

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

SAINT FRANCIS HOSPITAL AND MEDICAL
CENTER, INC.,

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

Plaintiff,

v.

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

Defendants.

**PLAINTIFF'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS BY THE
BRISTOL HOSPITAL, INC.**

Plaintiff Saint Francis Hospital and Medical Center, Inc., by and through its attorneys, hereby moves this Court to order that The Bristol Hospital, Inc. ("Bristol") produce certain documents relating to competition and financial condition responsive to Saint Francis' subpoena to Bristol, attached hereto as Exhibit A.

These documents would be highly relevant to the issues in this case, since Bristol is a competitor of Hartford Hospital in the alleged relevant market, and these documents could establish Bristol's limited ability to compete effectively with Hartford HealthCare and therefore help establish Hartford HealthCare's market dominance. The documents would also provide information that could be used to calculate market shares in the physician markets alleged in this case.

There would not be a significant burden from production of these documents, since Saint Francis is not requesting the use of search terms or the review of the files of substantial numbers of custodians. Nevertheless, Bristol has refused to produce the requested documents.

ORAL ARGUMENT REQUESTED

47884932.8

The parties have met and conferred, but have been unable to resolve this dispute. *See* Exhibit 1 hereto.

In further support thereof, Saint Francis relies on its Memorandum In Support of Motion to Compel Documents By The Bristol Hospital, Inc., which more fully describes the documents being sought and the basis for the Motion.

WHEREFORE, Saint Francis Hospital and Medical Center, Inc. requests that this Court order Bristol to produce the documents referenced above.

Date: May 12, 2023

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*)

ORAL ARGUMENT REQUESTED

47884932.8

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

ORAL ARGUMENT REQUESTED

47884932.8

Exhibit 1

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

SAINT FRANCIS HOSPITAL AND MEDICAL
CENTER, INC.,

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

Plaintiff,

v.

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

Defendants.

**AFFIDAVIT OF DAVID ETTINGER IN SUPPORT OF PLAINTIFF'S MOTION TO
COMPEL PRODUCTION OF DOCUMENTS BY THE BRISTOL HOSPITAL, INC.**

I, David Ettinger, having been duly sworn, depose and state as follows:

1. I am lead counsel for Saint Francis Health and Medical Center, Inc. ("Saint Francis") in the captioned matter. I have personal knowledge of the facts set forth in this affidavit.

2. I hereby certify that I have conferred with counsel for non-party The Bristol Hospital, Inc. ("Bristol") in an effort in good faith to resolve by agreement the issues raised by Plaintiff's Motion to Compel Production of Documents by The Bristol Hospital, Inc. without the intervention of the Court. Unfortunately, we have been unable to reach such an agreement.

3. I declare under the penalty of perjury that the foregoing is true and correct. This 9th day of May, 2023.



David A. Ettinger

STATE OF MICHIGAN)
)
COUNTY OF WAYNE)

Subscribed and sworn to personally before me this 9th day of May, 2023.

Lanita Y. Cato
Notary Public

LANITA Y. CATO
NOTARY PUBLIC, STATE OF MI
COUNTY OF OAKLAND
MY COMMISSION EXPIRES Sep 30, 2024
ACTING IN COUNTY OF *Wayne*

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

SAINT FRANCIS HOSPITAL AND MEDICAL
CENTER, INC.,

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

Plaintiff,

v.

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

Defendants.

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION TO COMPEL
PRODUCTION OF DOCUMENTS BY THE BRISTOL HOSPITAL, INC.**

I. INTRODUCTION

Plaintiff Saint Francis Hospital and Medical Center, Inc. ("Saint Francis") requests that this Court order The Bristol Hospital, Inc. ("Bristol") to produce all documents responsive to four of the 44 requests contained in Saint Francis' subpoena to Bristol, which was served on Bristol on October 31, 2022, as well as one summary category.

