

Dated: March 11, 2026

Respectfully submitted,

NORTON ROSE FULBRIGHT US LLP

/s/ Michael A. Swartzendruber

Michael A. Swartzendruber (Lead Counsel)

State Bar No. 19557702

michael.swartzendruber@nortonrosefulbright.com

Shea R. Haass

State Bar No. 24055609

shea.haass@nortonrosefulbright.com

Cade S. Palmer

State Bar No. 24119732

cade.palmer@nortonrosefulbright.com

2200 Ross Ave., Suite 3600

Dallas, TX 75201

Telephone: (214) 855-8000

Facsimile: (214) 855-8200

Geraldine W. Young

State Bar No. 24084134

geraldine.young@nortonrosefulbright.com

Kevin A. Lie

State Bar No. 24136085

kevin.lie@nortonrosefulbright.com

1550 Lamar St., Suite 2000

Houston, TX 77010

Telephone: (713) 651-5151

Facsimile: (713) 651-5246

Mercy ★ Carter, L.L.P.

W. David Carter

Texas Bar No. 03932780

wdcarter@texarkanalawyers.com

5520 Christus Drive, Suite A

Texarkana, Texas 75503

Telephone: (903) 794-9419

*Attorneys for Defendants HaloMD, LLC; Alla
LaRoque; and Scott LaRoque*

CERTIFICATE OF SERVICE

I hereby certify that on March 11, 2026, a true and correct copy of the above was served via email through the Eastern District of Texas's CM/ECF system.

/s/Geraldine W. Young
Geraldine W. Young

 **NORTON ROSE FULBRIGHT**

**Blue Cross Blue Shield of
Texas v. HaloMD, LLC,
Alla LaRoque, and Scott
LaRoque**

Civil Action No. 5:25-CV-132-RWS

Hearing on Defendants' Joint Motions to Dismiss
Pursuant to Rules 12(b)(1) and 12(b)(6) and
Related Request for Judicial Notice of Public
Documents (Dkt. No. 15)

Michael Swartzendruber
Geraldine Young
March 10, 2026

Norton Rose Fulbright US LLP



HALO**MD**

Defendants' Grounds for Dismissal

- Case Overview & the Federal IDR Process
- Statutory Bars, Collateral Attack Doctrine, Displacement/Preemption
- *Noerr-Pennington* Doctrine
- Article III Standing Deficiencies
- Pleading deficiencies to be covered by Geraldine Young

Case Overview

Case 5:25-cv-00132 Document 3 Filed 08/28/25 Page 1 of 85 PageID #: 92

[REDACTED]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

<p>BLUE CROSS BLUE SHIELD OF TEXAS, A DIVISION OF HEALTH CARE SERVICE CORPORATION, A MUTUAL LEGAL RESERVE COMPANY</p> <p style="text-align: center;"><i>Plaintiff,</i></p> <p style="text-align: center;">vs.</p> <p>HALOMD, LLC, ALLA LAROQUE, and SCOTT LAROQUE</p>	<p>Case No.</p> <p style="text-align: center;">COMPLAINT</p>
---	--

153. BCBSTX estimates that, to date, HaloMD has procured awards on over 42,000 ineligible claims from BCBSTX.

INTRODUCTION

1. This case arises from the Defendants’ abuse of federal and state legislation that was intended to shield patients from unexpected medical bills, reduce the overall cost of healthcare, and provide a fair process for determining *reasonable* out-of-network reimbursement to providers.

2. The federal No Surprises Act (“NSA”) and its Texas analogue, Texas Senate Bill 1264 (“SB 1264”), were enacted to protect patients from receiving surprise medical bills when they inadvertently receive care from out-of-network providers. The statutes were also intended to provide a less-costly means to resolve disputes between providers and health plans over out-of-network reimbursement for certain services. Specifically, both the NSA and SB 1264 established

- 1 -

Complaint (ECF No. 3) ¶ 153

Case Overview

Case 5:25-cv-00132 Document 3 Filed 08/28/25 Page 1 of 85 PageID #: 92

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

BLUE CROSS BLUE SHIELD OF TEXAS, A
DIVISION OF HEALTH CARE SERVICE
CORPORATION, PLAINTIFF

69. Two factors are motivating providers to drive these excessive volumes: (1) providers winning a disproportionate amount of these disputes, and (2) the unreasonably high rates that providers are receiving. The costs associated with these IDR Processes are “generating billions of dollars in extra costs for the healthcare system” without delivering more or better services to patients.¹⁰

they inadvertently receive care from out-of-network providers. The statutes were also intended to provide a less-costly means to resolve disputes between providers and health plans over out-of-network reimbursement for certain services. Specifically, both the NSA and SB 1264 established

- 1 -

Complaint (ECF No. 3) ¶ 69

Exhibit 1: Issue Brief, Evidence on Surprise Billing



STATE LEGISLATIVE APPROACHES

A majority of states have attempted to address surprise billing for the insurance plans they regulate. Researchers developed criteria for a comprehensive approach to surprise billing and have identified legislation in 18 states that fully meet those specifications, with an additional 15 states taking less comprehensive actions.¹⁰ Figure 2 identifies these states with balance billing protections. States with comprehensive approaches address all of these items: they extend protections to both emergency department and in-network hospital settings; apply laws to all types of insurance, including both HMOs and PPOs; protect consumers by holding them harmless from extra provider charges; prohibit providers from balance billing; and adopt either an adequate payment standard to determine how much the insurer pays the provider or a dispute-resolution process to resolve payment disputes between providers and insurers.

2021,¹ was designed to address the challenges of surprise billing. A surprise bill is an unexpected bill an individual receives for services provided by an out-of-network provider and occurs when a patient receives a bill for the difference between the provider's charges and what their insurance pays an out-of-network provider plus the patient's cost sharing, which is known as balance billing. These bills may be both unexpected to consumers and expensive. Surprise billing can happen in emergency situations, such as when a person goes to or is taken to the nearest emergency department that may or may not be in their issuer's provider network. However, surprise billing can also occur in non-emergency situations, such as when individuals receive care in

Exhibit 1: Issue Brief, Evidence on Surprise Billing



ISSUE BRIEF
November 22, 2021

HP-2021-24

Evidence on Surprise Billing: Protecting Consumers with the No Surprises Act

New rules taking effect January 1, 2022, will extend consumer safeguards to millions, take patients out of payment disputes between payers and providers, and establish a process for settling those disputes.

KEY POINTS

- On January 1, 2022, the surprise billing provisions of the Consolidated Appropriations Act, 2021 – commonly referred to as the No Surprises Act – will go into effect. These requirements address

The impact of state surprise billing laws in many cases is unclear, in part because many have not been in place for long. However, New York’s law has been in place since 2015 and has been closely scrutinized. New York

patients undergoing in-network elective surgeries or giving birth in a hospital received surprise bills. Surprise bills in these studies averaged more than \$1,200 for anesthesia, \$2,600 for surgical assistants, and \$750 for childbirth. All told, more than half of U.S. consumers report having received an unexpectedly large bill.

- Key among the No Surprises Act’s provisions is removing the patient from payment disputes between providers and payers in instances where surprise billing occurs and establishing how such disputes will be resolved. The law established the framework for a formal payment dispute resolution process that was set forth in an Interim Final Rule issued on October 7, 2021.
- State efforts regarding surprise billing dispute resolution indicate that some of the possible approaches may potentially lead to increased health care costs. This experience informed current federal rulemaking.

INTRODUCTION

The No Surprises Act, signed into law on December 27, 2020 as part of the Consolidated Appropriations Act, 2021,¹ was designed to address the challenges of surprise billing. A surprise bill is an unexpected bill an individual receives for services provided by an out-of-network provider and occurs when a patient receives a bill for the difference between the provider’s charges and what their insurance pays an out-of-network provider plus the patient’s cost sharing, which is known as balance billing. These bills may be both unexpected to consumers and expensive. Surprise billing can happen in emergency situations, such as when a person goes to or is taken to the nearest emergency department that may or may not be in their issuer’s provider network. However, surprise billing can also occur in non-emergency situations, such as when individuals receive care in

Exhibit 1: Issue Brief, Evidence on Surprise Billing



ASPE OFFICE OF HEALTH POLICY
ASSISTANT SECRETARY FOR PLANNING AND EVALUATION

ISSUE BRIEF

November 22, 2021

HP-2021-24

Evidence on Surprise Billing: Protecting Consumers with the No Surprises Act

New rules taking effect January 1, 2022, will extend consumer safeguards to millions, take patients out of payment disputes between payers and providers, and establish a process for settling those disputes.

KEY POINTS

State actions on surprise billing have other important limitations. First and foremost, roughly 67 percent of workers with employer-sponsored health coverage are enrolled in self-insured plans.¹⁷ State insurance rules do not apply to self-insured employee benefit plans established or maintained by private sector employers, which are subject to federal oversight¹⁸.

- Key among the No Surprises Act's provisions is removing the patient from payment disputes between providers and payers in instances where surprise billing occurs and establishing how such disputes will be resolved. The law established the framework for a formal payment dispute resolution process that was set forth in an Interim Final Rule issued on October 7, 2021.
- State efforts regarding surprise billing dispute resolution indicate that some of the possible approaches may potentially lead to increased health care costs. This experience informed current federal rulemaking.

INTRODUCTION

The No Surprises Act, signed into law on December 27, 2020 as part of the Consolidated Appropriations Act, 2021,¹ was designed to address the challenges of surprise billing. A surprise bill is an unexpected bill an individual receives for services provided by an out-of-network provider and occurs when a patient receives a bill for the difference between the provider's charges and what their insurance pays an out-of-network provider plus the patient's cost sharing, which is known as balance billing. These bills may be both unexpected to consumers and expensive. Surprise billing can happen in emergency situations, such as when a person goes to or is taken to the nearest emergency department that may or may not be in their issuer's provider network. However, surprise billing can also occur in non-emergency situations, such as when individuals receive care in

Exhibit 1: Issue Brief, Evidence on Surprise Billing



ISSUE BRIEF

November 22, 2021

HP-2021-24

Evidence on Surprise Billing: Protecting Consumers with the No Surprises Act

THE NO SURPRISES ACT AND ITS IMPLEMENTATION

The No Surprises Act (the Act) and its implementing rules were designed to address these gaps in state policies and apply protections against surprise billing nationwide. The Act addresses surprise billing in both emergency and certain non-emergency contexts, as well as for air ambulance services. The Act generally prohibits out-of-network providers and facilities from balance billing for emergency services and requires that cost-sharing for such services (including copayments, coinsurance, and deductibles) not be greater than what would be charged on an in-network basis, and without requirements for prior authorization. In non-emergency situations where a facility providing care may be in-network but the care involves out-of-network providers, the Act allows balance billing by certain types of providers, if the patient has consented to being balance billed and has been provided with an easy-to-understand notice explaining this requirement with a good faith estimate of costs.

2021,¹ was designed to address the challenges of surprise billing. A surprise bill is an unexpected bill an individual receives for services provided by an out-of-network provider and occurs when a patient receives a bill for the difference between the provider's charges and what their insurance pays an out-of-network provider plus the patient's cost sharing, which is known as balance billing. These bills may be both unexpected to consumers and expensive. Surprise billing can happen in emergency situations, such as when a person goes to or is taken to the nearest emergency department that may or may not be in their issuer's provider network. However, surprise billing can also occur in non-emergency situations, such as when individuals receive care in

Exhibit 2: Federal Independent Dispute Resolution (IDR) Process Guidance for Certified IDR Entities

Steps Preceding the Federal IDR Process

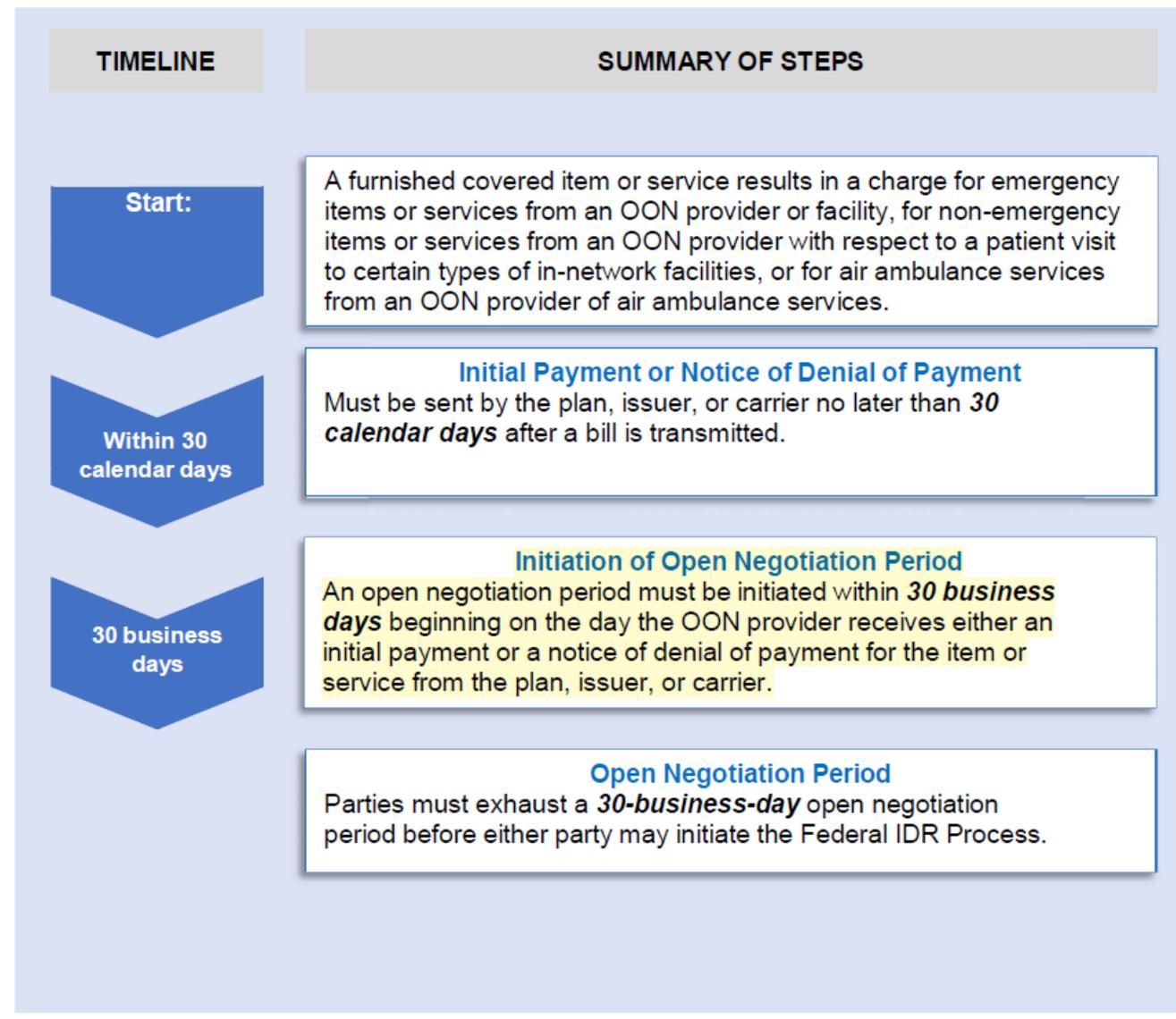


Exhibit 2: Federal Independent Dispute Resolution (IDR) Process Guidance for Certified IDR Entities

The Departments may provide extensions to some of these time periods due to extenuating circumstances. See Section 9 for more information.

TIMELINE	SUMMARY OF STEPS
4 business days	<p>Federal IDR Initiation Either party can initiate the Federal IDR Process by submitting a Notice of IDR Initiation to the other party and to the Departments within 4 business days after the close of the open negotiation period. The notice must include the initiating party's preferred certified IDR entity.</p>
3-6 business days after initiation	<p>Selection of Certified IDR Entity The non-initiating party can accept the initiating party's preferred certified IDR entity or object and propose another certified IDR entity. A <u>lack of response</u> from the non-initiating party within 3 business days will be deemed to be acceptance of the initiating party's preferred certified IDR entity. If the parties do not agree on a certified IDR entity, the Departments will randomly select a certified IDR entity on the parties' behalf. If random selection is necessary, the Departments will make the selection no later than 6 business days after IDR initiation. The certified IDR entity may invoice the parties for administrative fees at the time of selection (administrative fees are due from both parties no later than the time of offer submission).</p>
3 business days after contingent selection	<p>Certified IDR Entity Requirements Once contingently selected, within 3 business days, the certified IDR entity must submit an attestation that it does not have a conflict of interest and determine whether the Federal IDR Process is applicable, thereby finalizing the selection.</p>
10 business days after finalization of selection	<p>Submission of Offers and Payment of Certified IDR Entity Fee Parties must submit their offers not later than 10 business days after finalization of selection of the certified IDR entity. Each party must pay the certified IDR entity fee (which the certified IDR entity will hold in a trust or an escrow account), and the administrative fee when submitting its offer (unless the administrative fee has already been paid). If the certified IDR entity fee and administrative fee are not collected from a party, the certified IDR entity will not accept the non-paying party's offer.</p>
30 business days after finalization of selection	<p>Selection of Offer A certified IDR entity has 30 business days from the date of finalization of its selection to determine the payment amount and notify the parties and the Departments of its decision. The certified IDR entity must select one of the offers submitted.</p>
30 calendar/ business days after determination	<p>Payments Between Parties of Determination Amount & Refund of Certified IDR Entity Fee Any amount due from one party to the other party must be paid not later than 30 calendar days after the determination by the certified IDR entity. The certified IDR entity must refund the prevailing party's certified IDR entity fee within 30 business days after the determination.</p>

Exhibit 2: Federal Independent Dispute Resolution (IDR) Process Guidance for Certified IDR Entities



In some states, some items or services provided by OON providers, facilities, or providers of air ambulance services may be subject to the Federal IDR process, while other items and services are subject to a specified state law or All-Payer Model Agreement. For payment disputes regarding OON items or services furnished in these 'bifurcated states,' certified IDR entities are responsible for determining whether or not a dispute is eligible for the Federal IDR process.

Issued October 1, 2022 and updated December 19, 2025.

Please visit www.cms.gov/nosurprises for the most current guidance documents related to the Federal IDR Process.

This communication was printed, published, or produced and disseminated at U.S. taxpayer expense.



Statutory Bar: No Surprises Act

42 U.S.C. § 300gg-111(c)(5)(A)

(5) Payment determination

(A) In general

Not later than 30 days after the date of selection of the certified IDR entity with respect to a determination for a qualified IDR item or service, the certified IDR entity shall—

(i) taking into account the considerations specified in subparagraph (C), select one of the offers submitted under subparagraph (B) to be the amount of payment for such item or service determined under this subsection for purposes of subsection (a)(1) or (b)(1), as applicable; and

(ii) notify the provider or facility and the group health plan or health insurance issuer offering group or individual health insurance coverage party to such determination of the offer selected under clause (i).

