

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

PHI HEALTH, LLC,

Plaintiff-Appellant,

v.

HEALTH CARE SERVICE CORP.,
A MUTUAL LEGAL RESERVE
COMPANY, D/B/A/ BLUE CROSS
BLUE SHIELD,

Defendant-Appellee.

Appeal from the United States District Court
For the Northern District of Illinois,
Case No. 1:26-cv-02954
The Honorable Judge Matthew F. Kennelly

MOTION TO CONSOLIDATE APPEALS

SUSMAN GODFREY L.L.P.
Steven Shepard
Max Straus
Casen B. Ross

Attorneys for Plaintiff-Appellant
PHI Health, LLC

One Manhattan West, 50th Floor
New York, New York 10001
Telephone: (212) 336-8330

Appellant PHI Health, LLC (“PHI”), respectfully requests that the Court consolidate its present appeal for briefing and argument with Appeal Nos. 26-2269, 26-2279, & 26-2280, each captioned *SpecialtyCare, Inc., et al. v. Health Care Service Corporation*, as well as Appeal No. 26-2401, *PHI Health, LLC v. Health Care Service Corporation*—which have already been consolidated for briefing and argument, see Appeal No. 26-2269, ECF No. 12. PHI does not request any change to the existing briefing schedule for the previously consolidated appeals.

The five appeals present largely identical issues. Each of these appeals is brought against the same Defendant-Appellee, Health Care Service Corporation. Each of these appeals concerns Plaintiffs’-Appellants’ attempt to enforce awards issued against Defendant-Appellee in Independent Dispute Resolution (“IDR”) proceedings, pursuant to the No Surprises Act. *Compare, e.g.*, Dist. Ct. Dkt. 42, at 4, *with, e.g., SpecialtyCare, Inc., et al. v. Health Care Service Corporation*, Appeal No. 26-2269, ECF No. 5, at 3 (June 22, 2026). In each case, the district court entered judgment in favor of Defendant-Appellee on a motion to dismiss. *Compare, e.g.*, ECF No. 1-1 at 5, *with, e.g., SpecialtyCare, Inc., et al. v. Health Care Service Corporation*, Appeal No. 26-2269, ECF No. 5, at 2 (June 22, 2026). And each of these appeals presents the legal questions of (i) whether a party to the dispute resolution process has a private cause of action to confirm/enforce an award under the No Surprises Act in federal court; and (ii) whether Section 9 of the Federal Arbitration Act provides a vehicle to confirm an award rendered pursuant to the No Surprises Act. *Compare,*

e.g., Dist. Ct. Dkt. 42, at 5, 10, *with, e.g., SpecialtyCare, Inc., et al. v. Health Care Service Corporation*, Appeal No. 26-2269, ECF No. 9, at 1 (June 26, 2026).

On June 16, 2026, the Court, on its own motion, ordered consolidation of Appeal Nos. 26-2269, 26-2279, & 26-2280 for purposes of briefing and disposition. *E.g., SpecialtyCare, Inc., et al. v. Health Care Service Corporation*, Appeal No. 26-2269, ECF No. 2, at 1. And on July 9, 2026, the Court granted PHI's motion to consolidate Appeal No. 26-2401 with Appeal Nos. 26-2269, 26-2279, & 26-2280. *See SpecialtyCare, Inc., et al. v. Health Care Service Corporation*, Appeal No. 26-2269, ECF No. 12. In granting PHI's motion, the Court ordered appellants to file a consolidated brief and short appendix by September 9, 2026; the appellee to file its response brief by October 9, 2026; and the appellants to file any reply by October 30, 2026. *Id.* In this appeal, the Court has not yet entered a briefing schedule.

PHI has acted promptly to again request consolidation: On August 18, 2026, the district court entered final judgment in the present action. ECF No. 1-1 at 5. On August 19, PHI filed its notice of appeal. ECF No. 1-1 at 1. On August 24, 2026, the Court docketed this appeal. On August 26, PHI promptly filed this motion. Given the overlapping issues, consolidation will substantially conserve the Court's and the parties' resources.

Counsel for Defendant-Appellee Health Care Service Corporation (who is the same counsel for the Defendant-Appellee in Appeal Nos. 26-2269, 26-2279, 26-2280, & 26-2401) has authorized us to state that it does not oppose this motion.

Counsel for the Plaintiffs-Appellants in Appeal Nos. 26-2269, 26-2279, & 26-2280 also authorized PHI to state that they do not oppose this motion.

Respectfully submitted,

/s/Steven Shepard

Steven Shepard

Max Straus

Casen B. Ross

SUSMAN GODFREY L.L.P.

One Manhattan West, 50th Floor

New York, New York 10001

Telephone: (212) 336-8330

Fax: (212) 336-8340

sshepard@susmangodfrey.com

mstraus@susmangodfrey.com

cbross@susmangodfrey.com

CERTIFICATE OF COMPLIANCE WITH FRAP RULE 27(d)(2)

The undersigned, counsel of record for the Plaintiff-Appellant, PHI Health, LLC, certifies that this motion conforms to the rules contained in F.R.A.P Rule 27(d)(2) for a motion produced using a computer. The length of this brief is 564 words.

Dated August 26, 2026.

/s/ Steven Shepard

Steven Shepard

SUSMAN GODFREY L.L.P.

One Manhattan West, 50th Floor

New York, New York 10001

Telephone: (212) 336-8330