Bristol has refused to produce any documents responsive to Saint Francis' subpoena with three exceptions: It offered to produce a single document if Saint Francis would forego all its other requests. And it agreed to produce another document only after "de-identifying" physicians' names. It offered to produce redacted board minutes discussing the litigation, but not those items in the board minutes discussing issues relevant to the litigation. That is clearly inadequate, since as described below, the information sought by Saint Francis is quite clearly relevant to the issues in this case. Moreover, the requests would impose little to no burden on Bristol, since (1) they do not seek all documents, such as emails, but only readily identified presentations, reports and similar documents, and (2) they request a small fraction of the documents called for by the subpoena.

There is no basis for confidentiality concerns being compromised here, since this case is governed by a protective order (Doc. No. 120) which limits disclosure of properly designated information to outside attorneys and experts and one in house counsel of each party.

In antitrust cases such as this one, courts generally permit broad discovery. *See United States v. IBM Corp.*, 66 F.R.D. 186, 189 (S.D.N.Y. 1974) (“[D]iscovery in antitrust litigation is most broadly permitted and ‘the burden or cost of providing the information sought is less weighty a consideration than in other cases . . .’” (quoting *Mar. Cinema Serv. Corp. v. Movies En Route, Inc.*, 60 F.R.D. 587, 592 (S.D.N.Y. 1973))); *see also Kleen Prods. LLC v. Packaging Corp. of Am.*, No. 10 C 5711, 2012 WL 4498465, at *13-14 (N.D. Ill. Sept. 28, 2012) (“In antitrust cases, courts generally take an expansive view of relevance and permit broad discovery.”). Here, the request is quite narrow. There is no legitimate reason for Bristol to refuse to comply. The motion should be granted.

II. THE PARTIES’ NEGOTIATIONS

Saint Francis served its subpoena on Bristol on November 3, 2022 and Bristol served Saint Francis with objections on January 5, 2023. *See* Exhibits A and B. The parties engaged in Zoom calls as well as email interchanges relating to compliance with the subpoena. Bristol contended that due to its financial situation, it could not afford to expend significant resources to respond to the subpoena. In response, Saint Francis proposed that Bristol provide an extremely scaled down response, consisting only of five items (set forth below), rather than the 44 requests contained in the subpoena to Bristol. *See* Exhibit C.

Bristol’s response was that it would provide a “de-identified” list of physicians in response to one request (set forth below), and would provide a request for proposal in response to another request (also set forth below), but only if all other requests were abandoned. Bristol was also

willing to produce board minutes, but only to the extent that they involved discussions of this litigation, and only if costs were paid. *See* Exhibit D. This was not acceptable to Saint Francis and the parties are therefore at an impasse.

III. BRISTOL SHOULD BE REQUIRED TO PRODUCE DOCUMENTS IN RESPONSE TO THE THREE DISPUTED REQUESTS

A. Requests to Bristol Are Highly Relevant to This Case

Document requests to Bristol are unquestionably relevant to the issues in this case. Saint Francis' Amended Complaint (Doc. No. 33) alleges that Defendants possess market power, and have harmed competition in, among other locations, Hartford County, where Bristol is located. The Complaint very specifically alleges that Bristol does not provide significant competition to Hartford HealthCare and therefore cannot constrain its monopoly power:

27. In addition to Saint Francis and the two Hartford HealthCare hospitals, there are three other acute care hospitals in Hartford County, UConn, Manchester Memorial Hospital and Bristol Hospital. While all these hospitals compete for patients in Hartford County, none of them is able to challenge Hartford HealthCare's dominance.

