are necessarily not a collateral attack on those proceedings.

Further, BCBSTX is also seeking prospective relief. *See* Compl. ¶ 341 (requesting "an injunction prohibiting Defendants from continuing to submit false attestations and initiate Federal and Texas IDR Processes for claims, items, or services that are not eligible for IDR[.]"). BCBSTX's injunctive relief claim cannot possibly "collaterally attack" IDRs that have not yet been commenced. Courts regularly issue injunctions relating to future proceedings, demonstrating the lack of legal support for Defendants' argument. *See, e.g.*, *Allstate Ins. Co. v. Elzanaty*, 929 F. Supp. 2d 199, 223 (E.D.N.Y. 2013) ("Defendants are enjoined from commencing and/or prosecuting any future collection proceedings against Allstate seeking payment for no-fault benefits on behalf of any of the Defendants before the AAA"); *Gov't Employees Ins. Co. v. Gerling*, 718 F. Supp. 3d 268, 280 (E.D.N.Y. 2024) (enjoining defendants from "commencing any further no-fault insurance collection arbitrations" in light of allegations of "fraudulent scheme" involving the filing of "arbitration for no-fault insurance claims"). Defendants cite no authority to support finding the collateral attack doctrine applies to a request for injunctive relief.

Finally, the collateral attack doctrine that Defendants rely upon has only been applied to court and arbitral awards. *See Gulf Petro*, 512 F.3d at 748 (5th Cir. 2008) (applying the collateral

[6] While Defendants take issue with the breadth of damages BCBSTX may recover here, "it is premature at the motion to dismiss state to determine what form of damages may be appropriate, provided that damages are adequately alleged." *Swimwear Sol., Inc. v. Orlando Bathing Suit, LLC*, 309 F. Supp. 3d 1022, 1042–43 (D. Kan. 2018) (internal quotation marks and citation omitted).

attack doctrine to international arbitrations); *Tex. Brine*, 955 F.3d at 487 (discussing "collateral attacks on the arbitration award"). BCBSTX's claims, however, concern the IDR Process—which courts have found to not constitute arbitration. *See Mod. Orthopaedics of NJ v. Premera Blue Cross*, No. 2:25-CV-01087-BRM-JSA, 2025 WL 3063648, at *5-7 (D.N.J. Nov. 3, 2025). That's because "differences pervade the IDR and arbitration processes" including that "an IDR is limited to parties that have no agreement whatsoever " and "the IDR is—by statute—a highly-restricted process" with "no opportunity for briefing, hearing, or appeal beyond that provided by § 300gg-111(c)(5)(E)(i)(II)." *Id*. at *6. Defendants cite no authority supporting their application of the collateral attack doctrine to IDR awards or other processes that lack the same due process protections.

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

Defendants argue that BCBSTX's claims related to ineligible awards in the Texas IDR Process are foreclosed by "strict time limitations on judicial review" contained in Texas Senate Bill 1264. D.E. 15 at 18. But for the same reasons stated above for the NSA, this argument also fails.

The "time limitation" that Defendants reference is within Tex. Ins. Code § 1467.089(b). In full, it reads: "Not later than the 45th day after the date of an *arbitrator's decision under Section 1467.088* (Decision), a party not satisfied with the decision may file an action to determine the payment due to an out-of-network provider." *Id.* (emphasis added).[7] Notably, a TDI Neutral's "decision under Section 1467.088" is "whether the billed charge or the payment made by the health benefit plan issuer or administrator . . . is the closest to the reasonable amount for the services or

[7] Importantly, the provision cited by Defendants that includes the 45-day time limitation does not apply to most of the claims at issue in this case, including all facility claims and claims involving free-standing emergency rooms. *See* Tex. Ins. Code § 1467.081 (chapter with the 45-day limitation "limited only to health benefit claim submitted by an out-of-network provider who is not a facility").

supplies." *Id.* § 1467.088(a). No part of the arbitrator's decision under Section 1467.088 relates to eligibility. *See id.* In fact, *no provision* of SB 1264 tasks the TDI Neutral with making an eligibility determination.[8]

The Texas Legislature's decision to only apply a time limitation to judicial review of a TDI Neutral's "decision under Section 1467.088" belies Defendants' argument. If, as Defendants contend, the time limitation applied to eligibility issues (which arbitrators do not even make), the statute's text restraining the time bar to a TDI Neutral's "decision under Section 1467.088" would be rendered superfluous. This cannot be. *See Crosstex Energy Services, L.P. v. Pro Plus, Inc.*, 430 S.W.3d 384, 390 (Tex. 2014) ("We must not interpret the statute in a manner that renders any part of the statute meaningless or superfluous." (internal quotation marks and citation omitted)). If the Texas Legislature wanted to apply the 45-day limit to all issues related to the Texas IDR Process, it could have done so. *Id*. ("If the Legislature intended a good cause extension independent from the preceding sentences, it could have created such an exception."). But it did not. The legislature only applied the time limitation to payment determinations. Accordingly, there is only one interpretation that gives full meaning to all of Section 1467.089(b)—the 45-day limitation applies only to payment amount determinations, and not to eligibility determinations, as challenged by BCBSTX here.

II. Neither displacement nor preemption applies.

Defendants contend that BCBSTX's claims are barred by the doctrines of preemption and displacement. That contention, however, rests on a misunderstanding of these doctrines. Defendants have not identified any clear inconsistency between the NSA and the causes of action

[8] Instead, it is the TDI, not the TDI neutral, who determines eligibility. *See* Tex. Ins. Code § 1467.081 ("The only issue that an arbitrator may determine under this subchapter is the reasonable amount for the health care or medical services or supplied provided to the enrollee by an out-of-network provider.").

here to warrant the application of either doctrine, and instead Defendants merely repackage their collateral-attack arguments. Because, as explained above, BCBSTX's claims against Defendants are not collateral attacks, Defendants' duplicative argument here is similarly unavailing.

There are three types of preemption: (1) express preemption; (2) field preemption; and (3) conflict preemption. *Aldridge v. Miss. Dept. of Corr.*, 990 F.3d 868, 874 (5th Cir. 2021). Defendants focus on conflict preemption. *See* D.E. 15 at 20. Conflict preemption occurs when "compliance with both state and federal law is impossible" or the "state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Id.* at 875 (internal quotation marks and citation omitted). In such cases, the "conflicting state law" is "nullified by the Supremacy Clause." *Id.* (internal quotation marks and citation omitted). With respect to BCBSTX's federal RICO claim, Defendants invoke displacement, which applies when "a federal statute governs a question previously governed by federal common law." *United States v. Am. Com. Lines, L.L.C.*, 759 F.3d 420, 422 n.1 (5th Cir. 2014).

