

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

GUARDIAN FLIGHT LLC, *et al.*,

§

§

Plaintiffs,

§

v.

§

§ **Civil Action No. 3:24-cv-00680-MPS**

AETNA LIFE INSURANCE

§

COMPANY, *et al.*

§

§

Defendants.

§

**AETNA’S ANSWER TO PLAINTIFFS’ SECOND AMENDED COMPLAINT AND
AETNA’S COUNTERCLAIM**

Defendants Aetna Health Inc., Aetna Life Insurance Co., and Aetna Health and Life Insurance Co. (collectively “Aetna” or sometimes “the Aetna Defendants”) file this Answer to Plaintiffs’ Second Amended Complaint (“Complaint”) filed by Guardian Flight LLC, et al. (“Plaintiffs”) and respond as follows:

1. Aetna denies the allegations contained in paragraph 1 of the Complaint.
2. Aetna denies the allegations contained in paragraph 2 of the Complaint.
3. Aetna denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Complaint and therefore denies them.
4. Aetna denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Complaint and therefore denies them.
5. Aetna denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Complaint and therefore denies them.
6. Aetna denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the Complaint and therefore denies them.

7. Aetna denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the Complaint and therefore denies them.

8. Aetna denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the Complaint and therefore denies them.

9. Aetna admits that Aetna Health Inc. is a Connecticut corporation with its principal place of business in Connecticut and that it has appeared in this matter through counsel. Aetna otherwise denies the allegations in paragraph 9 of the Complaint.

10. Aetna admits that Aetna Life Insurance Company is a Connecticut corporation with its principal place of business in Connecticut and has appeared in this matter through counsel. Aetna otherwise denies the allegations in paragraph 10 of the Complaint.

11. Aetna admits that Aetna Health and Life Insurance Company is a Connecticut corporation with its principal place of business in Connecticut and that it has appeared in this matter through counsel. Aetna otherwise denies the allegations in paragraph 11 of the Complaint.

12. Aetna denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of the Complaint and therefore denies them.

13. Aetna states that the allegations contained in Complaint paragraph 13 constitute legal conclusions as to which no response is required. Subject to its contentions in its defenses that Plaintiffs lack a private right of action under the No Surprises Act (“NSA”) and/or standing to sue under the Employee Retirement Income Security Act (“ERISA”), Aetna does not dispute this Court’s jurisdiction.

14. Aetna states that the allegations contained in Complaint paragraph 14 constitute legal conclusions as to which no response is required. Aetna does not dispute venue in this Court.

15. The allegations in paragraph 15 are too generalized and lack sufficient specificity to admit or deny and/or Aetna lacks the knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of the Complaint and therefore denies them.

16. Aetna admits that the No Surprises Act (“NSA”) became effective January 1, 2022, and the implementing regulations and terms of enforcement speak for themselves. Aetna otherwise denies the allegations in paragraph 16 of the Complaint, including that all air ambulance transports are subject to the NSA because only certain air ambulance transports are subject to the NSA by its terms.

17. Aetna admits that the terms of the NSA and its implementing regulations speak for themselves. Aetna otherwise denies the allegations paragraph 17 of the Complaint.

18. Aetna admits that the terms of the NSA and its implementing regulations speak for themselves. Aetna otherwise denies the allegations paragraph 18 of the Complaint.

19. Aetna denies the allegations contained in paragraph 19 of the Complaint.

20. Aetna denies the allegations contained in paragraph 20 of the Complaint.

21. Aetna denies the allegations contained in paragraph 21 of the Complaint.

22. Aetna denies the allegations contained in paragraph 22 of the Complaint.

23. Aetna denies the allegations of paragraph 23 of the Complaint.

24. Aetna denies the allegations contained in paragraph 24 of the Complaint.

25. Aetna admits that Plaintiffs filed their Original Complaint on March 3, 2023 in the Southern District of Texas. Aetna denies that it participates in an unfair practice of low payments followed by late, partial or no payment of IDR awards. Aetna states that the remaining allegations contained in paragraph 25 of the Complaint constitute legal conclusions as to which no response

is required and otherwise denies the factual allegations in paragraph 25 of the Complaint. Aetna further denies that Plaintiffs are entitled to any relief claimed in that paragraph.

