

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FRANCESCO GARGANO, MD,

Plaintiff,

-v.-

ELEVANCE HEALTH, INC., *formerly*
known as ANTHEM, INC.,

Defendant.

25 Civ. 8924 (KPF)

ORDER TO SHOW CAUSE

KATHERINE POLK FAILLA, District Judge:

On October 28, 2025, Plaintiff filed this action for confirmation and enforcement of various Independent Dispute Resolution (“IDR”) awards issued under the No Surprises Act (“NSA”). It was transferred intra-district to this Court on November 10, 2025. In his complaint, Plaintiff argues that the Court has federal question jurisdiction over this case. (*See* Dkt. #1 ¶ 3 (citing 28 U.S.C. § 1331)).

The Court is aware, however, of multiple decisions in which other courts have held that the NSA does not create a private cause of action and thus does not provide a basis for invoking federal question jurisdiction. *See Farkas v. Horizon Blue Cross Blue Shield of N.J.*, 790 F. Supp. 3d 129, 135-38 (E.D.N.Y. 2025) (holding that no federal question jurisdiction was lacking because the NSA claim “does not involve federally-governed contractual rights” or provide “a federal cause of action to enforce” such rights); *Modern Orthopaedics of NJ v. Premera Blue Cross*, No. 2:25 Civ. 1087 (BRM) (JSA), 2025 WL 3063648, at *4-6 (D.N.J. Nov. 3, 2025) (noting that the IDR process and arbitration “are

premised on fundamentally different authorities”). *But see Guardian Flight LLC v. Aetna Life Ins. Co.*, 789 F. Supp. 3d 214, 225-29 (D. Conn. 2025) (holding “that the NSA creates a private cause of action to enforce IDR awards”).

As such, Plaintiff is ORDERED to show cause in writing on or before **December 12, 2025**, as to why the Court should not dismiss this action for lack of subject matter jurisdiction.

SO ORDERED.

Dated: November 13, 2025
New York, New York

A handwritten signature in blue ink, reading "Katherine Polk Faila".

KATHERINE POLK FAILLA
United States District Judge