As an initial matter, BCBSTX's federal RICO claim arises under a federal statute, not federal common law. The idea that federal law can displace federal common law is based on the premise that "it is for Congress, not the federal courts, to articulate the appropriate standards to be applied as a matter of federal law." *Id.* But that rationale has no application here, where the Court is not being asked to displace a judicially created common law rule with a statutory one. Attempting to bridge that gap, Defendants rely on *Credit Suisse Sec. (USA) LLC v. Billing*, 551 U.S. 264 (2007), where the Supreme Court considered whether "the securities laws impliedly precluded application of the antitrust laws." *Id.* at 272. Defendants cite no cases, however, applying the Court's holding beyond the antitrust context. *See id.* at 271 ("Where regulatory statutes are silent in respect to antitrust, however, courts must determine whether, and in what respects, they

implicitly preclude application of the antitrust laws."). And such doctrine only applies when there is a "plain repugnancy between the antitrust and regulatory provisions." *Id.* (internal quotation marks and citation omitted).

Even setting aside that threshold issue, neither preemption nor implied preclusion applies because there is no conflict between BCBSTX's state or federal causes of action and the NSA. The laws at issue do very different things: the state and federal claims asserted by BCBSTX address underlying misconduct sounding in fraud, whereas the NSA governs payment disputes for certain out-of-network services and §10(a) governs post-award judicial review. These statutes coexist without tension. Compliance with the federal and state laws is not "impossible" nor do these laws "stand[] as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Aldridge*, 990 F.3d at 875 (internal quotation marks and citation omitted). Indeed, courts that have applied preemption in the FAA context have done so when a state arbitration rule directly conflicts with the FAA, in which case the FAA rule prevails. *See In re Nexion Health at Humble, Inc.*, 173 S.W.3d 67, 69 (Tex. 2005) (finding preemption where the Texas arbitration rule "add[ed] an additional requirement" not present in the FAA); *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333, 341 (2011) ("When state law prohibits outright the arbitration of a particular type of claim, the analysis is straightforward: The conflicting rule is displaced by the FAA."). At a minimum, for conflict preemption to apply, the two laws must "impose conflicting legal frameworks." *United States v. Texas*, 794 F. Supp. 3d 427, 447 (W.D. Tex. 2025). Similarly, when considering implied preclusion, courts also consider whether the securities laws and antitrust laws "are clearly incompatible." *Hinds Cnty. v. Wachovia Bank, N.A.*, 700 F. Supp. 2d 378, 401 (S.D.N.Y. 2010) (citing *Credit Suisse*, 551 U.S. at 271); *see also Credit Suisse*, 551 U.S. at 274 (a

conflict exists when the antitrust law "forbid[s] resale price maintenance" and securities law "permit[s] resale price maintenance"). Here, no such conflict exists.

At bottom, Defendants' objection to BCBSTX's federal and state claims is based solely on the premise that these claims are being used to challenge an arbitration award and § 10(a) provides the exclusive remedy for challenging such awards. In other words, their argument boils down to a reassertion of their collateral attack theory. As explained above, however, BCBSTX's claims are not collateral attacks, and because that theory fails, Defendants cannot repackage it as an argument for preemption or displacement.

III. BCBSTX pleads standing.

BCBSTX alleges that Defendants' misrepresentations and misconduct have caused it to wrongly face well over $100 million in awards, and incur more than $30 million in administrative fees and additional administrative and staffing expenses. *See, e.g.*, Compl. ¶ 12. Despite the clear harm to BCBSTX and its plan sponsors, Defendants argue that BCBSTX lacks Article III standing because BCBSTX's reported injuries are "not fairly traceable to the Defendants' alleged conduct." D.E. 15 at 23. Defendants cannot outrun their fraud by pointing fingers at others.

First, third-party involvement in the chain of causation does not foreclose traceability. On the contrary, the Supreme Court has found that plaintiffs may meet traceability requirements where plaintiffs plead "the predictable effect" the harm at issue had "on the decisions of third parties." *See Dep't of Com. v. New York*, 588 U.S. 752, 768 (2019) (traceability satisfied where the federal government planned to re-insert a citizenship question on the census, and respondents showed that such a question would likely lead noncitizen households to respond to the census at a lower rate, causing them to be undercounted, which would lead to injuries such as diminished political representation or loss of federal funds). Here, HaloMD making fraudulent misrepresentations as to eligibility had the predictable effect of ineligible awards being issued against BCBSTX. Without

HaloMD's involvement, BCBSTX would not have suffered the harm of having ineligible awards issued against it. This demonstrates that BCBSTX's injuries are fairly traceable to HaloMD.

Second, BCBSTX's efforts to object to ineligible IDR disputes are no hurdle to traceability. Defendants state that BCBSTX "caus[ed]" its own injuries because it at times did not "succeed[] in convincing the IDREs" that the disputed claims were in fact ineligible for the IDR Process at hand. D.E. 15 at 22. Again, however, where a defendant's acts cause the predictable behavior of third parties, those acts may be considered an injury fairly traceable to the defendants themselves. *Dep't of Com.*, 588 U.S. at 768. Moreover, the regulations only require the IDREs to consider the initial "information submitted in the notice of IDR initiation"—that is, the provider's attestations—"to determine whether the Federal IDR process applies." 45 C.F.R. § 149.510(c)(1)(v). There is no guarantee that BCBSTX's eligibility objections were even considered by the IDREs. Moreover, there would be no reason for Defendants to engage in this scheme of submitting ineligible disputes if Defendants did not believe they would procure awards in their clients' favor from doing so.

Third, Defendants' attempt to sidestep liability and instead point the finger to "each IDRE's and arbitrator's supposed dereliction of his or her obligations to decide eligibility" is misguided. D.E. 15 at 23. As articulated in the Complaint, the IDR awards were *only possible* because of Defendants' misrepresentations. If Defendants had accurately represented the information underlying the services and claims at issue, then no dispute would have ever been initiated for ineligible items or services, much less an IDR proceeding concluding with a fraudulently procured award against BCBSTX. *See, e.g.*, Compl. ¶¶ 94, 222. Without Defendants' misrepresentations, IDREs and TDI Neutrals would have no reason to issue awards on the ineligible services submitted by HaloMD to the IDR Process.

