

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

GUARDIAN FLIGHT LLC,
REACH AIR MEDICAL SERVICES LLC,
CALSTAR AIR MEDICAL SERVICES, LLC,
MED-TRANS CORPORATION,
AIR EVAC EMS, INC., and
AIRMED INTERNATIONAL LLC,

Plaintiffs,

v.

AETNA LIFE INSURANCE COMPANY,
AETNA HEALTH, INC.,
AETNA HEALTH AND LIFE INSURANCE
COMPANY, and
CIGNA HEALTH AND LIFE INSURANCE
COMPANY,

Defendants.

Case No. 3:24-cv-00680-MPS

**DEFENDANT CIGNA HEALTH AND LIFE INSURANCE COMPANY’S
SUPPLEMENTAL BRIEF IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT**

Pursuant to the Court’s September 17, 2026 docket order (ECF No. 406), Defendant Cigna Health and Life Insurance Company (“Cigna”) submits this supplemental brief in support of its Motion for Summary Judgment (ECF Nos. 351, 353) to address the implications of the Second Circuit’s recent decision in *East Coast Advanced Plastic Surgery, LLC v. Cigna Health & Life Insurance Co.*, No. 25-2204, 2026 U.S. App. LEXIS 28449 (2d Cir. Sept. 17, 2026). Cigna states as follows:

SUMMARY

In *East Coast Advanced Plastic Surgery, LLC v. Cigna Health & Life Insurance Co.*, the Second Circuit held that the No Surprises Act (“NSA”), 42 U.S.C. § 300gg-111, “does not provide a private right of action to enforce payment awards obtained through the NSA’s IDR

[independent dispute resolution] process.” No. 25-2204, 2026 U.S. App. LEXIS 28449, at *2 (2d Cir. Sept. 17, 2026). That published decision is binding in this Circuit. It forecloses Plaintiffs’ NSA claim against Cigna and requires summary judgment for Cigna on Count I. Although the decision did not address ERISA standing, its administrative-enforcement rationale supports Cigna’s argument on Count II when considered together with *Guardian Flight, L.L.C. v. Health Care Serv. Corp.*, 140 F.4th 271, 277 (5th Cir. 2025), which held that plan beneficiaries protected from balance billing suffer no concrete injury from nonpayment of IDR awards. The decision also supports, by analogy, Cigna’s arguments concerning Plaintiffs’ CUTPA/CUIPA claim (Count III), as set forth in Cigna’s Memorandum of Law (ECF No. 353).

DISCUSSION

I. *East Coast Advanced Forecloses Plaintiffs’ NSA Claim (Count I)*

“The text and structure of the NSA make clear that it does not provide a private right of action to enforce payment awards obtained through the NSA’s IDR process.” *E. Coast Advanced Plastic Surgery, LLC v. Cigna Health & Life Ins. Co.*, No. 25-2204, 2026 U.S. App. LEXIS 28449, at *2–3 (2d Cir. Sept. 17, 2026). In *East Coast Advanced*, the plaintiff sued Cigna, seeking declarations: (1) that Cigna failed to timely pay IDR awards obtained by the plaintiff under the NSA; (2) that Cigna owed the plaintiff the amounts determined through the IDR process; and (3) that the plaintiff was entitled to equitable or monetary relief. *Id.* at *7–8. The district court dismissed all claims, concluding that the NSA does not establish a private right of action, and the Second Circuit affirmed. *Id.* at *3, *8, *19. In so holding, the Second Circuit joined the Fifth Circuit in concluding that no private cause of action exists for IDR enforcement under the NSA. *Id.* at *9-10 (citing *Guardian Flight, L.L.C. v. Health Care Serv. Corp.*, 140 F.4th 271, 274–77 (5th Cir. 2025)). The court explained:

Although the NSA gives providers a right to payment from health plans for certain services, it delegates enforcement authority to multiple federal agencies and to states. This statutory scheme reflects Congress’s intent that the NSA, including payment of IDR awards, be enforced through administrative action rather than private litigation.

....

. . . Congress expressly provided for [the Department of Labor] and Treasury to enforce IDR awards entered against private employer-sponsored group health plans, for [the Department of Health and Human Services] to enforce awards against state and local governmental group health plans, and for states to enforce awards against health insurance issuers. This statutory scheme makes clear that Congress did not intend to authorize private lawsuits to enforce IDR awards.

Id. at *3, *14. “Without an implied private right of action under the NSA,” the Second Circuit concluded, “ECAPS has no other substantive claim of right to relief, so its cause of action for failing to make timely payment of IDR awards cannot proceed.” *Id.* at *18–19.

East Coast Advanced forecloses Count I. Titled “Action for Payment of IDR Determinations (NSA 42 U.S.C. § 300gg-112(b)(6)),” Count I asserts that “Plaintiffs are entitled to have the IDR determinations enforced. The amounts owed on unpaid, partially paid and late-paid awards plus prejudgment and post-judgment interest should be issued as a federal judgment, and the Court should assist in post-judgment collection efforts.” (ECF No. 109 ¶ 30.) But the Second Circuit has now confirmed that the NSA provides no private cause of action to enforce IDR awards. *E. Coast Advanced*, 2026 U.S. App. LEXIS 28449, at *2.

Because Plaintiffs lack any private right of action under the NSA, summary judgment should be entered for Cigna on Count I.

