UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.: 18-cv-60530-UNGARO

ENVISION HEALTHCARE CORPORATION
and SHERIDAN HEALTHCORP, INC.,

Plaintiffs,

vs.

UNITEDHEALTHCARE INSURANCE
COMPANY,

Defendant.
_____/

DEFENDANT'S MOTION TO COMPEL ARBITRATION
AND STAY THE ACTION AND ACCOMPANYING MEMORANDUM OF LAW

UnitedHealthcare Insurance Company ("UHC") is forced to bring this Motion to properly enforce its agreement with Plaintiffs Sheridan HealthCorp, Inc. and Envision Healthcare Corporation ("Plaintiffs"), because Plaintiffs have wrongfully sued in court thereby violating the enforceable arbitration clause in their agreement. The parties' agreement, in bold (emphasis in the original) and in multiple locations, states plainly: "**THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION**…." Moreover, the parties' arbitration provision is straightforward: the parties are to *arbitrate* "any and all disputes between them." Ignoring their explicit agreement to resolve any and all disputes in arbitration, Plaintiffs filed the present lawsuit.

In their Complaint, Plaintiffs set forth allegations that UHC purportedly breached an agreement between the parties, while simultaneously (and inexplicably) breaching their own obligation to arbitrate pursuant to the same agreement. UHC therefore moves this Court pursuant to the Federal Arbitration Act ("FAA") seeking an order (1) compelling arbitration,

(2) staying all proceedings while the parties proceed in arbitration, (3) awarding UHC its costs and fees incurred in bringing this Motion, and (4) awarding UHC any other relief this Court deems just and proper.

This Motion should be granted for the reasons set forth in the accompanying memorandum of law in support.

MEMORANDUM OF LAW

I. INTRODUCTION AND OVERVIEW OF PLAINTIFFS' TACTICS

UHC often contracts with providers such as plaintiff Sheridan HealthCorp., Inc. ("Sheridan")—a hospital-based clinical and management services outsourcing firm, which touts itself as one of the leading providers of healthcare solutions for anesthesiology and other specialties to physicians, hospitals and outpatient centers. In 2009, UHC negotiated with Sheridan to bring certain healthcare services in-network to make them available to its members. To that end, on May 1, 2009, UHC and Sheridan entered into a Medical Group Participation Agreement (along with subsequent amendments and appendices, the "Agreement").

Between 2013 and 2016, Sheridan merged with two other, different, national healthcare services companies, including Envision Healthcare Corporation ("Envision") —which is the largest emergency room ("ER") staffing firm in the country. Sheridan, along with one of Envision's subsidiaries, EmCare, Inc. ("EmCare"), became part of Envision's extensive ER physician staffing business consisting of more than 27,000 physicians, clinicians and support team leaders.

Notably, due to egregious billing practices, which have resulted in increased costs for hospitals and consumers, Envision and EmCare have been the subject of much public scrutiny and angst, including an investigation by Congress, shareholder lawsuits, and various and pointed

patient-led class actions. The effect of Plaintiffs' egregious billing practices is significant as ER visits continue to be one of the largest drivers of our country's spending on outpatient care and one of the biggest sources of financial surprises for consumers nationwide. In fact, from 2012 to 2016 there was a 34% increase in per-person spending for ER services in the United States. More specifically, UHC's data indicates that Envision physicians charge on average 975% of Medicare for their services—whereas in-network ER physicians are paid on average 297% of Medicare for the same services. In addition, disturbingly, Envision charges nearly double what UHC sees from hospitals who manage their own ERs.

Following Sheridan's merger with Envision, certain disputes arose as to whether the Agreement between Sheridan and UHC properly encompassed Envision and its subsidiary providers that were either included in the merger or later acquired by Envision. The addition of Envision and its numerous subsidiaries served to drastically expand the scope of specialties far past those originally contemplated by the Agreement, which primarily focused on anesthesiology and radiology healthcare services. As a result, UHC became increasingly concerned regarding the negative impact of the chargeable rates associated with Envision's unforeseen expansion of specialty healthcare services on UHC's members and the parties' relationship and trust. UHC's concerns were further heightened given Envision's lack of transparency, candor and compliance with the Agreement.