Defendants also contend half-heartedly in a footnote that BCBSTX has not adequately pled an injury in fact. D.E. 15 at 23–24 n.19. Not so. The Complaint alleges three sources of harm to BCBSTX: (1) awards for ineligible services, items, or claims against BCBSTX;[9] (2) administrative fees and costs; and (3) costs for the overhead and resources necessary for BCBSTX to respond to Federal and Texas IDR Processes initiated by HaloMD for ineligible disputes. Compl. ¶¶ 12–13, 235, 253, 269. BCBSTX's ability to recover on behalf of itself and its plans is also well-settled by courts across the country. *See, e.g.*, *Aetna Inc. v. People's Choice Hosp., LLC*, No. SA-18-CV-00323-OLG, 2019 WL 12536916, at *5–6 (W.D. Tex. Mar. 28, 2019) (health plan has standing to assert the claims on behalf of the parties funding the self-funded plans that Aetna administers); *Tri State Advanced Surgery Ctr., LLC v. Health Choice, LLC*, 112 F. Supp. 3d 809, 813 (E.D. Ark. 2015) (Cigna, on behalf of "both the employer-funded plans and the Cigna-funded plans" had standing, as it had "sufficiently alleged an injury in the form of payment of fraudulent claim submissions that resulted in overpayments to [defendant provider]"); *Connecticut Gen. Life Ins. Co. v. La Peer Surgery Ctr. LLC*, No. 2:13-CV-03726-CAS, 2014 WL 961806, at *4 (C.D. Cal. Mar. 12, 2014) (same); *In re SmithKline Beecham Clinical Lab'ys, Inc. Lab'y Test Billing Pracs. Litig.*, 108 F. Supp. 2d 84, 105 (D. Conn. 1999) (same); *Unitedhealthcare Services, Inc. v. Team Health Holdings, Inc.*, No. 3:21-CV-00364-DCLC-JEM, 2022 WL 1481171, at *8 (E.D. Tenn. May 10, 2022) (same).

[9] Defendants make much ado about congressional reports allegedly showing that "non-payment of binding IDR awards" is "a pervasive problem." D.E. 15 at 24 n.19. Not only are these materials outside the four concerns of BCBSTX's Complaint but Defendants also ask the Court to adopt an inference contrary to BCBSTX's allegations. *See,* e.g., Compl. ¶ 235. This is not proper. *See Masel v. Villarreal*, 924 F.3d 734, 743 (5th Cir. 2019) ("[W]e accept as true any well-pleaded factual allegations.").

IV. BCBSTX pleads Texas common law fraud.

BCBSTX's Complaint asserts both common law fraud and fraudulent inducement claims under Texas law. Compl. ¶¶ 216–35, 254–69. Under Texas law, a fraud claim requires "[1] a material misrepresentation, [2] which was false, and [3] which was either known to be false when made or was asserted without knowledge of the truth, [4] which was intended to be acted upon, [5] which was relied upon, and [6] which caused injury.'" *Vanderbilt Mortg. & Fin., Inc. v. Flores*, 735 F. Supp. 2d 679, 690 (S.D. Tex. 2010). BCBSTX has adequately pled each necessary element of its fraud claims—with particularity—pursuant to Fed. R. Civ. P. 9(b). Defendants' arguments to the contrary are unavailing.

A. BCBSTX pleads its fraud claims with particularity.

Defendants first allege that BCBSTX's Complaint fails to detail the "concrete details or acts" for each of the "over 42,000 IDR disputes apparently at issue in this case." D.E. 15 at 27. But "to the extent that Defendant faults [BCBSTX] for failing to itemize with particularity each and every action that formed a part of the fraudulent scheme, plaintiffs are not required to do so, but need only provide some representative examples." *El Paso Disposal, LP v. Ecube Labs Co.*, 766 F. Supp. 3d 692, 708 (W.D. Tex. 2025). That is exactly what BCBSTX has done here. The Complaint thoroughly details representative examples of fraudulent awards that Defendants procured against BCBSTX for ineligible services, items, and claims, including instances:

- Where the applicable health benefits plan was Medicare—to which the IDR Processes are expressly inapplicable (Compl. ¶¶ 114–26);
- Where Defendants failed to timely initiate the formal IDR Process within the strict time limitations (*id*. ¶¶ 127–40); and
- Where Defendants failed to engage in open negotiations—a necessary predicate before a formal IDR can be initiated and an award can be rendered (*id*. ¶¶ 141–51).

The Complaint also includes two examples of Defendants initiating 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. *Id*. ¶¶ 10, 164–87. Over 42,000 IDR awards are at issue in this lawsuit. *Id*. ¶ 153. Requiring BCBSTX to provide a "play-by-play" for each "would be absurd" and has no basis in the law. *Ecube Labs Co.*, 766 F. Supp. 3d at 708.

Defendants only other argument under Rule 9(b) is that the Complaint does not "specif[y] which defendant did what." D.E. 15 at 27–28. However, the authority that Defendants rely upon makes clear that "[m]ultiple defendants' conduct may be 'lumped together' without violating Rule 9(b) 'if the plaintiff's allegations elsewhere designate the nature of the defendant[s'] relationship to a particular scheme and identify the defendants' role' in the alleged fraud." *Sterett Equip. Co., LLC v. PH Steel, Inc.*, No. 1:22-CV-476, 2024 WL 1179788, at *15 (E.D. Tex. Mar. 19, 2024) (quoting *AHBP LLC v. Lynd Co.*, 649 F. Supp. 3d 371, 389 (W.D. Tex. 2023)). BCBSTX's Complaint does so here:

- **Defendant Scott Laroque** owns MPowerHealth Affiliates and understood the financial windfall that could be gained through submitting claims through the Texas and Federal IDR Processes, leading to the founding of HaloMD. Compl. ¶¶ 78–80. This has allowed HaloMD to have a large volume of providers that HaloMD initiates fraudulent Texas and Federal IDR Processes on behalf of—which allows it to carry out its "delay and dump" tactics to overwhelm BCBSTX's ability to meaningfully contest eligibility. *Id.* ¶¶ 284, 289. Defendant Scott Laroque is also the beneficial owner of HaloMD, sits on HaloMD's Board of Directors, and has directed the scheme at issue in this case. *Id.* ¶¶ 6, 280, 295, 312.

- **Defendant Alla Laroque** is the founder, president, and beneficial owner of HaloMD. *Id.* ¶¶ 6, 16. Through these roles, she set up HaloMD's business model and directed the misrepresentations at issue in this case to be made related to ineligible claims, services, and items in the IDR Processes. *Id.* ¶¶ 89, 215, 258–59, 289. Alla was also personally involved in conversations with BCBSTX and regulators regarding HaloMD's practice of submitting ineligible claims, services, and items into the IDR Processes and has bypassed efforts to curtail their procurement of fraudulent awards. *Id.* ¶¶ 208–15.

