

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

SAINT FRANCIS HOSPITAL AND
MEDICAL CENTER, INC.,
Plaintiff,

v.

HARTFORD HEALTHCARE
CORPORATION, HARTFORD
HOSPITAL, HARTFORD
HEALTHCARE MEDICAL GROUP,
INC., INTEGRATED CARE
PARTNERS, LLC

Defendants.

Case No. 3:22-cv-00050-SVN

February 14, 2025

**JOHN BROWN, LISA FAGAN, MICHAEL FAGAN, MICHAEL MORGAN,
JOSHUA PAWELEK, JOHN STOEHR, ADVANCING CT TOGETHER,
ESTUARY TRANSIT DISTRICT, AND TEAMSTERS 671 HEALTH SERVICES &
INSURANCE PLANS' MOTION FOR EMERGENCY RELIEF TO INTERVENE FOR
LIMITED PURPOSES OF STAYING PROTECTIVE ORDER**

Pursuant to Federal Rule of Civil Procedure 24(a)(2) and Local Rule 7(a)(6), John Brown, Lisa Fagan, Michael Fagan, Michael Morgan, Joshua Pawelek, John Stoehr, Advancing CT Together (collectively, the "*Brown* Plaintiffs"), and Estuary Transit District and Teamsters 671 Health Services & Insurance Plan (collectively, the "*Estuary* Plaintiffs," and together with the *Brown* Plaintiffs, "*Intervenors*"), respectfully move this Court for emergency relief to permit them to intervene in the above-captioned matter for the limited purpose of requesting a temporary stay of the obligations set forth in paragraph 16 of the operative Protective Order (ECF No. 120)¹ in

¹ Paragraph 16 of the Protective Order provides: "Upon final termination of this action, all Designated Material and copies thereof shall be returned promptly (and in no event later than forty-five (45) days after entry of final judgment), returned to the producing party, or certified as destroyed to counsel of record for the party that produced the Designated Material, or, in the case of deposition testimony regarding designated exhibits, counsel of record for the Designating Person. Alternatively, the receiving party shall provide to the Designating Person a certification

order to preserve documents that are set to be destroyed on February 17, 2025, and have been requested in and are relevant to Intervenor's respective cases pending against Defendant Hartford Healthcare Corporation ("HHC") in both state court and federal court in Connecticut.² Given the immediate pendency of the potential destruction of documents as set forth herein, good cause exists to grant the requested relief on an emergency basis. Intervenor further request that a stay of the obligations set forth in paragraph 16 of the operative Protective Order (ECF No. 120) be immediately entered by this Court.

Intervenor are plaintiffs in two related actions pending in Connecticut Superior Court and the United States District Court for the District of Connecticut alleging similar facts and antitrust violations as alleged by Plaintiff Saint Francis Hospital and Medical Center ("St. Francis") against HHC in the above-captioned matter. In pursuing their claims against HHC in the CT Action, on January 30, 2024, the *Brown* Plaintiffs issued Request for Production No. 13 to HHC seeking "[a]ll Documents produced or filed by any party or nonparty in the case numbered 22-cv-00050, U.S. District Court for the District of Connecticut, *St. Francis Hosp. & Med. Ctr. v. Hartford HealthCare Corp. et al.*[,] . . . includ[ing] any Documents produced or filed in the future, and includes without limitation unredacted versions of any expert report, interrogatory response, and/or deposition transcript." The *Brown* Plaintiffs also are in the process of preparing and serving subpoenas on St. Francis and other third parties that were subpoenaed and produced documents in this case that are subject to the operative Protective Order (ECF No. 120) and may be relevant to

that all such materials have been destroyed."

² Intervenor the *Brown* Plaintiffs filed an action against HHC in State Court in Connecticut (*Brown, et al., v. Hartford Healthcare Corporation*, No. X03-HHD-CV22-6152239-S (CT Sup. Ct.), before Judge John Burns Farley (the "CT Action"). Intervenor the *Estuary* Plaintiffs filed an action against Defendants HHC, Hartford Hospital, Hartford Healthcare Medical Group, Inc., and Integrated Care Partners, LLC in *Estuary Transit District, et al. v. Hartford Healthcare Corporation, et al.*, 3:24-cv-01051 (D. Conn.), before Judge Sarah F. Russell (the "Federal Action").

the CT Action.

On October 4, 2024, the *Estuary* Plaintiffs issued Request for Production No. 13 to HHC, also seeking “[a]ll Documents produced or filed by any party or nonparty in the case numbered 22-cv-00050, U.S. District Court for the District of Connecticut, *St. Francis Hosp. & Med. Ctr. v. Hartford HealthCare Corp. et al.*[.] . . . includ[ing] any Documents produced or filed in the future, and includes without limitation unredacted versions of any expert report, interrogatory response, and/or deposition transcript.” The *Estuary* Plaintiffs likewise are in the process of preparing and serving subpoenas on St. Francis and other third parties that were subpoenaed and produced documents in this case that are subject to the operative Protective Order (ECF No. 120) and may be relevant to the Federal Action.