26. Aetna admits that the Complaint contains an Exhibit A and B, but Aetna otherwise denies the allegations in paragraph 26 of the Complaint, including all allegations in those Exhibits.

27. Aetna denies the allegations contained in paragraph 27 of the Complaint.

28. Aetna admits that the terms of the NSA and implementing regulations speak for themselves, but Aetna otherwise denies the allegations in paragraph 28 of the Complaint, including footnote 1.

29. Aetna denies the allegations in paragraph 29 of the Complaint and that Plaintiffs are entitled to any relief requested in that paragraph.

30. Aetna denies the allegations contained in paragraph 30 of the Complaint and that Plaintiffs are entitled to any relief requested in that paragraph.

31. Aetna denies the allegations contained in paragraph 31 of the Complaint.

32. With respect to the allegations in the first sentence of paragraph 32, Aetna admits that certain health benefits plans, including insured and self-funded plans, are governed by the Employee Retirement Income Security Act, but Aetna denies that only self-funded health plans are governed by ERISA. Aetna denies the remaining allegations of paragraph 32 of the Complaint, including the allegations in the second through fifth sentences of paragraph 32.

33. Aetna denies the allegations in the first sentence of paragraph 33. The allegations in the second, third and fourth sentences of paragraph 33 are too generalized and lack sufficient specificity to admit or deny and/or Aetna lacks the knowledge or information sufficient to form a belief as to the truth of the allegations contained in those sentences and therefore denies them. Aetna denies the allegations in the fifth and sixth sentences of paragraph 33 of the Complaint.

34. With respect to the allegations in paragraph 34, the allegations are too generalized and lack sufficient specificity to admit or deny and/or Aetna lacks the knowledge or information sufficient to form a belief as to the truth of the allegations contained in those sentences and therefore denies them. Aetna specifically denies, however, any characterization that Plaintiffs are victimized by the NSA and/or IDR process.

35. Aetna denies the allegations in paragraph 35 of the Complaint.

36. Aetna denies the allegations in the first sentence of paragraph 36 of the Complaint. With respect to the allegations in the second and third sentences, Aetna admits that the terms of the NSA and its codification speak for themselves, but Aetna otherwise denies the allegations contained in the second and third sentences of paragraph 36 of the Complaint. Aetna denies the allegations in the fourth and fifth sentences of paragraph 36 of the Complaint.

37. Aetna denies the allegations contained in paragraph 37 of the Complaint.

38. Aetna denies the allegations contained in paragraph 38 of the Complaint.

39. Aetna denies the allegations contained in paragraph 39 of the Complaint and further denies that Plaintiffs are entitled to any relief requested in that paragraph.

40. Aetna denies the allegations contained in paragraph 40 of the Complaint.

41. Aetna denies the allegations contained in paragraph 41 of the Complaint.

42. Aetna admits the allegations contained in paragraph 41 of the Complaint.

43. Aetna denies the allegations contained in paragraph 42 of the Complaint.

44. Aetna denies the allegations contained in paragraph 43 of the Complaint.

45. Aetna denies the allegations contained in paragraph 44 of the Complaint and further denies that Plaintiffs are entitled to any relief requested in that paragraph.

46. Aetna denies the allegations contained in paragraph 45 of the Complaint.

47. Aetna denies that Plaintiffs are entitled to any of the relief requested in the Prayer for Relief of the Complaint.

48. Any allegations in the Complaint not specifically admitted herein are denied.

DEFENSES/AFFIRMATIVE DEFENSES

1. Plaintiffs have failed to state a claim upon which relief can be granted.

2. Plaintiffs have sued improper parties because Aetna Health Inc. and/or Aetna Health and Life Insurance Co. provided no services to any plan in connection with any alleged IDR awards at issue.

3. Additionally, or alternatively, Plaintiffs have sued on alleged IDR awards that no Aetna Defendant has responsibility for administering under any plan or for issuing payment on any IDR award, including any binding award, if any. The Aetna Defendants are improper parties to any and all of Plaintiffs' claims and causes of action.