(ii) Additional circumstances

For purposes of clause (i)(II), the circumstances described in this clause are, with respect to a qualified IDR item or service of a nonparticipating provider, nonparticipating emergency facility, group health plan, or health insurance issuer of group or individual health insurance coverage the following:

(I) The level of training, experience, and quality and outcomes measurements

claim or evidence of misrepresentation of facts presented to the IDR entity involved regarding such claim; and

(II) 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.

(ii) Suspension of certain subsequent IDR requests

In the case of a determination of a certified IDR entity under subparagraph (A),

with respect to an initial notification submitted under paragraph (1)(B) with respect to a qualified IDR item or service and a party involved with such notification, the party that submitted such notification may not submit during the 90-day period following such determination a subsequent notification under such paragraph involving the same other party to the notification with respect to such an item or service that was the subject of the initial notification.

Subsequent submission of requests submitted

In the case of a notification that pursuant to clause (i) is not permitted to be submitted under paragraph (1)(B) during a period specified in such clause, if the end of the open negotiation period specified in paragraph (1)(A), that but for such clause would otherwise apply with respect to such notification, occurs during the 90-day period, such paragraph (1)(B) shall be applied as if the reference in such paragraph to the 4-day period beginning on the day after such open negotiation period instead a reference to the 30-day period beginning on the day after the last such 90-day period.

Reports

The Secretary, jointly with the Secretary of Labor and the Secretary of Health and Human Services, shall examine the impact of the implementation of clause (ii) and whether the implementation of such clause delays payment of claims or impacts early, alternative resolution of claims (such as through open negotiations), and shall submit a report to Congress, not later than 2 years after the date of implementation of such clause, an interim report (and not later than 1 year after such date of implementation a final report) on whether any health plans or health insurance issuers offering group or individual health insurance coverage or types of such plans or coverage have a pattern or practice of denial, low payment, or down-coding of claims, or otherwise abuse the 90-day period described in such clause, and shall submit recommendations on ways to disseminate such a pattern or practice.

Resolution of independent dispute resolution requests

In the case of a notification under paragraph (1)(B) submitted by a nonparticipating provider, nonparticipating emergency facility,

(I) shall be binding upon the parties involved, in the absence of a fraudulent

claim or evidence of misrepresentation of facts presented to the IDR entity involved regarding such claim; and



Exhibit 3: Federal Independent Dispute Resolution (IDR) Process Guidance for Disputing Parties

5.5 Instances When the Non-Initiating Party Believes the Federal IDR Process Does Not Apply



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 as part of the certified IDR entity selection process. This information must be provided not later than **1 business day** after the end of the 3-business-day period for certified IDR entity selection (the same date that the notice of selection or of failure to select a certified IDR entity must be submitted). This notification must include information regarding the Federal IDR Process' inapplicability.

The certified IDR entity must determine whether the Federal IDR Process is applicable. The certified IDR entity must review the information submitted in the **Notice of IDR Initiation** and the notification from the non-initiating party claiming the Federal IDR Process is inapplicable, if one has been submitted, to determine whether the Federal IDR Process applies. If the Federal

Exhibit 4: Federal Independent Dispute Resolution (IDR) Technical Assistance for Certified IDR Entities and Disputing Parties

Federal Independent Dispute Resolution (IDR) Technical Assistance for Certified IDR Entities and Disputing Parties
June 2025

Topic: Errors Identified After Dispute Closure

Purpose:

The Departments of Health and Human Services (HHS), Labor, and the Treasury (collectively, the Departments) categorized three types of errors—clerical, jurisdictional, and procedural—that a certified Independent Dispute Resolution (IDR) entity may make, but is not identified until after a dispute is closed. These types of errors should be corrected by reopening a closed dispute to ensure the results of the Federal IDR process are aligned with the No Surprises Act (NSA) and that a certified IDR entity complies with the NSA and its implementing regulations. This

fit or qualified to make determinations under the Federal IDR process.² The Departments will continue to monitor the volume of errors and emphasize that the certified IDR entities are responsible for ensuring that eligibility and payment determinations are accurate. This TA applies to requests to reopen closed disputes received by the Departments:

This TA provides guidance to disputing parties and certified IDR entities on the error correction process and clarifies how certified IDR entities should treat three categories of errors identified after dispute closure. Specifically, this TA:

- Provides definitions and examples of the three categories of errors that may be corrected after dispute closure: (1) clerical, (2) jurisdictional, and (3) procedural;
- Includes instructions on correcting such errors;
- Clarifies the impact of a corrected error on the administrative and certified IDR entity fees; and
- Identifies types and examples of errors that may not be corrected after dispute closure.

To reduce errors, the Departments continue to strongly encourage certified IDR entities to have robust quality assurance (QA) programs to verify dispute eligibility and review payment determinations before transmitting determinations to disputing parties and/or closing disputes. A certified IDR entity that does not maintain an adequate QA process may be determined to not be

¹ Under section 9816(c)(5)(e) of the Internal Revenue Code (Code), section 716(c)(5)(E) of the Employee Retirement Income Security Act (ERISA), and section 2799A-1(c)(5)(E) of the Public Health Service Act (PHS Act), IDR payment determinations are generally binding, absent a claim of fraud or misrepresentation of facts, and are subject to judicial review only in limited circumstances described in 9 USC § 10(a).

Exhibit 4: Federal Independent Dispute Resolution (IDR) Technical Assistance for Certified IDR Entities and Disputing Parties

**Federal Independent Dispute Resolution (IDR) Technical Assistance for Certified IDR Entities and Disputing Parties
June 2025**

Topic: Errors Identified After Dispute Closure

Purpose:

The Departments of Health and Human Services (HHS), Labor, and the Treasury (collectively, the Departments) categorized three types of errors—clerical, jurisdictional, and procedural—that a certified Independent Dispute Resolution (IDR) entity may make, but is not identified until after a dispute is closed. These types of errors should be corrected by reopening a closed dispute

Categories of Errors that Certified IDR Entities May Submit for Reopening and Correction After Dispute Closure:

Category 1: Clerical Error

The Departments define a clerical error as a typographical (typo), computational (user) error, or IT systems error impacting the operation or use of the Federal IDR portal made by the certified IDR entity while performing administrative tasks or functions that do not involve the certified IDR entity’s discretion, judgment, or expertise.

determinations before transmitting determinations to disputing parties and/or closing disputes. A certified IDR entity that does not maintain an adequate QA process may be determined to not be

¹ Under section 9816(c)(5)(e) of the Internal Revenue Code (Code), section 716(c)(5)(E) of the Employee Retirement Income Security Act (ERISA), and section 2799A-1(c)(5)(E) of the Public Health Service Act (PHS Act), IDR payment determinations are generally binding, absent a claim of fraud or misrepresentation of facts, and are subject to judicial review only in limited circumstances described in 9 USC § 10(a).

Exhibit 4: Federal Independent Dispute Resolution (IDR) Technical Assistance for Certified IDR Entities and Disputing Parties

Federal Independent Dispute Resolution (IDR) Technical Assistance for Certified IDR Entities and Disputing Parties
June 2025

Topic: Errors Identified After Dispute Closure

Purpose:

The Departments of Health and Human Services (HHS), Labor, and the Treasury (collectively, the Departments) categorized three types of errors—clerical, jurisdictional, and procedural—that a certified Independent Dispute Resolution (IDR) entity may make, but is not identified until after a dispute is closed. These types of errors should be corrected by reopening a closed dispute to ensure the results of the Federal IDR process are aligned with the No Surprises Act (NSA) and that a certified IDR entity complies with the NSA and its implementing regulations. This

Category 2: Jurisdictional Error

The Departments define a jurisdictional error as a situation when the certified IDR entity incorrectly determines that an item or service either is or is not a qualified IDR item or service eligible for the Federal IDR process under the requirements of the NSA.

- Provides definitions and examples of the three categories of errors that may be corrected after dispute closure: (1) clerical, (2) jurisdictional, and (3) procedural;
- Includes instructions on correcting such errors;
- Clarifies the impact of a corrected error on the administrative and certified IDR entity fees; and
- Identifies types and examples of errors that may not be corrected after dispute closure.

To reduce errors, the Departments continue to strongly encourage certified IDR entities to have robust quality assurance (QA) programs to verify dispute eligibility and review payment determinations before transmitting determinations to disputing parties and/or closing disputes. A certified IDR entity that does not maintain an adequate QA process may be determined to not be

¹ Under section 9816(c)(5)(e) of the Internal Revenue Code (Code), section 716(c)(5)(E) of the Employee Retirement Income Security Act (ERISA), and section 2799A-1(c)(5)(E) of the Public Health Service Act (PHS Act), IDR payment determinations are generally binding, absent a claim of fraud or misrepresentation of facts, and are subject to judicial review only in limited circumstances described in 9 USC § 10(a).

Exhibit 4: Federal Independent Dispute Resolution (IDR) Technical Assistance for Certified IDR Entities and Disputing Parties

Federal Independent Dispute Resolution (IDR) Technical Assistance for Certified IDR Entities and Disputing Parties
June 2025

Topic: Errors Identified After Dispute Closure

Purpose:

The Departments of Health and Human Services (HHS), Labor, and the Treasury (collectively, the Departments) categorized three types of errors—clerical, jurisdictional, and procedural—that a certified Independent Dispute Resolution (IDR) entity may make, but is not identified until after a dispute is closed. These types of errors should be corrected by reopening a closed dispute to ensure the results of the Federal IDR process are aligned with the No Surprises Act (NSA) and that a certified IDR entity complies with the NSA and its implementing regulations. This

The Departments have determined that jurisdictional errors should be corrected by reopening a dispute to ensure compliance with the NSA’s requirements. If the Departments approve the request to reopen the dispute, the certified IDR entity should rescind the payment determination, correct the eligibility determination (to reverse a determination of eligibility), communicate to the disputing parties the change to the eligibility determination, refund or invoice the certified IDR entity fees as appropriate, and send the resulting eligibility determination to the disputing parties.

To reduce errors, the Departments continue to strongly encourage certified IDR entities to have robust quality assurance (QA) programs to verify dispute eligibility and review payment determinations before transmitting determinations to disputing parties and/or closing disputes. A certified IDR entity that does not maintain an adequate QA process may be determined to not be

¹ Under section 9816(c)(5)(e) of the Internal Revenue Code (Code), section 716(c)(5)(E) of the Employee Retirement Income Security Act (ERISA), and section 2799A-1(c)(5)(E) of the Public Health Service Act (PHS Act), IDR payment determinations are generally binding, absent a claim of fraud or misrepresentation of facts, and are subject to judicial review only in limited circumstances described in 9 USC § 10(a).

Exhibit 5: List of Certified Independent Dispute Resolution Entities



List of certified independent dispute resolution entities

The Department of Health and Human Services, the Department of Labor, and the Department of the Treasury (the Departments) have certified these organizations to serve as independent dispute resolution (IDR) entities in the Federal IDR process between providers, facilities and providers of air ambulance services and group health plans, health insurance issuers and Federal Employees Health Benefits (FEHB) Program carriers.

If a provider or facility and a health plan cannot agree on the payment amount for an out-of-network service covered by No Surprises rules, these organizations can be selected to make a payment determination. Each certified IDR entity has been certified to operate in every state in which the Federal IDR process applies.

The list will be updated as additional organizations become certified. [Learn more about the certification process.](#)

The Department of Health and Human Services, the Department of Labor, and the Department of the Treasury (the Departments) have certified these organizations to serve as independent dispute resolution (IDR) entities in the Federal IDR process between providers, facilities and providers of air ambulance services and group health plans, health insurance issuers and Federal Employees Health Benefits (FEHB) Program carriers.

				with the 26th line)			
C2C Innovative Solutions, Inc.	IDREApp-067	\$595	\$795	\$200	\$575	\$775	\$175
Capitol Bridge, LLC	IDREApp-199	N/A	N/A	N/A	\$595	\$795	\$150
EdiPhy Advisors, LLC	IDREApp-115	\$800	\$1,150	\$250	\$800	\$1,150	\$250
Federal Hearings and Appeals Services, Inc.	IDREApp-107	\$395	\$490	\$75	\$435	\$545	\$85
iMPROve Health	IDREApp-151	\$620	\$850	\$100	\$500	\$850	\$100



Exhibit 6: Federal Independent Dispute Resolution (IDR) Process Guidance for Certified IDR Entities August 2022



10. How should the certified IDR entity proceed when the non-initiating party states that it never received the notice of IDR initiation from the initiating party?

Step 1: Confirm that the item or service included in the dispute is a qualified IDR item or service for the Federal IDR process.

- **Have both parties attested that the Federal IDR process applies?**
 - a. If **yes**, move on to step 2.
 - b. If **no**, request documentation or an explanation to determine if the non-initiating party believes that the item or service included in the dispute is not subject to the Federal IDR process for a reason other than the non-initiating party's assertion that it did not receive the notice of IDR initiation. If the documentation demonstrates that the item or service included in the dispute

August 2022

nts (QPAs) and disputes
order in *Texas Medical*
6:22-cv-450-JDK (TMA
ded to reflect the
h and Human Services, et
rtments of the Treasury,
culation and use of QPAs,
bout Consolidated

meant to bind the public
ed only to provide clarity

taxpayer expense.



Exhibit 7: Initial Report on the Independent Dispute Resolution (IDR) Process April 15 – September 30, 2022



Initial Report on the
IDR Process
April 15 –
September 30, 2022

Determining whether the Federal IDR process is applicable to an item or service that is the subject of a payment dispute in a bifurcated state is complex. To assist certified IDR entities with this determination, the Departments published a Chart for Determining the Applicability for the Federal Independent Dispute Resolution (IDR) Process and the Chart Regarding Applicability of the Federal Independent Resolution (IDR) Process in Bifurcated States on August 23, 2022.²⁸

The health plan type is nearly always required to determine whether the payment dispute is subject to state law or the Federal IDR process. The Federal IDR process generally applies to self-insured plans sponsored by private employers or private employee organizations in all states, except in cases where a self-insured plan has opted into a specified state law, in a state that permits these plans to opt in.²⁹ In addition, the Federal IDR process generally applies to FEHB plans in all states, except in cases where an OPM contract with an FEHB carrier includes terms that adopt the state process.

Exhibit 8: Supplemental Background on Federal Independent Dispute Resolution Public Use Files

July 1, 2024 – December 31, 2024

Supplemental Background on Federal Independent Dispute Resolution Public Use Files July 1, 2024 – December 31, 2024

The No Surprises Act (NSA) and its implementing regulations¹ establish a Federal Independent Dispute Resolution (IDR) process that out-of-network (OON) providers, facilities, and providers of air ambulance services, and group health plans, health insurance issuers offering group and individual health insurance coverage, and Federal Employees Health Benefits (FEHB) Program carriers (collectively, disputing parties) may use to determine the OON rate for qualified IDR items or services after an unsuccessful open negotiation period. The Departments of Health and Human Services, Labor, and the Treasury (the Departments) launched the Federal IDR portal on April 15, 2022, to facilitate this process. The statute requires the Departments to publish on a public website certain information about the Federal IDR process.²

To promote transparency in the implementation of the Federal IDR portal, the Departments provided

Dispute Eligibility

The primary cause of delays in processing disputes continues to be the complexity of determining whether disputes are eligible for the Federal IDR process. For all disputes, the certified IDR entity must confirm dispute eligibility before the dispute can proceed. These reviews involve complex eligibility determinations that require certified IDR entities to expend considerable time and resources. Even after initial certified entity review, non-initiating parties challenged the eligibility of 43% of initiated disputes in the last six months of 2024 (370,529 of 853,374), a slight decrease from 45% in the first six months of 2024.

¹ <https://www.cms.gov/files/document/federal-idr-process-status-update-april-2022.pdf>, Federal Independent Dispute Resolution Process Status Update (Aug. 19, 2022), available at: <https://www.cms.gov/files/document/federal-idr-process-status-update-august-2022.pdf>; and Amendment to the Calendar Year 2023 Fee Guidance for the Federal Independent Dispute Resolution Process Under the No Surprises Act: Change in Administrative Fee (Dec. 23, 2022), available at: <https://www.cms.gov/ccio/resources/regulations-and-guidance/downloads/amended-cy2023-fee-guidance-federal-independent-dispute-resolution-process-nsa.pdf>.

² See Initial Report on the Federal Independent Dispute Resolution (IDR) Process, April 15 – September 30, 2022, available at: <https://www.cms.gov/files/document/initial-report-idr-april-15-september-30-2022.pdf>; and Partial Report on the Independent Dispute Resolution (IDR) Process, October 1 – December 31, 2022, available at: <https://www.cms.gov/files/document/partial-report-idr-process-octoberdecember-2022.pdf>.

Supplemental Background on Federal Independent Dispute Resolution Public Use Files January 1, 2025 – June 30, 2025

Supplemental Background on Federal Independent Dispute Resolution Public Use Files January 1, 2025 – June 30, 2025

The No Surprises Act (NSA) and its implementing regulations¹ establish a Federal Independent Dispute Resolution (IDR) process that out-of-network (OON) providers, facilities, and providers of air ambulance services, and group health plans, health insurance issuers offering group and individual health insurance coverage, and Federal Employees Health Benefits (FEHB) Program carriers (collectively, disputing parties) may use to determine the OON rate for qualified IDR items or services after an unsuccessful open negotiation period. The Departments of Health and Human Services, Labor, and the Treasury (the Departments) launched the Federal IDR portal on April 15, 2022, to facilitate this process. The No Surprises Act requires the Departments to publish on a public website certain information about the Federal IDR process.²

To promote transparency in the implementation of the Federal IDR process, the Departments provided several status updates as well as initial reports for calendar quarters in 2022.^{3,4} The Departments began publishing the quarterly IDR public use file (PUF) and supplemental tables for 2023. Data are currently

Dispute Eligibility

The primary cause of dispute processing delays continues to be the complexity of determining whether disputes are eligible for the Federal IDR process. For all disputes, the certified IDR entity must confirm dispute eligibility before the dispute can proceed. These reviews involve complex eligibility determinations that require certified IDR entities to expend considerable time and resources. Non-initiating parties challenged the eligibility of 40% of initiated disputes in the first six months of 2025 (476,117 of 1,186,812), a slight decrease from 43% in the last six months of 2024.

³ See Federal Independent Dispute Resolution Process Status Update (April 27, 2023), available at <https://www.cms.gov/files/document/federal-idr-processstatus-update-april-2023.pdf>; Federal Independent Dispute Resolution Process Status Update (Aug. 19, 2022), available at: <https://www.cms.gov/files/document/federal-idr-process-status-update-august-2022.pdf>; and Amendment to the Calendar Year 2023 Fee Guidance for the Federal Independent Dispute Resolution Process Under the No Surprises Act: Change in Administrative Fee (Dec. 23, 2022), available at: <https://www.cms.gov/ccio/resources/regulations-and-guidance/downloads/amended-cy2023-fee-guidance-federal-independent-dispute-resolution-process-nsa.pdf>.

⁴ See Initial Report on the Federal Independent Dispute Resolution (IDR) Process, April 15 – September 30, 2022, available at: <https://www.cms.gov/files/document/initial-report-idr-april-15-september-30-2022.pdf>; and Partial Report on the Independent Dispute Resolution (IDR) Process, October 1 – December 31, 2022, available at: <https://www.cms.gov/files/document/partial-report-idr-process-octoberdecember-2022.pdf>.