In light of Envision's and EmCare's widely-reported egregious billing practices, UHC conducted a review of claims submitted after Sheridan's merger with Envision. UHC's review revealed Plaintiffs' had repeatedly breached their obligations under the Agreement by failing to provide UHC with proper notice and reporting of changes to their customary charges. Indeed, since well before the merger, Plaintiffs had engaged in an improper game of hide-the-ball from

UHC to wrongly increase their profits by utilizing higher and different charges without properly notifying or reporting such to UHC—resulting in, among other things, millions of dollars of overpayments to Plaintiffs.

After various attempts to engage Plaintiffs in discussions to resolve these material issues, and in consideration of Envision's highly questionable billing practices and lack of candor (among other concerns), UHC opted to terminate its Agreement with Envision effective no later than January 1, 2019. To date, Envision has been unwilling to address these matters with UHC in a reasonable and satisfactory manner—demonstrated most recently by the filing of this lawsuit in blatant disregard of the parties' valid and enforceable arbitration provision.

Plaintiffs' lawsuit ignores the fact that all of Plaintiffs' claims for (1) declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202, (2) breach of contract, (3) breach of the express covenant of good faith, and (4) breach of the implied covenants of good faith and fair dealing fall squarely within the arbitration provision and, thus, must be arbitrated. Accordingly, Plaintiffs are precluded from bringing this action in this Court.

In addition, contrary to Plaintiffs' contention, UHC has not waived its right to arbitration and nothing in Plaintiffs' Complaint establishes that UHC in any way acted inconsistently with this right. Indeed, any purported "self-help" efforts by UHC do not constitute a waiver under applicable law and, further, as illustrated in Plaintiffs' own Exhibits to their Complaint, UHC has consistently made itself available to Plaintiffs in an effort to resolve their disputes. Nor has UHC at any point threatened or initiated any litigation arising out the parties' dispute. This Court should therefore enter an order compelling Plaintiffs to file their claim in arbitration and it should stay all court proceedings while the parties proceed in arbitration.

II. FACTUAL BACKGROUND

A. PLAINTIFFS EXPRESSLY AGREED TO ARBITRATE ALL DISPUTES

As admitted by Plaintiffs, Sheridan and UHC entered into the Agreement effective May 1, 2009. (*See* Complaint, Ex. A [ECF No. 20-1].) Further, Plaintiffs are subject to the Agreement (*id*. ¶ 15), which serves as the basis for their Complaint and is attached to the Complaint. (*Id.*, Ex. A & B.)

In the Agreement, the parties contracted to work in good faith to resolve any disputes and to **arbitrate any and all disputes** that remained unresolved following such efforts. (*Id.*, Art. VIII.) Article VIII of the Agreement specifically sets forth a dispute resolution procedure through which the parties agreed to work together in good faith to resolve "any and all disputes between them." (*Id.*) The dispute resolution procedure provides that any aggrieved party should make their dispute known in writing. (*Id.*) If the dispute remains unresolved for more than sixty days from the written notice and the aggrieved party wishes to pursue the dispute, the party **must** submit the dispute to arbitration. (*Id.*) Arbitration must be initiated within one year of the written notice of dispute. (*Id.*)

The express terms of this provision, in relevant part, are as follows:

> The parties will work together in good faith to resolve **any and all disputes** between them (hereinafter referred to as "Disputes") including but not limited to all questions of arbitrability, the existence, validity, scope or termination of the Agreement or any term thereof.
>
> If the parties are unable to resolve any such Dispute within 60 days following the date one party sent written notice of the Dispute to the other party, and if either party wishes to pursue the Dispute, it **shall** thereafter **be submitted to binding arbitration** in accordance with the Commercial Dispute Procedures of the American Arbitration Association, as they may be amended from time to time (see http://www.adr.org). Unless otherwise agreed to in writing by the parties, the party wishing to pursue the Dispute must initiate the arbitration within one year after the date on which notice of the Dispute was given or shall be deemed to have waived its right to pursue the dispute in any forum.

(*Id.*)(Emphasis added.)

In addition to dedicating all of Article VIII to dispute resolution, the Agreement's signature pages reaffirm the parties' arbitration agreement. The very first line of page 18 states the following in capital letters: "**THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION THAT MAY BE ENFORCED BY THE PARTIES**." (*Id*. at 18.)

The very first line of page 19 (also numbered page 18 but containing different signatures) likewise states: "**THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION THAT MAY BE ENFORCED BY THE PARTIES**." (Complaint, Ex. A, 19 (emphasis in original).) Plaintiffs not only admit the existence and validity of this Agreement, they also do not deny the Agreement contained this binding and enforceable arbitration provision. (Complaint, ¶¶ 18, 70, Ex. A, 18–19.)