* * *

37. Bristol Hospital is a small hospital with 112 staffed beds in Bristol, Connecticut. Bristol Hospital draws its patients primarily from the local area of the city of Bristol and towns to the south of Bristol, is not easily accessible by highway for patients in the Hartford metropolitan area, and therefore does not provide significant competition for Hartford HealthCare in the Hartford metropolitan area. It has facilities in Bristol, Plainville, Burlington, Terryville, Wolcott, Southington and New Britain, all in southwestern Hartford County or nearby. Bristol Hospital's website emphasizes "Outstanding Hospital Care, Close to Home," and its most recent Community Needs Assessment refers to it as "the leading health care provider for people who live and work in the Greater Bristol area." It does not engage in significant competitive efforts in other parts of Hartford County, and is not easily accessible to patients in the Hartford area. Bristol Hospital in 2019 had less than 1,700 commercially insured discharges, less than 10% of the volume of the two Hartford HealthCare hospitals. Bristol Hospital

also offers a limited range of services. For example, it does not provide cardiac surgery, high-end cardiology or high-end cancer care.

38. Bristol Hospital is marginally profitable and does not have the resources to compete significantly by developing new services, hiring additional physicians, or engaging in substantial marketing or advertising campaigns. Bristol Hospital lost money (operated with a deficiency of revenues or expenses) for three or four years from 2016-2019. The hospital's days of cash on hand were under 20 for 2017-2019 as compared to a statewide average for hospitals of 91 days. Bristol Hospital's volume of discharges has declined in every year since 2016.

The Complaint also alleges at ¶ 159 that “[t]hese shares, as high as they are, underestimate Hartford HealthCare’s dominant market power, given the serious competitive limitations of Manchester Memorial, UConn and Bristol Hospital described above.”

The requests at issue here all address competition in this relevant market, as well as Bristol’s weaknesses which Saint Francis alleges have kept it from effectively competing with Hartford HealthCare. As such, they all address an important part of Saint Francis’ case.

B. Request for Cain Brothers Documents

Saint Francis’ first remaining request seeks any “reports or presentations by Cain Brothers (for either internal or external audiences)”. Exhibit C. Cain Brothers was a consultant representing Bristol in connection with its efforts to sell the hospital.

This request calls for a subset of the documents responsive to Request 42: All requests for proposal, confidential information memoranda, offering memoranda, or other documents describing Your facilities for purposes of offering them for sale, and all responses thereto, proposals, and other communications relating to possible purchase provided by Hartford HealthCare.

The Cain Brothers reports may also contain information responsive to Requests 35 and 36:

35. All analyses, studies, presentations, memoranda, summaries and reports undertaken within the last year addressing Your financial condition.
36. All analyses, studies, presentations, memoranda, summaries and reports regarding Your investment needs or the ability to make necessary or desired investments in equipment or in Your facility.

The case for compelling production of the Cain Brothers documents is clear. A consultant assessing the possibility of a merger with another hospital, will undoubtedly address the hospital's weaknesses, strengths and options. Such information is clearly relevant to the issues in this case, which directly addresses Bristol's competitive weakness.

It is very common in hospital antitrust cases to rely upon documents written by consultants relating to relevant transactions. *See also Fed. Trade Comm'n v. Hackensack Meridian Health, Inc.*, No. CV 20-18140, 2021 WL 4145062 (D.N.J. Aug. 4, 2021), *aff'd*, 30 F.4th 160 (3d Cir. 2022) at *8-10, 12, 21-22, 24 (extensive cites in opinion relating to consultant, Chartis, employed with regard to a merger); *In the Matter of Evanston Nw. Healthcare Corp.*, No. 9315, 2007 WL 2286195 at *10-13 (MSNET Aug. 6, 2007) (reliance on strategic planning analysis for merger by Bain Consulting Group). The Cain Brothers reports are also highly relevant here to the extent that they seek information about the competition facing Bristol or how Bristol's financial issues may have kept it from competing effectively against Hartford HealthCare, as alleged in the Amended Complaint, cited *supra*. If a hospital system such as Bristol is sufficiently weak, then it cannot make the kinds of investments that are necessary to compete effectively. Request 35, relating to financial assessments, and Request 36, relating to investments, directly address this issue.