4. Plaintiffs cannot recover on any claim(s) against Aetna for which no Aetna Defendant has any legal responsibility for issuing payment of the alleged IDR awards, including but not necessarily limited to, plans that have terminated, are no longer administered by Aetna, have filed for bankruptcy and/or for which Aetna has no control over any plan assets for the purposes of issuing payment on the claim and/or any IDR award.

5. Plaintiffs lack standing to assert redressable claims for relief and/or any statutory claims under the NSA, ERISA and/or CUTPA/CUIPA.¹

6. Plaintiffs' claims fail for lack of subject matter jurisdiction.

7. Aetna has complied with all binding IDR determinations and has issued payment in accordance with those awards, where applicable.

¹ The Connecticut Unfair Trade Practices Act/Connecticut Unfair Insurance Practices Act.

8. Plaintiffs' claims are barred, in whole or in part, because the IDR awards at issue fall outside the scope of the IDR process established under the NSA. As such, no obligation to pay the amounts claimed exists.

9. Plaintiffs' claims are barred, in whole or in part, because Aetna complied with all applicable requirements of the NSA, 42 U.S.C. § 300gg-111.

10. Plaintiffs' claims are barred to the extent the disputed services do not qualify for resolution through the IDR process under the NSA, either because they are exempted services, were not covered air ambulance, emergency or nonparticipating provider services, or fall outside the scope of NSA applicability.

11. Plaintiffs' claims are barred to the extent they failed to comply with the preconditions required by the NSA, including timely initiation of the open negotiation period, required disclosures, or proper submission to IDR.

12. Plaintiffs' claims are barred, in whole or in part, because the NSA does not confer a private right of action. The statutory and regulatory framework provides an exclusive administrative remedy for resolving payment disputes through the IDR process, and Plaintiffs may not seek to enforce or expand those remedies through litigation.

13. Plaintiffs' claims are barred, in whole or in part, to the extent they submitted the dispute to the IDR process based on material misrepresentations and/or omissions, including false or misleading statements concerning the services provided, billing codes, plan eligibility, or compliance with preconditions to IDR. Such conduct constitutes a violation of the IDR process and renders the claim ineligible for payment under the No Surprises Act.

14. Additionally, or alternatively, Plaintiffs sue on non-binding IDR awards.

15. Based on information and belief, Plaintiffs submitted false and/or misleading information to the IDR entities that include, but are not necessarily limited to, statements concerning purported demonstrations of good faith efforts by Plaintiffs and/or purported lack of good faith efforts by Aetna concerning entering into network agreements, including factual statements regarding Plaintiffs' network participation.

16. Plaintiffs lack standing to bring claims under ERISA because they are not participants, beneficiaries, or valid assignees of such individuals under 29 U.S.C. § 1132(a).

17. Plaintiffs' claims are barred because there is no valid and enforceable assignment of benefits from a plan participant or beneficiary, as required to assert derivative standing under ERISA.

18. Plaintiffs' state law claims are expressly preempted by ERISA under 29 U.S.C. § 1144(a), which supersedes all state laws that relate to any employee benefit plan governed by ERISA.

19. To the extent Plaintiffs' CUIPA-based claims relate to the administration or denial of benefits under an ERISA-governed plan, such claims are preempted by the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1144(a).

20. To the extent Plaintiffs' claims relate to plans governed by ERISA, Plaintiffs' remedies for any alleged acts or omissions are limited solely to those afforded by ERISA.

21. Plaintiffs' state law claims are preempted by the NSA, 42 U.S.C. §§ 300gg-111 et seq., and its implementing regulations.

22. Plaintiffs' claims under CUIPA are barred because Aetna has not engaged in a general business practice of unfair claim settlement or insurance practices, as required under Conn. Gen. Stat. § 38a-816 and applicable case law.

23. Aetna's conduct was undertaken in good faith compliance with applicable statutes, regulations, and industry standards, and is therefore exempt from liability under CUTPA and CUIPA.

