

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

SAINT FRANCIS HOSPITAL AND MEDICAL
CENTER, INC.,

Case No. 22-cv-00050-SVN

Plaintiff,

v.

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

Defendants.

April 8, 2024

JOINT REPORT ON DISCOVERY

Pursuant to this Court's Order dated December 5, 2023 [ECF No. 213], Plaintiff and Defendants (the "Parties") provide the following Joint Report regarding the status of discovery in the captioned matter:

I. PARTY DISCOVERY

1. *Interrogatories.* Parties have made extensive requests to each other for structured data and "sufficient to show" information. The Parties appear to have substantially complied with these requests, though there may be follow-up issues to be resolved. In response to questions about the adequacy of Plaintiff's responses to Defendants' First and Second Sets of Interrogatories, Plaintiff is in the process of supplementing those responses. Insofar as Defendants believe deficiencies remain, they will continue to meet and confer with Plaintiff in an effort to resolve any concerns amicably and without the need for motions practice. Plaintiff also believes that there

are deficiencies in Defendants' responses, and will meet and confer to attempt to resolve them.

2. *Document Production.* The Parties have substantially complied with each other's document requests, although Defendants will be continue to meet and confer with Plaintiff regarding the adequacy of its production in response to the Stipulation filed with the Court on August 11, 2023, regarding personnel and related files of certain physicians. Plaintiff has served a Fourth Request for Production for which Defendants' written objections are due on April 25, 2024.
3. *Documents Withheld as Privileged.* The parties have been meeting and conferring regarding the privilege designations of certain documents. Despite good faith attempts by the parties to resolve issues relating to the Defendants' logs, and the production of additional documents previously claimed as privileged, the parties have been unable to fully resolve their differences. Plaintiff plans to file a motion to compel the production of certain privileged documents by April 29, 2024.
4. *Documents Subject to Disputed Claw Back Requests.* Both Plaintiff and Defendants initially made requests to the other to "claw back" certain documents that they claim are privileged and were inadvertently produced by them. Plaintiffs ultimately withdrew their claw back requests and Defendants withdrew their claw back requests for certain documents. However, the Parties still disagree as to a number of documents clawed back by Defendants. Plaintiff will promptly identify to Defendants the remaining documents which Plaintiff believes were improperly clawed back and which are material to the issues in the case by April 15, 2024. If

the parties are unable to resolve their differences, Plaintiff will file a motion with regard to any remaining documents by April 29, 2024.

5. *Depositions.* Plaintiff believes that the deposition limits will need to be increased from the current 30 deposition and 130 hour per side limits established by Magistrate Judge Richardson. Defendants have indicated that they may call as witnesses each physician whose employment or acquisition has been challenged by Plaintiff. The parties disagree as to the need for supplemental initial disclosures as to those physicians and on the impact of this issue on the deposition limits. When Magistrate Judge Richardson set the 30 deposition limit, he indicated that either party could request the Court's consideration of allowing more depositions if necessary. The parties currently disagree about the extent, if any, to which these limits should be increased and will continue to meet and confer on this topic by April 15. If the parties cannot resolve their current disagreement about depositions, Plaintiff will file a motion seeking to modify Judge Richardson's prior Order regarding the number and hours of depositions per side by April 22, 2024, or will follow the Court's direction regarding the appropriate manner in which to properly resolve the issue.
6. *Plaintiff's Recent Identification of Additional Physicians Recruited or Acquired by Defendants that Plaintiff Asserts Are Included in Its Amended Complaint.* Defendants have expressed concerns to Plaintiff about what Defendants contend are attempts to further amend the Complaint; Plaintiff disagrees that it is attempting to further amend the Complaint. The parties will continue to meet and confer on

this issue and, if they remain at an impasse, will raise the issue with the Court by April 29, 2024.

7. *Fact Discovery Deadline.* Because of the difficulties in scheduling an already significant number of depositions in a compressed period, and the likelihood that Plaintiff (or, if an agreement is reached, the parties jointly) will seek a modification of the limits on depositions and hours per side, the parties believe that the deadlines for completion of depositions should be extended by a period of at least 90 days,, with all other deadlines adjusted commensurately. After the parties complete meeting and conferring on the topic of depositions, the parties will file an appropriate motion with the Court seeking to extend the current deadlines by a proposed number of days and explaining the grounds for the requested extension, or will comply with any other direction from the Court regarding the resolution of these issues.