It is true that Bristol's financial statements are public, and are therefore available to Saint Francis, and that Saint Francis was able to glean some information on those topics from public sources, utilized in its Amended Complaint, *supra*. But the issue in the case goes beyond the financial statements themselves, and how they affect Bristol's ability to compete. A frank

assessment of that issue can only be contained in Bristol's internal documents. For example, in *In the Matter of ProMedica Health Sys., Inc.*, 2012-1 Trade Cas. (CCH) ¶ 77840 (MSNET Mar. 28, 2012), another health antitrust case, the Federal Trade Commission focused on the assessment of the CEO of one of the merging parties of that entity's ability to compete in the future. *See Promedica, supra* at *10. (Hospital CEO opined that without merger hospital would need to cut "bone and muscle" not just fat" but also "major services and programs" in order to compete; another update to the Board management detailed "a variety of financial 'pressing concerns'") *27 (CEO stated that "[w]e have experienced activity in excess of the Operating Financial Plan. . . that activity has finally exceeded our fixed expense. . . we obtained a high level of success in our strategic plan in the past two years. . . we can run in the black if activity stays high."). Thus, the raw numbers are one thing. An assessment of whether an investment sufficient to maintain Bristol's competitiveness can be made is quite another. Similarly, a frank competitive assessment by Cain Brothers of Bristol's ability or inability to compete without a partner would certainly not be contained in public documents.

These requests (and the other requests set forth below) also certainly meet the proportionality test. This is quite clearly a very substantial case, "alleging serious harm to health care competition and consumers in the Hartford County area", Complaint ¶ 1, which has "increase[ed] health care costs to health plan markets and patients" *id.* ¶ 6, "caus[ing] significant harm throughout the market." *Id.* ¶ 7. *See also Id.* ¶ 8. Moreover, one of the factors affecting proportionality is the "amount in controversy" here. Saint Francis' Complaint explains that it has suffered at least tens of millions of dollars in damages. *See* ¶ 88 (Saint Francis "lost thousands of commercially insured patient cases", each of which "would have earned Saint Francis \$15,000 or more in contribution margin.") future damages in the hundreds of millions.

Because the Cain Brothers documents should be readily identifiable, the burden involved would be quite minor. Saint Francis has not requested every document relating to Cain Brothers, but only “reports or presentations.” Thus, an email search would not be required.

The protective order in this case, which limits disclosure of the most sensitive documents to only outside counsel and experts and one in-house counsel for each party, adequately protects against harmful disclosure of the information sought by Saint Francis. (ECF No. 120.) That protective order has been deemed by the parties (who are certainly vigorous competitors of one another) sufficient to allow them to produce documents to the other while protecting their competitively sensitive information. It therefore ought to be sufficient for Bristol. In the Second Circuit, courts have held that “privacy concerns can be alleviated by an appropriate protective order and the redaction of personal information. . . .” *Gibbs v. City of New York*, 243 F.R.D. 95, 96 (S.D.N.Y. 2007) (citing *Smith v. Goord*, 222 F.R.D. 238, 242 (N.D.N.Y.2004)). *See also Kelly v. Romines*, No. MC 11-0047 JB, 2012 WL 681806, at *5-6 (D.N.M. Feb. 27, 2012) (ordering compliance with subpoena; “private agreements should not limit discovery” and protective order “adequately protects any information which may be confidential”).

C. Request for Proposal

Saint Francis’ second request is for Bristol’s request for proposal (or similar document) seeking potential partners or purchasers. This is also included within Request 42:

42. All requests for proposal, confidential information memoranda, offering memoranda, or other documents describing Your facilities for purposes of offering them for sale, and all responses thereto, proposals, and other communications relating to possible purchase provided by Hartford HealthCare.

Bristol agreed to produce its request for proposal, but only if all other requests were foregone. *See* Exhibit D. This is clearly inadequate, both because the request for proposal alone does not cover the range of issues which are relevant here, and because requests for proposal, by

their nature, tend to emphasize the strengths of an institution, since their goal is to try to attract potential purchasers. Saint Francis seeks frank assessments of Bristol's condition, which are much more likely to be contained in internal assessments by consultants like Cain Brothers or by the board of the hospital itself.

