No. S271501

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

LARRY QUISHENBERRY,

Appellant,

v.

UNITED HEALTH CARE, INC., UNITED HEALTH GROUP, INC., UNITED HEALTH CARE - CALIFORNIA, UHC - CALIFORNIA, UNITED HEALTHCARE INSURANCE, INC., UNITED HEALTHCARE SERVICES, INC., HEALTHCARE PARTNERS AFFILIATES MEDICAL GROUP, AND HEALTHCARE PARTNERS MEDICAL GROUP,

Respondents.

Court of Appeal, Second Dist., Div. Seven, Case No. B303451
Los Angeles County Superior Court Case No. BC631077
Hon. Ralph Hofer, Presiding

APPLICATION OF CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA FOR PERMISSION TO FILE *AMICUS CURIAE* BRIEF IN SUPPORT OF RESPONDENTS

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June 8, 2022

APPLICATION

Pursuant to Rule 8.520(f) of the California Rules of Court, the Chamber of Commerce of the United States of America ("Chamber") respectfully applies for permission to file the attached brief of *amicus curiae* in support of Respondents and affirmance.

The Court should allow the Chamber to participate as *amicus* in this appeal. Under the governing rules, applications for permission to file *amicus* briefs "must state the applicant's interest and explain how the proposed *amicus* brief will assist the court in deciding the matter." Cal. R. Ct. 8.520(f)(3). The Court should grant this motion because the Chamber has a strong interest in cases like this one and because the proposed *amicus* brief would assist the Court in its consideration of the important issues raised by this appeal.

I. The Chamber Has an Interest in This Case.

The Chamber is the world's largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of more than three million businesses and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, state legislatures, and the courts. To that end, the Chamber regularly files *amicus curiae* briefs in cases, like this one, that raise issues of concern to the nation's business community.

This appeal is important to the Chamber, which has a strong interest in ensuring that federal preemption is enforced correctly, clearly, and uniformly nationwide, thus alleviating the need for its members to navigate a patchwork of inconsistent state laws and

regulations. The Chamber also has an interest in ensuring that its members that are subject to the comprehensive and burdensome requirements of federal healthcare programs are not further subject to conflicting requirements of state law.

II. The *Amicus* Brief Will Assist the Court.

The proposed *amicus* brief will assist the Court because the Chamber has particular expertise in the issues on appeal and in related factual and policy considerations. The Chamber will bring that expertise to bear on arguments that supplement the parties' briefs.

First, the Chamber has expertise concerning the importance of federal preemption. Due to its broad and diverse membership, the Chamber can offer valuable context as to whether a particular preemption holding would significantly affect cases and business practices not directly before the Court. In its brief, the Chamber provides additional background and analysis that will aid the Court's consideration of the issues on appeal.

Second, the Chamber's arguments expand on the parties' arguments. Although the parties rightly focus on the facts of this case, the Chamber's brief makes more general points about express and implied preemption, both generally and as applied to the Medicare Act. The Chamber's brief also discusses the Ninth Circuit's decision in *Aylward v. SelectHealth, Inc.*, 31 F.4th 719, 727-28 (9th Cir. 2022), *amended*, 2022 WL 1737667 (9th Cir. May 27, 2022), which rejects Quishenberry's interpretation of Part C's express preemption clause but was decided too recently to be fully addressed in the parties' briefs.

All other preconditions to the Chamber's participation in this appeal are satisfied. No party or counsel for a party in the pending case authored this *amicus* brief in whole or in part or made a monetary contribution intended to fund the preparation or submission of the proposed brief. No person or entity other than the Chamber, its members, or its counsel made a monetary contribution intended to fund the preparation or submission of the brief. Cal. R. Ct. 8.520(f)(4). The brief is timely because it is filed within thirty days of the filing of Appellant's reply brief. *Id.* R. 8.520(f)(2). Finally, the brief complies with Rule of Court 8.520(c)(1), because it has no more than 14,000 words.

CONCLUSION

The Court should grant the Chamber's application for permission to file the proposed *amicus* brief.

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INTEREST OF *AMICI CURIAE*

The Chamber is the world's largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of more than three million businesses and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, state legislatures, and the courts. To that end, the Chamber regularly files *amicus curiae* briefs in cases, like this one, that raise issues of concern to the nation's business community.