⁵ See Independent Dispute Resolution Reports, available at: <https://www.cms.gov/nosurprises/policies-and-resources/reports>.

Supplemental Background on Federal Independent Dispute Resolution Public Use Files January 1, 2025 – June 30, 2025

Supplemental Background on Federal Independent Dispute Resolution Public Use Files January 1, 2025 – June 30, 2025

The No Surprises Act (NSA) and its implementing regulations¹ establish a Federal Independent Dispute Resolution (IDR) process that out-of-network (OON) providers, facilities, and providers of air ambulance services, and group health plans, health insurance issuers offering group and individual health insurance coverage, and Federal Employees Health Benefits (FEHB) Program carriers (collectively, disputing parties) may use to determine the OON rate for qualified IDR items or services after an unsuccessful open negotiation period. The Departments of Health and Human Services, Labor, and the Treasury (the Departments) launched the Federal IDR portal on April 15, 2022, to facilitate this process. The No Surprises Act requires the Departments to publish on a public website certain information about the Federal IDR process.²

To promote transparency in the implementation of the Federal IDR process, the Departments provided several status updates as well as initial reports for calendar quarters in 2022.^{3,4} The Departments began publishing the quarterly IDR public use file (PUF) and supplemental tables for 2023. Data are currently

Eligibility reviews conducted by certified IDR entities are processed more quickly when both disputing parties provide all the required information at initiation. To that end, the Departments added data elements to the dispute initiation and IDR entity selection response web forms and directed the parties to attach documents supporting or contesting eligibility during dispute initiation, to ensure certified IDR entities have all necessary information to determine eligibility earlier in the process.¹⁰ The Departments have also added eligibility screeners to the dispute initiation form, including a duplicate dispute validation.¹¹ The Departments have also published technical assistance to help disputing parties and certified IDR entities better determine eligibility and resolve disputes more expeditiously.^{12, 13, 14}

<https://www.cms.gov/files/document/federal-idr-processstatus-update-april-2023.pdf>; Federal Independent Dispute Resolution Process Status Update (Aug. 19, 2022), available at: <https://www.cms.gov/files/document/federal-idr-process-status-update-august-2022.pdf>; and Amendment to the Calendar Year 2023 Fee Guidance for the Federal Independent Dispute Resolution Process Under the No Surprises Act: Change in Administrative Fee (Dec. 23, 2022), available at: <https://www.cms.gov/ccio/resources/regulations-and-guidance/downloads/amended-cy2023-fee-guidance-federal-independent-dispute-resolution-process-nsa.pdf>.

⁴ See Initial Report on the Federal Independent Dispute Resolution (IDR) Process, April 15 – September 30, 2022, available at: <https://www.cms.gov/files/document/initial-report-idr-april-15-september-30-2022.pdf>; and Partial Report on the Independent Dispute Resolution (IDR) Process, October 1 – December 31, 2022, available at: <https://www.cms.gov/files/document/partial-report-idr-process-octoberdecember-2022.pdf>.

⁵ See Independent Dispute Resolution Reports, available at: <https://www.cms.gov/nosurprises/policies-and-resources/reports>.

3. Group Health Plan/Health Insurance Issuer/FEHB Carrier Information

Name of Plan/Issuer/Carrier: _____

Type of Plan (select one):

Federal Employees Health Benefits (FEHB) plan:

If FEHB plan, enter 3-digit Enrollment Code: _____

Individual health insurance plan

Non-federal governmental plan (i.e., state and local government plan)

Church plan

Private employment-based group health plan (i.e., an ERISA plan)

If ERISA plan, is the ERISA plan self-insured? Y/N _____

Unknown

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.

Plaintiff Blue Cross Blue Shield of Texas, a division of Health Care Service Corporation, a mutual legal reserve company ("BCBSTX"), brings this Complaint against Defendants HALOMD, LLC ("HaloMD"), Alla LaRoque, and Scott LaRoque (collectively "Defendants") as follows:

INTRODUCTION

1. This case arises from the Defendants' abuse of power in providing care to patients intended to shield patients from unexpected medical bills and provide a fair process for determining reasonable out-of-network reimbursement.

2. The federal No Surprises Act ("NSA") and Texas Senate Bill 1264 ("SB 1264"), were enacted to protect patients from being charged excessive out-of-network rates when they inadvertently receive care from out-of-network providers. The NSA and SB 1264 provide a less-costly means to resolve disputes between patients and providers regarding out-of-network reimbursement for certain services. Specifically, the NSA and SB 1264 require providers to provide a fair process for determining reasonable out-of-network reimbursement for certain services.

8. ATTESTATION:

I, the undersigned initiating party (or representative of the initiating party), attests that to the best of my knowledge the preferred certified IDR entity does not have a disqualifying conflict of interest and 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.

Initiating Party (or Representative of the Initiating Party): _____

Print Name: _____

Date: _____

Statutory Bar: No Surprises Act

(E) Effects of determination

(i) In general

A determination of a certified IDR entity under subparagraph (A)—

(I) shall be binding upon the parties involved, in the absence of a fraudulent claim or evidence of misrepresentation of facts presented to the IDR entity involved regarding such claim; and

(II) 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.

(ii) Additional circumstances

For purposes of clause (1)(II), the circumstances described in this clause are, with respect to a qualified IDR item or service of a nonparticipating provider, nonparticipating emergency facility, group health plan, or health insurance issuer of group or individual health insurance coverage the following:

(1) The level of training, experience, and quality and outcomes measurements of the provider or facility that furnished such item or service (such as those endorsed by the consensus-based entity authorized in section 1890 of the Social Security Act [42 U.S.C. 1395cc-2])

claim or evidence of misrepresentation of facts presented to the IDR entity involved regarding such claim; and

(II) 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.

(ii) Suspension of certain subsequent IDR requests

In the case of a determination of a certified IDR entity under subparagraph (A), with respect to an initial notification submitted under paragraph (1)(B) with respect to qualified IDR items and services and the two parties involved with such notification, the party that submitted such notification may not submit during the 90-day period following such determination a subsequent notification under such paragraph involving the same other party to such notification with respect to such an item or service that was the subject of such initial notification.

(iii) Subsequent submission of requests permitted

In the case of a notification that pursuant to clause (i) is not permitted to be submitted under paragraph (1)(B) during a 90-day period specified in such clause, if the end of the open negotiation period specified in paragraph (1)(A), that but for this clause would otherwise apply with respect to such notification, occurs during such 90-day period, such paragraph (1)(B) shall be applied as if the reference in such paragraph to the 4-day period beginning on the day after such open negotiation period were instead a reference to the 30-day period beginning on the day after the last day of such 90-day period.

(iv) Reports

The Secretary, jointly with the Secretary of Labor and the Secretary of the Treasury, shall examine the impact of the application of clause (ii) and whether the application of such clause delays payment determinations or impacts early, alternative resolution of claims (such as through open negotiations), and shall submit to Congress, not later than 2 years after the date of implementation of such clause an interim report (and not later than 4 years after such date of implementation, a final report) on whether any group health plans or health insurance issuers offering group or individual health insurance coverage or types of such plans or coverage have a pattern or practice of routine denial, low payment, or down-coding of claims, or otherwise abuse the 90-day period described in such clause, including recommendations on ways to discourage such a pattern or practice.

(F) Costs of independent dispute resolution process

In the case of a notification under paragraph (1)(B) submitted by a nonparticipating provider, nonparticipating emergency facil-

under the Medicaid program under title XIX of such Act [42 U.S.C. 1396 et seq.], under the Children's Health Insurance Program under title XXI of such Act [42 U.S.C. 1397aa et seq.], under the TRICARE program under chapter 55 of title 10, or under chapter 17 of title 38.

(E) Effects of determination

(i) In general

A determination of a certified IDR entity under subparagraph (A)—

(I) shall be binding upon the parties involved, in the absence of a fraudulent

Statutory Bar: No Surprises Act

Guardian Flight, L.L.C. v. Medical Evaluators of Texas ASO, L.L.C., 140 F.4th 613 (2025)

140 F.4th 613
United States Court of Appeals, Fifth Circuit.

alleged failure in explaining how insurers calculated QPA did not establish bad faith;

In *Guardian Flight I*, we decide that the NSA does not provide a general private right of action to challenge award determinations. Instead, the NSA incorporates Federal Arbitration Act (“FAA”) provisions that allow courts to vacate awards only for specific reasons. *See Guardian Flight*

state fraud claim with sufficient evidence. The court found that the facts were insufficient to satisfy rule 101.3(d) with particularity; and that the defendant was not a judicial entity that functioned like an arbitrator. CIDRE was entitled to arbitral immunity afforded by arbitrators. The court reversed in part, and remanded with instructions: On Appeal; Motion to Dismiss for lack of due diligence; Motion to Dismiss. United States District Court for the Southern District of Texas, Nos. 4:22-CV-3805, 4:22-CV-3805, 4:22-CV-3805, H. Bennett, U.S. District Judge

Guardian Flight, L.L.C. v. Med. Evaluators of Tex. ASO, L.L.C., 140 F.4th 613, 618 (5th Cir. 2025) (“*Guardian Flight I*”)

Synopsis

Background: Air-ambulance provider brought two separate actions against health insurers and independent dispute resolution entity (CIDRE) to vacate CIDRE’s awards under the No Surprises Act (NSA) and for declarations related to insurers’ alleged misrepresentations regarding qualifying payment amount (QPA) and CIDRE’s alleged partiality. Following consolidation of actions, the United States District Court for the Southern District of Texas, *Alfred H. Bennett, J.*, 711 F.Supp.3d 662, granted insurers’ motions to dismiss for failure to state a claim, but denied CIDRE’s motion to dismiss which was based on arbitral immunity. Provider and CIDRE

irms (argued), Jones Day, Washington, DC, Alexa Baltes, Jones Day, Chicago, IL, Dewey Jude Gonsoulin, III, Norton Rose Fulbright US, L.L.P., Houston, TX, Adam T. Schramek, Norton Rose Fulbright US, L.L.P., Austin, TX, for Plaintiff—Appellee in No. 24-20051. Joseph Leo Lanza, Attorney (argued), Vethan Law Firm, P.C., Houston, TX, for Defendant—Appellant in No. 24-20051. Charlotte Taylor, Esq. (argued), Jones Day, Washington, DC, Alexa Baltes, Jones Day, Chicago, IL, Adam T. Schramek, Norton Rose Fulbright US, L.L.P., Austin, TX, for Plaintiffs—Appellants in No. 24-20204. John Bruce Shely, Esq., David Watson Hughes, Mary Esq. (argued), Hicks Thomas, L.L.P., Houston, TX, for Defendant—Appellee Aetna Health, Inc. in No. 24-20204.

We have already decided, however, that this provision creates no private right of action to challenge IDR awards. In

urzi (argued), Sheppard Mullin Richter & Hampton, Los Angeles, CA, John Burns, Matthew Kathleen McKisson, Sheppard Mullin & Associates LLP, San Diego, CA, for Defendant—Appellant Foundation Health Plan, Incorporated in No. 24-20204.

Guardian Flight II, 140 F.4th at 620.



Statutory Bar: No Surprises Act

In sum, Providers' enforcement action depends on the availability of a private right of action not present in the NSA. As a result, the NSA's plain text bars this suit. We will not find an implied right of action where Congress expressly forecloses it. See *Sigmon*, 110 F.3d at 1206 (holding a statute's “express bar” on lawsuits “compel[led] the conclusion that Congress did not intend to provide a private remedy”).

Guardian Flight, L.L.C. v. Health Care Serv. Corp., 140 F.4th 271, 276 (5th Cir. 2025), cert. denied, No. 25-441, 2026 WL 79855 (U.S. Jan. 12, 2026) (“*Guardian Flight I*”).

Guardian Flight, L.L.C. v. Health Care Service Corporation, 140 F.4th 271 (2025)

140 F.4th 271
United States Court of Appeals, Fifth Circuit.

GUARDIAN FLIGHT, L.L.C.; Med-Trans Corporation, Plaintiffs—Appellants,

Appeal from the United States District Court for the Northern District of Texas, USDC No. 3:23-CV-1861, Jane J. Boyle, U.S. District Judge

Attorneys and Law Firms

Charlotte Taylor, Esq. (argued), Jones Day, Washington, DC, a Baltes, Jones Day, Chicago, IL, Adam T. Schramek, on Rose Fulbright US, L.L.P., Austin, TX, for Plaintiffs Appellants.

Donald A. Cardozo, Esq. (argued), Reed Smith, L.L.P., San Francisco, CA, Martin J. Bishop, Jason Mayer, Reed Smith, P., Chicago, IL, for Defendant—Appellee.

Edward Tyssse, Esq., Akin Gump Strauss Hauer & Feld, P., Washington, DC, for Amici Curiae American Hospital Association, American Medical Association, Federation of American Hospitals, and Texas Medical Association.

Benjamin Soter (argued), U.S. Department of Justice, Division, Appellate Section, Washington, DC, Joshua Salzman, U.S. Department of Justice, Civil Division, Washington, DC, for Amicus Curiae United States of America.

Deutsches Unternehmen, P.L.L.C., Washington, DC, for Amicus Curiae America's Health Insurance Plans.

Smith, Clement, and Duncan, Circuit Judges.

tion

at Kyle Duncan, Circuit Judge:

Appellants Guardian Flight, LLC, and Med-Trans Corporation, two air ambulance providers (“Providers”), appeal the dismissal of their complaint against Appellee Health Care Service Corporation (“HCSC”) for HCSC’s alleged failure to timely pay dispute resolution awards under the No Surprises Act (“NSA”). Because we agree with the district court that the NSA does not contain a private right of action, and because Providers have failed to allege facts sufficient to state a derivative claim under the Employee Retirement Income Security Act (“ERISA”) or for quantum meruit under Texas law, we affirm.

insurers' beneficiaries did not suffer concrete injury, thus, providers lacked standing to bring claims under ERISA as beneficiaries' assignees; and

providers failed to plausibly allege that they provided direct benefit to insurer, as required to state claim for quantum meruit under Texas law.

Affirmed.

Procedural Posture(s): On Appeal; Motion to Dismiss for Lack of Standing; Motion to Dismiss for Failure to State a Claim.



Statutory Bar: No Surprises Act

Providers insist that without a private right of action, “not only would the purpose of the NSA be frustrated, the very structure of the NSA would fall apart.” But our interpretation is compelled by the NSA's text and structure, both of which exclude a general private right of action. Nor does that interpretation obviously “frustrate” the NSA's purpose. Congress may have had good reasons to provide only a general administrative remedy, together with a strictly limited form of judicial review.

Guardian Flight, L.L.C. v. Health Care Service Corporation, 140 F.4th 271 (2025)

140 F.4th 271
United States Court of Appeals, Fifth Circuit.

GUARDIAN FLIGHT, L.L.C.; Med-

Appeal from the United States District Court for the Northern District of Texas, USDC No. 3:23-CV-1861, [Jane J. Boyle](#), U.S. District Judge

Attorneys and Law Firms

[Charlotte Taylor](#), Esq. (argued), Jones Day, Washington, DC, [Alexa Baltes](#), Jones Day, Chicago, IL, [Adam T. Schramek](#), Norton Rose Fulbright US, L.L.P., Austin, TX, for Plaintiffs—Appellants.

[Raymond A. Cardozo](#), Esq. (argued), Reed Smith, L.L.P., San Francisco, CA, [Martin J. Bishop](#), [Jason Mayer](#), Reed Smith, L.L.P., Chicago, IL, for Defendant—Appellee.

[James Edward Tysse](#), Esq., Akin Gump Strauss Hauer & Feld, L.L.P., Washington, DC, for Amici Curiae American Hospital Association, American Medical Association, Federation of American Hospitals, and Texas Medical Association.

[Kevin Benjamin Soter](#) (argued), U.S. Department of Justice, Civil Division, Appellate Section, Washington, DC, [Joshua Marc Salzman](#), U.S. Department of Justice, Civil Division, Washington, DC, for Amicus Curiae United States of America.

[Hyland Hunt](#), Deutsch Hunt, P.L.L.C., Washington, DC, for Amicus Curiae America's Health Insurance Plans.

Before [Smith](#), [Clement](#), and [Duncan](#), Circuit Judges.

Opinion

[Stuart Kyle Duncan](#), Circuit Judge:

*273 Appellants Guardian Flight, LLC, and Med-Trans Corporation, two air ambulance providers (“Providers”), appeal the dismissal of their complaint against Appellee Health Care Service Corporation (“HCSC”) for HCSC's alleged failure to timely pay dispute resolution awards under the No Surprises Act (“NSA”). Because we agree with the district court that the NSA does not contain a private right of action, and because Providers have failed to allege facts sufficient to state a derivative claim under the Employee Retirement Income Security Act (“ERISA”) or for quantum meruit under Texas law, we affirm.

ent to insure, as required to state claim for quantum meruit under Texas law.

Affirmed.

Procedural Posture(s): On Appeal; Motion to Dismiss for Lack of Standing; Motion to Dismiss for Failure to State a Claim.

Guardian Flight, L.L.C. v. Health Care Serv. Corp., 140 F.4th 271, 277 (5th Cir. 2025), cert. denied, No. 25-441, 2026 WL 79855 (U.S. Jan. 12, 2026) (“*Guardian Flight I*”).



Statutory Bar: No Surprises Act

The NSA's structure conveys Congress's policy choice to enforce the statute through administrative penalties, not a private right of action.

Guardian Flight, L.L.C. v. Health Care Serv. Corp., 140 F.4th 271, 277 (5th Cir. 2025), *cert. denied*, No. 25-441, 2026 WL 79855 (U.S. Jan. 12, 2026) (“*Guardian Flight I*”).

Guardian Flight, L.L.C. v. Health Care Service Corporation, 140 F.4th 271 (2025)

140 F.4th 271
United States Court of Appeals, Fifth Circuit.

GUARDIAN FLIGHT, L.L.C.; Med-
Trans Corporation, Plaintiffs—Appellants,
v.
HEALTH CARE SERVICE

Appeal from the United States District Court for the Northern District of Texas, USDC No. 3:23-CV-1861, Jane J. Boyle, U.S. District Judge

Attorneys and Law Firms

Charlotte Taylor, Esq. (argued), Jones Day, Washington, DC, Alexa Baltes, Jones Day, Chicago, IL, Adam T. Schramek, Norton Rose Fulbright US, L.L.P., Austin, TX, for Plaintiffs—Appellants

Smith, L.L.P., San
ter, Reed Smith,
e.
ss Hauer & Feld,
merican Hospital
n, Federation of
ociation.
ment of Justice,
on, DC, Joshua
Civil Division,
nited States of
nington, DC, for

claim. Providers appealed.

Amicus Curiae America's Health Insurance Plans.

Before Smith, Clement, and Duncan, Circuit Judges.

Holdings: The Court of Appeals, Duncan, Circuit Judge, held that:

NSA did not impliedly contemplate private right of action, thus precluding providers' claims under the NSA;

insurer's beneficiaries did not suffer concrete injury, thus, providers lacked standing to bring claims under ERISA as beneficiaries' assignees; and

providers failed to plausibly allege that they provided direct benefit to insurer, as required to state claim for quantum meruit under Texas law.