- **Defendant HaloMD** is the corporate entity which makes the eligibility misrepresentation and fraudulent submissions in the Texas and Federal IDR Processes. *Id*. ¶¶ 5, 9, 12–13.

> HaloMD specifically signs false attestations that "the "item(s) and/or service(s) at issue are qualified item(s) and/or service(s) within the scope of the Federal IDR process." *Id.* ¶ 108. HaloMD also takes a contingency percentage of any award issued in favor of its healthcare provider clients, giving all Defendants the financial incentive to carry out the scheme at issue in this case. *Id.* ¶¶ 7, 295, 327.

Simply put, BCBSTX's Complaint sets forth each Defendants' role "in carrying out the alleged fraud" including Scott and Alla LaRoque's "mutual ownership" over HaloMD. *Enerra Corp. v. Conti Grp., LLC*, *et al*., No. 3:23-CV-194-L-BN, 2025 WL 1674405, at *5 (N.D. Tex. Feb. 14, 2025). Accordingly, Defendants' bids for dismissal under Rule 9(b) must be rejected.

B. BCBSTX pleads reliance.

Defendants intended for their misrepresentations to be acted upon, and the Departments, IDREs, TDI, and Texas IDR Neutrals all relied upon Defendants' misrepresentations when making payment determinations in favor of HaloMD for ineligible disputes. Compl. ¶¶ 217, 223–29. Defendants are liable to BCBSTX for their fraudulent misrepresentations even if Defendants did not communicate directly to BCBSTX.

The Restatement (Second) of Torts § 531 explains that where a fraudster communicates a misrepresentation to a first party, and the first party relies upon that misrepresentation and communicates it to a second party, the fraudster can be liable for damages resulting from the harm to the second party—even though the misrepresentation was *not* directly communicated from the fraudster to the second party:

> 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, for pecuniary loss suffered by them through their justifiable reliance in the type of transaction in which he intends or has reason to expect their conduct to be influenced.

In re Mounce, 390 B.R. 233, 248 (Bankr. W.D. Tex. 2008) (quoting Restatement (Second) of Torts § 531) (emphasis in *Mounce*); *see also id.* (stating "Texas jurisprudence is consistent with" § 531); *Ernst & Young, L.L.P. v. Pac. Mut. Life Ins. Co.*, 51 S.W.3d 573, 575 (Tex. 2001) ("[S]ection 531's

reason-to-expect standard is consistent with our fraud jurisprudence"). Section 531 prohibits a defendant from avoiding fraud liability because the defendant strategically communicated the misrepresentation to an intermediary, even though the defendant intended (or had reason to expect) a third party to act in reliance on the misrepresentation.[10] This concept is akin to the transitive property in math and is similar to a defendant communicating a misrepresentation to a plaintiff's agent instead of directly to the plaintiff themselves.

The Texas Supreme Court has explicitly recognized that Texas "fraud jurisprudence has traditionally focused not on whether a misrepresentation is directly transmitted to a known person alleged to be in privity with the fraudfeasor, but on whether the misrepresentation was *intended to reach a third person* and *induce reliance*." *Ernst & Young*, 51 S.W.3d at 578 (emphasis added) (citing *Gainesville Nat'l Bank v. Bamberger*, 13 S.W. 959 (Tex. 1890)). Other Texas courts have similarly found the defendants' intention to reach a third party can impose liability. *See, e.g.*, *In re Mounce*, 390 B.R. at 248 (quoting *Ernst & Young*, 51 S.W.3d at 578); *Am. Indem. Co. v. Ernst & Ernst*, 106 S.W.2d 763, 765 (Tex. Civ. App. 1937), *writ refused* ("[W]here a party makes a false representation to another with the intent or knowledge that it should be exhibited or repeated to a third party for the purpose of deceiving him, the third party, if so deceived to his injury, can maintain an action in tort against the party making the false statement for the damages resulting from the fraud."); *Hawkins v. Upjohn Co.*, 890 F. Supp. 609, 612 (E.D. Tex. 1994) ("Plaintiffs assert that the FDA relied on defendants' representations in permitting the distribution of the drugs in question within the United States and that plaintiffs[] relied on the FDA's assessment . . . . Such indirect reliance is sufficient to state a claim of fraud."); *Gainesville Nat. Bank v. Bamberger*, 13

[10] *See Summit Props. Inc. v. Hoechst Celanese Corp.*, 214 F.3d 556, 561 n.22 (5th Cir. 2000), *overruled on other grounds by St. Germain v. Howard*, 556 F.3d 261 (5th Cir. 2009) ("[W]hen an action poses a high and foreseeable risk on a third party, we may view the resulting injury as deliberate for the purpose of liability.").

S.W. 959, 960–61 ("[A] third person, to whom [the misrepresentations] were not directly made, can maintain an action of deceit . . . if it appear that the defendant's false representations were made with a direct intent that [the third person] should act upon them in the manner which occasioned the injury."); *Neuhaus v. Kain*, 557 S.W.2d 125, 138 (Tex. Civ. App. 1977), *writ refused NRE* (Feb. 22, 1978) ("We recognize the rule that a fraudulent representation may be either direct or indirect, and that a person intending to defraud another may make the representation to that person, or he may make such representation to another with the intent that it should be repeated to the intended party for the purpose of deceiving him."). Texas law recognizes that a plaintiff can plead fraud, even where the fraudster indirectly communicated the misrepresentation.

Several courts have also recognized liability for harms to third parties where a defendant induces a government agency to rely on a misrepresentation. *See, e.g.*, *Hawkins*, 890 F. Supp. at 612 ("indirect reliance" sufficient to state a claim for fraud where defendants made misrepresentations to the FDA regarding a drug, which the FDA relied upon, and plaintiffs in turn relied upon the FDA's assessment of the drugs); *Learjet Corp. v. Spenlinhauer*, 901 F.2d 198, 201–03 (1st Cir. 1990) (fraud sufficiently pled where plaintiff alleged airplane company made misrepresentations to the Federal Aviation Administration (FAA), the FAA relied upon the misrepresentations, the FAA certified the airplane model as airworthy, and plaintiff relied upon the FAA's certification); *Bardes v. Massachusetts Mut. Life Ins. Co.*, 932 F. Supp. 2d 636, 640–41 (M.D.N.C. 2013) (fraud adequately pled where plaintiff alleged employer made knowingly fraudulent representation to various government entities (in the form of W2 tax forms), and those government entities relied upon it, to the detriment of the employee).