This appeal is important to the Chamber, which has a strong interest in ensuring that federal preemption is enforced correctly, clearly, and uniformly nationwide, thus alleviating the need for its members to navigate a patchwork of inconsistent state regulation. The Chamber also has an interest in ensuring that its members that are subject to the comprehensive requirements of federal healthcare programs are not also subject to conflicting requirements of state law.

INTRODUCTION AND SUMMARY OF ARGUMENT

Appellant Larry Quishenberry's lawsuit is a frontal attack on the Medicare Advantage program that Congress created and protected from state regulation in Medicare Part C. As such, the lawsuit is expressly preempted by the plain text of Part C's preemption clause. Even if express preemption did not apply, the suit would be separately barred as impliedly preempted, as it is flatly inconsistent with Part C's purposes. This Court should

affirm the Court of Appeal's decision reaching those correct conclusions.

Likely recognizing that his lawsuit cannot survive a straightforward reading of Part C's express preemption clause, Quishenberry rests his argument on a presumption against preemption. But the U.S. Supreme Court has made clear that such a presumption has no role to play when interpreting express preemption clauses. *Puerto Rico v. Franklin Cal. Tax-Free Tr.*, 136 S. Ct. 1938, 1946 (2016). The Court thus must interpret Part C's preemption clause according to its plain text, with no thumb on the scale in Quishenberry's favor. And such a plain-text reading leaves only one conclusion: Quishenberry's tort claims, which seek to apply "State law" to "MA plans which are offered by MA organizations under [Part C]," are expressly preempted. 42 U.S.C. § 1395w-26(b)(3).

A contrary interpretation of Part C's preemption clause would not only violate the plain text, but conflict with the decisions of federal circuit courts and other state supreme courts, undermining Congress's goal of immunizing Part C from state regulation and destroying the nationwide uniformity that federal preemption is intended to foster. Without such uniformity, regulated businesses would face a patchwork of inconsistent state legal requirements, multiplying the costs of compliance and discouraging innovation. To avoid those harms, the Court should join the other jurisdictions that have recognized that Part C expressly preempts claims like Quishenberry's.

The same result follows under implied preemption. Through Medicare Part C, Congress sought to create a federal capitated payment system protected from state regulation. Quishenberry's state-law claims strike at the heart of that system, based on policy objections to capitated health insurance. It is hardly surprising, then, that his claims conflict with Part C's substantive and procedural requirements. That conflict supports implied preemption.

ARGUMENT

The Court of Appeal correctly held that Quishenberry's claims are expressly preempted by Part C of the Medicare Act, and that they would be impliedly preempted even in the absence of express preemption. In challenging that conclusion, Quishenberry leans on a presumption against preemption. But no such presumption applies to express preemption clauses like Part C's, which unambiguously preempts Quishenberry's claims. And even if the express preemption clause did not apply, implied preemption overcomes the presumption because Quishenberry's lawsuit is a direct attack on the most basic principles and requirements of the Medicare Advantage program. This Court should affirm the Court of Appeal's decision.

I. Part C Expressly Preempts Quishenberry's Claims.

A. No Presumption Against Preemption Applies to Express Preemption Clauses.

Quishenberry's reliance on a presumption against preemption disregards the U.S. Supreme Court's clear holding that courts should "not invoke any presumption against

preemption" when interpreting express preemption clauses. *Franklin*, 579 U.S. at 125.

Federal preemption enforces the "familiar and well-established principle that the Supremacy Clause invalidates state laws that interfere with, or are contrary to, federal law." *Hillsborough Cnty. v. Automated Med. Labs., Inc.*, 471 U.S. 707, 712 (1985) (cleaned up). The Supremacy Clause grants supreme status "to 'the *Laws* of the United States.'" *Merck Sharp & Dohme Corp. v. Albrecht*, 139 S. Ct. 1668, 1679 (2019) (quoting U.S. Const. art. VI, cl. 2). And more than that, the Clause grants supreme status to federal "Laws" that are "made in Pursuance" of "[t]his Constitution." U.S. Const. art. VI, cl. 2. Under the Supremacy Clause, therefore, it is "the statute" that ultimately "strips state law of its force." *Coventry Health Care of Mo., Inc. v. Nevils*, 137 S. Ct. 1190, 1198 (2017).