Affirmed.

Procedural Posture(s): On Appeal; Motion to Dismiss for Lack of Standing; Motion to Dismiss for Failure to State a Claim.

Opinion

Stuart Kyle Duncan, Circuit Judge:

*273 Appellants Guardian Flight, LLC, and Med-Trans Corporation, two air ambulance providers (“Providers”), appeal the dismissal of their complaint against Appellee Health Care Service Corporation (“HCSC”) for HCSC’s alleged failure to timely pay dispute resolution awards under the No Surprises Act (“NSA”). Because we agree with the district court that the NSA does not contain a private right of action, and because Providers have failed to allege facts sufficient to state a derivative claim under the Employee Retirement Income Security Act (“ERISA”) or for quantum meruit under Texas law, we affirm.

Statutory Bar: No Surprises Act

process, and it works as follows: First, the provider and the insurer negotiate the price for the service. *Id.* § 300gg-111(c)(1)(A). Second, if these negotiations fail, the provider and insurer have four days to begin the IDR *748 process. *Id.* § 300gg-111(c)(1)(B). Third, a certified IDR entity is selected by either the parties or the Department of Health and Human Services (“HHS”). *Id.* § 300gg-111(c)(4). Fourth, the certified IDR entity determines whether the parties’ dispute is eligible for IDR and then decides the amount owed to the provider by the insurer. *Id.* § 300gg-111(c)(5).

Guardian Flight LLC v. Health Care Service Corporation, 735 F.Supp.3d 742 (2024)
Med & Med GD (CCH) P 308,097

735 F.Supp.3d 742
United States District Court, N.D. Texas, Dallas Division.

GUARDIAN FLIGHT LLC and
HEALTH CARE SERVICE CORPORATION, Plaintiffs,

vs.
MEDICAL MEDICAL GROUP, Defendant.

Case No. 3:23-cv-1861-B
Filed May 30, 2024

Plaintiffs allege that providers brought action for breach of contract, ERISA, and Unjust Enrichment. Plaintiffs also allege that Defendant failed to timely pay claims to insured's beneficiaries as required by the No Surprises Act. Plaintiffs seek resolution (IDR) entity to resolve their dispute for lack of subject matter jurisdiction and to state a claim.

Jane J. Boyle, J., held that:

Plaintiffs have a private right of action to enforce

the payment of IDR awards did not deprive Plaintiffs of a private right of action to

assert their beneficiaries' rights under ERISA to assert ERISA claim;

Plaintiffs would lose protections against balance billing under NSA if the Court did not confer standing on provider to assert ERISA claim;

Plaintiffs face a risk of higher insurance premiums for beneficiaries from failure of insurer to timely pay providers did not confer standing on providers to assert ERISA claim;

beneficiaries' possible loss of access to air ambulance services did not confer standing on providers to assert ERISA claim; and

providers did not render a valuable service to insurer, thus precluding quantum meruit claim.

Motion granted.

Procedural Posture(s): Motion to Dismiss for Lack of Subject Matter Jurisdiction; Motion to Dismiss for Failure to State a Claim.

Attorneys and Law Firms

*747 Adam T. Schramek, Norton Rose Fulbright U.S. LLP, Austin, TX, Dewey Jude Gonsoulin, III, Norton Rose Fulbright U.S. LLP, Houston, TX, for Plaintiffs.

Martin James Bishop, Reed Smith LLP, Dallas, TX, Jason Mayer, Pro Hac Vice, Reed Smith, LLP, Chicago, IL, for Defendant.

MEMORANDUM OPINION AND ORDER

JANE J. BOYLE, UNITED STATES DISTRICT JUDGE

Before the Court is Defendant Health Care Service Corporation (“HCSC”)’s Motion to Dismiss (Doc. 11). For the following reasons, the Court **GRANTS** HCSC’s Motion and **DISMISSES** Plaintiffs Guardian Flight LLC and Med-Trans Corporation (collectively, “Plaintiffs”)’s claims. A final judgment will follow.

I.

BACKGROUND¹

¹ The Court derives the factual background from Plaintiffs’ Complaint and the Congressional Record of the No Surprises Act. “[A] court ruling on a 12(b)(6) motion may rely on the complaint, its proper attachments, documents incorporated into the complaint by reference, and matters of which a court may take judicial notice.” *Inova Hosp. San Antonio, Ltd. P’ship v. Blue Cross & Blue Shield of Georgia, Inc.*, 892 F.3d 719, 726 (5th Cir. 2018) (citation omitted). The Court takes

Guardian Flight LLC v. Health Care Serv. Corp., 735 F. Supp. 3d 742 (N.D. Tex. 2024), *aff’d sub nom. Guardian Flight, L.L.C. v. Health Care Serv. Corp.*, 140 F.4th 271 (5th Cir. 2025), *cert. denied*, No. 25-441, 2026 WL 79855 (U.S. Jan. 12, 2026).



Exhibit 2: Federal Independent Dispute Resolution (IDR) Process Guidance for Certified IDR Entities



In some states, some items or services provided by OON providers, facilities, or providers of air ambulance services may be subject to the Federal IDR process, while other items and services are subject to a specified state law or All-Payer Model Agreement. For payment disputes regarding OON items or services furnished in these 'bifurcated states,' certified IDR entities are responsible for determining whether or not a dispute is eligible for the Federal IDR process.

Issued October 1, 2022 and updated December 10, 2020.

Please visit www.cms.gov/nosurprises for the most current guidance documents related to the Federal IDR Process.

This communication was printed, published, or produced and disseminated at U.S. taxpayer expense.



Exhibit 3: Federal Independent Dispute Resolution (IDR) Process Guidance for Disputing Parties

5.5 Instances When the Non-Initiating Party Believes the Federal IDR Process Does Not Apply



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 as part of the certified IDR entity selection process. This information must be provided not later than **1 business day** after the end of the 3-business-day period for certified IDR entity selection (the same date that the notice of selection or of failure to select a certified IDR entity must be submitted). This notification must include information regarding the Federal IDR Process' inapplicability.

The certified IDR entity must determine whether the Federal IDR Process is applicable. The certified IDR entity must review the information submitted in the **Notice of IDR Initiation** and the notification from the non-initiating party claiming the Federal IDR Process is inapplicable, if one has been submitted, to determine whether the Federal IDR Process applies. If the Federal

Statutory Bar: No Surprises Act

42 U.S.C. § 300gg-111(c)(5)(A)

(5) Payment determination

(A) In general

Not later than 30 days after the date of selection of the certified IDR entity with respect to a determination for a qualified IDR item or service, the certified IDR entity shall—

(i) taking into account the considerations specified in subparagraph (C), select one of the offers submitted under subparagraph (B) to be the amount of payment for such item or service determined under this subsection for purposes of subsection (a)(1) or (b)(1), as applicable; and

(ii) notify the provider or facility and the group health plan or health insurance issuer offering group or individual health insurance coverage party to such determination of the offer selected under clause (i).

(ii) Additional circumstances

For purposes of clause (i)(II), the circumstances described in this clause are, with respect to a qualified IDR item or service of a nonparticipating provider, nonparticipating emergency facility, group health plan, or health insurance issuer of group or individual health insurance coverage the following:

(I) The level of training, experience, and quality and outcomes measurements

claim or evidence of misrepresentation of facts presented to the IDR entity involved regarding such claim; and

(II) 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.

(ii) Suspension of certain subsequent IDR requests

In the case of a determination of a certified IDR entity under subparagraph (A),

with respect to an initial notification submitted under paragraph (1)(B) with respect to a qualified IDR item and services and a party involved with such notification, the party that submitted such notification may not submit during the 90-day period following such determination a subsequent notification under such paragraph involving the same other party to the notification with respect to such an item or service that was the subject of the initial notification.

Subsequent submission of requests submitted

In the case of a notification that pursuant to clause (i) is not permitted to be submitted under paragraph (1)(B) during a period specified in such clause, if the end of the open negotiation period specified in paragraph (1)(A), that but for such clause would otherwise apply with respect to such notification, occurs during the 90-day period, such paragraph (1)(B) shall be applied as if the reference in such paragraph to the 4-day period beginning on the day after such open negotiation period instead a reference to the 30-day period beginning on the day after the last such 90-day period.

Reports

The Secretary, jointly with the Secretary of Labor and the Secretary of Health and Human Services, shall examine the impact of the implementation of clause (ii) and whether the implementation of such clause delays payment of claims or impacts early, alternative resolution of claims (such as through open negotiations), and shall submit a report to Congress, not later than 2 years after the date of implementation of such clause, an interim report (and not later than 1 year after such date of implementation a final report) on whether any health plans or health insurance issuers offering group or individual health insurance coverage or types of such plans or coverage have a pattern or practice of denial, low payment, or down-coding of claims, or otherwise abuse the 90-day period described in such clause, and shall submit recommendations on ways to disseminate such a pattern or practice.

of independent dispute resolution processes

of independent dispute resolution processes

In the case of a notification under paragraph (1)(B) submitted by a nonparticipating provider, nonparticipating emergency facil-

(I) shall be binding upon the parties involved, in the absence of a fraudulent

Statutory Bar: Collateral Attack Doctrine

A. Collateral Attack on the Final Award
Gulf Petro argues that a fair reading of its complaint shows that the RICO and state law claims are not disguised attempts to vacate or attack the Final Award. Rather, it contends that it has alleged a pattern of racketeering and conspiratorial conduct that, while arising in the context of arbitration proceedings, constitutes an independent violation of federal and state law and compels relief analytically distinct from vacatur. We disagree. Like the district court, we conclude that the claims asserted by Gulf Petro are no more, in substance, than a collateral attack on the Final Award itself.

512 F.3d 742
United States Court of Appeals, Fifth Circuit.

GULF PETRO TRADING COMPANY,
INC.; Petrec International, Inc.; James S.

Appellants,

PETRO

Jackson

Sena

W.A.

Houtte;

Appellees.

action against
tors, and others
ganizations Act
rd in arbitration
tract to salvage
corruption and
istrict Court for
dismissed the

circuit Judge, held

the final Swiss

Convention on
the Recognition and Enforcement of Foreign
Arbitral Awards.

Affirmed.

Procedural Posture(s): On Appeal; Motion to Dismiss;
Motion to Dismiss for Lack of Subject Matter Jurisdiction.

Attorneys and Law Firms

*743 David Jeremy Bederman (argued), Emory University
Sch. of Law, Atlanta, GA, for Plaintiffs–Appellants.

William Joseph Boyce (argued), Andrew Scott Friedberg,
Frank G. Jones, Kevin O’Gorman, Fulbright & Jaworski,
Houston, TX, for Defendants–Appellees.

R. Doak Bishop, David A. Talbot, III, King & Spalding,
Houston, TX, Troy Lane Harris, King & Spalding, Atlanta,
GA, for Am. Arbitration Ass’n and Swiss Arbitration Ass’n,
Amici Curiae.

Appeal from the United States District Court for the Eastern
District of Texas.

Before KING, GARZA and BENAVIDES, Circuit Judges.

Opinion

KING, Circuit Judge:

This appeal is the latest round in a long-running dispute,
previously submitted to arbitration in Switzerland, arising out
of a contract to salvage “slop oil” generated by the operations
of Nigeria’s state-owned oil company. Plaintiffs-appellants
—a Texas oil company, its subsidiary, and its principals—
appeal the district court’s dismissal of their complaint against
the Nigerian company and various associated individuals.
The district court concluded that it lacked subject matter
jurisdiction over the lawsuit, which it determined to be
a collateral *744 attack on a foreign arbitral award. It
alternately concluded that suit against certain of the parties
was barred on foreign sovereign immunity and personal
jurisdiction grounds. For the reasons set out below, we
conclude that this lawsuit was properly dismissed for lack
of subject matter jurisdiction, as we agree that it represents
a collateral attack on a foreign arbitral award. We therefore
do not consider the district court’s alternate holdings.
AFFIRMED.

I. BACKGROUND

The origins of this dispute lie in a 1993 joint venture
agreement between Petrec International, Inc. (“Petrec”),
and Nigerian National Petroleum Corporation (“NNPC”),
whereby Petrec was to undertake reclamation and salvaging
of slop oil discarded by NNPC in the course of its daily
operations in Nigeria. Petrec is a wholly owned subsidiary

Statutory Bar: Collateral Attack Doctrine

or modify the award. In response, the Sixth Circuit examined the relationship between the alleged wrongdoing, purported harm, and arbitration award, and concluded that because the harm was not caused by the wrongdoing in and of itself, but rather by the impact of the acts complained of on the award, the claims were no more than collateral attacks on the award. With this methodology in mind, we turn to Gulf Petro's complaint.³

512 F.3d 742
United States Court of Appeals, Fifth Circuit.

GULF PETRO TRADING COMPANY,
INC.; Petrec International, Inc.; James S.
Faulk; James W. Faulk, Plaintiffs–Appellants,

v.

Attorneys and Law Firms

*743 David Jeremy Bederman (argued), Emory University Sch. of Law, Atlanta, GA, for Plaintiffs–Appellants.

William Joseph Boyce (argued), Andrew Scott Friedberg, Frank G. Jones, Kevin O’Gorman, Fulbright & Jaworski, Houston, TX, for Defendants–Appellees.

R. Doak Bishop, David A. Talbot, III, King & Spalding, Houston, TX, Troy Lane Harris, King & Spalding, Atlanta, GA, for Am. Arbitration Ass’n and Swiss Arbitration Ass’n, Amici Curiae.

Appeal from the United States District Court for the Eastern District of Texas.

Before KING, GARZA and BENAVIDES, Circuit Judges.

Opinion

KING, Circuit Judge:

This appeal is the latest round in a long-running dispute, previously submitted to arbitration in Switzerland, arising out of a contract to salvage “slop oil” generated by the operations of Nigeria’s state-owned oil company. Plaintiffs-appellants—a Texas oil company, its subsidiary, and its principals—appeal the district court’s dismissal of their complaint against the Nigerian company and various associated individuals. The district court concluded that it lacked subject matter jurisdiction over the lawsuit, which it determined to be a collateral *744 attack on a foreign arbitral award. It alternately concluded that suit against certain of the parties was barred on foreign sovereign immunity and personal jurisdiction grounds. For the reasons set out below, we conclude that this lawsuit was properly dismissed for lack of subject matter jurisdiction, as we agree that it represents a collateral attack on a foreign arbitral award. We therefore do not consider the district court’s alternate holdings. AFFIRMED.

it lacked subject matter jurisdiction under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

Affirmed.

Procedural Posture(s): On Appeal; Motion to Dismiss; Motion to Dismiss for Lack of Subject Matter Jurisdiction.

I. BACKGROUND

The origins of this dispute lie in a 1993 joint venture agreement between Petrec International, Inc. (“Petrec”), and Nigerian National Petroleum Corporation (“NNPC”), whereby Petrec was to undertake reclamation and salvaging of slop oil discarded by NNPC in the course of its daily operations in Nigeria. Petrec is a wholly owned subsidiary

Gulf Petro Trading Co., Inc. v. Nigerian Nat. Petroleum Corp., 512 F.3d 742, 749 (5th Cir. 2008)



Statutory Bar: Collateral Attack Doctrine

Gulf Petro Trading Company, Inc. v. Nigerian Nat. Petroleum Corp., 512 F.3d 742 (2008)
RICO Bus.Disp.Guide 11,425

512 F.3d 742
United States Court of Appeals, Fifth Circuit.

GULF PETRO TRADING COMPANY,
INC.; Petrec International, Inc.; James S.
Faulk; James W. Faulk, Plaintiffs–Appellants,

v.

NIGERIAN NATIONAL PETROLEUM
CORPORATION, Defendant–Appellee.

Attorneys and Law Firms

*743 David Jeremy Bederman (argued), Emory University
Sch. of Law, Atlanta, GA, for Plaintiffs–Appellants.

William Joseph Boyce (argued), Andrew Scott Friedberg,
Frank G. Jones, Kevin O’Gorman, Fulbright & Jaworski,
Houston, TX, for Defendants–Appellees.

R. Doak Bishop, David A. Talbot, III, King & Spalding,
Houston, TX, Troy Lane Harris, King & Spalding, Atlanta,
GA, for Plaintiff–Appellant and Swiss Arbitration Ass’n,

unfavorable Final Award. Under the framework of the New York Convention, the proper method of obtaining this relief is by moving to set aside or modify the award in a court of primary jurisdiction. Though cloaked in a variety of federal and state law claims, Gulf Petro's complaint amounts to no more than a collateral attack on the Final Award itself.

District Court for the Eastern
NAVIDES, Circuit Judges.

in a long-running dispute,
in Switzerland, arising out
generated by the operations
company. Plaintiffs-appellants
subsidiary, and its principals—
sal of their complaint against
rious associated individuals.
at it lacked subject matter
which it determined to be
a foreign arbitral award. It
against certain of the parties
gn immunity and personal
reasons set out below, we
properly dismissed for lack
s we agree that it represents
arbitral award. We therefore
court's alternate holdings.

Gulf Petro Trading Co., Inc. v. Nigerian Nat. Petroleum Corp., 512 F.3d 742, 750 (5th Cir. 2008)

arbitration award, and

it lacked subject matter jurisdiction under the Convention on
the Recognition and Enforcement of Foreign Arbitral Awards.

Affirmed.

Procedural Posture(s): On Appeal; Motion to Dismiss;
Motion to Dismiss for Lack of Subject Matter Jurisdiction.

AFFIRMED.

I. BACKGROUND

The origins of this dispute lie in a 1993 joint venture
agreement between Petrec International, Inc. (“Petrec”),
and Nigerian National Petroleum Corporation (“NNPC”),
whereby Petrec was to undertake reclamation and salvaging
of slop oil discarded by NNPC in the course of its daily
operations in Nigeria. Petrec is a wholly owned subsidiary



Statutory Bar: Collateral Attack Doctrine

Cir. 2009). Further, purportedly independent claims are not a basis for a challenge if they are disguised collateral attacks on the arbitration award. *Gulf Petro Trading Co. v. Nigerian Nat'l Petroleum Corp.*, 512 F.3d 742, 747, 750 (5th Cir. 2008).

Tex. Brine Co., L.L.C. v. Am. Arbitration Ass'n, Inc., 955 F.3d 482, 487 (5th Cir. 2020)

Texas Brine Company, L.L.C. v. American Arbitration..., 955 F.3d 482 (2020)

955 F.3d 482
United States Court of Appeals, Fifth Circuit.

TEXAS BRINE COMPANY,
L.L.C., Plaintiff – Appellant
v.
AMERICAN ARBITRATION
ASSOCIATION, INCORPORATED;
Anthony M. DiLeo; Charles R.
Minyard, Defendants – Appellees

No. 18-31184

*483 Appeal from the United States District Court for the Eastern District of Louisiana, Sarah S. Vance, U.S. District Judge

Attorneys and Law Firms

James M. Garner, Esq., Joshua Simon Force, Peter L. Hilbert, Jr., Esq., Stuart D. Kottle, Leopold Zangwill Sher, Sher Garner Cahill Richter Klein & Hilbert, L.L.C., New Orleans, LA, for Plaintiff-Appellant.