In each of these cases, the plaintiff indirectly relied upon the defendant's misrepresentations made to the government and the plaintiff did not have full knowledge of the

initial misrepresentations but could only rely upon the intermediary's acts made in reliance upon the misrepresentation. The same holds true here—Defendants knowingly submitted fraudulent representations to the Departments and the TDI through their respective online portals. BCBSTX, unaware of the full scope of Defendants' misrepresentations or the government or IDRE or Texas IDR Neutral's understanding of the misstatement, is nevertheless forced to (indirectly) rely on Defendants' fraud.

Defendants' arguments also overlook that BCBSTX is *forced* to rely upon Defendants' misrepresentations, even where BCBSTX objects. Indeed, "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, 252, 264. The NSA and Texas IDR Processes are both mandatory dispute resolution processes—there is no way for BCBSTX to opt out. Accordingly, once Defendants initiate the IDR Proceedings by making misrepresentations as to eligibility, BCBSTX is forced to participate and, thus, rely upon Defendants' misrepresentation. This negates Defendants arguments related to lack of reliance.

V. BCBSTX pleads claims against Scott and Alla LaRoque.

BCBSTX has thoroughly alleged Scott and Alla LaRoque's individual involvement in these claims. Defendants argue that the claims against Alla and Scott LaRoque should be dismissed because BCBSTX fails to allege that "either individual personally or knowingly committed any alleged act of fraud, nor are there any allegations to pierce HaloMD's LLC veil." D.E. 15 at 28. Defendants cherry-pick certain allegations that they describe as vague and conclusory. When read as a whole, however, BCBSTX's allegations regarding Alla and Scott LaRoque's involvement in the creation, implementation, and oversight of the fraudulent scheme establish their knowing

participation and warrant individual liability. *See also supra* at IV(A) (discussing the Complaint's detailed allegations regarding the individual defendants).

"[W]hen corporate officers directly participate in or authorize the commission of a wrongful act, even if the act is done on behalf of the corporation, they may be personally liable." *Moss v. Ole S. Real Estate, Inc.*, 933 F.2d 1300, 1312 (5th Cir. 1991). "The thrust of the general rule is that the officer to be held personally liable must have some direct, personal participation in the tort, as where the defendant was the 'guiding spirit' behind the wrongful conduct . . . or the 'central figure' in the challenged corporate activity." *Mozingo v. Correct Mfg. Corp.*, 752 F.2d 168, 174 (5th Cir. 1985) (internal quotation marks and citation omitted). "It is not necessary that the 'corporate veil' be pierced in order to impose personal liability, as long as it is shown that the corporate officer knowingly participated in the wrongdoing." *In re Cloud*, 214 F.3d 1350, 2000 WL 634637, at *3 (5th Cir. 2000) (quoting *Barclay v. Johnson*, 686 S.W.2d 334, 337 (Tex. Ct. App. 1985)).

Here, because BCBSTX has alleged Alla and Scott LaRoque's knowing participation in the alleged wrongdoing, BCBSTX does not need to plead additional allegations justifying piercing the corporate veil. Specifically, the Complaint describes Alla LaRoque's peculiar introduction to the healthcare industry. Despite her complete lack of experience, Scott LaRoque made her the Chief Operating Officer of his company National Neuromonitoring. Compl. ¶ 78. She then went on to found HaloMD and now touts herself as a leading expert in healthcare billing and the NSA. *Id.* Together, Alla and Scott LaRoque own and operate HaloMD, which is largely an extension of MPowerHealth Affiliates, a group of companies also owned by the LaRoques and benefiting from this fraudulent scheme. *Id*. ¶¶ 78–84.

The Complaint alleges that Alla and Scott LaRoque control the operations of HaloMD and have developed a business model designed to exploit the IDR Process and deprive BCBSTX of millions of dollars. *Id.* ¶¶ 91–94. They funnel claims from MPowerHealth Affiliates and other providers through HaloMD into the IDR Processes, and routinely misrepresent the eligibility of claims to obtain payment determinations to which they are not entitled. *Id.* Indeed, the Complaint alleges that, at Scott and Alla LaRoque's direction, HaloMD uses tactics such as stockpiling claims information to conceal that a large portion of the submitted claims are ineligible for the IDR process. *Id.* ¶ 93. This "delay and dump" strategy both overwhelms BCBSTX's capacity to respond and prevents IDREs from meaningfully evaluating the eligibility of each claim. *Id.* ¶¶ 93, 288. Moreover, the Complaint alleges, upon information and belief, that TDI has had direct conversations with Alla LaRroque and others at HaloMD about their "practice of submitting huge volumes of ineligible claims to the Texas IDR process." *Id.* ¶ 211. Yet the LaRoques remain undeterred. Having designed and authorized HaloMD's misconduct and personally profited from it, Scott and Alla LaRoque were the "guiding spirit[s]" and "central figure[s]" in the alleged scheme, and the claims against them are sufficiently pled. *Mozingo*, 752 F.2d at 174.

VI. BCBSTX pleads RICO wire fraud.

BCBSTX states well-supported RICO claims, alleging how Defendants and their HaloMD and Out-Of-Network Provider Enterprises have engaged in strategic and wide-ranging RICO violations, utilizing interstate wires to perpetuate their fraudulent scheme by communicating misrepresentations regarding eligibility of certain services or claims for the IDR Processes. *See, e.g.*, Compl. ¶¶ 94, 214–15. Defendants attempt to evade the RICO claims fails.

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

Defendants first try to argue their alleged conduct cannot be predicate acts of RICO wire fraud because they are protected "litigation activities." However, in doing so, Defendants

improperly conflate IDR proceedings (which are statutorily mandated and contain very little due process protections) with formal litigation. Defendants have not brought—and, pursuant to the NSA and Texas SB 1264's *mandatory* nature, cannot bring—a state or federal lawsuit to adjudicate their out-of-network claims with BCBSTX. IDR Processes are not lawsuits—or even arbitrations. *See Mod. Orthopaedics*, 2025 WL 3063648, at *5 ("The NSA is not an arbitration.").

While some courts, including the Fifth Circuit, have found that "ordinary litigation practice" cannot serve as predicate acts for RICO wire fraud claims absent "intent to deceive," the goal of this protection is to prevent parties from bringing sanctions and malicious prosecution claims based merely on the filing of civil lawsuits, which could cause the public to lose trust in the court system. *United States v. Pendergraft*, 297 F.3d 1198, 1206–09 (11th Cir. 2002); *see also Snow Ingredients, Inc. v. SnoWizard, Inc.*, 833 F.3d 512, 525 (5th Cir. 2016) ("In the absence of corruption," litigation activities cannot sustain civil-RICO claims). This goal does not make sense in the IDR context. The concern underlying the policy—chilling the public's access to courts for fear of sanctions when filing civil lawsuits—is inapplicable in the IDR context. There is no sanction mechanism within the IDR Processes, and individuals have no constitutional right to access IDR proceedings. Moreover, contrary to the rules declared in *Pendergraft* and *Snow*, BCBSTX has alleged that the Defendants' intentions *were* to deceive and *are* rooted in corruption of the IDR processes.