It follows that when Congress enacts an express preemption clause, an analysis of whether that clause preempts state law begins and ends with the statutory text. *Franklin*, 136 S. Ct. at 1946. The "presumption against pre-emption is rooted in" an "assum[ption] that Congress does not cavalierly pre-empt state laws." *Tarrant Reg'l Water Dist. v. Herrmann*, 569 U.S. 614, 631 n.10 (2013) (internal quotation marks omitted). But an express preemption clause makes clear that Congress *deliberately* intended to preempt state law. *Riegel v. Medtronic, Inc.*, 552 U.S. 312, 326 (2008). In that case, there is no justification for assuming that Congress did not mean exactly what it said. A court may not depart from "what a pre-emption clause . . . does by its terms" by

"speculat[ing] upon congressional motives." *Id.*; *see Franklin*, 579 U.S. at 125 ("[T]he plain wording of the clause . . . necessarily contains the best evidence of Congress' pre-emptive intent." (cleaned up)).

Otherwise, state law would be preempted not—as the Supremacy Clause requires—by "those policies that are actually authorized by and effectuated through the statutory text," but by "extratextual considerations." *Wyeth v. Levine*, 555 U.S. 555, 602-03 (2009) (Thomas, J., concurring). And so it is the text alone that controls, unmodified by any presumption against preemption. *Franklin*, 579 U.S. at 125.

B. The Plain Text of Part C's Express Preemption Clause Covers Quishenberry's Claims.

1. The text of Part C's express preemption clause is straightforward. It provides that "[t]he standards established under" Part C "shall supersede any State law or regulation (other than State licensing laws or State laws relating to plan solvency) with respect to MA plans which are offered by MA organizations." 42 U.S.C. § 1395w-26(b)(3). This language "preempts a broad swath of state laws," *Pharm. Care Mgmt. Ass'n v. Wehbi*, 18 F.4th 956, 971 (8th Cir. 2021), in order "to protect the purely federal nature of Medicare Advantage plans," *First Med. Health Plan, Inc. v. Vega-Ramos*, 479 F.3d 46, 52 (1st Cir. 2007); *accord Do Song Uhm v. Humana, Inc.*, 620 F.3d 1134, 1149-50 (9th Cir. 2010).

When interpreted according to its text, Part C's preemption clause bars Quishenberry's claims. Quishenberry seeks to enforce "standards established under" Part C, 42 U.S.C. § 1395w-26(b)(3); he alleges that Respondents violated Part C's requirements

governing his father's nursing care. *E.g.*, OB-9; 1AA23 ¶¶ 6-7, 24, 26, 29. He brings his claims under California tort law, which is "State law . . . other than State licensing laws or State laws relating to plan solvency." 42 U.S.C. § 1395w-26(b)(3). Part C thus "supersede[s]" his claims "with respect to MA plans which are offered by MA organizations." *Id.* The plans at issue here are "MA plans which are offered by" Respondents, which are "MA organizations." *Id.* The claims, therefore, are preempted.

2. Quishenberry's contrary reading of the express preemption clause focuses on two phrases: "any State law or regulation" and "with respect to MA plans which are offered by MA organizations." He argues that "any State law or regulation" does not include common-law duties. And he argues that "with respect to MA plans which are offered by MA organizations" limits preemption to state statutes specifically aimed at MA plans. The statutory text does not support either argument.

First, "any State law or regulation" unambiguously encompasses common-law duties. 42 U.S.C. § 1395w-26(b)(3). "[T]he word 'any' has an expansive meaning, that is, 'one or some indiscriminately of whatever kind.'" *Ali v. Fed. Bureau of Prisons*, 552 U.S. 214, 219 (2008) (some internal quotations marks omitted). Part C's express preemption clause thus covers "State law," 42 U.S.C. § 1395w-26(b)(3), "of whatever kind," *Ali*, 552 U.S. at 219.[1] And state common law is undoubtedly a "kind," *id.*, of state

[1] This same language forecloses Quishenberry's argument that the preemption clause applies only to state law that conflicts with Part C's requirements. "[A]ny State law" means *any* State law, 42

law, *Roberts v. United Healthcare Servs., Inc.*, 2 Cal. App. 5th 132, 145 (2016); *see CSX Transp., Inc. v. Easterwood*, 507 U.S. 658, 664 (1993) (holding that phrase "'law, rule, regulation, order, or standard'" covered "duties . . . imposed by the common law"); *cf. Riegel v. Medtronic, Inc.*, 552 U.S. 312, 324 (2008) (holding statutory reference to state "requirements" included "common-law duties").[2] For that reason, as the Ninth Circuit recently held, "common law claims can fall within the ambit of Part C's preemption provision." *Aylward*, 31 F.4th at 727.