Timothy David Scandurro, Esq., Scandurro & Layrisson, L.L.C., New Orleans, LA, for Defendant-Appellee American Arbitration Association, Incorporated.

Thomas More Flanagan, Camille Elise Gauthier, Flanagan Esq., L.L.P., Andy Joseph Dupre, Carter Dupre, L.L.P., New Orleans, LA, for Defendant-Appellee Anthony M. Minyard.

Wayne A. Fritchie, III, Esq., Irwin Fritchie Urquhart & Associates, L.L.C., New Orleans, LA, for Defendant-Appellee Charles R. Minyard.

William H. Southwick, Willett, and Oldham, Circuit Judges.

Opinion

WILLIAM H. SOUTHWICK, Circuit Judge:

Two of the parties to an arbitration claimed that two of the arbitrators hid conflicts of interest. Those claims were the basis on which a Louisiana state court vacated the arbitration award. The aggrieved party then brought suit in Louisiana state court seeking substantial damages against the out-of-state defendant and two in-state defendants.

The out-of-state defendant was served with process and immediately removed the case to federal court before the in-state defendants were served. The plaintiff moved to remand. The district court held that this removal prior to service on the nondiverse defendants was proper and refused to remand. The district court then entered a judgment on the pleadings, dismissing the plaintiff's claims with prejudice. We AFFIRM.

and

Federal Arbitration Act provided exclusive remedy for challenging arbitration award based on arbitrators' failure to disclose potential conflicts of interest.

Affirmed.

Procedural Posture(s): On Appeal; Motion for Remand; Motion for Judgment on the Pleadings.

FACTUAL AND PROCEDURAL BACKGROUND

In reviewing an order granting judgment on the pleadings, we accept the factual allegations in the plaintiff's complaint as true. *Great Plains Tr. Co. v. Morgan Stanley Dean Witter & Co.*

Statutory Bar: Collateral Attack Doctrine

Judicial review in the arbitration context is limited. The Supreme Court has held that the statutory bases for vacating an arbitrator's award are the only grounds on which a court may vacate an award. *Hall St. Assocs. L.L.C. v. Mattel, Inc.*, 552 U.S. 576, 586, 128 S.Ct. 1396, 170 L.Ed.2d 254

Tex. Brine Co., L.L.C. v. Am. Arbitration Ass'n, Inc., 955 F.3d 482, 487 (5th Cir. 2020)

Texas Brine Company, L.L.C. v. American Arbitration..., 955 F.3d 482 (2020)

955 F.3d 482
United States Court of Appeals, Fifth Circuit.

TEXAS BRINE COMPANY,
L.L.C., Plaintiff – Appellant
v.
AMERICAN ARBITRATION
ASSOCIATION, INCORPORATED;
Anthony M. DiLeo; Charles R.
Minyard, Defendants – Appellees

*483 Appeal from the United States District Court for the Eastern District of Louisiana, Sarah S. Vance, U.S. District Judge

Attorneys and Law Firms

James M. Garner, Esq., Joshua Simon Force, Peter L. Hilbert, Jr., Esq., Stuart D. Kottle, Leopold Zangwill Sher, Sher Garner Cahill Richter Klein & Hilbert, L.L.C., New Orleans, LA, for Plaintiff-Appellant.

Timothy David Scandurro, Esq., Scandurro & Layrisson, L.L.C., New Orleans, LA, for Defendant-Appellee American Association, Incorporated.

More Flanagan, Camille Elise Gauthier, Flanagan L.L.P., Andy Joseph Dupre, Carter Dupre, L.L.P., New Orleans, LA, for Defendant-Appellee Anthony M.

A. Fritchie, III, Esq., Irwin Fritchie Urquhart & Associates, L.L.C., New Orleans, LA, for Defendant-Appellee Charles R. Minyard.

JOHN W. SOUTHWICK, WILLETT, and OLDDHAM, Circuit

H. SOUTHWICK, Circuit Judge:

The parties to an arbitration claimed that two of the arbitrators hid conflicts of interest. Those claims were on which a Louisiana state court *484 vacated the arbitration award. The aggrieved party then brought suit in a state court seeking substantial damages against the arbitrators. The state court defendant and two in-state defendants. The state court defendant was served with process and the case was removed to federal court before the in-state defendants were served. The plaintiff moved to remand. The district court held that this removal prior to service on the nondiverse defendants was proper and refused to remand. The district court then entered a judgment on the pleadings, dismissing the plaintiff's claims with prejudice. We AFFIRM.

Federal Arbitration Act provided exclusive remedy for challenging arbitration award based on arbitrators' failure to disclose potential conflicts of interest.

Affirmed.

Procedural Posture(s): On Appeal; Motion for Remand; Motion for Judgment on the Pleadings.

FACTUAL AND PROCEDURAL BACKGROUND

In reviewing an order granting judgment on the pleadings, we accept the factual allegations in the plaintiff's complaint as true. *Great Plains Tr. Co. v. Morgan Stanley Dean Witter &*

Statutory Bar: Collateral Attack Doctrine

Further, in *Gulf Petro*, the fact that the plaintiff sought costs and expenses did not affect our finding that the plaintiff was collaterally attacking the arbitration award. 512 F.3d at 749–50. The purported harm in this case is of the kind that *Gulf Petro*, *Corey*, and *Decker* addressed.

Tex. Brine Co., L.L.C. v. Am. Arbitration Ass'n, Inc., 955 F.3d 482, 489 (5th Cir. 2020)

Texas Brine Company, L.L.C. v. American Arbitration..., 955 F.3d 482 (2020)

955 F.3d 482
United States Court of Appeals, Fifth Circuit.

TEXAS BRINE COMPANY,
L.L.C., Plaintiff – Appellant
v.
AMERICAN ARBITRATION
ASSOCIATION, INCORPORATED;

*483 Appeal from the United States District Court for the Eastern District of Louisiana, Sarah S. Vance, U.S. District Judge

Attorneys and Law Firms

James M. Garner, Esq., Joshua Simon Force, Peter L. Hilbert, Jr., Esq., Stuart D. Kottle, Leopold Zangwill Sher, Sher Garner Cahill Richter Klein & Hilbert, L.L.C., New Orleans, LA, for Plaintiff-Appellant.

Anthony David Scandurro, Esq., Scandurro & Layrisson, L.L.C., New Orleans, LA, for Defendant-Appellee American Arbitration Association, Incorporated.

Thomas More Flanagan, Camille Elise Gauthier, Flanagan Partners, L.L.P., Andy Joseph Dupre, Carter Dupre, L.L.P., New Orleans, LA, for Defendant-Appellee Anthony M. Leao.

Stavros A. Fritchie, III, Esq., Irwin Fritchie Urquhart & Co., L.L.C., New Orleans, LA, for Defendant-Appellee Charles R. Minyard.

For SOUTHWICK, WILLETT, and OLDDHAM, Circuit Judges.

Opinion

SLIEH. SOUTHWICK, Circuit Judge:

One of the parties to an arbitration claimed that two of the arbitrators hid conflicts of interest. Those claims were the basis on which a Louisiana state court *484 vacated the arbitration award. The aggrieved party then brought suit in Louisiana state court seeking substantial damages against

one out-of-state defendant and two in-state defendants. The out-of-state defendant was served with process and immediately removed the case to federal court before the in-state defendants were served. The plaintiff moved to remand. The district court held that this removal prior to service on the nondiverse defendants was proper and refused to remand. The district court then entered a judgment on the pleadings, dismissing the plaintiff's claims with prejudice. We AFFIRM.

Federal Arbitration Act provided exclusive remedy for challenging arbitration award based on arbitrators' failure to disclose potential conflicts of interest.

Affirmed.

Procedural Posture(s): On Appeal; Motion for Remand; Motion for Judgment on the Pleadings.

FACTUAL AND PROCEDURAL BACKGROUND

In reviewing an order granting judgment on the pleadings, we accept the factual allegations in the plaintiff's complaint as true. *Great Plains Tr. Co. v. Morgan Stanley Dean Witter &*

Statutory Bar: Collateral Attack Doctrine

Like judges and arbitrators, CIDREs are neutral arbiters of payment disputes with no stake in the underlying controversy. They receive competing offers for payment, consider information supporting the offers, and then choose one of the offers, which is binding on the providers and insurers. [42 U.S.C. § 300gg-112\(b\)\(4\), \(b\)\(5\)](#). CIDREs, in sum, function more or less exactly like arbitrators.

Guardian Flight, L.L.C. v. Med. Evaluators of Tex. ASO, L.L.C., 140 F.4th 613, 623 (5th Cir. 2025) (“*Guardian Flight IP*”)

Guardian Flight, L.L.C. v. Medical Evaluators of Texas ASO, L.L.C., 140 F.4th 613 (2025)

140 F.4th 613
United States Court of Appeals, Fifth Circuit.

GUARDIAN FLIGHT,
L.L.C. Plaintiff, Appellee

alleged failure in explaining how insurers calculated QPA did not establish bad faith;

provider failed to state fraud claim with sufficient particularity;

sufficient to satisfy rule
ularity; and

that functioned like an
titled to arbitral immunity
rators.

art, and remanded with

I; Motion to Dismiss for
Dismiss.

ict Court for the Southern
CV-3805, 4:22-CV-3805,
U.S. District Judge

Jones Day, Washington,
Chicago, IL, Dewey Jude
ght US, L.L.P., Houston,
ose Fulbright US, L.L.P.,
in No. 24-20051.

), Vethan Law Firm, P.C.,
ellant in No. 24-20051.

es Day, Washington, DC,
IL, Adam T. Schramek,
Austin, TX, for Plaintiffs

cross-appealed.

Holdings: The Court of Appeals, Duncan, Circuit Judge, held that:

court would interpret “fraud or undue means” to have the same meaning in the NSA as in the Federal Arbitration Act (FAA);

John Bruce Shely, Esq., David Watson Hughes, Mary Katherine Strahan, Esq. (argued), Hicks Thomas, L.L.P., Houston, TX, for Defendant—Appellee Aetna Health, Incorporated in No. 24-20204.

Mohammad Keshavarzi (argued), Sheppard Mullin Richter & Hampton, L.L.P., Los Angeles, CA, John Burns, Matthew G. Halgren, Megan Kathleen McKisson, Sheppard Mullin Richter & Hampton, L.L.P., San Diego, CA, for Defendant—Appellee Kaiser Foundation Health Plan, Incorporated in No. 24-20204.

Statutory Bar: Texas Senate Bill 1264

The interpretation of Section 1467.085 that the Doctors advance is a stretch at best. They say that the “may not file suit ... until” language reflects a pre-existing right to file a private cause of action, but this argument ignores what kind of suit can be filed under the new law. There will be no damages action tried to a jury. The arbitrator's decision “is binding.”⁸² A party *436 dissatisfied with the decision has 45 days to file a suit for judicial review, in which “the court [will] determine whether the arbitrator's decision is proper based on a substantial evidence standard of review.”⁸³ Indeed, if Chapter 1467 tells us anything about the 86th Legislature's intent, it is that determining the amount that an out-of-network provider should be paid by an insurer is a technical exercise to be performed by a subject-matter expert—not an issue to be decided by a jury of laymen.⁸⁴

Texas Medicine Resources, LLP v. Molina Healthcare of..., 659 S.W.3d 424 (2023)
66 Tex. Sup. Ct. J. 231

659 S.W.3d 424
Supreme Court of Texas.

TEXAS MEDICINE RESOURCES, LLP;
Texas Physician Resources, LLP; and Pediatric
Emergency Medicine Group, LLP, Petitioners,
v.
MOLINA HEALTHCARE OF
TEXAS, INC., Respondent
UnitedHealthcare Insurance Company;
UnitedHealthcare of Texas, Inc., Appellants,
v.
ACS Primary Care Physicians Southwest,
P.A.; Hill County Emergency Medical
Associates, P.A.; Longhorn Emergency
Medical Associates, P.A.; Central Texas
Emergency Associates, P.A.; Emergency
Associates of Central Texas, P.A.; Emergency
Services of Texas, P.A., Appellees

No. 21-0291, No. 22-0138
|
Argued September 20, 2022

OPINION DELIVERED: January 13, 2023

Synopsis

Background: Out-of-network physicians and practice groups brought actions against health insurers to recover for failure to reimburse for emergency care at “usual and customary” rates and sought recovery under equitable theory of quantum meruit. In one case physicians and groups also alleged unfair settlement practices and sought declaration that the court's finding on the usual and customary rate would be binding on the insurer was to pay physicians in future. Insurers moved cases. The United States District Court for the Northern District of Texas, Sam R. Cummings, Senior District Judge, 356 F.Supp.3d 612, remanded to state court. The 10th District Court, Dallas County, granted insurer's plea to the jurisdiction. Physicians appealed. The Dallas Court of Appeals, Schenck, J., 620 S.W.3d 458, affirmed. Physicians' petition for review was granted. In other case, the United States District Court for the Southern District of Texas,

Andrew S. Hanen, J., 514 F.Supp.3d 927, dismissed action. Practice groups appealed. The Court of Appeals, King, Circuit Judge, 26 F.4th 716, certified question.

Holdings: The Supreme Court, Hecht, C.J., held that:

Emergency Care Statutes did not authorize private action;
physicians could not satisfy element of quantum meruit claim requiring benefit to insurers;
physicians had no claim against insurers for unfair settlement practices;
unfair settlement practices claims were not assignable; and
plea to jurisdiction was improper.

Affirmed, and question answered.

Procedural Posture(s): Certified Question; Petition for Discretionary Review; On Appeal; Interlocutory Appeal; Plea to the Jurisdiction; Motion for Declaratory Judgment; Motion to Dismiss for Failure to State a Claim.

*426 On Petition for Review from the Court of Appeals for the Fifth District of Texas
On Certified Question from the United States Court of Appeals for the Fifth Circuit

Attorneys and Law Firms

Nolan C. Knight, Jennifer Ecklund, Dallas, Mark R. Trachtenberg, Houston, Alicia Pitts, Christopher Knight, Nina Cortell, Andrew Christian Cookingham, Dallas, for Petitioners.

Jonathan Herman, Razvan Ungureanu, Joshua S. Smith, David M. Gunn, Houston, Michelle Stratton, for Respondent.

Opinion

Chief Justice Hecht delivered the opinion of the Court.

*427 Three sections of the Texas Insurance Code we refer to as the Emergency Care Statutes require a health-insurance company to pay a non-network physician for emergency care rendered to the company's insureds “at the usual and



Displacement

79 ERC 1085, 2014 A.M.C. 2400

759 F.3d 420
United States Court of Appeals,
Fifth Circuit.

UNITED STATES of America,
Plaintiff–Counter Defendant–Appellee
v.
AMERICAN COMMERCIAL LINES,
L.L.C., Defendant–Counter Claimant–
Third Party Plaintiff–Appellant.

Glenn G. Goodier, Richard David Bertram, Esq., Jones Walker LLP, New Orleans, LA, John A.V. Nicoletti, Esq., Terry Lee Stoltz, Esq., Richard W. Stone, II, Nicoletti, Hornig & Sweeney, New York, NY, for Defendant–Counter Claimant–Third Party Plaintiff–Appellant.

Edwin Christian Laizer, James Ted Rogers, III, Esq., Margot L.K. Want, Esq., Adams & Reese, L.L.P., New Orleans, LA, Lawrence I. Kiern, Esq., Winston & Strawn, L.L.P., Washington, DC, William Sean O’Neil, Esq., Houston, TX, William E. O’Neil, Metairie, LA, for Third Party Defendants–Appellees.

Synopsis
Background: United States District Court for the Eastern District of Louisiana found American Commercial Lines, L.L.C. (“ACL”) the responsible party to the 2010 oil spill. Responsible parties included contractors. The United States District of Louisiana granted summary judgment against contractors, and the United States Court of Appeals for the Fifth Circuit affirmed. ACL sought a writ of habeas corpus under federal common law.

Procedural Posture(s): On Appeal; Motion to Dismiss; Motion to Dismiss for Failure to State a Claim.

Attorneys and Law Firms
*421 Anne M. Murphy, Trial Attorney, Matthew Miles Collette, U.S. Department of Justice, Washington, DC, for Plaintiff–Counter Defendant–Appellee.

Aerovox, Inc., 150 F.2d 835, 841 (1st Cir.1944) (using “preempt” and “displace” interchangeably in concluding that the Federal Water Pollution Control Act displaced federal maritime law). Technically, however, preemption refers to whether federal statutory law supersedes state law, while “displacement” applies when, as here, a federal statute governs a question previously governed by federal common law. Although in the preemption scenario, we assume that “the historic police powers of the States were not to be superseded by [federal

WESTLAW © 2026 Thomson Reuters. No claim to original U.S. Government Works. 1

law] unless that was the clear and manifest purpose of Congress,” displacement analysis assumes that “it is for Congress, not the federal courts, to articulate the appropriate standards to be applied as a matter of federal law.” *City of Milwaukee v. Illinois*, 451 U.S. 304, 316–17, 101 S.Ct. 1784, 68 L.Ed.2d 114 (1981). Accordingly, we use the term “displacement” throughout this opinion.

United States v. Am. Com. Lines, L.L.C., 759 F.3d 420, 422 n.1 (5th Cir. 2014)

Credit Suisse Securities (USA) LLC v. Billing, 551 U.S. 264 (2007)
127 S.Ct. 2383, 168 L.Ed.2d 145, 75 USLW 4449, Fed. Sec. L. Rep. P 94,334...

Displacement

127 S.Ct. 2383
Supreme Court of the United States

CREDIT SUISSE SECURITIES
(USA) LLC, fka Credit Suisse First
Boston LLC, et al., Petitioners,

v.

Glen BILLING et al.

No. 05-1157

Argued March 27, 2007.

Decided June 18, 2007.

Synopsis

Background: Putative classes of investors brought suit against underwriting firms, alleging firms violated securities laws by entering into illegal contracts with purchasers of securities distributed in initial public offerings (IPOs). The United States District Court for the Southern District of New York, William H. Pauley, III, J., 287 F.Supp.2d 497, granted summary judgment for the underwriters, and investors brought consolidated appeal. The Court of Appeals for the Second Circuit, Wesley, Circuit Judge, 405 F.3d 130, vacated and remanded. Certiorari was granted.

The Supreme Court, Justice Breyer, held that securities laws were “clearly incompatible” with antitrust laws, such that securities law implicitly precluded antitrust claims.

Reversed

Justice Stevens concurred in the judgment and filed opinion.

Justice Thomas dissented and filed opinion.

Justice Kennedy took no part in the consideration or decision of the case.

Procedural Posture(s): On Appeal; Motion to Dismiss.

*264 **2384 Syllabus*

* The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions.

