

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. 22-cv-00050

Judge Sarala Nagala

Magistrate Judge Robert Richardson

**JOINT STATUS REPORT**

The parties hereto, in advance of the status conference on April 14, hereby report to the Court regarding the status of discovery in this matter.

**Timing Of Party Discovery**

Pursuant to the parties' agreement, Defendants expect to substantially complete production of documents in response to Plaintiff's First Requests for Production of Documents by May 4, 2023. Saint Francis expects to substantially complete production in response to Defendants' First Set of Requests for Production of Documents from Plaintiff Saint Francis Hospital and Medical Center, Inc. with regard to all but an additional group of custodians and 80,000 documents which were later identified and agreed upon, by June 21, 2023. Saint Francis expects to substantially complete production of those additional documents by July 9.

Saint Francis has served a Second Request for Production of Documents to Defendants on April 6, as well as a First Set of Interrogatories to Defendants on that date. The parties' respective positions regarding those new discovery requests are set out below.

***Saint Francis's Position.*** Saint Francis contends that its Second Request and Interrogatories primarily address Defendants' affirmative defenses first mentioned (in a totally conclusory manner) in Defendants' Answer filed on February 27, 2023. The Second Requests include 20 requests specifically targeted to the (very limited) disclosures regarding their affirmative defenses provided by Defendants in the March 7, 2023 letter referenced in Saint Francis' Motion to Strike. Doc. No. 107, Ex. B. The interrogatories are intended to elicit basic information about the nature of these affirmative defenses.

Depending upon the Court's ruling on Saint Francis' Motion to Strike Defendants' Fifth, Sixth and Seventh Affirmative Defenses (which could eliminate the need for much of this discovery), Saint Francis believes that this additional discovery would likely extend the period for document production until at least August 3, 2023. This date assumes that objections, custodians and search terms can be resolved in 60 days and documents produced in another 60 days, a much more aggressive schedule than the parties have been able to meet to date. In contrast, it took 4-5 months for the parties to agree on search terms and custodians for their First Requests, and 90 days to produce documents after such agreement.

Saint Francis is working on new search terms, since these requests involve new subjects not mentioned in the previous terms, and will provide them to Defendants within 7 days. Additionally, Saint Francis has identified a number of custodians who were not included on its original list but appear likely to be knowledgeable regarding the subjects of Defendants' affirmative defenses. A new list of custodians will also be provided within 7 days.

Defendants have indicated that they intend to serve new document requests relating to the subjects of Saint Francis' Second Request for Production of Documents. The responses to those requests will further delay the time for depositions.

This would require significant revision in the discovery schedule, pushing back dates for depositions and the dates that follow by at least 120 days. If discovery is not significantly extended, this would make adequate discovery of the affirmative defenses difficult, if not impossible, especially since these defenses still have not been adequately disclosed.

Saint Francis respectfully requests that the Court consider the schedule in the immediate future. Since depositions are now scheduled to begin on May 16, if the schedule does not change, Saint Francis will need to very shortly begin to send out deposition notices and prepare for specific depositions, well before it is able to obtain any documents relating to the affirmative defenses. Proceeding with depositions before receiving such documents might require that witnesses be re-deposed once documents are produced on the subject of those defenses. The schedule should allow deposition discovery to occur efficiently after document production is complete.

***Hartford HealthCare's position.*** Hartford HealthCare (“HHC”) believes that Saint Francis’ new Second Request and interrogatories are largely duplicative of its prior requests, and seek information about defenses and arguments that are not “affirmative defenses” and that Saint Francis has known about at least since the filing of the Motion to Dismiss in February 2022 (*see, e.g.* DKT. 43 at 2-3, 8-10) and likely from the inception of the lawsuit. Indeed, the Court’s February 13, 2023 decision on Defendant’s Motion to Dismiss explicitly recognizes that conduct alleged by Plaintiff is being defended by HHC based on, among other grounds, contentions that such conduct is “in fact pro-competitive . . . .” *See* DKT 100 at 35-36. HHC intends to file its Opposition to Plaintiff’s Motion to Strike within the time period allowed under this Court’s rules, on April 17, 2023, explaining why the motion has no merit. Although HHC is still evaluating Plaintiff’s new document requests and interrogatories and reserves all objections, it appears that the overwhelming majority of Saint Francis’ Second requests are subsumed within the already

agreed-upon search terms and custodians carefully negotiated by the parties, and that Saint Francis is attempting to shoehorn unwarranted additional discovery about issues it was already aware of under the rubric of affirmative defenses. Thus, HHC may need to object to these requests on multiple grounds, including whether it is appropriate for Saint Francis to require a new round of negotiations on search terms and custodians for a new document review and production at all. As of the filing of this Report, a full week after Saint Francis served its Second Request, HHC has not received any information from Saint Francis on what search terms it believes are warranted and which custodians they believe might possess relevant information, so HHC cannot even begin to evaluate Saint Francis' proposal.

While HHC agrees that Saint Francis's new requests might warrant some short extension to the discovery schedule, HHC's initial view is that, because the new requests are largely duplicative of Saint Francis's previous requests, any extension needed may well be minimal.

HHC proposes that the parties report back to the Court with a proposal for any needed extension within 30 days.

### **Scope Of Party Discovery**

- Plaintiff's Maintenance of Objections and Refusal to Produce Certain Categories of Documents Requested by HHC: HHC continues to negotiate with Saint Francis in an effort to obviate a motion to compel on certain categories of documents for which Saint Francis has objection to production. Such materials that are still under discussion include, but are not necessarily limited to, (i) documents concerning reviews, assessments, investigations, feedback, complaints, or criticisms of any aspect of any of Saint Francis' outpatient facilities in Connecticut (ii) all contents of personnel files that Saint Francis maintains for doctors specifically identified in the Amended Complaint as those whom HHC allegedly

recruited or employed; and (iii) documents concerning reviews, assessments, investigations, feedback, complaints, or criticisms of any aspect of the healthcare services offered or provided by Plaintiff in Connecticut. The parties expect to determine whether they can resolve the remaining Saint Francis objections by April 21.

- Changes In Discovery As A Result Of The Court's Order On Defendants' Motion to Dismiss: The parties have been unable to agree on the changes in discovery that are appropriate as a result of this Court's dismissal of certain of Saint Francis' claims. As of now, HHC believes that the Court's order obviates the need for discovery on four requests served by Saint Francis that relate solely to subject matter dismissed by the Court. Saint Francis' position is that those four requests should be modified, but not eliminated, since documents responsive to those four requests (as modified) are relevant to other issues in this case which have not been dismissed. If the parties cannot resolve this dispute promptly, one or both intend to file an appropriate discovery motion, including memoranda of points and authorities, addressing this narrow issue within the next two weeks, unless the Court would prefer another procedure.

**Non-Party Discovery.**

Plaintiffs and/or Defendants have served subpoenas to certain non-parties, including hospitals or other healthcare providers, payors, and Plaintiff's affiliate Southern New England Healthcare ("SoNE"), and are negotiating with those non-parties concerning their objections. These issues have been resolved with regard to several subpoenas and production is occurring or about to occur.

The parties have reached an impasse with The Bristol Hospital, Inc. and University of Connecticut Health Center as to at least some requests, and will need to move to compel production

of documents from these entities. An impasse may be reached in the near future with one or more additional respondents. The parties request guidance as to whether formal motions to compel should be filed or another procedure would be appropriate.

Date: April 13, 2023

Respectfully submitted,

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