Second, the phrase "with respect to MA plans which are offered by MA organizations," 42 U.S.C. § 1395w-26(b)(3), does not exempt "generally applicable law" from preemption, *Aylward*, 31 F.4th at 727. The U.S. Supreme Court rejected an identical argument in *Riegel*, where it interpreted a clause preempting state law "with respect to a device intended for human use." 552 U.S. at 316. The plaintiffs argued that "general common-law duties are

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U.S.C. § 1395w-26(b)(3), regardless of whether it conflicts with Part C. The statute provides "no basis for concluding that a state law duty that parallels, enforces, or supplements an express federal MA standard on the subject is *not*" preempted. *Aylward v. SelectHealth, Inc.*, 31 F.4th 719, 728 (9th Cir. 2022), *amended*, 2022 WL 1737667 (9th Cir. May 27, 2022).

[2] *Sprietsma v. Mercury Marine*, 537 U.S. 51, 63 (2002), is not to the contrary, because rather than using the expansive word "any" in the express preemption clause, the statute in *Sprietsma* had a savings clause expressly preserving state "common law." *Do Song Uhm*, 620 F.3d at 1153-54; *Roberts*, 2 Cal. App. 4th at 145-46; *see* Resp. Br. 54-58. If Congress had intended Part C's preemption clause to be similarly limited, it would have duplicated the phrasing and savings clause of the statute in *Sprietsma*. Instead, it drafted a broad clause with no carve-out for common-law duties.

not requirements maintained 'with respect to devices,'" but the Court disagreed. *Id.* at 327-28 (some internal quotation marks omitted). When a "general tort duty" is applied to a medical device, the Court recognized, that duty is "'with respect to'" the device. *Id.* at 328. "Nothing in the statutory text suggests that the pre-empted state requirement must apply *only* to the relevant device, or only to medical devices and not to all products an all actions in general." *Id.*

So too here. As in *Riegel*, the phrase "with respect to" in Part C's preemption clause refers "to the extent of preemption—[state] laws or regulations are [preempted] to the extent Part C's standards supersede them but no further." *Roberts*, 2 Cal. App. 5th at 147; *accord Wehbi*, 18 F.4th at 971. The clause thus can preempt "state law causes of action based on generally applicable laws." *Aylward*, 31 F.4th at 727-28.

The last-antecedent canon, which Quishenberry invokes in his reply brief, does not help him. That canon applies to "statutes that include a *list* of terms or phrases followed by a limiting clause." *Lockhart v. United States*, 577 U.S. 347, 351 (2016) (emphasis added). But here there is no list. There is only one phrase: "supersede any State law or regulation."[3] And the question

[3] If there is a list, it is "State law or regulation." 42 U.S.C. § 1395w-26(b)(3). And the last antecedent in that list for "with respect to" is "regulation," not "State law." *Id.* Quishenberry does not argue that "with respect to" modifies only "regulation," but "[t]here is no grammatical basis for arbitrarily stretching the modifier back to include ['State law'], but not so far back as to include ['supersede']." *Facebook, Inc. v. Duguid*, 141 S. Ct. 1163, 1170 (2021).

Quishenberry presents is whether the modifier "with respect to" covers that entire phrase—limiting the "extent" to which Part C "supersede[s]" state law—or only part of it—limiting the category of laws that can be preempted. *Roberts*, 2 Cal. App. 5th at 147. The last-antecedent canon cannot answer that question.

But even if Quishenberry were right that "with respect to" modified only the phrase "State law or regulation," his conclusion still would not follow. Under the U.S. Supreme Court's reasoning in *Riegel*, "general . . . duties" are "with respect to" MA plans when they apply to MA plans. *Riegel*, 552 U.S. at 328. The statute does not "suggest that a state law or regulation must apply *only*" to a MA plan "in order to constitute a law 'with respect to'" an MA plan. *Do Song Uhm*, 620 F.3d at 1150 n.25; *accord Aylward*, 31 F.4th at 727.