The cases cited by Defendants in the arbitration context are also inapposite because they only involved single awards. *See, e.g.*, *Kim v. Kimm*, 884 F.3d 98, 105 (2d Cir. 2018) ("a plaintiff alleges that a defendant engaged in a *single* frivolous, fraudulent, or baseless lawsuit, such litigation activity alone cannot constitute a viable RICO predicate act") (emphasis added); *Republic of Kazakhstan v. Stati*, 380 F. Supp. 3d 55, 57 (D.D.C. 2019) (party seeking "injunction

preventing defendants from enforcing the foreign arbitral award"). But courts have recognized an exception where there is a "*multiplicity* of wrongful suits." *Relevant Grp., LLC v. Nourmand*, No. 2:19-CV-05019-ODW-KSX, 2022 WL 2916860, at *11 (C.D. Cal. July 25, 2022) (citing cases) (emphasis added); *see also Carroll v. U.S. Equities Corp.*, No. 1:18-CV-667, 2020 WL 11563716, at *9 (N.D.N.Y. Nov. 30, 2020) ("*Kim* leaves open the door for RICO claims premised on abusive litigation activities involving conduct beyond a single lawsuit."). Defendants have initiated a "multiplicity" of wrongful IDR proceedings, such that their actions cannot possibly be protected under the guise of legitimate "litigation activity," even if IDR proceedings were considered to be litigation (which they are not).

This case is far more analogous to situations in which defendants falsely certified eligibility to access a statutory program—just as Defendants falsely certified eligibility here. Courts find false attestations in those situations are sufficient predicate acts. *See, e.g.*, *Bridge v. Phoenix Bond & Indem. Co.*, 553 U.S. 639, 643 (2008) (wire fraud found where defendants provided "sworn affidavit affirming that it complies with the Single, Simultaneous Bidder Rule"); *United States v. Maxwell*, 579 F.3d 1282, 1300 (11th Cir. 2009) (wire fraud found for falsely certifying eligibility for Disadvantaged Business Enterprises program); *United States v. Pinson*, 860 F.3d 152, 170 (4th Cir. 2017) (affirming mail and wire fraud convictions related to false statements in applications for state and federal grants). Defendants' fraudulent misrepresentations are similarly predicate acts for their RICO wire fraud violations, and Defendants enjoy no shield from liability related to a "litigation activities" exemption.

B. BCBSTX pleads injury and causation.

For the same reason that BCBSTX has pled Article III standing, BCBSTX also has adequately pled RICO injury and causation. Again, Defendants' contention that some portion of IDR fees or awards was payable by others in no way negates that BCBSTX *itself* was clearly

financially damaged by Defendants' fraudulent misconduct. Further, as discussed above, BCBSTX also has standing to pursue claims on behalf of its plan clients.

Nor can Defendants contest causation. To plead causation for a RICO wire fraud claim, a plaintiff must allege that the defendants' conduct was both a "but for" and a proximate cause of plaintiff's injury. *Bridge v. Phoenix Bond & Indem. Co.*, 553 U.S. 639, 654 (2008). Proximate cause is "a flexible concept," which asks only for "some direct relation between the injury asserted and the injurious conduct alleged," even if multiple factors contributed to the plaintiff's harm. *Id.* (internal quotation marks and citation omitted). And reliance is *not* an element of a wire fraud claim and is accordingly not a "prerequisite to establishing proximate causation." *Id.* at 661; see also *Allstate Indem. Co. v. Bhagat*, --- F.4th ----, 2026 WL 98115, at *2 (5th Cir. 2026) (finding "district court erred in holding that [reliance] was necessary with respect to [] RICO mail-fraud claim"). Instead, the harm to the plaintiff is generally sufficient if it merely is "a foreseeable result of *someone's* reliance on the misrepresentation." *Id.* at 656 (emphasis in original). Courts have even recognized that proximate cause is satisfied where there were "direct and contemporaneous relationships between the acts of fraud directed against the third parties" (*i.e.*, a company's customers) "and the harm the plaintiffs [companies] incurred." *See In re Mounce*, 390 B.R. at 253 (quoting *Sandwich Chef of Texas, Inc. v. Reliance Nat. Indem. Ins. Co.*, 319 F.3d 205, 223–24 (5th Cir. 2003)).[11]

BCBSTX alleges that Defendants' fraudulent misrepresentations regarding the eligibility of certain services or claims is both a "but for" and a proximate cause of BCBSTX's injuries. But for Defendants' fraudulent misrepresentations, the IDR disputes for ineligible disputes would

[11] *See also Procter & Gamble Co. v. Amway Corp*., 242 F.3d 539, 564 (5th Cir. 2001), *abrogated on other grounds by Lexmark Int'l, Inc. v. Static Control Components, Inc.,* 572 U.S. 118 (2014) (allowing wire fraud claims based on fraudulent statements to plaintiff's customers rather than directly to plaintiff); *Mid Atl. Telecom, Inc. v. Long Distance Servs., Inc.*, 18 F.3d 260, 263–64 (4th Cir. 1994) (same).

never have proceeded and IDREs and TDI neutrals would never have issued awards in favor of Defendants on those ineligible claims. *See* Compl. ¶¶ 94, 97, 222. Defendants' fraud was both a substantial factor in BCBSTX's damages and reasonably foreseeable as a natural consequence of Defendants' misrepresentations. Indeed, the entire "objective and structure of the enterprise was to collect from [BCBSTX]." *Allstate Indem. Co.*, 2026 WL 98115, at *3 (internal quotation marks and citation omitted) (concluding that a hospital's scheme "proximately caused [Allstate] to pay for fraudulently billed services as part of the settlements between Allstate and the relevant patients" even though Allstate "was a third party to the allegedly fraudulent statements (medical bills) that [the hospital] made to claimants' attorneys"). Accordingly, BCBSTX has adequately pled RICO injury.

C. BCBSTX pleads a RICO enterprise.

Defendants' next argument, that BCBSTX has failed to allege a RICO enterprise, also fails. A RICO enterprise can either be "a legal entity or an association-in-fact." *Allstate Ins. Co. v. Benhamou*, 190 F. Supp. 3d 631, 648 (S.D. Tex. 2016). An association-in-fact enterprise is "a group of persons associated together for a common purpose" and "is proved by evidence of an ongoing organization, formal or informal, and by evidence that the various associates function as a continuing unit." *United States v. Turkette*, 452 U.S. 576, 583 (1981).