II. THIRD PARTY DISCOVERY

There are a number of outstanding issues relating to third party discovery:

1. On November 3, 2022, Plaintiff served subpoenas on a number of managed care plans and Defendants also served subpoenas on such plans shortly thereafter. Some of these plans have fully complied with these subpoenas, but there are still outstanding documents owed by United. Plaintiff, Defendants, and United are negotiating the details of compliance with the subpoena.
2. Plaintiff has filed motions to compel document production by The Bristol Hospital, Inc. [ECF No. 216] and three related entities, all subsidiaries of Prospect Medical Holdings, Inc. (Prospect Waterbury, Inc., Prospect Rockville Hospital, Inc. and Prospect Manchester Hospital, Inc.) [ECF No. 218]. Magistrate Judge Richardson

has required the Parties to further meet and confer on these issues, and is reviewing a document proffered by Bristol *in camera*.

3. Plaintiff has received documents in response to subpoenas to a variety of physician groups with the exception of Orthopedic Associates of Hartford.
4. Press Ganey has produced documents in response to subpoenas by both parties. Pursuant to the protocol ordered by the Northern District of Illinois, information provided to Press Ganey by physicians on a promise of anonymity has been turned over to Plaintiff. Plaintiff will be utilizing that information to produce responses by Saint Francis physicians. Upon receipt, Defendants will promptly evaluate Plaintiff's production for adequacy.
5. Defendants have also continued to negotiate with Plaintiff's affiliate SoNE regarding outstanding issues with SoNE's productions and may need to file a motion to compel if these issues cannot be resolved via meet and confer discussions. The current deadline for filing a motion to compel against SoNE is May 15, 2024.

Dated: April 8, 2024

Respectfully submitted,

/s/ William S. Fish, Jr. (with permission)

William S. Fish, Jr. (ct24365)

wfish@hinckleyallen.com

Jeffrey Mirman (ct05433)

jmirman@hinckleyallen.com

Alexa Millinger (ct29800)

amillinger@hinckleyallen.com

Hinckley, Allen & Snyder LLP

20 Church Street

Hartford, CT 06103

Telephone: (860) 725-6200

/s/ David A. Ettinger

David A. Ettinger (P26537)
(Admitted *Pro Hac Vice*)
dettinger@honigman.com
Paul L. Fabien (P46727)
(Admitted *Pro Hac Vice*)
pfabien@honigman.com
Honigman LLP
660 Woodward Avenue
2290 First National Bldg.
Detroit, MI 48226
Telephone: (313) 465-7368
Fax: (313) 465-7369

Nicholas A. Burandt (P84113)
(Admitted *Pro Hac Vice*)
nburandt@honigman.com
Honigman LLP
155 N. Wacker Drive
Suite 3100
Chicago, IL 60606-1734
Telephone: (312) 429-6017
Fax: (312) 701-9335

Attorneys for Plaintiff

Respectfully submitted,

/s/Patrick M. Fahey (with permission)

Patrick M. Fahey (ct13862)
pfahey@goodwin.com
Karen T. Staib (ct21119)
kstaib@goodwin.com
Shipman & Goodwin LLP
One Constitution Plaza
Hartford, CT 06103
Telephone: (860) 251-5000
Fax: (860) 251-5219

/s/Stephen Weissman (with permission)

Stephen Weissman (451063)
(Admitted *Pro Hac Vice*)
sweissman@gibsondunn.com
Jamie E. France (1010887)

(Admitted *Pro Hac Vice*)
jfrance@gibsondunn.com
Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5306
Telephone: (202) 955-8690

Eric J. Stock
(Admitted *Pro Hac Vice*)
estock@gibsondunn.com
Joshua J. Obear
(Admitted *Pro Hac Vice*)
jobear@gibsondunn.com
Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166-0193
Telephone: (212) 351-4000

/s/Leo Caseria (with permission)
Thomas J. Dillickrath (483710)
(Admitted *Pro Hac Vice*)
tdillickrath@sheppardmullin.co
Leo Caseria (1655936)
(Admitted *Pro Hac Vice*)
lcaseria@sheppardmullin.com
Sheppard Mullin Richter & Hampton LLP
2099 Pennsylvania Avenue, N.W.
Washington, DC 20006-6801
Telephone: (202) 747-1900

Attorneys for Defendants