D. Board Minutes

Saint Francis also requested "hospital board minutes for the last 12 months." These minutes are likely to be responsive to Requests 35, 36, and 42:

35. All analyses, studies, presentations, memoranda, summaries and reports undertaken within the last year addressing Your financial condition.
36. All analyses, studies, presentations, memoranda, summaries and reports regarding Your investment needs or the ability to make necessary or desired investments in equipment or in Your facility.
42. All requests for proposal, confidential information memoranda, offering memoranda, or other documents describing Your facilities for purposes of offering them for sale, and all responses thereto, proposals, and other communications relating to possible purchase provided by Hartford HealthCare

They are likely also to be responsive to the following requests:

1. All analyses, studies, presentations, memoranda, summaries and reports discussing competition with:
 - (a) Hartford Hospital;
 - (b) Hospital of Central Connecticut; or
 - (c) Saint Francis.
6. Documents sufficient to show your marketing, advertising and competitive efforts and plans targeted towards patients, consumers, health plans, employers, physicians, and/or referral sources in all or part of Hartford County.
7. All business plans, strategic plans, marketing plans, medical staff plans, and other analyses, studies, summaries and reports addressing competition in all or part of Hartford County.

13. All analyses, studies, presentations, memoranda, summaries and reports addressing the effect on physician referrals, referrals to any of Your facilities, or admissions at any of Your facilities of any actual or proposed acquisition of physicians or physician practices or employment of physicians by Hartford Healthcare, Hartford Hospital or Hospital of Central Connecticut.
14. All analyses, studies, presentations, memoranda, summaries and reports addressing Your efforts to recruit physicians (including without limitation the costs of recruiting and any barriers or difficulties in recruiting).

These requests call for many more documents than hospital board minutes. But these issues, if significant, would likely be addressed by the hospital board. Therefore the request for recent board minutes provides a method for Bristol to respond to numerous requests without a broader search for documents. The minutes are likely to be contained in one location, and likely can be found in a matter of minutes.¹

It is also very common for antitrust cases to rely upon board minutes. *See e.g., In the Matter of Evanston Nw. Healthcare Corp.*, No. 9315, 2007 WL 2286195 at *10-13 (MSNET Aug. 6, 2007) (opinion relied on reports to board and management, board meeting minutes). *See also, F.T.C. v. Gibson Prod. Of San Antonio, Inc.*, 569 F.2d 900, 906 (5th Cir. 1978) (subpoena granted for board minutes).

The discussion above concerning proportionality and confidentiality applies here as well, especially given the extremely low burden from producing board minutes.

Bristol was willing to produce board minutes, but only to the extent they discussed this litigation, and only after payment of costs for review of board minutes to redact everything else. *See Exhibit D.* Of course, the issue here is not whether the board discussed this litigation, but whether the board discussed issues that are germane to the subject of this litigation, i.e. financial

¹ If Bristol chooses not to produce minutes which fail to address any of these requests, that, of course, would be its prerogative.

issues, competition in Hartford County and Bristol's competitiveness. Therefore, Bristol's proposal is inadequate.

E. Physician Rosters

Saint Francis also requested Bristol's medical staff rosters. This corresponds to Request 28 of the subpoena, which calls for:

Documents sufficient to identify (separately) all physicians, APN, and physicians' assistants (by name, location and specialty) for each year in the Relevant Period:

- (a) Employed by You and practicing (in whole or in part) in the Relevant Area; or
- (b) Serving on the active medical staff of (a) Hartford Hospital or (b) Hospital of Central Connecticut

including for each such physician:

- (i) The physician's medical specialty, sub-specialty, and board certifications; and
- (ii) The physician's professional license number, or any other uniform physician identification number and any professional identification number used for reimbursement.

