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December 12, 2025

**Via CM/ECF**

Honorable Katherine Polk Failla, D.J.  
Thurgood Marshall U.S. Courthouse  
40 Foley Square, Courtroom: 618  
New York, NY 10007

**RE: *Francesco Gargano, MD v. Elevance Health, Inc., f/k/a Anthem, Inc.***  
**Case No: 1:25-cv-08924-KPF**

Dear Judge Failla,

This firm represents Plaintiff Francesco Gargano, MD (“Plaintiff”) in the above-captioned matter. We write in response to Your Honor’s November 13, 2025, Order to Show Cause as to why the Court should not dismiss this action for lack of subject matter jurisdiction given recent decisions in this District and others (Dkt. 8) (citing *Farkas v. Horizon Blue Cross Blue Shield of N.J.*, 790 F. Supp. 3d 135-38 (E.D.N.Y. 2025) and *Modern Orthopaedics of NJ v. Permera Blue Cross*, Civ. No. 25-01087, 2025 WL 3063648 (D.N.J. Nov. 3, 2025)). Plaintiff respectfully submits that the Court should not dismiss the action for lack of subject matter jurisdiction because this Court has diversity jurisdiction pursuant to 28 U.S.C. §1332.

To provide the necessary context, we include herein a brief recitation of the relevant facts. Plaintiff is a medical provider specializing in plastic surgery who rendered medical assistance to several patients on an emergent or inadvertent basis. Thereafter, Defendant issued initial payments to Plaintiff for the medical services rendered. Pursuant to the No Surprises Act (“NSA”), Plaintiff initiated the independent dispute resolution (“IDR”) process. Defendant received notice of the IDR proceedings and fully participated. Plaintiff prevailed in arbitration disputes DISP-1751347, DISP-1751460, DISP-2075236, DISP-2075335, DISP-2027814, DISP-212341, DISP-2123409, DISP-1186699, DISP-1650782, and DISP-352504 in the total amount of \$133,312.92 (the “Awards”). Defendant ignored its legal obligation to pay the Awards, has not moved to vacate the Awards, has not disputed its legal obligation to pay the Awards, or offered any reason for failing to act in accordance with the NSA.

Defendant has recently advised that all but one of the underlying disputes has been paid. Plaintiff is in the process of confirming the payment and providing additional information regarding the one remaining claim that is still under investigation. As such, Plaintiff respectfully requests that the Court enter a 60-day Order to provide Plaintiff the time to confirm the payments.

As always, we thank the Court for its courtesies in this regard.

Very truly yours,

/s/ Rachael E. Banks  
Rachael E. Banks

cc: All Counsel of Record