On January 1, 2016, the parties entered into an amendment to the Agreement ("Amendment") wherein Plaintiffs expressly acknowledged their agreement to arbitrate any and all disputes related to the Agreement. (Complaint, Ex. B, § 3.8 ("In the event Medical Group disagrees with United as to the existence of an overpayment or the amount of the overpayment, the issue will be resolved through the dispute resolution process set forth in the Agreement.").)

Accordingly, there is no doubt that the parties entered into a valid, binding, and enforceable agreement to arbitrate "any and all disputes between them."

B. PLAINTIFFS, NOT UHC, VIOLATED THE PARTIES' AGREEMENT AND ARBITRATION PROVISION

Though Plaintiffs have made no allegations questioning the validity or enforceability of the arbitration provision in the Agreement, on March 12, 2018, with complete disregard for their obligation to arbitrate, Plaintiffs sued UHC raising four counts—all of which are based on

allegations that UHC has not fully complied with the Agreement. Count I seeks a declaratory judgment regarding alleged violations of the Agreement. (Complaint ¶¶ 58–68.) Count II alleges breach of the Agreement. (*Id.* ¶¶ 69–72.) Count III alleges breach of a covenant of good faith allegedly contained within the Agreement. (*Id.* ¶¶ 73–79.) Count IV alleges breach of an implied covenant of good faith and fair dealing allegedly contained within the Agreement. (*Id.* ¶¶ 80–83.) Plaintiffs' sole justification for their complete disregard of the arbitration provision seems to be their unsupported and questionable conclusion that, because of UHC's purported breaches of the Agreement, UHC has effectively waived its right to arbitration. As explained in further detail below, however, this argument fails as a matter of law and common sense.

Because Plaintiffs and UHC expressly agreed to arbitrate "any and all disputes between them," and because each of the disputes alleged in Plaintiffs' Complaint undeniably falls within the scope of the Agreement's arbitration provision, the Court should grant UHC's Motion and compel the parties to proceed in arbitration.

III. ARGUMENT

A. PLAINTIFFS' LAWSUIT FLIES IN THE FACE OF THE PARTIES' AGREEMENT, THE FAA, AND CONTROLLING LAW

Enforceability of an arbitration agreement in federal court is generally governed by the FAA. *Caley v. Gulfstream Aerospace Corp.*, 428 F.3d 1359 (11th Cir. 2005). "It is by now basic hornbook law that the [FAA] . . . reflects both a liberal federal policy favoring arbitration and the fundamental principle that arbitration is a matter of contract." *Jones v. Waffle House, Inc.*, 866 F.3d 1257, 1263-64 (11th Cir. 2017) (citations and internal quotation marks omitted). The FAA gives arbitration agreements the same force and effect as other contracts and preempts state law to the extent such law treats arbitration agreements differently than other contracts. *Id.* at 1367–68. Though federal courts apply state contract law in determining the existence of an

agreement to arbitrate, "federal policy favoring arbitration is taken into consideration even in applying ordinary state law." *Id.* And, in any event, Florida likewise favors arbitration as a matter of public policy. *KFC Nat'l Mgmt. Co. v. Beauregard*, 739 So. 2d 630, 631 (Fla. Dist. Ct. App. 1999).

Therefore, "any doubts concerning the scope of arbitrable issues should be resolved in favor of arbitration, whether the problem at hand is the construction of the contract language itself or the allegation of waiver, delay, or a like defense to arbitrability. *Id.*, at 1265; *see also Seaboard Coast Line R. Co. v. Trailer Train Co.*, 690 F.2d 1343, 1348 (11th Cir. 1982) ("[F]ederal policy requires that we construe arbitration clauses generously, resolving all doubts in favor of arbitration.").

"The FAA requires a court to either stay or dismiss a lawsuit and to compel arbitration upon a showing that (a) the plaintiff entered into a written arbitration agreement that is enforceable 'under ordinary state-law' contract principles and (b) the claims before the court fall within the scope of that agreement." *Lambert v. Austin Ind.*, 544 F.3d 1192, 1195 (11th Cir. 2008). The preferable method is to stay the action. *Klay v. Pacificare Health Sys.*, 389 F.3d 1191 (11th Cir. 2004). *See also, e.g., Richemond v. Uber Techs., Inc.*, 263 F. Supp. 3d 1312, 1318 (S.D. Fla. 2017) (ordering that action be stayed "until such time as the parties' arbitration proceedings have been completed"). The parties to this action entered into a written arbitration agreement that is enforceable under Florida law, and all of the claims asserted in this action fall directly within the scope of that agreement. Thus, the FAA requires this Court to either stay or dismiss this lawsuit and compel arbitration of the claims raised therein.