24. Additionally, or alternatively, any failure to comply with any statutory requirements, if any, was caused, in whole or in part, by the conduct of third-parties, including but not necessarily limited to, that of the Plaintiffs, and a federally-regulated process beyond Aetna's control.

25. Plaintiffs' CUIPA claims are barred because Plaintiffs do not qualify as "consumers" under the statutory framework and had no direct insurance relationship with Aetna that would support standing to assert CUIPA/CUTPA claims.

26. Plaintiffs cannot establish a valid claim under CUIPA because liability for the disputed IDR determinations did not become reasonably clear until Aetna received the IDR entity's final decisions for the awards at issue.

27. Damages allegedly sustained by Plaintiffs, if any be proved, were caused in whole or in part by the culpable conduct of parties, entities, or instrumentalities over whom Aetna had no right of control and, therefore, the amount of any damages otherwise recoverable against Aetna should be extinguished and/or reduced in comparative proportion to the culpable conduct of any such parties, entities, or instrumentalities. *See, e.g.*, Aetna's Counterclaim below.

28. Plaintiffs' claims fail because there is no contact between them or independent duty to Plaintiffs.

29. Plaintiffs' claims are barred, in whole or in part, because Plaintiffs failed to take reasonable steps to mitigate their alleged damages, as required by law.

30. Plaintiffs' claims are barred, in whole or in part, by the doctrine of unclean hands and/or because Plaintiffs have engaged in wrongful and bad faith conduct and/or by equitable estoppel. *See, e.g.*, Aetna's Counterclaim below.

31. Plaintiffs' claims for punitive damages are barred, in whole or in part, because Plaintiff has failed to allege and cannot establish evidence that reveals a reckless indifference to the rights of others or intentional and wanton violation of those rights.

32. Aetna expressly reserves the right to amend or supplement its Answer to assert additional affirmative defenses, pleas, or defenses as may become appropriate following further investigation, discovery, or legal developments.

AETNA'S COUNTERCLAIM

Without waiver of any of the foregoing defenses, Aetna as Defendants/Counterclaimants, asserts for its Counterclaim against Plaintiffs/Counterclaim Defendants, asserts as follows:

PARTIES

33. Defendant REACH Air Medical Services LLC is a California limited liability company with its principal place of business in California.

34. Defendant CALSTAR Air Medical Services, LLC is a California limited liability company with its principal place of business in California.

35. Defendant Guardian Flight, LLC is a Delaware limited liability company.

36. Defendant Med-Trans Corporation is a North Dakota corporation with its principal place of business in Texas.

37. Defendant Air Evac EMS, Inc., is a Missouri corporation with its principal place of business in Missouri.

38. Defendant AirMed International, LLC is a Delaware limited liability company.

39. Plaintiff Aetna Health Inc. is a Connecticut corporation with its principal place of business in Connecticut.

40. Plaintiff Aetna Life Insurance Company is a Connecticut corporation with its principal place of business in Connecticut.

41. Plaintiff Aetna Health and Life Insurance Company is a Connecticut corporation with its principal place of business in Connecticut.

JURISDICTION AND VENUE

42. This Court has jurisdiction over this Counterclaim pursuant to 28 U.S.C. § 1367(a), as the claims asserted herein form part of the same case or controversy as the claims asserted in the Complaint.

43. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because the original action is properly venued here, and the counterclaims arise out of the same transaction, occurrence, or operative facts as the main claims.

FACTUAL ALLEGATIONS

44. This case arises from a sustained pattern of abuse and manipulation by Plaintiffs/Counterclaim Defendants—a private equity-owned air ambulance conglomerate—whose conduct reflects a relentless pursuit of profit at the expense of integrity, patient protection, and fairness. Plaintiffs/Counterclaim Defendants’ conduct is not an isolated instance of overreach, but part of a deliberate and evolving series of schemes designed to exploit the healthcare system for profit and undermine the safeguards implemented to protect patients and payors.