The upshot is that all four elements present in *Gordon* are present here: (1) an area of conduct squarely within the heartland of securities regulations; (2) clear and adequate SEC authority to regulate; (3) active and ongoing agency regulation; and (4) a serious conflict between the antitrust and regulatory regimes. We therefore conclude that the securities laws are “clearly incompatible” with the application of the antitrust laws in this context.

implicitly preclude the antitrust laws' application. Taken together, *Silver v. New York Stock Exchange*, 373 U.S. 341, 83 S.Ct. 1246, 10 L.Ed.2d 389; *Gordon v. New York Stock Exchange, Inc.*, 422 U.S. 659, 95 S.Ct. 2598, 45 L.Ed.2d 463; and *United States v. National Assn. of Securities Dealers, Inc.*, 422 U.S. 694, 95 S.Ct. 2427, 45 L.Ed.2d 486 (*NASD*), make clear that a court deciding this preclusion issue is deciding whether, given context and likely consequences, there is a “clear repugnancy” between the securities law and the antitrust complaint, *i.e.*, whether the two are “clearly incompatible.” Moreover, *Gordon* and *NASD*, in finding sufficient incompatibility to warrant an implication of preclusion, treated as critical: (1) the existence of regulatory authority under the securities law to supervise the activities in question; (2) evidence that the responsible regulatory entities exercise that authority; and (3) a resulting risk that the securities and antitrust laws, if both applicable, would produce conflicting guidance, requirements, duties, privileges, or standards of conduct. In addition, (4) in *Gordon* and *NASD* the possible conflict affected practices that lie

Credit Suisse Sec. (USA) LLC v. Billing,
551 U.S. 264, 285 (2007)

Displacement

Alexander v. Sandoval, 532 U.S. 275 (2001)
 121 S.Ct. 1511, 80 Empl. Prac. Dec. P 40,456, 149 L.Ed.2d 517, 69 USLW 4249...

121 S.Ct. 1511
 Supreme Court of the United States

James ALEXANDER, Director, Alabama
 Department of Public Safety, et al., Petitioners,

v.

Martha SANDOVAL, Individually and on
 Behalf of All Others Similarly Situated, et al.

No. 99-1908.

Argued Jan. 16, 2001.

Decided April 24, 2001.

Synopsis

Driver's license applicant brought class action VI, which prohibits discrimination in covered and activities, challenging Alabama Department of Public Safety's official policy of administering its driver's license examination only in the English language as a violation of federal regulations forbidding funding recipients to use methods that have the effect of discriminating. *United States District Court for the Middle District of Florida, No. CV-96-D-1875-N, Ira DeMent, J., 7 F.Supp.2d 1217, 1999 WL 1000000*. The United States Court of Appeals for the Eleventh Circuit, 197 F.3d 484, 2000 WL 1000000. Director of Department petitioned for certiorari. The Supreme Court, Justice Scalia, held that there is no private right of action to enforce disparate-impact regulations promulgated under Title VI of Civil Rights Act of 1964.

Reversed.

Justice Stevens filed dissenting opinion, in which Justices Souter, Ginsburg, and Breyer joined.

**1513 Syllabus*

* The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U.S. 321, 337, 26 S.Ct. 282, 50 L.Ed. 499.

*275 As a recipient of federal financial assistance, the Alabama Department of Public Safety (Department), of which petitioner Alexander is the director, is subject to Title VI of the Civil Rights Act of 1964. Section 601 of that title prohibits discrimination based on race, color, or national origin in covered programs and activities. Section 602 authorizes federal agencies to effectuate § 601 by issuing regulations, and the Department of Justice (DOJ) in an exercise of this authority promulgated a regulation forbidding funding recipients to utilize criteria or administrative methods having the effect of subjecting individuals to discrimination based on the prohibited grounds. Respondent Sandoval brought this class action to enjoin the Department's decision to administer state driver's license examinations only in English, arguing that it violated the DOJ regulation because

a congressional intent to create privately enforceable rights through § 602 itself. The express provision of one method of enforcing **1522 a substantive rule suggests that Congress intended to preclude others. See, e.g., *Karahalios v. Federal*

Cannon v. University of Chicago, 441 U.S. 677, 694, 696, 699, 703, 710-711, 99 S.Ct. 1946, 60 L.Ed.2d 560. Second, § 601 prohibits only intentional discrimination. See, e.g., *Alexander v. Choate*, 469 U.S. 287, 293, 105 S.Ct. 712, 83 L.Ed.2d 661. Third, it must be assumed for purposes of deciding this case that regulations promulgated under § 602 may validly proscribe activities that have a disparate impact on racial groups, even though such activities are permissible under § 601. Pp. 1515-1517.

(b) This Court has not, however, held that Title VI disparate-impact regulations may be enforced through a private right of action. *Cannon* was decided on the assumption that the respondent there had intentionally *276 discriminated against the petitioner, see 441 U.S., at 680, 99 S.Ct. 1946. In *Guardians Assn. v. Civil Serv. Comm'n of New York City*, 463 U.S. 582, 103 S.Ct. 3221, 77 L.Ed.2d 866, the Court **1514 held that private individuals could not recover compensatory damages under Title VI except for intentional discrimination. Of the five Justices who also voted to uphold disparate-impact

Alexander v. Sandoval, 532 U.S. 275, 290 (2001)

Preemption

120 S.Ct. 1913
Supreme Court of the United States

Alexis GEIER, et al., Petitioners
v.
AMERICAN HONDA MOTOR
COMPANY, INC., et al.

No. 98-1811
|
Argued Dec. 7, 1999.
|
Decided May 22, 2000.

Synopsis

Injured motorist brought defective design automobile manufacturer under District of Columbia law, contending that manufacturer was negligent to equip automobile with driver's side airbags. States District Court for the District of Columbia. B. Bryant, J., entered summary judgment for manufacturer. Motorist appealed. The District Court of Appeals, Rogers, Circuit Judge, affirmed. Certiorari was granted. The Supreme Court Justice Breyer, held that: (1) action was not preempted by express preemption provision of National Motor Vehicle Safety Act; but (2) Act's did not foreclose or limit operation of ordinary tort principles; and (3) action was preempted since it actually conflicted with Department of Transportation standard requiring manufacturers to place driver's side airbags in some but not all 1987 automobiles, abrogating *Drattel v. Toyota Motor Corp.*; *Minton v. Honda of America Mfg., Inc.*; *Munroe v. Galati*; *Wilson v. Pleasant*; *Tebbetts v. Ford Motor Co.*

Affirmed.

Justice Stevens dissented and filed opinion in which Justices Souter, Thomas, and Ginsburg joined.

Procedural Posture(s): On Appeal; Motion for Summary Judgment.

****1914 Syllabus****

* The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions

would it apply? This Court, when describing conflict preemption, has spoken of pre-empting state law that “under the circumstances of th[e] particular case ... stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress”—whether that “obstacle” goes by the name of “conflicting; contrary to; ... repugnance; difference; irreconcilability; inconsistency; violation; curtailment; ... interference,” or the like. *Hines v. Davidowitz*, 312 U.S. 52,

federal safety standard “does not exempt any person from any liability under common law.” § 1397(k), requires that the pre-emption provision be read narrowly to pre-empt only state statutes and regulations. The saving clause assumes that there are a significant number of common-law liability cases to save. And reading the express pre-emption provision to exclude common-law tort actions gives actual meaning to the saving clause's literal language, while leaving adequate room for state tort law to operate where, for example, federal law creates only a minimum safety standard. P. 1918.

(b) However, the saving clause does *not* bar the ordinary working of conflict pre-emption principles. Nothing in that clause suggests an intent to save state tort actions that conflict with federal regulations. The words “[c]ompliance” and “does not exempt” sound as if they simply *862 bar a defense that compliance with a federal standard automatically exempts a defendant from state law, whether the Federal Government meant that standard to be an absolute, or a

Geier v. Am. Honda Motor Co., 529 U.S. 861, 873 (2000)

Statutory Bar: No Surprises Act

Congress may have judged it better to have an administrative enforcement mechanism handle most award disputes instead of throwing open the floodgates of litigation. Understandably, Providers would prefer a different mechanism for resolving provider-insurer disputes. But the wisdom of Congress's policy choice is beyond our judicial ken.⁷

Guardian Flight, L.L.C. v. Health Care Serv. Corp., 140 F.4th 271, 277 (5th Cir. 2025), cert. denied, No. 25-441, 2026 WL 79855 (U.S. Jan. 12, 2026) (“*Guardian Flight I*”).

Guardian Flight, L.L.C. v. Health Care Service Corporation, 140 F.4th 271 (2025)

140 F.4th 271
United States Court of Appeals, Fifth Circuit.

GUARDIAN FLIGHT, L.L.C.; Med-
Trans Corporation, Plaintiffs—Appellants,
v.
HEALTH CARE SERVICE

Appeal from the United States District Court for the Northern District of Texas, USDC No. 3:23-CV-1861, Jane J. Boyle, U.S. District Judge

Attorneys and Law Firms

Charlotte Taylor, Esq. (argued), Jones Day, Washington, DC, Alexa Baltes, Jones Day, Chicago, IL, Adam T. Schramek, Norton Rose Fulbright US, L.L.P., Austin, TX, for Plaintiffs

and A. Cardozo, Esq. (argued), Reed Smith, L.L.P., San Francisco, CA, Martin J. Bishop, Jason Mayer, Reed Smith, Chicago, IL, for Defendant—Appellee.

Edward Tyssse, Esq., Akin Gump Strauss Hauer & Feld, Washington, DC, for Amici Curiae American Hospital Association, American Medical Association, Federation of American Hospitals, and Texas Medical Association.

Benjamin Soter (argued), U.S. Department of Justice, Division, Appellate Section, Washington, DC, Joshua Salzman, U.S. Department of Justice, Civil Division, Washington, DC, for Amicus Curiae United States of America.

Hunt, Deutsch Hunt, P.L.L.C., Washington, DC, for Amici Curiae America's Health Insurance Plans.

Smith, Clement, and Duncan, Circuit Judges.

in

Kyle Duncan, Circuit Judge:

Appellants Guardian Flight, LLC, and Med-Trans Corporation, two air ambulance providers (“Providers”), appeal the dismissal of their complaint against Appellee Health Care Service Corporation (“HCSC”) for HCSC’s alleged failure to timely pay dispute resolution awards under the No Surprises Act (“NSA”). Because we agree with the district court that the NSA does not contain a private right of action, and because Providers have failed to allege facts sufficient to state a derivative claim under the Employee Retirement Income Security Act (“ERISA”) or for quantum meruit under Texas law, we affirm.

providers’ beneficiaries did not suffer concrete injury, and providers lacked standing to bring claims under ERISA as beneficiaries’ assignees; and

providers failed to plausibly allege that they provided direct benefit to insurer, as required to state claim for quantum meruit under Texas law.

Affirmed.

Procedural Posture(s): On Appeal; Motion to Dismiss for Lack of Standing; Motion to Dismiss for Failure to State a Claim.

The *Noerr-Pennington* Doctrine

“The NSA may designate IDR decisionmakers as ‘CIDREs’ rather than ‘arbitrators’ and uses the term ‘IDR’ rather than ‘arbitration,’ but the role of a CIDRE as a neutral decisionmaker making a binding judgment to resolve a dispute between two parties makes them **virtually indistinguishable from arbitrators and functionally akin to judges.** ...

The Fifth Circuit recently held that CIDREs operating under the NSA are entitled to arbitrator immunity. ... **Petitioners attempt to distinguish *Guardian Flight II*, arguing that case involved different questions under the NSA and at issue here is a ‘mass corruption of the IDR process’ where [IDRE] ProPeer is the ‘primary, if not the sole, cause’ of this lawsuit. However, these distinctions in allegations against the CIDRE do not disturb the reasoning behind the application of arbitrator immunity to CIDREs, which is that **they act as and ought to be treated as arbitrators.**”**

Avraham Plastic Surgery LLC v. Aetna, Inc., No. 25-CV-784 (OEM) (SDE), 2025 WL 3779084, at *4 (E.D.N.Y. Dec. 30, 2025) (citations omitted).

The Judicial-Proceedings Privilege

Communications in the due course of a judicial proceeding will not serve as the basis of a civil action for libel or slander, regardless of the negligence or malice with which they are made. *Reagan v. Guardian Life Insurance Co.*, 140 Tex. 105, 166 S.W.2d 909 (1942). This privilege extends to any statement made by the judge, jurors, counsel, parties or witnesses, and attaches to all aspects of the proceedings, including statements made in open court, pre-trial hearings, depositions, affidavits and any of the *917 pleadings or other papers in the case. W. Prosser, Handbook of the Law of

James v. Brown, 637 S.W.2d 914, 916 (Tex. 1982)

758

James v. Brown, 637 S.W.2d 914 (1982)

637 S.W.2d 914
Supreme Court of Texas.

Marguerite Frances JAMES, Petitioner,
v.
Raymond M. BROWN,

Mark White, Atty. Gen., Paul R. Gavia, Asst. Atty. Gen., Austin, Strasburger & Price, Bryan J. Maedgen and Patrick F. McGowan, Thompson & Knight, George Chapman and Christopher W. Byrd, Dallas, for respondents.

Opinion

PER CURIAM.

This opinion was written by Justice James G. Denton before his death on June 10, 1982 and is adopted as the opinion of the Court.

This is a suit for damages against three psychiatrists arising out of an involuntary hospitalization proceeding under the Mental Health Code. The trial court granted summary judgment for the doctors and the court of appeals affirmed. 629 S.W.2d 781. The judgment of the court of appeals is affirmed in part, and reversed and remanded in part.

On the application of her son and daughter, Marguerite Frances James was hospitalized for observation under the provisions of the Texas Mental Health Code. She was examined by Drs. Brown, Hall, and Rosenthal, all of whom filed reports with the probate court stating that Mrs. James was mentally ill and likely to cause injury to herself or others if not immediately restrained. In addition, Dr. Rosenthal wrote a letter to the children's attorney, who was preparing an application for temporary guardianship of Mrs. James' person and estate, in which he stated that Mrs. James was "not of sound mind and not competent to manage her financial affairs...."

Mrs. James obtained a writ of habeas corpus releasing her from the custody of the hospital and all proceedings against her were dismissed by agreement with the children. She then filed this damage action against the three psychiatrists, alleging libel, negligent misdiagnosis-medical malpractice, false imprisonment, and malicious prosecution. The court of appeals, in upholding the trial court's summary judgment for the doctors, held that publication of the doctors' opinions pursuant to the mental health and guardianship proceedings was privileged and that no damages could be recovered for the consequences of publication, even though the doctors' assessments might have been arrived at negligently.

Communications in the due course of a judicial proceeding will not serve as the basis of a civil action for libel or slander, regardless of the negligence or malice with which

joined.

Procedural Posture(s): On Appeal; Motion for Summary Judgment.

Attorneys and Law Firms

*916 Lyne & Klein, Erich F. Klein, Jr. and Ron Edmondson, Dallas, for petitioner.

The Judicial-Proceedings Privilege

In Texas, the absolute privilege is also extended to quasi-judicial proceedings and other limited instances in which the benefit of the communication to the general public outweighs the potential harm to an individual. *Bird v. W.C.W.*, 868 S.W.2d 767, 771 (Tex.1994); *see also Reagan v. Guardian Life Ins. Co.*, 140 Tex. 105, 166 S.W.2d 909, 913 (1942)

Shell Oil Co. v. Writt, 464 S.W.3d 650, 654–55 (Tex. 2015)

759

Shell Oil Company v. Writt, 464 S.W.3d 650 (2015)
165 Lab.Cas. P 61,592, 40 IER Cases 43, 58 Tex. Sup. Ct. J. 956

464 S.W.3d 650
Supreme Court of Texas.

SHELL OIL COMPANY and Shell
International, E & P, Inc., Petitioners,
v.
Robert WRITT, Respondent

Dubose, Alexander Dubose Jefferson & Townsend LLP, 1844
Harvard Street, Houston, TX, for Respondent Robert Writt.

James C. Ho, Gibson, Dunn & Crutcher LLP, 2100 McKinney
Avenue, Suite 1100, Dallas, TX, for Amicus Curiae Chamber
of Commerce of the United States of America.

Michael Mukasey, Debevoise & Plimpton LLP, 919 Third
Avenue, New York, NY, for Amicus Curiae Benjamin R.
Civiletti, Edwin Meese III, Richard L. Thornburgh, William
P. Barr, Alberto R. Gonzales and Michael B. Mukasey.

Opinion

JUSTICE JOHNSON delivered the opinion of the Court.

In this defamation action we consider whether the providing of a report regarding possible criminal activity to a government agency was an absolutely privileged communication or a conditionally privileged one.

Shell Oil Company and Shell International, E & P, Inc. (collectively, Shell) received an inquiry from the Department of Justice (DOJ) regarding possible violations of the Foreign Corrupt Practices Act by one of its contractors. Shell met with the DOJ, agreed to perform an internal investigation and report the results to the DOJ, and then did so. Robert Writt, who was employed by Shell until his employment was terminated following the investigation, sued Shell for wrongful termination and for defamation. Writt's defamation claim was based on Shell's furnishing the DOJ its report that contained allegedly defamatory statements about him. Shell asserted that it was absolutely privileged to provide the report to the DOJ and moved for summary judgment. The trial court granted Shell's motion; the court of appeals reversed.

We conclude that Shell's statements were made preliminarily to a proposed judicial proceeding and were absolutely privileged. Accordingly, we reverse the judgment of the court of appeals.

I. Background

In February 2007 a Shell contractor, Vetco Gray, entered into a plea agreement with the DOJ under which Vetco Gray was criminally convicted and fined \$26 million for violating the Foreign Corrupt Practices Act (FCPA). 15 U.S.C. §§ 78dd-1 to -2 (1998). Vetco Gray pled guilty to paying bribes to Nigerian customs officials through Panalpina, Inc.,

Procedural Posture(s): On Appeal; Motion for Summary Judgment.

*651 On Petition for review from the Court of Appeals for the First District of Texas, Jennings, Terry, Judge

Attorneys and Law Firms

Macey Reasoner Stokes, Michelle Stratton, Baker Botts LLP, 910 Louisiana Street, One Shell Plaza, Houston, TX, for Petitioners Shell Oil Company and Shell International, E & P, Inc.

Kenneth David Hughes, The Hughes Law Firm, 1001 Fannin Street, Suite 1925, First City Tower, 19th Floor, Robert B.

Article III Standing

Center for Biological Diversity v. United States Environmental..., 937 F.3d 533 (2019)

937 F.3d 533
United States Court of Appeals, Fifth Circuit

CENTER FOR BIOLOGICAL DIVERSITY; Gulf Restoration Network; Louisiana Bucket Brigade, Petitioners

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY; **Andrew Wheeler**, in his official capacity as Administrator of the United States Environmental Protection Agency; **Arden Idsal**, Region 6 Administrator, Respondents

No. 18-60102

1

FILED August 30, 2019

Synopsis

Background: Environmental organizations petitioned for review of an order of the Environmental Protection Agency (EPA) granting general permit for oil and gas operations discharging waste into federal waters, claiming violation of the Clean Water Act.

Holdings: The Court of Appeals, **Oldham**, Circuit affirmed that:

members failed to demonstrate injury in fact, as required for associational standing, but

even if one member demonstrated injury in fact, there was no indication of temporal nexus or adverse effect.

Petition dismissed.

Procedural Posture(s): Review of Administrative Decision.