C. Other Courts Have Interpreted Part C's Express Preemption Clause in the Same Way as the Court of Appeal.

Multiple other federal and state courts have interpreted Part C's express preemption clause the same way as the Court of Appeal below. *E.g.*, *Aylward*, 31 F.4th at 727-28; *Wehbi*, 18 F.4th at 971-72; *Snyder v. Prompt Med. Transp., Inc.*, 131 N.E.3d 640, 652-53 (Ind. Ct. App. 2019); *Morrison v. Health Plan of Nev.*, 328 P.3d 1165, 1167-72 (Nev. 2014); *Pacificare of Nev., Inc. v. Rogers*, 266 P.3d 596, 600-01 (Nev. 2011). If this Court adopted Quishenberry's contrary interpretation, it would undermine the national uniformity Congress sought to create through Part C's preemption clause by subjecting MA organizations to different preemption rules in different jurisdictions. The Court should not disrupt that

uniformity by departing from the correct interpretation of Part C's express preemption clause adopted by a majority of courts.

The Chamber's members include thousands of businesses subject to Medicare and other comprehensive federal regulatory schemes. These regulatory regimes advance public ends (such as the availability of affordable healthcare and the safety of drugs and medical devices), while also ensuring a nationwide marketplace for valuable—even life-saving—goods and services. Compliance with these regimes, however, imposes significant costs on businesses. *E.g.*, U.S. Chamber of Commerce Found., *The Regulatory Impact on Small Business: Complex. Cumbersome. Costly.* 18 (2017), https://perma.cc/G6SX-VTEC.

Where it exists, federal preemption prevents these costs from being multiplied fifty-fold by distinct state requirements. Such duplicative compliance costs stifle innovation, drive up prices for consumers, and constrain the job-creating powers of American businesses. When Congress enacts express preemption clauses, it reduces these harms by ensuring that the same federal regulatory standards apply uniformly nationwide. *See*, *e.g.*, *Bates v. Dow Agrosciences LLC*, 544 U.S. 431, 452 (2005) (FIFRA expressly "pre-empts competing state labeling standards—imagine 50 different labeling regimes prescribing the color, font size, and wording of warnings—that would create significant inefficiencies for manufacturers"); *Fort Halifax Packing Co. v. Coyne*, 482 U.S. 1, 11 (1987) ("ERISA's pre-emption provision was prompted by recognition that . . . [a] patchwork scheme of regulation would

introduce considerable inefficiencies in benefit program operation.").

For these reasons, express preemption clauses should be applied consistently nationwide. Regulators and regulated parties alike need federal standards to be clear and uniform. "Regulators want their regulations to be effective, and clarity promotes compliance." *Kisor v. Wilkie*, 139 S. Ct. 2400, 2421 (2019) (plurality op.) (cleaned up). And regulated parties need to "know what they can and cannot do." *Id.* But if some courts give less preemptive force to federal law than others, then businesses will be subject to an inconsistent patchwork of state and federal regulations, making compliance unreasonably difficult and undermining the effectiveness of federal regulatory schemes. *See Nw. Airlines, Inc. v. Duncan*, 121 S. Ct. 650, 651 (2000) (O'Connor, J., dissenting from denial of cert.) (explaining that "divergent pre-emption rules" expose business "to inconsistent state regulations").

These considerations apply fully to Part C's express preemption clause, which serves the same need for uniform national standards. The "MA program is a federal program operated under [f]ederal rules." *Do Song Uhm*, 620 F.3d at 1149 (quoting H.R. Rep. No. 108-391, at 557 (2003)). Congress enacted the preemption clause to "protect the purely federal nature" of that program, *Vega-Ramos*, 479 F.3d at 52, to which "State laws[] do not[] and should not apply," *Do Song Uhm*, 620 F.3d at 1149 (quoting H.R. Rep. No. 108-391, at 557). MA organizations like Respondents should not be exposed to different requirements in California than in other jurisdictions.

II. Part C Impliedly Preempts Quishenberry's Lawsuit, Which Is a Direct Attack on the Policies Underlying the Medicare Advantage Program.