45. The first scheme began after the passage of the Air Deregulation Act of 1978 (“ADA”), which prohibits states from regulating the price, route or service of an air carrier, such as Plaintiffs/Counterclaim Defendants. 49 U.S.C. § 41713(b)(1). The unintended consequence of

the ADA's passage was that air ambulance companies, such as Plaintiffs/Counterclaim Defendants, charged exorbitant prices to hospitals, patients, and insurers that, under information and belief, far outweighed the costs incurred by air ambulance companies.

46. Worse still, air ambulance companies such as Plaintiffs/Counterclaim Defendants would prey on vulnerable patients in urgent need of emergency services, only to blind-side them with astronomical medical bills. Though many payors sought to bring these providers in-network to protect patients and rein in costs, such negotiations routinely failed due to the providers' refusal to moderate their inflated pricing demands. As a result, air ambulance companies remained out-of-network and leveraged their market power to secure inflated payments.

47. This is evidenced by numerous lawsuits filed against Plaintiffs/Counterclaim Defendants alleging that they charged exorbitant prices far exceeding the actual cost of the services provided. *See, e.g., Stan and Rainy Wagner, et al. v. Summit Air Ambulance, LLC, et al.*, MTDC Case No. CV-17-57-BU-NMM (2017); *Danielle Kettler, et al. v. Reach Air Medical Services, LLC*, NDCA Case No. 4:20-cv-03021 (2020); *Alphine Bradley, et al. v. Med-Trans Corporation*, SCDC Case No. 3:20-cv-02679 (2020).

48. In order to protect patients from financial devastation, payors were frequently pressured into paying excessive and unjustified charges. In turn, those inflated payments contributed to the broader inflation of healthcare costs for American families, employers, and plan sponsors across the country.

49. Recognizing this national crisis, Congress enacted the No Surprises Act ("NSA"), effective January 1, 2022, to curb the abuse of surprise billing practices, particularly by air ambulance providers who weaponized the ADA's preemption to avoid meaningful oversight. The NSA, in essence, removed patients from the payment equation and required out-of-network

providers and payors to resolve disputes directly through the NSA's Independent Dispute Resolution process.

50. Unable to continue exploiting patients directly through surprise billing, Plaintiffs/Counterclaim Defendants, upon information and belief, engineered a second scheme, this time manipulating the IDR process itself to continue inflating payments and driving profits. In this new scheme, Plaintiffs/Counterclaim Defendants devised a series of tactics designed to overwhelm the IDR system, misrepresent service data, and improperly extract payments from payors all to perpetuate their profit-maximizing model now that their first exploit was foreclosed.

51. For example, since around October 2023, Plaintiffs/Counterclaim Defendants have submitted two separate IDR disputes under the NSA's IDR process for what is a single, bundled claim (encompassing both the base rate and mileage rate). In other words, Plaintiffs/Counterclaim Defendants submit disputes for the base rate and mileage rate in two separate submissions, even though they can be submitted together.

52. Plaintiffs/Counterclaim Defendants have adopted a deliberate and systematic practice of fragmenting what is functionally a single transport into two distinct IDR submissions: one for the base rate and one for the mileage rate. Separate submissions fail to provide the complete picture of offers being submitted relative to costs that may have already been paid on the transport in the disputes submitted to the IDR entities. In at least some scenarios, the fragmented claims are submitted to separate IDR entities.

53. Each separate IDR submission imposes two layers of cost: (1) a non-refundable administrative fee, payable by both parties, and (2) an IDR entity fee, which the losing party is obligated to pay. By unnecessarily dividing a single transport into multiple IDR filings,

Plaintiffs/Counterclaim Defendants double the required administrative fees and increase the likelihood that Aetna will bear duplicative IDR entity fees.

54. This unbundling scheme appears driven by strategic profiteering, with the aim of:
- a. Increasing the probability of success by isolating components of the claim;
 - b. Amplifying administrative and financial burdens on Aetna and other payors;
 - c. Overwhelming the IDR system to induce delay and dysfunction; and
 - d. Coercing Aetna into entering direct contractual agreements by rendering the current reimbursement structure untenable, evidenced by the fact that Plaintiffs/Counterclaim Defendants, within six months of deliberately choosing to unbundle the submissions, sought a national contract with Aetna.