II. *East Coast Advanced* Reinforces That Plaintiffs Lack Standing on Count II

Although *East Coast Advanced* did not directly address ERISA standing, its reasoning reinforces Cigna’s entitlement to summary judgment on Count II. The Second Circuit emphasized that Congress delegated NSA enforcement to federal agencies and states, reflecting

Congress’s intent that the NSA be enforced “through administrative action rather than private litigation.” 2026 U.S. App. LEXIS 28449, at *3. The court further held that the NSA’s “shall-pay provisions,” although rights-creating, do not establish a private remedy. *Id.* at *11. And it explained that Congress “had no reason” to confer enforcement authority again in the NSA because ERISA and the Internal Revenue Code already authorize enforcement by the responsible agencies. *Id.* at *14-15. Those conclusions establish that the NSA’s payment obligation does not itself create a private remedy or supply the concrete injury necessary for Plaintiffs’ derivative ERISA claim. They are also consistent with the Fifth Circuit’s holding in *Guardian Flight, L.L.C. v. Health Care Serv. Corp.* that, because the NSA shields plan beneficiaries from balance-billing liability, they “have not suffered - and could not suffer - any concrete injury” from an insurer’s failure to pay IDR awards. 140 F.4th 271, 277 (5th Cir. 2025).

Derivative ERISA standing requires that the assignor, the plan beneficiary, have suffered a concrete injury. *See Thole v. U.S. Bank N.A.*, 590 U.S. 538, 541 (2020) (“Because the plaintiffs themselves have no concrete stake in the lawsuit, they lack Article III standing.”). Here, Plaintiffs’ patients have no liability for the amounts at issue in the IDR proceedings. They had nothing to gain or lose from those proceedings and will receive the same plan benefits regardless of this lawsuit’s outcome. *See Guardian Flight, L.L.C. v. Health Care Serv. Corp.*, 140 F.4th 271, 277 (5th Cir. 2025). That absence of beneficiary injury accords with *East Coast Advanced’s* description of the NSA’s IDR-payment obligation as one enforced through the administrative scheme Congress created, rather than through a private action. *See East Coast Advanced*, 2026 U.S. App. LEXIS 28449, at *3, *14. Other courts have dismissed ERISA claims on this basis. *See, e.g., SpecialtyCare, Inc. v. CIGNA Healthcare, Inc.*, No. 1:25-cv-00908, 2026 U.S. Dist.

LEXIS 34911, at *12 (D. Del. Feb. 20, 2026); *SpecialtyCare, Inc. v. UMR, Inc.*, No. 1:25-cv-00907, 2026 U.S. Dist. LEXIS 34914, at *15–16 (D. Del. Feb. 20, 2026).

Because Congress structured the NSA for administrative enforcement rather than private litigation, Plaintiffs should not be permitted to use derivative ERISA claims to obtain the same IDR-payment relief that *East Coast Advanced* holds the NSA does not authorize providers to pursue privately. See *East Coast Advanced*, 2026 U.S. App. LEXIS 28449, at *18–19. Together with *Guardian Flight*’s conclusion that beneficiaries protected from balance billing lack concrete injury from nonpayment of IDR awards, *East Coast Advanced* supports summary judgment for Cigna on Count II.

III. *East Coast Advanced* Supports Summary Judgment on Plaintiffs’ CUTPA/CUIPA Claim (Count III)

East Coast Advanced also supports, by analogy, Cigna’s arguments concerning Plaintiffs’ CUTPA/CUIPA claim (Count III), which Cigna addressed in its Memorandum of Law (ECF No. 353) at 12–17. As explained therein, Plaintiffs’ CUTPA claim fails because: (1) insurance-related conduct can violate CUTPA only through CUIPA, and the NSA does not provide an independent basis for CUTPA liability, *State v. Acordia, Inc.*, 310 Conn. 1, 27 (2013); *NEMS, PLLC v. Harvard Pilgrim Health Care of Conn., Inc.*, 350 Conn. 525, 533–40 (2024); (2) Plaintiffs, as third-party claimants rather than insureds, lack standing under § 38a-816(6); and (3) ERISA preempts CUTPA claims relating to employee benefit plans. The Second Circuit did not address CUTPA, CUIPA, or state-law claims. It did hold, however, that the Declaratory Judgment Act could not preserve ECAPS’s claim because that statute “does not create an independent cause of action” and ECAPS lacked any other substantive right to relief. *East Coast Advanced*, 2026 U.S. App. LEXIS 28449, at *18–19. More broadly, the court concluded that

Congress assigned enforcement of IDR-payment obligations to specified federal agencies and state regulators rather than private litigants. *Id.* at *3, *14. That statutory structure supports Cigna’s argument that Plaintiffs cannot obtain through CUTPA the same private IDR-enforcement remedy that *East Coast Advanced* holds Congress omitted from the NSA, although Cigna’s independent CUTPA, CUIPA, standing, and preemption grounds remain necessary to resolve Count III. *See also SpecialtyCare, Inc. v. CIGNA Healthcare, Inc.*, 2026 U.S. Dist. LEXIS 34911, at *15–16 (D. Del. Feb. 20, 2026) (holding that state-law claims seeking to enforce IDR awards are foreclosed because the NSA provides no private right of action). Summary judgment should be entered for Cigna on Count III.

CONCLUSION

For these reasons and those stated in Cigna’s Memorandum of Law in Support of its Motion for Summary Judgment (ECF No. 353), Cigna respectfully requests that the Court enter final summary judgment in its favor on Counts I, II, and III.

Respectfully submitted,
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Dated: September 28, 2026

CERTIFICATE OF SERVICE

I, Ruel W. Smith, hereby certify that the documents filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on September 28, 2026.

/s/ Ruel W. Smith
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