

MEMO ENDORSED

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----	X	
UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	20 Civ. 2593 (ALC)
	:	
v.	:	
	:	
ANTHEM, INC.,	:	
	:	
Defendant.	:	
-----	X	

**STIPULATION OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE OF
COUNTERCLAIMS PURSUANT TO RULE 41**

WHEREAS, on or about March 26, 2020, the United States of America (the “United States”) filed a Complaint (ECF No. 1) in the above-captioned action against Anthem, Inc. (“Anthem”), asserting civil fraud claims under the False Claims Act, 31 U.S.C. § 3729, as well as claims for unjust enrichment and payment by mistake;

WHEREAS, on or about July 2, 2020, the United States filed the Amended Complaint (ECF No. 26) in the above-captioned action;

WHEREAS, on or about November 16, 2022, Anthem filed its Answer to the Amended Complaint, Affirmative Defenses, and Counterclaims (ECF No. 56) (the “Answer”);

WHEREAS, the Answer asserts two counterclaims against the United States, specifically

a cause of action for breach of contract and a cause of action for breach of the covenant of good faith and fair dealing (together, the “Counterclaims”);

WHEREAS, Anthem’s Answer stated that the Counterclaims “appear to be subject to the jurisdiction of the Court of Federal Claims under 28 U.S.C. § 1491(a)” and explained that Anthem nevertheless “assert[ed] these Counterclaims . . . out of an abundance of caution” in the event that the Counterclaims were interpreted as compulsory counterclaims under Federal Rule of Civil Procedure 13(a);

WHEREAS, the parties seek to avoid litigation concerning the Counterclaims in the above-captioned action;


IT IS HEREBY STIPULATED AND AGREED, by and between the parties, as follows:

1. Pursuant to Rule 41(a)(1)(A)(ii) and 41(c), the Counterclaims are hereby voluntarily dismissed without prejudice.
2. The United States will not assert as a defense in any action brought by Anthem in the United States Court of Federal Claims that the Counterclaims were required to be raised as compulsory counterclaims in the above-captioned action. The United States reserves all other defenses to any action brought by Anthem in the United States Court of Federal Claims.

Dated: December 21, 2022

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney

By:  _____

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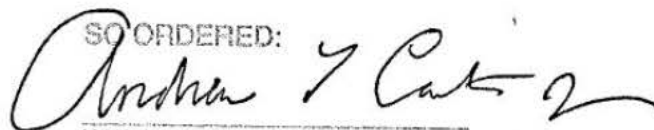
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SO ORDERED:


HON. ANDREW L. CARTER, JR.
UNITED STATES DISTRICT JUDGE
2/1/2023