55. Furthermore, Plaintiffs/Counterclaim Defendants charge exorbitant prices for their alleged services, and while the NSA was enacted to curb their surprise-billing abuses, now Plaintiffs/Counterclaim Defendants are abusing the NSA dispute resolution process itself by overwhelming the system with submitting tens of thousands of disputes, including, *inter alia*, misleading and ineligible submissions, that drive up the cost and reduce the effectiveness and efficiency of the process. Indeed, Plaintiffs/Counterclaim Defendants have initiated thousands more IDR disputes than all other air ambulances combined.

56. As a result of this artificial increase in IDR volume and associated costs, Aetna and similarly situated payors are being forced to expend significant time and resources responding to duplicative and unnecessary submissions, even where a single consolidated submission would be appropriate, permissible, and attainable. Plaintiffs/Counterclaim Defendants have simultaneously criticized delays in IDR determinations and payments—including by bringing this very suit—

while themselves generating the excessive volume that is contributing to such delays, manufacturing the problem they seek to leverage against payors.

CAUSE OF ACTION – VIOLATION OF CUTPA

57. Aetna incorporates by reference its prior allegations as though fully set forth herein.

58. Plaintiffs/Counterclaim Defendants have engaged in unfair and deceptive acts or practices in the conduct of trade or commerce in violation of Conn. Gen. Stat. § 42-110b.

59. Plaintiffs/Counterclaim Defendants are persons under Conn. Gen. Stat. § 42-110a in that they are corporations, limited liability companies, and/or other legal entities. Plaintiffs/Counterclaim Defendants engage in trade and/or commerce within the meaning of Conn. Gen. Stat. § 42-110a because they provide healthcare services in the state of Connecticut and actively participate in IDR proceedings involving services rendered in the state of Connecticut.

60. Plaintiffs/Counterclaim Defendants' scheme, as described herein, offends public policy, is immoral, unethical, oppressive, and unscrupulous, and has caused substantial injury to Aetna, consumers and businesses that is not outweighed by countervailing benefits and could not have been avoided.

61. Plaintiffs/Counterclaim Defendants repeatedly have engaged in the practices described in ¶¶ 43-56 above with Connecticut patients, Connecticut health plans and Connecticut-based IDR proceedings.

62. Plaintiffs/Counterclaim Defendants' scheme manipulates a federal regulatory process for improper financial gain to the detriment of payors such as Aetna.

63. As a direct and proximate result of Plaintiffs/Counterclaim Defendants unfair trade practices, Aetna has suffered ascertainable losses of money or property within the meaning of

Conn. Gen. Stat. § 42-110g(a), including increased costs and administrative burden and costs incurred to address the volume generated by Plaintiffs/Counterclaim Defendants in bad faith.

64. Pursuant to Conn. Gen. Stat. § 42-110g(d), Aetna is entitled to recover actual damages, attorneys' fees, and costs, and to such other legal and equitable relief as the Court deems appropriate.

65. Aetna reserves all rights to seek discovery for additional factual support for the matters pleaded in its counterclaim herein and amend, as necessary and appropriate.

PRAYER FOR RELIEF

WHEREFORE, Aetna prays for the following relief against Plaintiffs/Counterclaim Defendants:

- (1) An award of actual damages in an amount to be proven at trial;
- (2) An award of punitive damages pursuant to Conn. Gen. Stat. § 42-110g(a);
- (3) An award of attorneys' fees and costs pursuant to Conn. Gen. Stat. § 42-110g(d);
- (4) Equitable relief as the Court deems just and proper, including but not limited to injunctive relief to prevent further misuse of the Independent Dispute Resolution process; and
- (5) Such other and further relief as the Court deems just and appropriate.

Respectfully Submitted,

By: s/John B. Shely

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**ATTORNEYS FOR DEFENDANTS
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AND AETNA HEALTH AND LIFE
INSURANCE CO.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed electronically on June 11, 2025. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt.

s/ John B. Shely
John B. Shely