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May 7, 2026

Via CM/ECF

Honorable Brian R. Martinotti, U.S.D.J.
United States District Court, D.N.J.
Martin Luther King Building & U.S. Courthouse
50 Walnut Street, Room 4015
Newark, New Jersey 07101

RE: Rowe Plastic Surgery of NJ LLC v. Aetna Life Insurance Company
Civil Case No.: 2:25-cv-15053-BRM-LDW

Dear Judge Martinotti,

This firm represents Plaintiff Rowe Plastic Surgery of NJ LLC (“Plaintiff”) in the above-captioned matter. Plaintiff writes to inform the Court of its intent to dismiss the within case without prejudice pursuant to Rule 41(a)(1)(A)(i). A Notice of Voluntary Dismissal will follow.

As the Court is aware, this action serves as the “Lead Case” in connection with the Court’s January 16, 2026 Stay and Administrative Termination Order (“Stay Order”) impacting hundreds of similar cases. *See* January 16, 2026 Order attached hereto as **Exhibit A**. The Stay Order was entered because Plaintiff’s attorneys brought many actions on behalf of plaintiff medical providers against various defendant insurance carriers that failed to pay legally binding Independent Dispute Resolution (“IDR”) determinations issued pursuant to the No Surprises Act (“NSA”), 42 U.S.C. §§ 300gg-111 *et seq.*

In several matters, this District ruled that the NSA does not contain a private right of action for medical providers to seek judicial confirmation of IDR determinations, leading to the dismissal of those cases without prejudice. Thereafter, Plaintiff’s attorneys filed new cases pleading state law causes of action, and various defendants removed those cases to this District. Consequently, this “Lead Case” was designated as a bellwether over the dispositive issue of: whether an Independent Dispute Resolution award can be judicially enforced via *any* cause of action, regardless of whether it arises under ERISA or state law. *See* March 24, 2026 Order attached hereto as **Exhibit B**.

Since the Stay Order was entered, however, multiple District Courts have ruled in medical providers’ favor with respect to the NSA’s “private right of action” question. Specifically, the District Court of Maryland ruled that the NSA contains a private right of action, stating, “. . .this

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Court concludes that the only way to reasonably construe the No Surprises Act consistent with its ‘text and structure,’ is to conclude that Congress intended that a ‘binding’ IDR determination, if unpaid after 30 days, may be enforced through a private right of action and thereby converted into a judgment. *PHI Health, LLC v. Optimum Choice, Inc.*, No. 25-cv-2320-ABA, 2026 U.S. Dist. LEXIS 65382, at *30 (D. Md. Mar. 27, 2026).

Perhaps more compelling, the District Court of Connecticut ruled in the medical provider’s favor despite finding that no private right of action exists, holding “that a provider may seek confirmation of an IDR award in federal court under the NSA, but not the FAA, because the requested relief can be provided through a summary proceeding that does not involve a traditional private right of action or judicial review.” *Agag v. Cigna Health & Life Ins. Co.*, No. 3:25-cv-00498 (SRU), 2026 U.S. Dist. LEXIS 82515 at *2 (D. Conn. Apr. 15, 2026).

In the continued interest of judicial economy, and after consultation with our clients, Plaintiff’s firm proposes that the Stay Order remain in place with Plaintiff designating a new “Lead Case.” Considering the foregoing recent District Court decisions, the collective plaintiffs represented by this firm view the “private right of action” question as one that must be presented to the Third Circuit. Similarly, the collective plaintiffs represented by this firm wish to preserve their right to proceed with alternative state law causes of action. Accordingly, Plaintiffs propose designating a new Lead Case that pleads both federal and state law causes of action, with all parties involved preserving the right to appeal this Court’s eventual decision.

Finally, Plaintiff anticipates that the Court may wish to engage in a conference with all impacted parties similar to that which was previously conducted by Magistrate Judge Wettre. Plaintiffs are of course committed to participating in such a follow-up conference to address the content of this letter and determine the next steps moving forward.

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

Respectfully submitted,

/s/ Michael Gottlieb

Michael Gottlieb

/s/ Ronald J. Herman

Ronald J. Herman

Gottlieb & Greenspan, LLC

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cc: All Counsel of Record (via ECF)

EXHIBIT A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

In Re NO SURPRISES ACT CASES

Civil Action Nos. listed in attached
Schedule A

**STAY AND ADMINISTRATIVE
TERMINATION ORDER**

WHEREAS hundreds of actions are currently pending in this Court in which plaintiffs seek to enforce Independent Dispute Resolution awards pursuant to the No Surprises Act (“NSA”), 42 U.S.C. §§ 300gg-111 *et seq.*, against various insurer defendants;