1. The Parties' Enforceable Arbitration Agreement Must be Honored and Upheld

The only issue before this Court is whether the Agreement contains a valid, enforceable arbitration clause—if so, Plaintiffs must be compelled to arbitrate this dispute. The basic facts, as alleged by Plaintiffs, establish that the parties voluntarily entered into an Agreement to arbitrate **any and all** disputes left unresolved for more than sixty days from the date of written notice. (*See, generally*, Complaint.) Indeed, the express language of the Agreement further underscores both Plaintiffs' and UHC's intention to engage in the dispute resolution procedure as set forth in the Agreement. (Complaint, Ex. A, Art. VIII ("The parties will work together in good faith to resolve any and all disputes between them . . . including but not limited to all questions of arbitrability, the existence, validity, scope or termination of the Agreement or any term thereof . . . if either party wishes to pursue the Dispute, ***it shall thereafter be submitted to binding arbitration***") (emphasis added).)

As noted, Plaintiffs do not contest the validity of the Agreement or the Amendment thereto. (Complaint, ¶¶ 15, 18, 70 ("[t]he 2009 Agreement and the 2016 Payment Appendices are valid and binding agreements between the parties.).) The Agreement requires that any party wishing to further pursue a dispute, after raising the dispute through written notice to the other party, **must** submit the dispute to arbitration. (Complaint, Ex. A, Art. VIII.) The parties expressly reincorporated this arbitration agreement into the Amendment. (*Id.* Ex. B, § 3.8.) Additionally, the signature pages to the Agreement provide, in capital letters located at the top of each page, that "THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION THAT MAY BE ENFORCED BY THE PARTIES." (*Id.* Ex. A, 18-19.) Further, Plaintiffs have not asserted any allegations disputing the existence and validity of the arbitration provision. To the contrary, Plaintiffs attached to their Complaint a copy of the Agreement containing the

arbitration provision as well as a copy of the Amendment expressly reincorporating the arbitration provision. (Complaint, Ex. A & B.) Indeed, these very documents serve as the basis for Plaintiffs' allegations against UHC, including, among other things, that UHC's purported breach of the Agreement "***deprived [Plaintiffs] of the 2009 Agreement's bargained-for dispute resolution process . . . .***" (*Id*. ¶ 3 (emphasis added).)

Based on the foregoing, there is no question Plaintiffs clearly and unmistakably entered into a fully-negotiated, enforceable arbitration agreement with UHC and, thus, have no grounds to argue the arbitration provision is unenforceable under Florida contract law or otherwise.

2. Plaintiffs' Lawsuit Claims Fall Squarely Within The Broad Scope Of The Enforceable Arbitration Provision

The parties expressly and unambiguously agreed to arbitrate "any and all disputes" arising between them. The Agreement does not limit the definition of "Dispute," defining it to include "any and all disputes between [the parties] (hereinafter referred to as 'Disputes') including but not limited to all questions of arbitrability, the existence, validity, scope or termination of the Agreement or any term thereof." (Complaint, Ex. A, Art. VIII.) The Agreement further provides as follows:

> If the parties are unable to resolve any such Dispute within 60 days following the date one party sent written notice of the Dispute to the other party, and if either party wishes to pursue the Dispute, **it *shall* thereafter be submitted to binding arbitration** in accordance with the Commercial Dispute Procedures of the American Arbitration Association, as they may be amended from time to time (see http://www.adr.org).

(Complaint, Ex. A, Article VIII (emphasis added).) There are no exceptions. The parties agreed to submit "any and all" unresolved disputes to arbitration. Accordingly, the agreement to arbitrate extends to all the disputes presented in the instant action. *See, e.g., Reinhardt v. Royal Caribbean Cruises Ltd.*, 12-24343-CIV, 2013 WL 12212643, at *3 (S.D. Fla. June 27, 2013)

(holding that plaintiff's claim for declaratory relief fell within the scope of her agreement to arbitrate "any and all other disputes, claims, or controversies" and granting motion to compel arbitration of same); *PrimeCo Pers. Communications v. Commonwealth Distribs., Inc.*, 740 So. 2d 585, 587 (Fla. Dist. Ct. App. 1999) (compelling arbitration of breach of contract and breach of the implied covenant of good faith and fair dealing claims where the subject contract provided for arbitration of "any claim, controversy or dispute between the parties"); *Best v. Educ. Affiliates, Inc.*, 82 So. 3d 143, 144 (Fla. Dist. Ct. App. 2012) (affirming order compelling arbitration where complaint included counts for breach of contract and breach of the covenant of good faith and fear dealing). Plaintiffs must therefore be compelled to arbitrate the subject disputes that it improperly sued on.