Here, BCBSTX alleges two RICO enterprises. The first is the legal entity, HaloMD, and the second is an association-in-fact enterprise, called the Out-of-Network ("OON") Enterprise, which is comprised of Alla and Scott LaRoque, HaloMD, and the OON Providers who contracted with HaloMD. Compl. ¶¶ 277, 306. Defendants argue that BCBSTX has not sufficiently alleged facts showing that either Alla or Scott LaRoque conducted or participated in either enterprise. D.E. 15 at 37. As explained above, however, the Complaint alleges in detail that Scott and Alla LaRoque were the "guiding spirit[s]" and "central figure[s]" in the alleged scheme, *Mozingo*, 752 F.2d at

174, having designed and authorized HaloMD's misconduct and personally profited from it. *See* Compl. ¶¶ 78–94.

Defendants also contend that BCBSTX's allegations concerning the OON Provider Enterprise rely entirely on routine contractual relationships between HaloMD and OON Providers, which they assert is insufficient to allege a RICO enterprise. D.E. 15 at 37–38. This argument ignores the facts alleged in the Complaint. Far from alleging ordinary arm's-length dealings, the Complaint details an unusually interrelated relationship between HaloMD and the OON Providers. Compl. ¶¶ 79–82. Indeed, the majority of the claims for which HaloMD initiates disputes through the IDR Processes are for MPowerHealth Affiliates. *Id.* Contrary to Defendants' assertion, HaloMD and MPowerHealth Affiliates do not have a "routine contractual relationship," D.E. 15 at 37. Rather, the Complaint alleges that HaloMD and MPowerHealth Affiliates are "really all one and the same." Compl. ¶ 82. They are headquartered in the same building, jointly hire employees, share employees, and many of the affiliated providers report the same address. *Id.* ¶¶ 83–85. Moreover, Roxanna LaRoque, a family member of Scott and Alla LaRoque, is identified as an "Authorized Official" on the U.S. Centers for Medicare & Medicaid Services ("CMS") national provider identifier registry for dozens of MPowerHealth Affiliates. *Id.* Taken together, these allegations plausibly establish a coordinated enterprise, not a series of independent contractual relationships.

Defendants' reliance on *Gomez v. Guthy-Renker, LLC*, No. EDCV 14-01425, 2015 WL 4270042, at *9 (C.D. Cal. 2015) is misplaced. There, the court reasoned that a plaintiff cannot demonstrate a common purpose by merely alleging "a routine contract for services, because the entities are actually pursuing their individual economic interests, rather than any shared purpose." Here, however, the Complaint alleges extensive overlap in the ownership, control, and operations

of HaloMD and MPowerHealth Affiliates, which supports a reasonable inference that these entities were not pursuing separate economic interests but instead acting in concert toward a shared purpose. And while Defendants argue there are no allegations that any OON Provider "knowingly conducted or participated in the alleged wire fraud scheme," D.E. 15 at 38, BCBSTX does in fact plead such facts: Alla and Scott LaRoque owned and controlled MPowerHealth Affiliates, and the LaRoques designed and implemented the fraudulent scheme that ultimately benefited them and the entities they controlled, including the OON Providers. *See* Compl. ¶¶ 79, 82, 89–95.

VII. The *Noerr-Pennington* doctrine does not immunize Defendants from liability for their fraudulent scheme.

Defendants claim their fraudulent scheme of knowingly making false statements to the Departments, TDI, IDREs, TDI Neutrals, and BCBSTX was merely Defendants practicing their "fundamental right to petition, initiate, and make submissions into the quasi-judicial IDR Processes." D.E. 15 at 24. But Defendants cannot hide behind constitutional protections, both because the *Noerr-Pennington* doctrine is inapplicable in the IDR Processes, and because even if it were appliable, Defendants' knowing falsehoods bar them from invoking the doctrine.

A. *Noerr-Pennington* does not apply to Defendants' fraud in an IDR proceeding, which are private commercial disputes.

The *Noerr-Pennington* doctrine does not protect Defendants' fraudulent actions in IDR proceedings. The *Noerr-Pennington* doctrine is designed to protect First Amendment rights to lobby the government. *Octane Fitness, LLC v. ICON Health & Fitness, Inc.*, 572 U.S. 545, 556 (2014). The doctrine does not apply to "activities in which the government acts in a merely ministerial or non-discretionary capacity in direct reliance on the representations made by private parties," as opposed to situations where "the government acts or renders a decision only after an independent review of the merits of a petition." *In re Buspirone Pat. Litig.*, 185 F. Supp. 2d 363, 369 (S.D.N.Y. 2002). Defendants' misrepresentations in the IDR Processes were not legitimate

government petitioning activities. They were made in the course of "private adjudications" overseen by private companies. *Ford Motor Co. v. Nat'l Indem. Co.*, 972 F. Supp. 2d 862, 869 (E.D. Va. 2013) (citation omitted).

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*, 972 F. Supp. 2d at 868 (arbitrations or adjudications "before a private organization does not implicate" the First Amendment protections that underpins the doctrine). An IDRE is a privately selected decision-maker, not a public official.[12]

Even if the *Noerr-Pennington* doctrine could apply to arbitration proceedings, "[t]he NSA is *not* an arbitration." *Mod. Orthopaedics of NJ*, 2025 WL 3063648, at *5 (emphasis added). The IDR Processes are fundamentally different than traditional arbitration. While arbitration involves the parties voluntarily agreeing to arbitrate, IDR is statutorily-mandated, and failure to participate functionally results in a default judgment against them. Traditional arbitration generally involves procedural due process mechanisms, such as discovery, evidentiary rules, briefing, and—where appropriate—live hearings; whereas IDR proceedings have "no opportunity for briefing, hearing, or appeal." *Id.* at *5–7. Moreover, arbitrators are ordinarily given discretion to grant appropriate relief, whereas an IDRE may only select one of the two parties' submissions (even if neither are reasonable) as the award amount. The Texas IDR Process, while it relies on terminology of "arbitration," is similarly too limited to be considered a true arbitration: the process is mandatory for out-of-network facilities; there is no discovery, hearing, or other opportunities to rebut the

[12] *See* CMS, About Independent Dispute Resolution, https://www.cms.gov/nosurprises/help-resolve-payment-disputes/payment-disputes-between-providers-and-health-plans ("In the Federal IDR process: Disputing parties have the option to choose *a third-party entity*, known as a certified IDR entity, from a list of *certified organizations* to resolve their dispute.") (emphasis added); Library of Congress, No Surprises Act (NSA) Independent Dispute Resolution (IDR) Process Data Analysis for 2024, https://www.congress.gov/crs-product/R48738 (Under the NSA, "either the insurer or the provider may initiate an independent dispute resolution (IDR) process before a **private arbitrator** (i.e., an *IDR entity*).") (bold emphasis added).

opposing party's contentions; and Texas IDR Neutrals may only choose one of the two parties' settlement offers.

