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VIA ECF Filing

The Honorable Susan D. Wigenton, USDJ, DNJ
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 071002

Re: *EmblemHealth Inc. v. Norman M. Rowe, M.D., et al.*, No. 26-cv-3311-SDW-MAH

Dear Judge Wigenton:

We are counsel to EmblemHealth, Inc. (“Emblem”) in the above matter. We write to object to the improper sur-reply letter submitted to Your Honor on July 31, 2026 by counsel for Defendants. Civ. Rule 7.1(d)(6) of the Local Civil and Criminal Rules of the United States District Court for the District of New Jersey (“Local Rules”) expressly prohibits the filing of a sur-reply “without permission of the Judge to whom the case is assigned.” Like any other sur-reply, a letter purporting to submit supplemental authority requires leave of the Court. *See Gonzalez v. Lyft, Inc.*, No. 19-20569 (BRM) (JAD), 2020 WL 7183573, at *1 n.1 (D.N.J. Oct. 13, 2020), *adopted by* 2021 WL 303024 (D.N.J. Jan. 29, 2021) (Martinotti, J). Defendants neither sought, nor received, leave of this Court to file their improper sur-reply. Respectfully, for that reason, the Court should not consider it.

Moreover, the purported supplemental authority does not support Defendants’ motion to dismiss. *See Redstone v. Aetna, Inc.*, No. 21-19434 (JXN) (JBC), 2025 WL 842514 (D.N.J. Mar. 18, 2025) (opposition to notice of supplemental authority is permissible where “properly limited to arguing only why the Court should not consider” the cases cited therein.) Unlike here, the insurer in *UnitedHealthcare Ins. Co. v. Maui Memorial Emer. Medical Assocs., Inc.* did not assert any claim for vacatur of an IDR Award. The Court specifically noted that “United has chosen to ignore this avenue of judicial review.” *Id.* at 12 n. 5. In *Blue Cross Blue Shield Healthcare Plan of Georgia, Inc. v. Halomed*, the Northern District of Georgia actually rejected the very same federal subject matter jurisdiction argument that Defendants advance here. The Court also held that “the Provider Defendants err in asserting that the Plaintiff is subject to the procedural requirements for asserting vacatur under the” Federal Arbitration Act. *Id.* at 28. Most importantly, in neither case was vacatur sought on the grounds that the IDR awards were completely irrational or violated public policy.

Respectfully submitted,

/s/ Juan Olivo-Castro
Juan Olivo-Castro

cc: All counsel of Record (by ECF Filing)