3. Plaintiffs Argument that UHC Waived Its Right To Arbitration Is Untenable and Meritless

In the face of a mandatory arbitration clause that clearly covers Plaintiffs' contract-based claims, Plaintiffs have made the dubious argument that UHC somehow waived its right to arbitration by engaging in conduct Plaintiffs believe to be a breach on the merits. Plaintiffs allege UHC engaged in "improper and unlawful 'self-help'" thus "frustrat[ing] the purpose" of the Agreement. (*See, e.g.*, Complaint, ¶¶ 2, 3, 40, 42, 48.) Plaintiffs' position is unsupportable, meritless and misplaced. Under Eleventh Circuit law, a party's waiver of its right to arbitration requires specific behavior inconsistent with the *arbitration* right—not purportedly inconsistent with the *contract*. While Plaintiffs have alleged that UHC breached the Agreement, they have failed to set forth a *single* allegation that UHC has acted inconsistent with its right to arbitrate.

In the Eleventh Circuit, "to determine whether a party has waived its contractual right to arbitrate, courts apply a two-part test: '[f]irst, [they] decide if, 'under the totality of the circumstances,' the party 'has acted inconsistently with the arbitration right,' **and**, second, [they]

look to see whether, by doing so, that party 'has in some way prejudiced the other party.' " *Krinsk v. SunTrust Banks, Inc.*, 654 F.3d 1194, 1201 (11th Cir. 2011), quoting *Ivax Corp. v. B. Braun of Am., Inc.*, 286 F.3d 1309, 1315 (11th Cir. 2002); *Sherrard v. Macy's Sys. & Tech., Inc.*, No. 17-11766, 2018 WL 706516, at *3 (11th Cir. Feb. 5, 2018), citing *Garcia v. Wachovia Corp.*, 699 F.3d 1273, 1277 (11th Cir. 2012).

This first prong can only be established by showing "conduct 'that manifests an intent to avoid or to waive arbitration.'" *Pecou v. Royal Caribbean Cruises, Ltd.*, No. 1024581-Civ-SCOLA, 2011 WL 13223743, at *2 (11th Cir. Dec. 20, 2011) citing *Citibank, N.A. v. Stok & Assocs., P.A.*, 387 Fed. App'x 921, 924 (11th Cir. 2010). For instance, like Envision has done (not UHC), a party that "substantially invokes the litigation machinery prior to demanding arbitration" demonstrates this inconsistent intent." *Id*. citing *Krinsk v. SunTrust Banks, Inc.*, 654 F.3d at 1201. In evaluating the second prong, the courts "consider the length of delay in demanding arbitration and the expense incurred by [the] party [alleging waiver] from participating in the litigation process." *Id*. citing *Citibank*, 387 Fed. App'x at 924; *see also Krinsk*, 654 F.3d at 1202. Further, '[b]ecause federal policy strongly favors arbitration, the party who argues waiver bears a heavy burden of proof under this two-part test." *Krinsk*, 654 F.3d 1194, 1200 n.17. Plaintiffs simply have not—and cannot—meet this burden.

Here, even accepting Plaintiffs' allegations as true, the conduct complained of does not come even close to constituting a waiver. First, UHC has not "acted inconsistently with the *arbitration* right." Indeed, courts have found that engaging in self-help tactics, while perhaps inconsistent with the contract, is not inconsistent with a desire to arbitrate. *See, e.g., Welborn Clinic v. MedQuist, Inc.*, 301 F.3d 634, 637 (7th Cir. 2002), citing *Southwest Indus. Import & Export, Inc. v. Wilmod Co.*, 524 F.2d 468, 570 (5th Cir. 1975) ("Participation in settlement

negotiations and ***even alleged contract breach or repudiation have been held not to preclude the right to arbitrate*** and presumably the less extreme self-help steps taken by the seller in this case fall into the same category.") (internal citations omitted) (emphasis added).