B. *Noerr-Pennington* does not immunize intentional fraud.

Further, the *Noerr-Pennington* doctrine provides no protections for fraudulent statements. *Pension Advisory Grp., Ltd. v. Country Life Ins. Co.*, 771 F. Supp. 2d 680, 699 (S.D. Tex. 2011) ("The law is clear that *Noerr–Pennington* does not protect deliberately false or misleading statements." (internal quotation marks and citation omitted)). "Attempts to influence governmental action through overtly corrupt conduct, such as bribes (in any context) and misrepresentation (in the adjudicatory process), are not normal and legitimate exercises of the right to petition, and activities of this sort have been held beyond the protection of *Noerr.*" *Whelan v. Abell*, 48 F.3d 1247, 1255 (D.C. Cir. 1995) (citation omitted); *see also id.* (recounting the Supreme Court's assertion that a firm could not invoke *Noerr* as a defense where it "obtained the patent by knowingly and willfully misrepresenting facts to the Patent Office" (citation omitted)). BCBSTX has pled that Defendants made knowing, false misrepresentations. *See* Compl. ¶¶ 96, 154, 210. Accordingly, Defendants' misconduct is not shielded by the *Noerr-Pennington* doctrine.

VIII. Defendants' fraud is not shielded by Texas's judicial proceedings privilege.

Defendants' argument that they are protected from liability for state law tort claims by Texas's "judicial proceedings privilege" likewise fails. Texas's judicial proceedings privilege protects individuals from civil liability due to communications within a judicial proceeding, including "any statement made by the judge, jurors, counsel, parties or witnesses" that is "made in open court, pre-trial hearings, depositions, affidavits and any of the pleadings or other papers in the case." *Landry's, Inc. v. Animal Legal Def. Fund*, 631 S.W.3d 40, 46 (Tex. 2021) (internal quotation marks and citation omitted). The judicial proceeding privilege supports "the proper administration of justice" by empowering participants in judicial proceedings to make "full and

free disclosure of information." *Id.* (internal quotation marks and citation omitted). Importantly, this powerful privilege *only* applies to judicial proceedings—and does not offer protection for public statements made outside the context of a current (or concretely anticipated) litigation. *Id.* at 48–51. And, as previously explained, the IDR Processes are not true arbitrations, much less litigation. Therefore, the Texas *judicial proceedings* privilege does not apply.

Defendants' citation to *Shell Oil Co. v. Writt* does not establish otherwise, and in fact, supports BCBSTX's position. 464 S.W.3d 650 (Tex. 2015).While the Supreme Court of Texas noted that the Texas judicial proceedings privilege can extend to "quasi-judicial proceedings," that was only to support the public policy "in which the benefit of *the communication to the general public* outweighs the potential harm to an individual." *Id.* at 655 (emphasis added). Notably, such communication to the public is glaringly absent in the Texas IDR Process. In fact, Texas Senate Bill 1264 provides that "[a]ll information submitted by the parties to the [TDI Netural] is confidential and *not subject to disclosure*…" Tex. Ins. Code § 1467.089(f)(emphasis added). Defendants can point to no Texas court (or even another state court invoking a similar concept) that has applied the judicial proceedings privilege to an IDR proceeding. Furthermore, *Shell* found the "privilege is lost if abused, such as when the statement is made with malice and with knowledge of its falsity." *Id.* So, even if the Texas judicial proceedings privilege applied to the IDR Processes (and it does not), Defendants' knowing misrepresentations nullify any such privilege Defendants may seek to invoke.

IX. BCBSTX pleads a money had and received claim.

BCBSTX has appropriately stated a claim for money had and received, which allows "a party to recover when one person has obtained a benefit from another by fraud, duress, or the taking of an undue advantage." *Allstate Indem. Co.*, 2026 WL 98115, at *5. "This claim is an equitable right" that merely seeks to determine "to which party . . . the money, in equity, justice,

and law belong[s].” *Id.* (internal quotation marks and citation omitted). The claim is “less restricted and fettered by technical rules and formalities than any other form of action, aimed at abstract justice, and only asks whether the defendant holds money, which belongs to the plaintiff.” *Id.*

Here, BCBSTX has met its “minimal burden” by alleging that Defendants’ scheme caused, and is continuing to cause, BCBSTX to pay monies that it otherwise would not have to pay, in the form of liability for awards rendered against BCBSTX for claims, items, and services that were not eligible for the respective IDR Process. *See id.* BCBSTX has also pled that HaloMD received portions of the monetary awards it fraudulently procured for its provider clients by working on a contingency basis. Compl. ¶¶ 92, 272. Thus, BCBSTX “adequately pled [this] claim by alleging that Defendants fraudulently obtained a benefit (the payments) they have no right to retain.” *Allstate Indem. Co.*, 2026 WL 98115, at *5.

X. BCBSTX pleads declaratory judgment.

Defendants assert that the declaratory judgment claim cannot stand without the other causes of action, but BCBSTX has adequately pled each substantive claim. Moreover, Defendants’ argument that the claim is duplicative ignores that BCBSTX seek prospective relief to prevent Defendants from continuing to submit false attestations and initiate Federal and Texas IDR Processes for claims that are ineligible. Compl. ¶ 341. “This request for prospective relief [is] distinct from [BCBSTX’s] claim[s] for monetary damages.” *Robinson v. Hunt Cnty.*, 921 F.3d 440, 451 (5th Cir. 2019). Lastly, Defendants argue that the declaratory-judgment claim is a “backdoor request” for vacatur. D.E. 15 at 41. As explained above, BCBSTX’s claims fall outside of Section 10(a).

CONCLUSION

Defendants engaged in a brazen fraudulent scheme. The Complaint details that fraud in extraordinary detail, establishes standing, and meets each required element of the claims it states.

Accordingly, no relief is appropriate under Rule 12(b)(1) or 12(b)(6). BXBSTX respectfully requests for the Court to therefore deny Defendants' motion to dismiss in its entirety.

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By: */s/ Jamie R. Kurtz*

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