WHEREAS the Court, in several opinions, has found that there is no private right of action under the NSA and has thus dismissed plaintiffs’ NSA claims. *See, e.g., Modern Orthopaedics of NJ v. Premera Blue Cross*, No. 2:25-cv-1087 (BRM), 2025 WL 3063648 (D.N.J. Nov. 3, 2025); *Freeman Pain Inst. P.A. v. Horizon Blue Cross Blue Shield of N.J.*, No. 2:25-cv-02507 (SRC), 2025 WL 3268289 (D.N.J. Nov. 24, 2025); *Mitchell F. Reiter MD PC v. Horizon Blue Cross Blue Shield of N.J.*, No. 2:25-cv-12526 (WJM), 2025 WL 3514300 (D.N.J. Dec. 8, 2025);

WHEREAS in light of these opinions dismissing NSA claims, plaintiffs have amended or intend to amend their complaints to assert, in lieu of NSA claims, claims for unjust enrichment and/or ERISA benefits pursuant to 29 U.S.C. § 1132(a)(1)(B);

WHEREAS defendants intend to seek dismissal of the newly asserted unjust enrichment and ERISA claims;

WHEREAS a motion to dismiss claims for unjust enrichment and/or ERISA benefits will be fully briefed shortly in *Rowe Plastic Surgery of NJ LLC v. Aetna Life Insurance Company*, No. 2:25-cv-15053 (BRM) (MAH) (the “Lead Case”);

WHEREAS nearly all parties in the cases listed in Schedule A agree that it would be most efficient for the Court and the parties to await the Court’s ruling on the motion to dismiss in the Lead Case before continuing to litigate the remainder of the pending actions;¹ therefore, with the

¹ Of the approximately fifty defendants from which the Court solicited consent to entry of this Order, only two have voiced objection: (1) defendant EVHC objects to administrative termination of *Neuromon Professionals, LLC v. EVHC*, No. 2:25-cv-06131 (JKS); and (2) defendant Nippon Life Insurance Company objects to administrative termination of *East Coast Plastic Surgery*,

consent of all parties in the cases listed in the attached Schedule A (excepting those identified in footnote 1), and for good cause shown:

IT IS, on this 16th day of January 2026,

ORDERED that the actions listed in the attached Schedule A and any pending motions in those actions are hereby stayed and administratively terminated without prejudice pending the adjudication of the motion to dismiss in the Lead Case; and it is further

ORDERED that this shall not constitute a dismissal Order under Federal Rule of Civil Procedure 41; and it is further

ORDERED that any party may request that any action in Schedule A be reopened and restored to the Court's active docket after the Court's adjudication of the motion to dismiss in the Lead Case; and it is further

ORDERED that any other pending actions and actions filed in this Court after the date of this Order of the same nature as the cases in Schedule A shall be subject to stay and administrative termination under the terms of this Order.



Hon. Renée Marie Bumb
Chief United States District Judge

PLLC PA v. Nippon Life Insurance Company of America, No. 3:25-cv-02572 (ZNQ). In the interests of judicial and party efficiency, and given the Court's inherent right to manage its dockets, defendants' objections to entry of this Order are overruled.

EXHIBIT B

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ROWE PLASTIC SURGERY OF NJ
LLC,

Plaintiff,

v.

AETNA LIFE INSURANCE
COMPANY,

Defendant.

Civil Action No.

25-15053 (BRM) (LDW)

ORDER

WHEREAS plaintiff's counsel in this action has filed hundreds of cases in this District seeking to enforce Independent Dispute Resolution awards pursuant to the No Surprises Act ("NSA"), 42 U.S.C. §§ 300gg-111 *et seq.*, against various insurer defendants; and

WHEREAS following issuance of several opinions finding that there is no private right of action under the NSA, plaintiffs began filing amended complaints to assert, in lieu of NSA claims, claims for unjust enrichment and/or ERISA benefits pursuant to 29 U.S.C. § 1132(a)(1)(B); and

WHEREAS by Order dated January 16, 2026, Chief Judge Renée Marie Bumb stayed and administratively terminated all other NSA cases pending the outcome of defendant Aetna Life Insurance Company's Motion to Dismiss this action, which has been designated as the Lead Case; and

WHEREAS the parties appeared for a March 4, 2026 pre-motion conference before the Honorable Brian R. Martinotti, U.S.D.J. concerning defendant's anticipated Motion to Dismiss and determined that the motion will address whether an Independent Dispute Resolution award can be judicially enforced via *any* cause of action, regardless of whether it arises under ERISA or state law; therefore,

IT IS on this day, March 24, 2026, **ORDERED** that:

1. Within fourteen (14) days of the date of this Order, Aetna shall file an omnibus Motion to Dismiss to address the threshold legal issue set forth above.
2. Within thirty (30) days after the filing of Aetna's motion, non-party insurers may file one (1) consolidated amicus brief in further support of Aetna's motion, not to exceed thirty (30) pages, on behalf of all such parties claiming an interest in the legal issues presented in this matter.
3. Within fourteen (14) days after the filing of an amicus brief in further support of Aetna's motion, Plaintiff shall file its opposition to Aetna's motion.
4. Within seven (7) days after the filing of Plaintiff's opposition, Aetna shall file its reply brief in further support of its motion.

s/ Leda Dunn Wettre
Hon. Leda Dunn Wettre
United States Magistrate Judge