In addition, on January 8, 2025, the *Estuary* Plaintiffs issued several Requests for Production to HHC seeking: (1) “Documents sufficient to show the terms of the settlement reached between You and Plaintiff Saint Francis Hospital and Medical Center in the St. Francis Action, including but not limited to a copy of the settlement agreement”; (2) “All Communications between You or Your counsel and Plaintiff Saint Francis Hospital and Medical Center or its counsel concerning the St. Francis Action, including Communications concerning the settlement of the St. Francis Action”; and (3) “All Documents and Communications concerning the *St. Francis* Action.” The *Estuary* Plaintiffs and HHC are still in the process of meeting and conferring regarding these requests, most recently this past Wednesday, February 12, 2025.

On January 2, 2025, St. Francis and HHC informed this Court that they had “reached a mutually acceptable resolution” and stipulated to the dismissal of the case with prejudice, which this Court ordered the following day, January 3, 2025 (ECF Nos. 305 and 306). On February 12, 2025, counsel for HHC sent separate letters to the *Brown* Plaintiffs and the *Estuary* Plaintiffs

informing them that, “under the terms of the amended qualified protective order . . . , HHC is obligated to return or destroy confidential material produced pursuant to the Protective Order (“designated materials”) starting on February 17, 2025.” Counsel for HHC further stated that “[w]e understand the requirements of the Protective Order to supersede those of Plaintiffs’ document request No. 13,” and that “[i]n order to comply with the Protective Order, before the deadlines provided therein, we plan to destroy or return all designated materials of parties who have not consented for us to retain a copy of their production.”

On the evening of Wednesday, February 12, 2025, counsel for HHC advised the Intervenor of the intention to destroy documents produced in this action despite the pending discovery requests directed at HHC. The Intervenor separately requested that HHC preserve such documents in accordance with their duty to avoid the spoliation and destruction of relevant documents. HHC refused. The Intervenor separately requested that HHC obtain a modification to the Operative Protective Order in order to allow for the preservation of the information subject to the discovery requests. HHC refused.

Given the overlap of the claims in this case and the allegations made by Intervenor in both the CT Action and the Federal Action, Intervenor believe that documents produced by HHC, St. Francis, and other third parties in this case are discoverable and relevant to their respective claims against HHC. To avoid potential spoliation and destruction of such relevant documents and given HHC’s refusal to cooperate, Intervenor respectfully move to intervene in order to request that this Court temporarily hold in abeyance the obligations in paragraph 16 of the Protective Order (ECF No. 120) to allow Intervenor sufficient time to serve their subpoenas and meet and confer with the appropriate parties and resolve any disputes concerning documents produced in the *St. Francis* litigation. *See Zubulake v. UBS Warburg LLC*, 220 F.R.D. 212, 217 (S.D.N.Y. 2003)

(noting that a litigant “is under a duty to preserve what it knows, or reasonably should know, is relevant in the action, is reasonably calculated to lead to the discovery of admissible evidence, is reasonably likely to be requested during discovery and/or is the subject of a pending discovery request”).

The Court should grant Intervenors’ motion because they have (1) timely filed this application before paragraph 16 of the Protective Order goes into effect; (2) have a clear interest in this case and the effect of paragraph 16 of the Protective Order, given the substantial overlap of claims brought by St. Francis, the *Brown* Plaintiffs, and the *Estuary* Plaintiffs against HHC, including claims that HHC monopolized Connecticut hospital and outpatient markets by, among other things, stifling innovative health plan practices that would have led to cost saving for Connecticut patients and their insurers; (3) have demonstrated that their interest in relevant third-party discovery produced in this case may be jeopardized by paragraph 16 of the Protective Order going into effect, namely, destroying relevant evidence on February 17, 2025; and (4) neither St. Francis nor HHC (the defendant in the CT Action and the Federal Action) has an interest in adequately protecting Intervenors’ interests in these materials. *See Brennan v. N.Y. City Bd. of Educ.*, 260 F.3d 123, 128-29 (2d Cir. 2001) (noting, “[t]o intervene as of right, a movant must (1) timely file an application, (2) show an interest in the action, (3) demonstrate that the interest may be impaired by the disposition of the action, and (4) show that the interest is not protected adequately by the parties to the action.”); *Simonds v. Wal-Mart Stores, Inc.*, No. 3:13-cv-00183, 2013 WL 3007191, at *1 (D. Conn. June 17, 2013).

For the reasons above, Intervenors respectfully request that this Court (1) grant this Motion and (2) stay paragraph 16 of the Protective Order from going into effect on February 17, 2025.

Respectfully submitted,

/s/ Jonathan M. Shapiro

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