UNITED STATES DISTRICT COURT DISTRICT OF CONNECTICUT

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MURPHY MEDICAL ASSOCIATES, LLC;	:	
DIAGNOSTIC AND MEDICAL SPECIALISTS OF	:	
GREENWICH, LLC; NORTH STAMFORD MEDICAL	:	
ASSOCIATES, LLC; COASTAL CONNECTICUT	:	3:20-cv-01675-JBA
MEDICAL GROUP, LLC; and STEVEN A.R. MURPHY,	:	
MD,	:	
	:	
Plaintiffs,	:	
V.	:	
	:	
CIGNA HEALTH AND LIFE INSURANCE COMPANY	:	
and CONNECTICUT GENERAL LIFE INSURANCE	:	
COMPANY,	:	APRIL 16, 2021
	:	
Defendants.	:	
	х	

MOTION TO DISMISS

Pursuant to Federal Rule of Civil Procedure 12(b), Defendants Cigna Health and Life Insurance Co. and Connecticut General Life Insurance Co. (collectively, "Cigna") move to dismiss all counts of Plaintiffs' Amended Complaint.

Even accepting as true all well-pleaded factual allegations in Plaintiff's Amended Complaint, the Amended Complaint fails to state any viable claim upon which relief can be granted and, accordingly, should be dismissed in its entirety.

As set forth in more detail in the accompanying memorandum of law filed pursuant to Local Rule 7(a)(1), Cigna makes this motion on numerous grounds. These include: (1) Plaintiffs' failure to plead sufficient facts to state a plausible claim for out-of-network reimbursement under any of their theories of recovery; (2) Plaintiffs' claim under FFCRA and the CARES Act fails because there is no private right of action under those statutes; (3) Plaintiffs' ERISA claims fail

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because they lack standing and because they have not stated a plausible claim for relief; (4) Plaintiffs' state law claims are preempted by ERISA, and also fail to state a claim.

Cigna therefore respectfully requests that the Court dismiss Plaintiffs' Amended Complaint, with prejudice and without leave to amend. Further, Cigna requests that the Court award Cigna its fees and costs under 29 U.S.C. § 1132(g).

DEFENDANTS,

CIGNA HEALTH AND LIFE INSURANCE COMPANY and CONNECTICUT GENERAL LIFE INSURANCE COMPANY

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Their Attorneys

CERTIFICATE OF SERVICE

I hereby certify that on April 16, 2021, a copy of the foregoing Motion to Dismiss was filed electronically. Notice of this filing will be sent by email to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

> <u>/s/ Jean E. Tomasco</u> Jean E. Tomasco