Second, Plaintiffs certainly have not been prejudiced by any of UHC's allegedly improper conduct as there has been no delay in UHC requesting arbitration nor has UHC "substantially invoked the litigation machinery" prior to filing this Motion. Indeed, UHC has not commenced—nor has it threatened to commence—litigation in response to Plaintiffs' disputes. To the contrary, it was Plaintiffs, not UHC, whom commenced this lawsuit, thus violating their obligation to arbitrate. Correspondence UHC sent to Plaintiffs—the same correspondence Plaintiffs attach as Exhibits to their Complaint—only highlights the true reach of Plaintiffs' contention that UHC waived is right to arbitrate and, instead, underscores UHC's intent to resolve this matter outside of court. (*See* Complaint, Ex. K (correspondence from UHC suggesting three dates upon which the parties can meet and confer in an attempt to resolve the disputes); Ex. O (indicating, as recently as February 21, 2018, that UHC "remains available to discuss this and other outstanding issues, and we look forward to working towards a possible resolution"); *see also* Ex. M (filed under seal).) In no way do these statements indicate UHC's intent to abandon a resolution process, including arbitration.

Notably, Plaintiffs have not pointed to any case law, or other persuasive authority, to support their contention that UHC has waived its right to arbitration. Based on the foregoing, the Court should grant this Motion, compel Plaintiffs to arbitrate this dispute and stay this action.

B. BECAUSE PLAINTIFFS SUED, VIOLATING THE PARTIES' WRITTEN ARBITRATION PROVISION, THE COURT SHOULD STAY ALL PROCEEDINGS UPON COMPELLING ARBITRATION IN ACCORD WITH THE FAA

When a written agreement to arbitrate exists and covers the matter in dispute, the FAA requires federal courts to stay any ongoing judicial proceedings and compel arbitration. *Volt Info. Sciences, Inc. v. Bd. of Tr. of Leland Stanford Jr. Univ.*, 489 U.S. 468, 475-76 (1989). Specifically, Section 3 of the FAA provides the following:

> If any suit or proceeding be brought in any of the courts of the United States upon any issue referable to arbitration under an agreement in writing for such arbitration, the court in which such suit is pending, upon being satisfied that the issue involved in such suit or proceeding is preferable to arbitration under such an agreement, **shall on application of one of the parties stay the trial of the action until such arbitration has been had in accordance with the terms of the agreement**, providing the applicant for the stay is not in default in proceeding with such arbitration.

9 U.S.C. § 3 (emphasis added).

A stay of arbitrable claims is mandatory. "By its terms, the Act leaves no place for the exercise of discretion by a district court, but instead mandates that district courts shall direct the parties to proceed to arbitration on issues as to which an arbitration agreement has been signed." *Dean Witter Reynolds Inc. v. Byrd*, 470 U.S. 213, 218 (1985) (citing 9 U.S.C. §§ 3, 4); *see also Klay*, 389 F.3d at 1203-04 ("For arbitrable issues, the language of Section 3 indicates that the stay is mandatory.").

Here, as explained above, Plaintiffs entered into a valid and enforceable Agreement to arbitrate disputes against UHC. The contract-based disputes raised in this action fall within the scope of the Agreement. Accordingly, Plaintiffs must be compelled to arbitrate their claims. Additionally, the FAA requires that the Court stay all proceedings in this Action upon compelling Plaintiffs to arbitrate their claims.

IV. CONCLUSION

For the foregoing reasons, the Court should compel Plaintiffs to arbitrate this dispute and stay this action.

WHEREFORE, Defendant, UnitedHealthcare Insurance Company, respectfully requests that the Court (1) enter an Order compelling Plaintiffs to bring their claim in arbitration, per the terms of the Agreement, (2) stay all Court proceedings and deadlines while this matter proceeds in arbitration, (3) award UnitedHealthcare Insurance Company its costs and fees incurred in bringing this motion, and (4) award UnitedHealthcare Insurance Company any other relief this Court deems just and proper.

CERTIFICATE OF GOOD FAITH CONFERENCE

Pursuant to Local Rule 7.1(a)(3), counsel for the movant, UnitedHealthcare Insurance Company, has conferred with Plaintiffs' counsel regarding the relief requested herein. Plaintiffs oppose the relief requested.

Dated: April 6, 2018

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 6, 2018, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel or parties of record.

/s/ Edward M. Mullins
Edward M. Mullins, Esq.