In response, Bristol agreed to produce a physician roster (called for by one of the requests), but only if the physicians were "de-identified." See Exhibit D.

The physician roster is relevant here because Saint Francis' Complaint includes a number of allegations regarding Defendants' market share in numerous physician specialty markets. See Amended Complaint ¶ 162. And market shares are, of course, highly relevant in antitrust cases, especially antitrust cases involving mergers and acquisitions, as are present here. *Saint Alphonsus Med. Ctr.-Nampa Inc. v. St. Luke's Health Sys., Ltd.*, 778 F.3d 775, 785-86 (9th Cir. 2015). One method of determining market share among physicians is to examine the number of physicians employed by one system as a share of the total number of physicians in the market. In order to

obtain the total number, of course, physician rosters at the various hospitals in the system need to be obtained.

“De-identification”, as Bristol has required, would make the documents essentially useless. Since Saint Francis intends to use physician rosters from various hospitals to determine the number of physicians in the market, and thereby to potentially infer Hartford HealthCare Medical Group’s share, it needs the names of the physicians, so it can determine which physicians are also on other medical staff rosters, and develop an accurate (non-duplicative) total. De-identification would not permit it to do so.

Again, for the reasons described above, this request meets the proportionality test, and its confidentiality is protected. Bristol’s willingness to produce these documents indicates that it does not find production to be unduly burdensome.

F. Documents Concerning Patient Surveys

Saint Francis also requested any “NRC [National Research Corporation] or similar surveys regarding patient preferences for hospitals that Bristol possesses”. *See* Exhibit C. This request seeks a subset of the information responsive to Request 26 of the subpoena: All analyses, studies, presentations, memoranda, summaries and reports relating to consumer preferences for healthcare facilities or providers in the Relevant Area, including without limitation all patient or customer surveys and focus group studies.

Surveys of patients’ hospital preferences are quite relevant to assessing the market strength or weakness of a hospital such as Bristol, and thus its ability to provide competition to HHC. Given their distinctive subject, these documents should be readily identifiable without an extensive search. The request is therefore proportional to the needs of the case and the confidentiality of the information is adequately protected, for the reasons described above.

IV. CONCLUSION

For the foregoing reasons, this Court should compel Bristol to fully and completely respond to the requests enumerated above.

Date: May 12, 2023

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

CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2023, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record. A copy has been served by FedEx and email on counsel for The Bristol Hospital, Inc.

/s/David A. Ettinger

David A. Ettinger

INDEX OF EXHIBITS TO PLAINTIFF'S MEMORANDUM IN SUPPORT OF MOTION TO COMPEL PRODUCTION OF DOCUMENTS BY THE BRISTOL HOSPITAL, INC.

<u>Exhibit</u>	<u>Description</u>
A	Plaintiff's Subpoena for Production of Documents to The Bristol Hospital, Inc.
B	Non-Party The Bristol Hospital, Inc.'s Responses and Objections to Plaintiff's Subpoena
C	March 2, 2023 Ettinger email to Chou re reduction of scope of request
D	Chou emails re subpoena

Exhibit A

UNITED STATES DISTRICT COURT

for the

District of Connecticut



Saint Francis Hospital and Medical Center, Inc.

Plaintiff

v.

Hartford Healthcare Corporation, et al.

Defendant

Civil Action No. 22-cv-00050

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

The Bristol Hospital, Inc. c/o
O'Brien, Tanski & Young, LLP
500 Enterprise Dr., Suite 4, Rocky Hill, CT 06067

(Name of person to whom this subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See attached Exhibits

Place: William S. Fish, Jr. Hinckley, Allen & Snyder LLP 20 Church St. Hartford, CT 06103	Date and Time: 11/23/2022 9:00 am
--	--

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 10/31/2022

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Nicholas Burandt
Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) _____
Saint Francis Hospital and Medical Center, Inc. _____, who issues or requests this subpoena, are:
Nicholas Burandt, Honigman LLP, 155 N. Wacker Dr., Suite 3100, Chicago, IL 60606, nburandt@honigman.com,
312.429.6017

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 22-cv-00050

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT A TO PLAINTIFFS' SUBPOENA AND REQUEST FOR PRODUCTION OF DOCUMENTS

Under Federal Rule of Civil Procedure 45, Saint Francis Hospital and Medical Center, Inc. ("Plaintiff") by their attorneys, Honigman LLP, serve this subpoena and request for production of documents on The Bristol Hospital, Inc.