***535** Petition for Review of an Order of the Environmental Protection Agency

Even if Petitioners could show injury, they could not meet another of Article III's standing requirements: traceability. Article III demands that there be “a causal connection between the injury and the conduct complained of—the injury has to be fairly traceable to the challenged action of the defendant, and not the result of the independent action of some third party not before the court.” *Lujan*, 504 U.S. at 560, 112 S.Ct. 2130 (quotation omitted). Thus, Petitioners must show a causal connection between EPA's allegedly unlawful conduct and their members’ asserted injuries.

oil and gas operations ***536** “located in and discharging to Federal waters ... in the Central to Western portions of the Gulf of Mexico.” The General Permit “establishes effluent limitations, prohibitions, reporting requirements, and other conditions on discharges.”

Three environmental organizations—the Center for Biological Diversity, the Gulf Restoration Network, and the Louisiana Bucket Brigade—petitioned this Court to review EPA's grant of the General Permit. They claim EPA violated federal law in three ways. First, they argue EPA violated the National Environmental Policy Act (“NEPA”) by failing to prepare an adequate Environmental Impact Statement (“EIS”). Second, they argue EPA violated the CWA by issuing the General Permit without adequate consideration of certain factors established by regulation. Third, they

Ctr. for Biological Diversity v. U.S. Env't Prot. Agency, 937 F.3d 533, 542 (5th Cir. 2019)

 **NORTON ROSE FULBRIGHT**

Blue Cross Blue Shield of Texas v. HaloMD, LLC, Alla LaRoque, and Scott LaRoque

Civil Action No. 5:25-CV-132-RWS

Rule 9(b) and Claim-Specific Arguments

Hearing on Defendants' Joint Motions to Dismiss
Pursuant to Rules 12(b)(1) and 12(b)(6) and
Related Request for Judicial Notice of Public
Documents (Dkt. No. 15)

Michael Swartzendruber
Geraldine Young
March 10, 2026

Norton Rose Fulbright US LLP



HALO**MD**

Plaintiff's Failures to Plead Each Claim

- Failure to satisfy Rules 9(b) and 12(b)(6)—particularly against the individual defendants
- Failure to plead each claim:
 - Reliance for Fraud, Negligent Misrepresentation, and Fraudulent Inducement
 - RICO wire fraud, standing (injury and causation), and enterprises
 - Equitable Claims or Relief: Money Had and Received and Declaratory and Injunctive Relief

Failure to satisfy Rules 9(b) and 12(b)(6)—
particularly against the **individual defendants**

“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) (quoting *Escrude Cruz v. Ortho Pharmaceutical Corp.*, 619 F.2d 902, 907 (1st Cir.1980)).

“Plaintiffs claim that Dehart and Hodnett were ‘the masterminds and facilitators of all wrongful conduct alleged in the Amended Complaint.’ However, Plaintiffs do not allege that Dehart or Hodnett personally undertook any actions that would expose them to officer or director liability. Plaintiffs have alleged that these two individuals were the ‘guiding spirit’ of the alleged conspiracy, but they have not alleged any facts regarding their personal participation. Accordingly, Plaintiffs have given the Court no reason for them to remain defendants in this case.”

MVConnect, LLC v. Recovery Database Network, Inc., No. 3:10-CV-1948, 2011 WL 13128799, at *10 (N.D. Tex. May 27, 2011) (citations omitted).

Allegations against the Individual Defendants

Case 5:25-cv-00132 Document 3 Filed 08/28/25 Page 1 of 85 PageID #: 92

BLU
DIV
COR
RES

91. First, as set forth above, Scott and Alla LaRoque created the MPowerHealth affiliates and established relationships with other out-of-network providers.

Plaintiff,

COMPLAINT

vs.

HAL
LAR

a mu
LLC
follo

inten
and p

1264
they
prov

network reimbursement for certain services. Specifically, both the NSA and SB 1264 established

284. Scott LaRoque developed a web of out-of-network neuromonitoring providers affiliated with MPowerHealth—which was essential to getting HaloMD the volume needed for the HaloMD Enterprise’s scheme to significantly scale its claims submissions.

285. Alla LaRoque funded, founded, and created HaloMD, which was essential to the submission of fraudulent attestations, inaccurate information, and ineligible submissions into the Federal and Texas IDR Processes.

Conclusory Recitations against the Individual Defendants

Case 5:25-cv-00132 Document 3 Filed 08/28/25 Page 1 of 85 PageID #: 92

BLUE CR
DIVISION
CORPOR
RESERV

220. These misrepresentations were made at the direction of Scott LaRoque and Alla LaRoque and a result of their strategy, plan, and scheme.

vs.
HALOMD
LAROU

221. At the direction of Scott and Alla LaRoque, HaloMD made these misrepresentations directly to BCBSTX, the federal government (HHS, the Department of Labor, and the Department of the Treasury), the Texas Department of Insurance, arbitrators, and IDREs.

Pl
a mutual

LLC ("HaloMD"), Alla LaRoque, and Scott LaRoque (collectively, "Defendants") and alleges as follows:

1.
intended t
and provid
2.
1264 ("SB
they inad
provide a

290. Alla and Scott LaRoque cause the HaloMD Enterprise to submit false statements to governmental entities, the entities overseeing the Federal and Texas IDR Processes, and to health plans (such as BCBSTX) to make a service, item, or claim appear eligible (when it is not).

network reimbursement for certain services. Specifically, both the NSA and SB 1264 established

Allegations against the Individual Defendants

Case 5:25-cv-00132 Document 3 Filed 08/28/25 Page 1 of 85 PageID #: 92	
[REDACTED]	
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	Case No. _____
HALO LARO	211. Upon information and belief, the TDI has also had direct conversations with HaloMD regarding the submission of ineligible claims. Specifically, upon information and belief, TDI met with HaloMD staff, supervisors, the COO, and even Alla LaRoque herself about HaloMD's practice of submitting huge volumes of ineligible claims to the Texas IDR process.
a mutu LLC (" follows	
1. This case arises from the Defendants' abuse of federal and state legislation that was intended to shield patients from unexpected medical bills, reduce the overall cost of healthcare, and provide a fair process for determining <i>reasonable</i> out-of-network reimbursement to providers.	
2. The federal No Surprises Act ("NSA") and its Texas analogue, Texas Senate Bill 1264 ("SB 1264"), were enacted to protect patients from receiving surprise medical bills when they inadvertently receive care from out-of-network providers. The statutes were also intended to provide a less-costly means to resolve disputes between providers and health plans over out-of- network reimbursement for certain services. Specifically, both the NSA and SB 1264 established	
- 1 -	

Complaint (ECF No. 3)

Failure to satisfy Rule 9(b) as to all defendants

“Plaintiffs’ allegations, however, fall short of providing the ‘newspaper’ details regarding the communications and payments between Defendants. ... For example, Plaintiffs’ Complaint does not explain when the fraudulent communications were made and between whom these communications were made. ...”

Torrey v. Infectious Diseases Soc’y of Am., No. 5:17-CV-00190-RWS, 2018 WL 10124894, at *14 (E.D. Tex. Sept. 27, 2018).

“Contrary to the district court’s ruling, Allstate sufficiently alleged ‘who, what, when, where, and how’ in outlining Defendants’ alleged fraudulent scheme. Indeed, Allstate’s complaint included a detailed appendix listing the specifics of each allegedly fraudulent billing. Accordingly, Allstate met its Rule 9(b) pleading burden.”

Allstate Indem. Co. v. Bhagat, 164 F.4th 426, 434 (5th Cir. 2026) (citations omitted).

Seven “examples” vs. “over 42,000” alleged

Case 5:25-cv-00132 Document 3 Filed 08/28/25 Page 1 of 85 PageID #: 92

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

BLUE CROSS BL
DIVISION OF HE
CORPORATION,
RESERVE COMP

vs.

HALOMD, LLC, A
LAROQUE

Plaintiff Bl
a mutual legal rese

LLC (“HaloMD”), Alla LaRoque, and Scott LaRoque (collectively, “Defendants”) and alleges as follows:

INTRODUCTION

1. This case arises from the Defendants’ abuse of federal and state legislation that was intended to shield patients from unexpected medical bills, reduce the overall cost of healthcare, and provide a fair process for determining *reasonable* out-of-network reimbursement to providers.

2. The federal No Surprises Act (“NSA”) and its Texas analogue, Texas Senate Bill 1264 (“SB 1264”), were enacted to protect patients from receiving surprise medical bills when they inadvertently receive care from out-of-network providers. The statutes were also intended to provide a less-costly means to resolve disputes between providers and health plans over out-of-network reimbursement for certain services. Specifically, both the NSA and SB 1264 established

152. The foregoing are examples of the many thousands of ineligible claims that HaloMD submitted into the Federal IDR Process.

153. BCBSTX estimates that, to date, HaloMD has procured awards on over 42,000 ineligible claims from BCBSTX.

- 1 -

Complaint (ECF No. 3)

No fair notice, where IDR eligibility determinations are complex

CMS Newsroom

Fact Sheets Oct 27, 2023

No Surprises Act Resolutions: IDR Eligibility

[Affordability](#)

Share

In the Federal Register released by the Treasury Department, certain non-emergency providers' "provider" under the

The proposal of the Federal interest improved adjust sp batching provisions, create more efficiencies, and change the administrative fee structure to improve accessibility of the process. It is the Departments' intention that together, these proposals would result in improved operations of the Federal IDR process and more timely payment determinations.

Early Communication Between Payers and Providers

An early and critical exchange of information between disputing parties occurs when a payer, in response to a submitted claim that may be subject to the NSA,

IDR Eligibility

Eligibility determinations have proven to be complex, time-consuming, resource-intensive, and often uncompensated activities that impede timely payment determinations. The Departments are of the view that the primary cause of delays in processing disputes has been the complexity of determining whether disputes are eligible for the Federal IDR process. The No Surprises Act does not specify a timeframe in which eligibility for the Federal IDR process should be completed.

Exhibit 9, page 5 of Defendants' Motions to Dismiss (ECF No. 15-11)

No fair notice, where even alleged ineligible is fraction of total IDR claims

Case 5:25-cv-00132 Document 3 Filed 08/28/25 Page 1 of 85 PageID #: 92

153. BCBSTX estimates that, to date, HaloMD has procured awards on over 42,000 ineligible claims from BCBSTX.

BLUE DIVISION CORPORATION, A MUTUAL LEGAL RESERVE COMPANY
Plaintiff,

Case No. COMPLAINT

HALO LAROC

88. Since September of 2022, HaloMD has initiated nearly 112,000 Federal IDR disputes and 12,000 Texas IDR disputes as to BCBSTX.

a mutual legal reserve company ("BCBSTX"), brings this Complaint against Defendants HaloMD, LLC ("HaloMD"), Alla LaRoque, and Scott LaRoque (collectively, "Defendants") and alleges as follows:

204. Of the 1,851 disputes HaloMD submitted over Thanksgiving in 2024, nearly 20% were ineligible, while of the 3,411 disputes filed just before Christmas in 2024, over 10% were ineligible.

intende
and pro
1264 (C
they in
provide a less costly means to resolve disputes between providers and health plans over out-of-network reimbursement for certain services. Specifically, both the NSA and SB 1264 established

- 1 -

Complaint (ECF No. 3)

Failure to state **reliance** for Fraud,
Negligent Misrepresentation, and
Fraudulent Inducement claims

“To prevail on its fraud claim, [Plaintiff] must prove that: ... [Plaintiff] **actually and justifiably relied** upon the representation and thereby suffered injury.”

Ernst & Young, L.L.P. v. Pac. Mut. Life Ins. Co., 51 S.W.3d 573, 577 (Tex. 2001).

BCBSTX's alleged "reliance" "forced by statute"

Case 5:25-cv-00132 Document 3 Filed 08/28/25 Page 1 of 85 PageID #: 92

228. As for the misrepresentations made to the entities and individuals overseeing the Federal and Texas IDR Processes, the federal government (HHS, the Department of Labor, and the Department of the Treasury), the Texas Department of Insurance, arbitrators, and IDREs 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. 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.

network reimbursement for certain services. Specifically, both the NSA and SB 1264 established

- 1 -

Complaint (ECF No. 3)

BCBSTX is not “forced by statute” to “rely”

IDR Guidance for Disputing Parties

5.5 Instances When the Non-Initiating Party Believes the Federal IDR Process Does Not Apply

 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 as part of the certified IDR entity selection process. This information must be provided not later than **1 business day** after the end of the 3-business-day period for certified IDR entity selection (the same date that the notice of selection or of failure to select a certified IDR entity must be submitted). This notification must include information regarding the Federal IDR Process' inapplicability.

The certified IDR entity must determine whether the Federal IDR Process is applicable. The certified IDR entity must review the information submitted in the **Notice of IDR Initiation** and the notification from the non-initiating party claiming the Federal IDR Process is inapplicable, if one has been submitted, to determine whether the Federal IDR Process applies. If the Federal IDR Process does not apply, the certified IDR entity must notify the Departments and the parties within 3 business days of making that determination. While the matter is under review by the certified IDR entity, the timelines of the Federal IDR Process continue to apply, so the parties should continue to meet deadlines to the extent possible, as described in Section 9. Further, the Departments will maintain oversight of the applicability of the Federal IDR Process through their audit authority.

This guidance document is effective upon publication and applies to cases and guidance for items and services furnished before October 21, 2022 (in the individual market, policy years beginning on or after January 1, 2023; in the group market, policy years beginning on or after January 1, 2023; and for out-of-network provider subject to the Requirements for Surprise Billing, 45 CFR 1413.104, and Requirements Related to Surprise Billing, 45 CFR 1413.105, items and services furnished before October 21, 2022 (policy years) beginning on or after January 1, 2023) issued on October 7, 2022 and updated December 1, 2022. Please visit www.cms.gov/inosurprises for the Federal IDR Process.

This communication was printed, published, or otherwise made available to the public.

1

Exhibit 3, page 17 of Defendants' Motions to Dismiss (ECF No. 15-5)

BCBSTX knows and has opportunity to object

Case 5:25-cv-00132 Document 3 Filed 08/28/25 Page 1 of 85 PageID #: 92

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

110. As part of its submission in the formal Federal IDR Process, BCBSTX explained to the IDRE that the applicable health benefits plan was “Fully Insured” and therefore “the No Surprises Act IDR Process is not applicable”:

Objection to the following items or services. State specified law applies to this item or service. As a result, the No Surprises Act IDR Process is not applicable for the following claims. Specific citation for the state law applicable to this item or service is Tex. Ins. Code 14677.001 et seq.(1467.051, 1467.082). [REDACTED], TX, Funding Type: Fully Insured

2. The federal No Surprises Act (“NSA”) and its Texas analogue, Texas Senate Bill 1264 (“SB 1264”), were enacted to protect patients from receiving surprise medical bills when they inadvertently receive care from out-of-network providers. The statutes were also intended to provide a less-costly means to resolve disputes between providers and health plans over out-of-network reimbursement for certain services. Specifically, both the NSA and SB 1264 established

Complaint (ECF No. 3); *see also* ¶¶ 123, 147.

TDI determines eligibility based on information from health plans

Case 5:25-cv-00132 Document 3 Filed 08/28/25 Page 1 of 85 PageID #: 92

UNI
E.

BLUE CROSS BLUE SHIELD
DIVISION OF HEALTH CARE
CORPORATION, A MUTUAL
RESERVE COMPANY

P

vs.

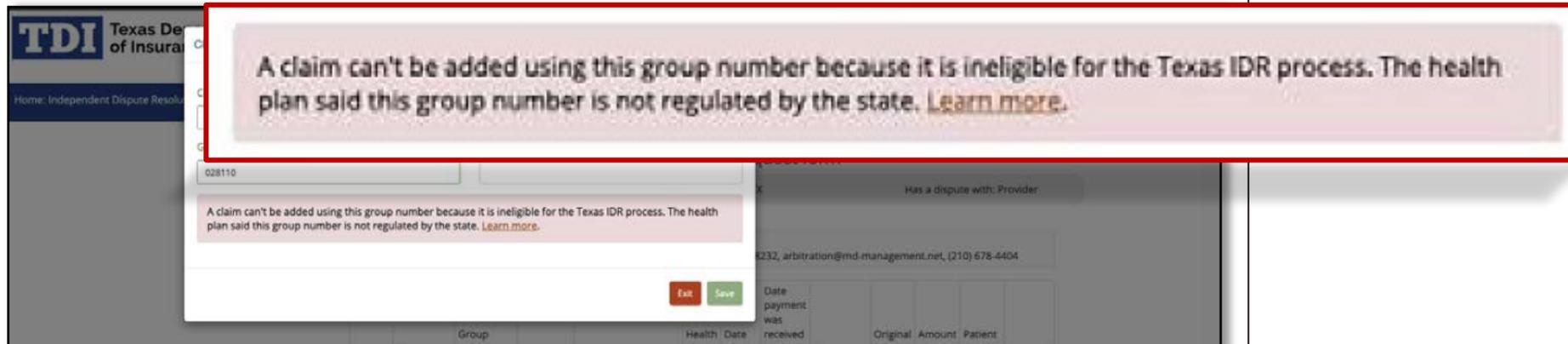
HALOMD, LLC, ALLA LARO
LAROQUE

D

Plaintiff Blue Cross Blue
a mutual legal reserve company
LLC (“HaloMD”), Alla LaRoque
follows:

1. This case arises from a lawsuit
intended to shield patients from
and provide a fair process for de
2. The federal No S
1264 (“SB 1264”), were enacted
they inadvertently receive care f
provide a less-costly means to resolve disputes between providers and health plans over out-of-
network reimbursement for certain services. Specifically, both the NSA and SB 1264 established

209. For example, TDI modified its portal for the submission of Texas IDRs to require the entry of the impacted benefit plan’s group number. TDI maintains a list of group numbers where TDI already knows the groups are ineligible for the Texas IDR Process. Entering one of these group numbers in the portal in an attempt to initiate a Texas IDR stops the Process and returns the following message that the claim is ineligible:



TDI determines eligibility

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.”).

BCBSTX’s Opposition to Motions to Dismiss (ECF No. 21 at 16)

Neither timing nor batching is fraudulent or illegal

Case 5:25-cv-00132 Document 3 Filed 08/28/25 Page 1 of 85 PageID #: 92

BLUE CROSS
DIVISION
CORPORATION
RESERVE

vs.

HALOMD, LLC, ALLA LAROQUE, and SCOTT
LAROQUE

Defendants.

Pl.

a mutual l

LLC ("Ha

follows:

1.

intended t

and provid

2.

1264 ("SE

they inad

provide a

network reimbursement for certain services. Specifically, both the NSA and SB 1264 established

248. HalomD bulk batches the submission of claims for the Federal and Texas IDR Processes to limit BCBSTX's ability to contest eligibility of the ineligible claims that it is initiating disputes on.

251. BCBSTX reasonably and justifiably relied upon HalomD's misrepresentations.

BCBSTX is unable to contest eligibility on all of the Federal and Texas IDR Processes initiated by HalomD because, in part, of the "delay and dump" tactics discussed herein. 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.

