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November 7, 2025

**Via ECF**

Honorable Brian R. Martinotti  
Martin Luther King Building & U.S. Courthouse  
50 Walnut Street  
Newark, New Jersey 07102

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

Dear Judge Martinotti:

This firm represents Rowe Plastic Surgery of NJ LLC (“Plaintiff”), in the above captioned matter. Pursuant to Your Honor’s Rules and Procedures, Plaintiff respectfully submits this letter in opposition to Aetna Life Insurance Company’s (“Defendant”) request for a pre-motion conference relative to its proposed Motion to Dismiss.

The following facts are undisputed: (1) Congress passed a bipartisan law known as the No Surprises Act (“NSA”), which protects patients from out-of-network “surprise bills” as defined by the NSA; (2) the NSA prescribes an Independent Dispute Resolution (“IDR”) process for out-of-network healthcare providers and insurers to adjudicate fair payment for applicable medical treatment; (3) the medical treatments in question were subject to the NSA; (4) on October 31, 2024, December 4, 2024, December 6, 2024, and January 23, 2025, Plaintiff prevailed in the NSA arbitration process under DISP-1845413, DISP-1638874, DISP-724336, and DISP-2277139, receiving NSA awards totaling \$300,045.43, amounting to an additional \$298,227.88 over Defendant’s initial payments; (5) Defendant never moved to vacate the legally “binding” arbitration Awards under the Federal Arbitration Act (“FAA”); (6) as expressly prescribed in the NSA, Defendant was legally required to submit the arbitration payments within 30 days of the Awards being issued; and (7) as of today, Defendant has only issued one of the arbitration payments (for DISP-1845413). The remaining arbitration awards remain unpaid.

On November 3, 2025, Your Honor entered an Order in the matter of *Modern Orthopedics of NJ v. Premera Blue Cross*, Case No. 2:25-cv-01087 (BRM) (JSA) (Dkt. No. 30) that addresses the exact arguments Defendant states it will make in support of its proposed Motion to Dismiss. The basis for the November 3, 2025 Order is set forth in an accompanying opinion (Dkt. No. 29) wherein Your Honor ruled as follows:

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- 1) 9 U.S.C. § 9 (the FAA) does not provide a basis for the court to confirm IDR awards;
- 2) 9 U.S.C. § 9 does not provide a basis for Federal Jurisdiction; and
- 3) the NSA does not contain a private right of action for judicial enforcement.

At this time, Plaintiff objects to Defendant's request for a pre-motion conference on efficiency grounds. Based in part on Your Honor's ruling, Plaintiff seeks to amend its Complaint to incorporate additional causes of action including unjust enrichment and violations of the Employee Retirement Income Security Act ("ERISA"). 29 U.S.C. § 1132(a)(1)(B). Plaintiff further notes that regardless of its causes of action, Federal Jurisdiction is present under diversity as the amount in controversy exceeds \$75,000.00.

Moreover, while Plaintiff is of course mindful of Your Honor's November 3, 2025 ruling, the legal issues addressed therein remain novel and will likely make their way before multiple circuit courts<sup>1</sup>, including the Third Circuit. Therefore, despite Your Honor's ruling, Plaintiff does not intend on dismissing its current causes of action as Plaintiff wishes to preserve those causes of action for appeal.

Finally, Plaintiff notes that even if the pre-motion conference takes place and Defendant is granted permission to file its Motion to Dismiss, Plaintiff would still reserve the right to file an Amended Complaint as a matter of course pursuant to Rule 15. Thus, allowing Plaintiff to simply amend its Complaint at this time would seem more judicially economical for the Court.

For the foregoing reasons, Plaintiff respectfully requests that this Court deny Defendant's request for a pre-motion conference and grant Plaintiff leave to amend its Complaint to include additional causes of action.

As always, I thank the Court for its courtesies and attention to this matter.

Respectfully submitted,

/s/ Ronald J. Herman  
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cc: All Counsel of Record

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<sup>1</sup> The Fifth Circuit Court of Appeals is the only circuit court that has addressed these issues to date.