The documents and tangible things requested herein should be sent to the law offices of Hinckley, Allen & Snyder LLP, 20 Church Street, Hartford, CT 06103-1221 (or another mutually agreeable alternative location), within twenty one (21) calendar days of the date hereof.

DEFINITIONS AND INSTRUCTIONS

As used herein, the following definitions and instructions shall apply:

1. In addition to the specific instructions below, these document requests incorporate by reference the instructions set forth in Rule 45 of the Federal Rules of Civil Procedure.
2. The Documents sought herein must be produced for inspection and copying within twenty one (21) calendar days of receipt hereof.
3. Documents sought herein shall include all documents in your possession, custody or control and/or that can be obtained by you from your employees, administrators, officers, commissioners, officials, agents, representatives, sureties and/or indemnitors. This request shall be deemed continuing and supplemental documents shall be required to be produced immediately if you, directly or indirectly, obtain further or different documents or information from the time documents are first produced to the time of the trial of this matter.
4. Documents attached to each other must not be separated.
5. All responsive documents shall be produced in their entirety. Documents which are responsive shall not be redacted, except as necessary to preserve a privilege.
6. Unless otherwise specified, and regardless of the tense used in any request, you

shall provide all responsive information and submit all responsive documents that are dated, generated or received from January 1, 2017 through the date of these requests. The foregoing shall be referred to as the “Relevant Period.”

7. If any documents are withheld from production based on a claim of privilege, provide for each such document a statement of the claim of privilege and all facts relied on in support thereof, including the document’s author(s), addressee(s), date, title, subject matter, all recipients of the original and of any copies, its present locations, and the requests to which the document is responsive. For each author, addressee, and recipient, state the person’s full name, title, and employer or firm, and denote all attorneys with an asterisk. For each document withheld under a claim that it constitutes or contains privileged attorney work product, also state whether the company asserts that the document was prepared in anticipation of litigation or for trial and, if so, identify that litigation. Submit all non-privileged portions of any responsive document claimed to be privileged.

8. The term “computer files” means any information, including without limitation data and software, stored in or accessible through any computer or other information retrieval system, together with all instructions and other materials necessary to use or interpret such documents, but does not include archived documents, voicemails or text messages.

9. The term “advance practice nurse” or “APN” includes nurse practitioners, clinical nurse specialists, nurse anesthetists and nurse midwives.

10. The term “communication” as used herein means, without limitation, all statements, representations, expressions of fact or opinion, correspondence, reports, memoranda, faxes, and other transmissions of information between persons, made in any manner whatsoever. The term “communication” also includes, without limitation, communications solely between the

employees of a corporate person, as well as communications between persons acting in their individual capacities.

11. The term “Acquisition” includes (a) the acquisition of assets or lease of assets of, or joint ventures with, a Physician Practice, hospital, or other healthcare facility, owner of a healthcare facility, by Hartford HealthCare; (b) a Hartford HealthCare contract to operate a Physician Practice, hospital, or other healthcare facility; (c) the affiliation with or employment by Hartford HealthCare of any physicians or clinical staff formerly or currently affiliated with, or employed by, a Physician Practice or healthcare facility formerly independent from Hartford HealthCare; (d) a Hartford HealthCare professional services agreement with a physician; (e) any transaction whereby a physician or physicians become subject to a Hartford HealthCare or Hartford HealthCare Physician Network contract with You; and (f) all agreements entered into by Hartford HealthCare concurrently with, or in any way connected to, agreements to acquire, contract with, or otherwise affiliate with any provider. The term “Acquisition” includes not only past or consummated acquisitions but also pending or planned acquisitions, and includes all transactions involving one or more of the elements above.

