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,* v. HALOMD, LLC, ALLA LAROQUE, and SCOTT LAROQUE, *Defendants.*	CIVIL ACTION NO. 5:25-CV-00132-RWS

PLAINTIFF'S RESPONSE TO DEFENDANTS' NOTICE OF SUPPLEMENTAL AUTHORITY

Among other things, Defendants' supplemental authority from a magistrate judge in California (D.E. 58) does not address the factual allegations in this case, the posture of the parties in it, or the unique issues posed by Defendants' parallel misrepresentations in both the Texas SB 1264 and the federal IDR processes. The California court's decision, which does not apply Fifth Circuit precedent, is not binding or controlling. It is also not germane, let alone persuasive, to whether BCBSTX's claims survive dismissal. Unlike the California case, this Court is not faced with whether to vacate an award issued to a healthcare provider. No Defendant here is a provider. BCBSTX is suing Defendants and its principals for damages caused by their own lies and wrongful conduct in initiating IDRs for items and services not eligible under the NSA. These distinctions, among others, illustrate the central inequity of Defendants' position, highlighted by the Court's own question during the hearing: ***where is the remedy for these wrongs, if not here in this Court?***

First, the California court incorrectly described as "novel" and "unsupported" the notion that a "payment determination" described by NSA § 300gg-111(c)(5)(A) refers only to payment,

not eligibility. D.E. 58-1 at 18. This conclusion failed to acknowledge that reading a statutory provision as being limited to "Payment Determinations"—where the section of the statute is ***explicitly titled "Payment Determinations"***—is black letter law on statutory interpretation. To that end, this Court is just as capable of interpreting the provisions at issue as any other court, and the California magistrate judge is not entitled to any deference.

Second, while the California magistrate judge began her analysis with the plaintiffs' vacatur claim, she stopped there because she found that the other claims were barred by the statute, which was inconsistent with statutory interpretation. Her focus as to vacatur was whether the Plaintiffs in that case had met the fraud standard based on different factual allegations than what is presently before this court.[1] She declined to analyze the merits of the other asserted claims after declining to exercise jurisdiction. But this case does not involve a vacatur claim. The California court's discussion of the "fraud" standard under the NSA's vacatur section (D.E. 58-1 at 14-16) is thus irrelevant. Instead, as noted above and in prior briefing and oral argument, BCBSTX's claims in this case seek redress for Defendants' broad-ranging scheme to submit tens of thousands of ineligible claims, intending for their misrepresentations to be relied upon, to the detriment of BCBSTX, its plan sponsors, and its members.[2]

Third, the California decision does not address the central issue previously raised by this

[1] In its holding, the California court found that the IDREs did not exceed their statutory authority in instituting IDRs on ineligible disputes. (D.E. 58-1 at 16-18.) But instituting such proceedings on clearly ineligible disputes undoubtedly exceeds the IDREs' statutory authority.

[2] Moreover, the scope of the fraudulent scheme at issue here is much vaster than in the California case. Here, BCBSTX has alleged more than 42,000 ineligible claims are at issue. D.E. 2 at ¶ 153. In the California case, the plaintiffs alleged up to 1,500 ineligible claims were submitted. D.E. 58-1 at 9. Similarly, while the California court (incorrectly) found that plaintiffs' objections on eligibility grounds barred a fraud finding (D.E. 58-1 at 15-16), here, BCBSTX has (1) made clear in its complaint that the at-issue claims include claims for which BCBSTX either was unaware of a claim being ineligible or was unable to object to eligibility, e.g. in light of Defendants' batching scheme, and (2) plausibly plead forced reliance even where BCBSTX did object to eligibility, but the IDRE improperly found the claim eligible. *See* D.E. 2 at ¶¶ 223, 228, 252, 264, 308.

Court. During the March 10, 2026, hearing on Defendants' motion to dismiss, in response to Defendants' collateral attack and judicial review arguments, the Court asked Defendants: "***So where is the remedy[?]***" *See* Tr. of 3.10.26 Oral Arg. at 38:18-19 (emphasis added). Extending the California court's holding to HaloMD and its principals here would render them immune from suit for their broadscale fraudulent scheme. The law is clear: courts must interpret statutory limits on judicial review narrowly and in favor of review, only declining judicial review based on clear and convincing evidence. *See* D.E. 21 at 10-11. The California court's decision ignores that precedent, instead requiring payors to do just what this Court expressed skepticism over—seeking redress through lobbying Congress to the exclusion of this Court. *See id.* at 39:6 (questioning Defendants whether the only remedy is to "write [its] Congressman" or seek to "get the law changed.").

The California court's decision also does not address Fifth Circuit precedent, which makes clear that the relevant judicial review inquiry is whether the alleged injury flows solely from the award, or whether it also seeks redress for harm separate and apart from the impact on the arbitration award. *See Gulf Petro Trading Co., Inc. v. Nigerian Nat. Petroleum Corp.*, 512 F.3d 742, 751 & n.5 (5th Cir. 2008) (describing potential permissible RICO claim, noting a plaintiff need only allege harm "independent of its effect on the arbitration award"); *id.* at 749 n.3 (citing *Mian v. Donaldson, Lufkin & Jenrette Securities Corp.*, 7 F.3d 1085, 1087 (2d Cir. 1993), which permitted suit for harm occurring during an arbitration proceeding where harm was independent of effect on award). Here, BCBSTX alleges a coordinated scheme to submit tens of thousands of ineligible claims, damages including administrative costs, settlements, and operational burdens separate from any award amounts, and ongoing harm requiring prospective relief.

The California court's decision is readily distinguishable, does not resolve the specific issues before this Court, and does not support dismissal.

Respectfully submitted,

Dated: April 14, 2026

By: */s/John K. Harting*

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CERTIFICATE OF SERVICE

I hereby certify that on April 14, 2026, a true and correct copy of the above was served via email through the Eastern District of Texas's CM/ECF system.

/s/Joseph T. Janochoski
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