

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

**Supreme Court Case No. 81680**  
**District Court Case No. A-19-792978**

UnitedHealth Group, Inc., United Healthcare Insurance Company, UnitedHealthcare  
Care Services, Inc., UMR, Inc., Oxford Health Plans, Inc., Sierra Health and Life  
Insurance Company, Inc., Sierra Health-Care Options, Inc., Health Plan of Nevada,  
Inc.,  
*Petitioners*

V.

The Eighth Judicial District Court, State of Nevada, Clark County, and  
the Honorable Nancy L. Allf, District Court Judge,  
*Respondent*

and

Fremont Emergency Services (Mandavia), Ltd., Team Physicians of Nevada-  
Mandavia, P.C., Crum Stefanko and Jones, Ltd.,  
*Real Parties in Interest.*

## PETITIONERS' RESPONSE TO REAL PARTIES IN INTEREST'S NOTICE OF SUPPLEMENTAL AUTHORITY

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On March 16, 2021, Real Parties in Interest, Fremont Emergency Services (Mandavia), Ltd. (“Fremont”); Team Physicians of Nevada-Mandavia, P.C. (“Team Physicians”); Crum, Stefanko and Jones, Ltd. dba Ruby Crest Emergency Medicine (“Ruby Crest”) (hereinafter the “TeamHealth Parties”) filed a notice of supplemental authority (the “Notice”), advising this Court of the recent decision in *Emergency Group of Arizona PC v. United Healthcare, Inc.*, No. 20-15684.

In response to this filing, Petitioners UnitedHealth Group, Inc., United Healthcare Insurance Company, United Health Care Services, Inc., UMR, Inc., Oxford Health Plans, LLC (incorrectly named in District Court Complaint as Oxford Health Plans, Inc.), Sierra Health and Life Insurance Company, Inc., Sierra Health-Care Options, Inc., and Health Plan of Nevada, Inc. (“Petitioners” or “United”) hereby file the instant Response to the Notice.

For two reasons, Petitioners request that the decision offered by the Real Parties in Interest be disregarded for the purpose of this Court’s analysis. First, the *Emergency Group of Arizona PC v. United Healthcare, Inc.* decision is an unpublished decision issued by a three-judge panel of the U.S. Court of Appeals for the Ninth Circuit. Unpublished orders of that Court do not create precedent. *See* Ninth Circuit Rule 36-3(a) (“Unpublished dispositions and orders of this Court are not precedent.”). Second, the panel addressed only complete preemption; it did not address conflict preemption, which is the core of Petitioners’ argument in the

Petition for Writ of Prohibition, or, Alternatively, Mandamus. For the reasons set forth above, Petitioners respectfully request that the unpublished decision in *Emergency Group of Arizona v. United Healthcare* not be given any weight in the Court's analysis.

Dated: April 9, 2021

/s/ Colby L. Balkenbush  
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## **CERTIFICATE OF SERVICE**

Pursuant to NRAP 25, I hereby certify that I am an employee of Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC and that on April 9, 2021, I filed PETITIONER'S RESPONSE TO REAL PARTIES IN INTEREST'S NOTICE OF SUPPLEMENTAL AUTHORITY via the Nevada Supreme Court's eFlex electronic filing system and served a copy to the addresses shown below (in the manner indicated below). Electronic notification will be sent to the following:

### **VIA EFLEX ELECTRONIC FILING SYSTEM:**

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### **VIA U.S. MAIL:**

The Honorable Judge Nancy L. Allf  
Eighth Judicial District Court, Department No. 27  
Regional Justice Center  
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/s/ Cynthia S. Bowman