Complaint (ECF No. 3)

The NSA regulations permit batching

(3) Treatment of batched items and services—

(i) In general. Batched items and services may be submitted and considered jointly as part of one payment determination by a certified IDR entity only if the batched items and services meet the requirements of this paragraph (c)(3)(i). Batched items and services submitted and considered jointly as part of one payment determination under this paragraph (c)(3)(i) are treated as a batched determination and subject to the fee for batched determinations under this section.

Batching

The NSA and its implementing regulations give initiating parties the ability to include multiple items or services as separate payment determinations in a single dispute (referred to as a “batched dispute”) to improve efficiency and minimize costs for disputing parties. Generally, parties realize these efficiencies when the services being disputed are similar or the information that disputing parties submit about those services is similar. Many interested parties have suggested that the Departments should allow for more flexibility in the requirements for which items and services can be batched into a single dispute.

45 C.F.R. § 149.510(c)(3)

Exhibit 9, page 4 of Defendants’
Motions to Dismiss (ECF No. 15-11)

The NSA regulations dictate IDR timing

(b) Determination of payment amount through open negotiation and initiation of the Federal IDR process—

(1) Determination of payment amount through open negotiation—

(i) In general. With respect to an item or service that meets the requirements of paragraph (a)(2)(xii)(A) of this section, the provider, facility, or provider of air ambulance services or the group health plan or health insurance issuer offering group or individual health insurance coverage may, during the 30-business-day period beginning on the day the provider, facility, or provider of air ambulance services receives an initial payment or notice of denial of payment regarding the item or service, initiate an open negotiation period for purposes of determining the out-of-network rate for such item or service. To initiate the open negotiation period, a party must send a notice to the other party (open negotiation notice) in accordance with paragraph (b)(1)(ii) of this section.

(2) Initiating the Federal IDR process—

(i) In general. With respect to an item or service for which the parties do not agree upon an out-of-network rate by the last day of the open negotiation period under paragraph (b)(1) of this section, either party may initiate the Federal IDR process. To initiate the Federal IDR process, a party must submit a written notice of IDR initiation to the other party and to the Secretary, using the standard form developed by the Secretary, during the 4-business-day period beginning on the 31st business day after the start of the open negotiation period.

Texas law dictates Texas IDR timing

Case 5:25-cv-00132 Document 3 Filed 08/28/25 Page 1 of 85 PageID #: 92

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

56. TDI oversees this mandatory binding arbitration process, which involves a baseball style arbitration that generally works as follows:

- a. Not later than 90 days after receiving the initial payment on a claim for services subject to SB 1264, an out-of-network provider can request arbitration via the TDI's online IDR portal;
- b. Within 30 days of a request for arbitration, all parties must "participate in an informal settlement teleconference";

1264 (SB 1264), were enacted to protect patients from receiving surprise medical bills when they inadvertently receive care from out-of-network providers. The statutes were also intended to provide a less-costly means to resolve disputes between providers and health plans over out-of-network reimbursement for certain services. Specifically, both the NSA and SB 1264 established

- 1 -

Complaint (ECF No. 3)

Failure to state **Fraudulent Inducement** claim

“Without a **binding agreement**, there is no detrimental reliance, and thus **no fraudulent inducement claim**. That is, when a party has not incurred a **contractual obligation**, it has not been induced to do anything.”

Haase v. Glazner, 62 S.W.3d 795, 798 (Tex. 2001).

Sole conclusory allegations

Case 5:25-cv-00132 Document 3 Filed 08/28/25 Page 1 of 85 PageID #: 92

BLUE CROSS
DIVISION
CORPORATION
RESERVE

266. This further induced BCBSTX to settle with HaloMD on certain ineligible claims submitted into the Federal and Texas IDR Processes.

vs
HALO MD
LAROQUE

267. But for HaloMD's misrepresentations, made at Alla and Scott LaRoque's direction, BCBSTX would not have been fraudulently induced to take these acts. Indeed, there would be no ineligible Federal or Texas IDRs initiated but for HaloMD's misrepresentations.

Plaintiff
a mutual
LLC ("HaloMD")
follows:

268. Moreover, 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.

1.
intended
and provided
2.
1264 ("SB 1264")

they inadvertently receive care from out-of-network providers. The statutes were also intended to provide a less-costly means to resolve disputes between providers and health plans over out-of-network reimbursement for certain services. Specifically, both the NSA and SB 1264 established

Failure to state **RICO** claim elements of wire fraud, standing, and enterprise

“Only in *Feld* did the court allow litigation activity to sustain a civil-RICO action, but in that case the litigation activity included bribery of parties and witnesses. ... In the absence of corruption, we agree with our sister circuit that prosecuting litigation activities as federal crimes would undermine the policies of access and finality that animate our legal system. Moreover, allowing such charges would arguably turn many state-law actions for malicious prosecutions into federal RICO actions.”

Snow Ingredients, Inc. v. SnoWizard, Inc., 833 F.3d 512, 525 (5th Cir. 2016) (quoting *United States v. Pendergraft*, 297 F.3d 1198, 1208 (11th Cir. 2002)).

“A RICO civil suit is not a vehicle to challenge non-frivolous litigation, or in this case, a valid and final foreign arbitral award.”

Republic of Kazakhstan v. Stati, 380 F. Supp. 3d 55, 57 (D.D.C. 2019), *aff'd sub nom. Republic of Kazakhstan, Ministry of Just. v. Stati*, 801 F. App'x 780 (D.C. Cir. 2020).

5th Circuit: IDREs are “like judges and arbitrators”

Like judges and arbitrators, CIDREs are neutral arbiters of payment disputes with no stake in the underlying controversy. They receive competing offers for payment, consider information supporting the offers, and then choose one of the offers, which is binding on the providers and insurers. 42 U.S.C. § 300gg-112(b)(4), (b)(5). CIDREs, in sum, function more or less exactly like arbitrators.

Guardian Flight, L.L.C. v. Med. Evaluators of Tex. ASO, L.L.C., 140 F.4th 613, 623 (5th Cir. 2025) (“*Guardian Flight IP*”)

Guardian Flight, L.L.C. v. Medical Evaluators of Texas ASO, L.L.C., 140 F.4th 613 (2025)

140 F.4th 613
United States Court of Appeals, Fifth Circuit.

GUARDIAN FLIGHT,
L.L.C., Plaintiff—Appellee,
v.
MEDICAL EVALUATORS OF TEXAS
ASO, L.L.C., Defendant—Appellant,
Guardian Flight, L.L.C.; Reach Air Medical
Services, L.L.C.; Calstar Air Medical

alleged failure in explaining how insurers calculated QPA did not establish bad faith;

provider failed to state fraud claim with sufficient particularity;

speculative allegations were insufficient to satisfy rule requiring pleading fraud with particularity; and

CIDRE was a quasi-judicial entity that functioned like an arbitrator, and thus CIDRE was entitled to arbitral immunity from suit normally enjoyed by arbitrators.

med in part, reversed in part, and remanded with instructions.

Procedural Posture(s): On Appeal; Motion to Dismiss for Failure to State a Claim; Motion to Dismiss.

Appeal from the United States District Court for the Southern District of Texas, USDC Nos. 4:22-CV-3805, 4:22-CV-3805, 4:22-CV-3979, [Alfred H. Bennett](#), U.S. District Judge

Attorneys and Law Firms

[Charlotte Taylor](#), Esq. (argued), Jones Day, Washington, DC; [Alexa Baltes](#), Jones Day, Chicago, IL; [Dewey Jude Soulin, III](#), Norton Rose Fulbright US, L.L.P., Houston, TX; [Adam T. Schramek](#), Norton Rose Fulbright US, L.L.P., Houston, TX, for Plaintiff—Appellee in No. 24-20051.

[Stephen Leo Lanza](#), Attorney (argued), Vethan Law Firm, P.C., Houston, TX, for Defendant—Appellant in No. 24-20051.

[Charlotte Taylor](#), Esq. (argued), Jones Day, Washington, DC; [Alexa Baltes](#), Jones Day, Chicago, IL; [Adam T. Schramek](#), Norton Rose Fulbright US, L.L.P., Austin, TX, for Plaintiffs—Appellants in No. 24-20204.

failure to state a claim, but denied CIDRE’s motion to dismiss which was based on arbitral immunity. Provider and CIDRE cross-appealed.

Holdings: The Court of Appeals, Duncan, Circuit Judge, held that:

the court would interpret “fraud or undue means” to have the same meaning in the NSA as in the Federal Arbitration Act (FAA);

[John Bruce Shely](#), Esq., [David Watson Hughes](#), [Mary Katherine Strahan](#), Esq. (argued), Hicks Thomas, L.L.P., Houston, TX, for Defendant—Appellee Aetna Health, Incorporated in No. 24-20204.

[Mohammad Keshavarzi](#) (argued), Sheppard Mullin Richter & Hampton, L.L.P., Los Angeles, CA; [John Burns](#), [Matthew G. Halgren](#), [Megan Kathleen McKisson](#), Sheppard Mullin Richter & Hampton, L.L.P., San Diego, CA, for Defendant—Appellee Kaiser Foundation Health Plan, Incorporated in No. 24-20204.

IDREs are “functionally akin to judges” and “indistinguishable from arbitrators”

“The NSA may designate IDR decisionmakers as ‘CIDREs’ rather than ‘arbitrators’ and uses the term ‘IDR’ rather than ‘arbitration,’ but the role of a CIDRE as a neutral decisionmaker making a binding judgment to resolve a dispute between two parties makes them **virtually indistinguishable from arbitrators and functionally akin to judges.** ...

The Fifth Circuit recently held that CIDREs operating under the NSA are entitled to arbitrator immunity. ... **Petitioners attempt to distinguish *Guardian Flight II*, arguing that case involved different questions under the NSA and at issue here is a ‘mass corruption of the IDR process’ where [IDRE] ProPeer is the ‘primary, if not the sole, cause’ of this lawsuit. However, these distinctions in allegations against the CIDRE do not disturb the reasoning behind the application of arbitrator immunity to CIDREs, which is that **they act as and ought to be treated as arbitrators.**”**

Avraham Plastic Surgery LLC v. Aetna, Inc., No. 25-CV-784 (OEM) (SDE), 2025 WL 3779084, at *4 (E.D.N.Y. Dec. 30, 2025) (citations omitted).

Failure to state RICO standing

“The Fifth Circuit has also noted that although reliance upon the defendants’ representations is not an element of statutory mail or wire fraud, it is required when violations of those statutes are alleged as RICO predicates.”

Torrey v. Infectious Diseases Soc'y of Am., No. 5:17-CV-00190-RWS, 2018 WL 10124894, at *14 (E.D. Tex. Sept. 27, 2018) (citing *In re MasterCard*, 313 F.3d 257, 263 (5th Cir. 2002)).

Failure to state RICO standing

Case 5:25-cv-00132 Document 3 Filed 08/28/25 Page 1 of 85 PageID #: 92

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

RICO Injury

302. As a direct and proximate result of these racketeering activities and violations of 18 U.S.C. § 1343, and under 18 U.S.C. § 1964(c), BCBSTX has been injured in its business and property by paying tens of millions in ineligible awards for services, items, and/or claims that were not legitimately eligible for Federal or Texas IDR Processes, but were submitted to the respective Process because of the racketeering acts Alla and Scott LaRoque used the HaloMD Enterprise to commit.

1264 ("SB 1264"), were enacted to protect patients from receiving surprise medical bills when they inadvertently receive care from out-of-network providers. The statutes were also intended to provide a less-costly means to resolve disputes between providers and health plans over out-of-network reimbursement for certain services. Specifically, both the NSA and SB 1264 established

Failure to state RICO enterprises

“The RICO person in a civil or criminal RICO action is the defendant. ... this Court has held that **the RICO person and the RICO enterprise must be distinct** a RICO person cannot employ or associate with himself under this subsection.”

Crowe v. Henry, 43 F.3d 198, 204 (5th Cir. 1995).

“The predicate acts committed by the Winchester defendants, such as mailing false production reports, were committed by agents and officers of Winchester **in the ordinary course of business**. ... Company officers and employees **not associated other than through the activities of the company do not constitute an enterprise** for purposes of § 1962(c).”

Whelan v. Winchester Prod. Co., 319 F.3d 225, 230 (5th Cir. 2003).

“Despite the wide variety of approaches adopted by courts in interpreting the requirements of RICO, there has been a remarkable uniformity in their conclusion that RICO liability must be predicated on a relationship **more substantial than a routine contract between a service provider and its client**.”

Gomez v. Guthy-Renker, LLC, No. EDCV1401425JGBKKX, 2015 WL 4270042, at *11 (C.D. Cal. July 13, 2015).

Failure to state “HaloMD Enterprise”

Case 5:25-cv-00132 Document 3 Filed 08/28/25 Page 1 of 85 PageID #: 92

██████████

BLUE CROSS BL
DIVISION OF HE
CORPORATION,
RESERVE COMP

vs.

HALOMD, LLC, A
LAROQUE

Plaintiff Bl
a mutual legal reser
LLC (“HaloMD”),
follows:

1. This
intended to shield
and provide a fair p

2. The
1264 (“SB 1264”).
they inadvertently
provide a less-cost

network reimbursement for certain services. Specifically, both the NSA and SB 1264 established

COUNT V
VIOLATION OF RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
ACT (“RICO”) – HaloMD Enterprise
(Against Defendants Alla LaRoque and Scott LaRoque)

275. BCBSTX incorporates by reference as if fully set forth herein the allegations in the preceding paragraphs.

276. Alla LaRoque and Scott LaRoque violated 18 U.S.C. § 1962(c) because they are associated with the HaloMD Enterprise, which engaged in and affected interstate commerce, and Alla LaRoque and Scott LaRoque conducted or participated, directly or indirectly, in the conduct of the HaloMD Enterprise’s affairs through a pattern of racketeering activities, *e.g.*, violations of 18 U.S.C. § 1343 (Wire Fraud).

- 1 -

Complaint (ECF No. 3)

Failure to state “OON Provider Enterprise”

Case 5:25-cv-00132 Document 3 Filed 08/28/25 Page 1 of 85 PageID #: 92

U

BLUE CROSS BLUE SHIELD
DIVISION OF HEALTH CARE
CORPORATION, A MUTUAL
RESERVE COMPANY

vs.

HALOMD, LLC, ALLA LAROCHE
LAROQUE

Plaintiff Blue Cross BCBSTX
a mutual legal reserve company
LLC (“HaloMD”), Alla LaRoque
follows:

1. This case arises from BCBSTX’s
intended to shield patients from
and provide a fair process for

2. The federal No. 1264 (“SB 1264”), were enacted
they inadvertently receive care
provide a less-costly means to
network reimbursement for care

COUNT VI
VIOLATION OF RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
ACT (“RICO”) – Out-of-Network Provider Enterprise
(Against All Defendants)²⁸

304. BCBSTX incorporates by reference as if fully set forth herein the allegations in the preceding paragraphs.

305. Alla LaRoque, Scott LaRoque, HaloMD, and the out-of-network providers (“OON Providers”) that contracted with HaloMD supplied data regarding (both eligible and ineligible) services, items, and/or claims for HaloMD to submit to the Federal and Texas IDR Processes and formed an associated-in-fact enterprise (hereinafter, the “Out of Network Provider Enterprise,” or “OON Enterprise”), which engaged in and affected interstate commerce. In doing so, Alla LaRoque, Scott LaRoque, and HaloMD violated 18 U.S.C. § 1962(c) because they conducted or participated, directly or indirectly, in the conduct of the OON Enterprise’s affairs through a pattern of racketeering activities, e.g., violations of 18 U.S.C. § 1343 (Wire Fraud).

- 1 -

Complaint (ECF No. 3)

Failure to state **equitable** claims and relief

“A claim for money had and received is equitable in nature. ... It has long been the law, however, that ‘where an adequate and complete remedy at law is provided, [Texas] courts, though clothed with equitable jurisdiction, will not grant equitable relief.’”

GRCDallasHomes LLC v. Caldwell, 619 S.W.3d 301, 308 (Tex. App.—Fort Worth 2021, pet. denied) (citation omitted).

Failure to state Money Had and Received claim

Case 5:25-cv-00132 Document 3 Filed 08/28/25 Page 1 of 85 PageID #: 92

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

BLU
DIV
CO
RES

272. HaloMD received a portion of these payments from the providers.

HAI
LAF

273. BCBSTX would not have paid those claims but for the wrongful conduct of HaloMD, as described herein.

a m
LLC

follo

inter

274. The funds paid by BCBSTX for improper IDR awards should be returned in good conscience. Accordingly, BCBSTX seeks the return of money had and received by HaloMD due to HaloMD's improper and fraudulent conduct.

and provide a fair process for determining reasonable out-of-network reimbursement to providers.

2. The federal No Surprises Act ("NSA") and its Texas analogue, Texas Senate Bill 1264 ("SB 1264"), were enacted to protect patients from receiving surprise medical bills when they inadvertently receive care from out-of-network providers. The statutes were also intended to provide a less-costly means to resolve disputes between providers and health plans over out-of-network reimbursement for certain services. Specifically, both the NSA and SB 1264 established

Failure to state Declaratory and Injunctive Relief

Case 5:25-cv-00132 Document 3 Filed 08/28/25 Page 1 of 85 PageID #: 92

UNITED STATES DISTRICT COURT

341. BCBXTX seeks a declaration that Defendants' conduct in submitting false attestations and initiating Federal and State IDR Processes for ineligible IDR claims, items, or services is unlawful. BCBSTX additionally seeks a declaration that IDR awards for such ineligible IDR claims, items, or services are not binding. It further seeks an injunction prohibiting Defendants from continuing to submit false attestations and initiate Federal and State IDR Processes for claims, items, or services that are not eligible for IDR, or from seeking to enforce non-binding awards entered on items and services not eligible for IDR.

1264 ("SB 1264"), were enacted to protect patients from receiving surprise medical bills when they inadvertently receive care from out-of-network providers. The statutes were also intended to provide a less-costly means to resolve disputes between providers and health plans over out-of-network reimbursement for certain services. Specifically, both the NSA and SB 1264 established



- “a declaration that Defendants’ conduct ... is unlawful” and “an injunction prohibiting Defendants from continuing” that conduct
 - “[B]ecause the key issues to be decided in this case are also presented as affirmative causes of action ... th[is] request[] for declaratory relief [is] inappropriate.” *Paris Emergency Ctr., LLC v. Blue Cross & Blue Shield of Texas*, No. 5:24-CV-00002-RWS, 2025 WL 3171163, at *5 (E.D. Tex. Nov. 12, 2025).
 - “[I]njunctive orders are problematic when they order a defendant to obey the law but do not simultaneously indicate what law the defendant needs to obey.” *Sec. & Exch. Comm’n v. Life Partners Holdings, Inc.*, 854 F.3d 765, 784–85 (5th Cir. 2017).
- “a declaration that IDR awards ... are not binding” and “an injunction ... from seeking to enforce non-binding awards”
 - “In *Guardian Flight I*, we decide that the NSA does not provide a general private right of action to challenge award determinations. Instead, the NSA incorporates Federal Arbitration Act (‘FAA’) provisions that allow courts to vacate awards only for specific reasons.” *Guardian Flight, L.L.C. v. Med. Evaluators of Texas ASO, L.L.C.*, 140 F.4th 613, 618 (5th Cir. 2025).