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March 18, 2026

Via CM/ECF

Honorable Brian R. Martinotti, U.S.D.J.
U.S. District Court, District of New Jersey
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-LDW

Dear Judge Martinotti,

This firm represents Plaintiff Rowe Plastic Surgery of NJ LLC (“Plaintiff”) in the above-captioned matter. We write to respond to Defendant’s March 17, 2026 letter, which enclosed a proposed order and transcript relative to the March 4, 2026 case management conference.

Respectfully, Defendant’s letter and proposed order mischaracterize the threshold legal question at issue herein. During the March 4, 2026 conference, Defendant advised the Court that the issue it seeks to address in its impending motion is whether Independent Dispute Resolution (“IDR”) awards issued pursuant to the terms of the No Surprises Act (“NSA”) can be judicially enforced by any cause of action, whether by ERISA or a state law cause of action.

Defendant improperly categorizes Plaintiff’s causes of action as “seek[ing] to enforce IDR awards.” That is simply incorrect. The causes of action brought by Plaintiff and similarly situated out-of-network providers in other matters are legitimate and independently viable claims that are separate and apart from Plaintiff’s prior efforts to judicially enforce an IDR award under the Federal Arbitration Act or as a violation of the NSA. In other words, Plaintiff is not seeking to “confirm IDR awards” via state law causes of action. Rather, Plaintiff seeks remuneration for unpaid medical services provided to Defendant’s members in instances that so happen to include IDR awards. Additionally, Defendant’s March 17 letter fails to capture the extensive off the record dialogue that took place during the March 4 conference where counsel discussed whether pursuing reimbursement through the NSA preempts an out-of-network provider from pursuing reimbursement through traditional state law causes of action for the same medical services rendered.

Since Defendant’s proposed order is not reflective of the actual discussion that took place during the March 4, 2026 conference, Plaintiff does not agree to the language of Defendant’s proposed order. As such, Plaintiff submits its proposed order, attached hereto as **Exhibit A**, which

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identifies the proper threshold legal issue to be addressed – whether the issuance of an NSA IDR determination preempts an out-of-network provider from asserting state law causes of action or a federal cause of action under ERISA. This proposed order also includes, at Paragraph 4, Plaintiff’s requested 30-day deadline for an opposition amicus brief for the Court’s consideration, which Defendant does not oppose.

For these reasons, Plaintiff respectfully requests that the Court enter Plaintiff’s proposed order.

I thank the Court for its attention and courtesy to this matter. Should Your Honor have any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,

/s/ Ronald J. Herman, Esq.

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cc: All Counsel of Record

Exhibit A

On March 3, 2026, Aetna filed a letter requesting a companion lawsuit, *North American Spine and Pain Institute v. Aetna Life Insurance Company*, No. 2:26-cv-2175-BRM-LDW, which contains different state law causes of action for (1) breach of express contract (click-wrap), (2) breach of implied covenant of good faith and fair dealing, (3) declaratory judgment, (4) account stated, (5) quantum meruit, and (6) promissory estoppel, be deemed related to the present matter so that the ERISA claim and all state law causes of action could be addressed by the Court;

On March 4, 2026, the parties appeared before the Court for the scheduled pre-motion conference; and for good cause having been shown:

It is on this ___ day of March, 2026,

ORDERED as follows:

1. Within fourteen (14) days of this Order, Aetna shall file a motion for leave to file an omnibus motion to address the threshold legal question: whether the issuance of an NSA IDR determination preempts an out-of-network provider, like Plaintiff, from asserting state law causes of action, such as (1) unjust enrichment; (2) breach of express contract (click-wrap), (3) breach of implied covenant of good faith and fair dealing, (4) declaratory judgment, (5) account stated, (6) quantum meruit, or (7) promissory estoppel as well as a federal cause of action under ERISA;
2. Within thirty (30) days after the filing of Aetna's motion, any non-party 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 thirty (30) days after the filing of Plaintiff's opposition, any non-party may file one (1) consolidated amicus brief in further support of Plaintiff's opposition, not to exceed thirty (30) pages, on behalf of all such parties claiming an interest in the legal issues presented in this matter; and

5. Within seven (7) days after the filing of an amicus brief in support of Plaintiff's opposition, Aetna shall file its reply brief in further support of its motion.

HON. BRIAN R. MARTINOTTI
United States District Court Judge