Because Part C's express preemption clause unambiguously applies to Quishenberry's claims, this Court can affirm the Court of Appeal's decision without reaching implied preemption. But even if the Court were to conclude that Quishenberry's claims are not expressly preempted, they still impermissibly conflict and interfere with the administration of Part C. Resp. Br. 61-71. Quishenberry alleges that Respondents violated Part C's requirements for his father's care, but he did not raise his objections through the Medicare Act's review process. The Medicare Act provides a comprehensive procedure for an "[e]nrollee[]" to "appeal . . . an MA organization's decision to terminate provider services." 42 C.F.R. § 422.636(a). Only after pursuing his appeal before an "independent review entity" may the enrollee seek further review before an administrative law judge or federal court. *Id.* § 422.636(g); 42 U.S.C. § 1395w-22(g)(5). Quishenberry cannot, consistent with federal law, forgo this review procedure and substitute a state court's or jury's judgments for those of the federal decisionmakers that Congress selected to review Part C coverage determinations.

This conflict with the Medicare Act is no surprise, because Quishenberry's entire lawsuit is an attack on the capitation model for health insurance that Congress adopted in Part C. Congress worried that the traditional "Medicare program" had deprived beneficiaries of "the health benefit design, delivery, and cost containment innovations that have occurred in the private sector."

H.R. Conf. Rep. No. 105-217, 1st Sess., p. 585 (1997). Congress intended Part C's capitation model to "allow beneficiaries to have access to a wide array of private health plan choice in additional to traditional fee-for-service Medicare" and to "enable the Medicare program to utilize innovations that have helped the private market contain costs and expand health care delivery options." *Id.*

Quishenberry, like MA's other critics, believes that the capitation model, by creating a "financial interest . . . in providing less care," leads insurers to "ignore the individual needs of a patient in order to improve the[ir] bottom lines." *Pegram v. Herdrich*, 530 U.S. 211, 220 (2000); *see* 1AA30-31, 36 ¶¶ 13, 16-17, 43. He alleges that this conflict of interest led Respondents "to find methods to provide less than daily care for [their] patients," including his father. 1AA31 ¶ 17. And he bases his negligence claim on his allegation that Respondents "were motivated by their need to increase profit by reducing the cost of providing care to" his father. 1AA36 ¶ 43.

In enacting the MA program, however, Congress rejected these views. Unlike Quishenberry, Congress believed that a capitation model would benefit enrollees by expanding patient choice and reducing unnecessary costs. H.R. Conf. Rep. No. 105-217, 1st Sess., p. 585-86. It thus took sides in the debate over capitation, joining those who believe the "fee-for-service model" can lead to "unnecessary or useless services." *Pegram*, 530 U.S. at 220. Implied preemption prevents Quishenberry from asking a state jury to adopt his policy objections to capitation models over Congress's contrary view.

Importantly, this does not leave Quishenberry or others in his position without a remedy. As noted above, the Medicare Act provides a comprehensive process for appealing a MA organization's decision to terminate provider services. Moreover, doctors and other providers continue to have "the professional obligation to provide covered services with a reasonable degree of skill and judgment in the patient's interest." *Id.* at 219. But what the Medicare Act does not allow is for a plaintiff like Quishenberry to sue MA organizations like Respondents under state law for providing MA plans that Congress created, and subjected to pervasive regulation, under federal law.

CONCLUSION

The Court should affirm the Court of Appeal's decision that Medicare Part C preempts the claims at issue in this appeal.

CERTIFICATE OF COMPLIANCE

This brief complies with the length requirement of Rule of Court 8.520(c)(1) because it contains 3,436 words, not including exempted sections.

Respectfully submitted,

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June 8, 2022

PROOF OF SERVICE

I am a citizen of the United States, over 18 years of age, and not a party to the within action. I am employed by King & Spalding LLP; my business address is 633 West Fifth Street, Suite 1600, Los Angeles, CA 90071.

On June 8, 2022, I served the within APPLICATION and BRIEF on the parties to this proceeding, addressed below, by causing true copies thereof to be distributed as follows:

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To the Superior Court:

Hon. Ralph Hofer
Los Angeles County Superior Court
600 East Broadway
Glendale, CA 91206

To the Court of Appeal:

Second Appellate District, Division Seven
Ronald Reagan State Building
300 S. Spring St. 2nd Floor, North Tower
Los Angeles, CA 90013

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 8, 2022, in Los Angeles County, California.

MINA TUNSON

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **QUISHENBERRY v. UNITEDHEALTHCARE**
Case Number: **S271501**
Lower Court Case Number: **B303451**

1. At the time of service I was at least 18 years of age and not a party to this legal action.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

6/8/2022

Date

/s/Ethan Davis

Signature

Davis, Ethan (294683)

Last Name, First Name (PNum)

King & Spalding LLP

Law Firm