12. The term “Hartford Hospital” includes Hartford Hospital and its parents, subsidiaries, affiliates, hospitals, clinics, physician practice groups, predecessors and/or successors, if any, and its and their current and/or former representatives and employees; and any person acting on its or their behalf and also includes all officers, directors, employees, consultants, attorneys, authorized agents and/or all other persons acting or purporting to act on behalf of any such entity.

13. The term “Hospital of Central Connecticut” includes Hospital of Central Connecticut, and its parents, subsidiaries, affiliates, hospitals, clinics, physician practice groups,

predecessors and/or successors, if any (including without limitation Hartford Hospital of Central Connecticut, Hartford HealthCare Medical Group and ICP), and its and their current and/or former representatives and employees; and any person acting on its or their behalf and also includes all officers, directors, employees, consultants, attorneys, authorized agents and/or all other persons acting or purporting to act on behalf of any such entity.

14. The term “Hartford HealthCare” includes Hartford HealthCare Corporation, and its parents, subsidiaries, affiliates, hospitals, clinics, physician practice groups, predecessors and/or successors, if any, and its and their current and/or former representatives and employees; and any person acting on its or their behalf and also includes all officers, directors, employees, consultants, attorneys, authorized agents and/or all other persons acting or purporting to act on behalf of any such entity.

15. The term “Saint Francis” includes Saint Francis Hospital and Medical Center, Inc., and its parents, subsidiaries, affiliates, hospitals, clinics, physician practice groups, predecessors and/or successors, if any, and its and their current and/or former representatives and employees; and any person acting on its or their behalf and also includes all officers, directors, employees, consultants, attorneys, authorized agents and/or all other persons acting or purporting to act on behalf of any such entity.

16. The term “facilities” refers to hospitals and/or buildings at which outpatient services are provided.

17. The term “person” or “persons” as used herein includes, without limitation, individuals, associations, partnerships, corporations and governmental organizations.

18. The term “Relevant Area” is Hartford County.

19. References to “documents sufficient to show” seek documents (a) which (i)

already exist in hard copy form, or (ii) can be or have been generated in a report from electronic data, and (b) which provide part or all of the information requested. Requests for “documents sufficient to show” or “documents sufficient to identify” do not require manual compilation of hard copy documents.

20. The terms “relate to” or “relating to” mean constitute, consist of, discuss, refer to, reflect on, arise out of, or be in any way or manner, directly or indirectly, in whole or in part, legally, factually, or logically connected with the matter discussed.

21. The singular form of any word shall be deemed to include the plural, and vice versa.

22. The term “including” shall mean “including but not limited to.”

23. The terms “and” and “or” shall be construed both conjunctively and disjunctively.

24. The terms “every,” “each,” “any,” or “all” mean each and every.

25. “Reports” include both paper and electronic reports, including without limitation electronic reports which can be generated by your computer systems or applications.

26. If you are unable to respond to a request, you should so state and should:

- (a) State why you are unable to respond to a request;
- (b) Identify the source, if any, from which responsive information can be obtained; and
- (c) Produce as much responsive information as you are able.

27. For all databases or other data compilations submitted in response to this Subpoena and Request for Production of Documents, provide all instructions and documentation, including data dictionaries, reasonably necessary to use or interpret such databases or data compilations.

28. “You” or “Your” refers to The Bristol Hospital, Inc. and its parents, subsidiaries, affiliates, hospitals, clinics, physician practice groups, predecessors and/or successors, if any, and its and their current and/or former representatives and employees; and any person acting on its or their behalf and also includes all officers, directors, employees, consultants, attorneys, authorized agents and/or all other persons acting or purporting to act on behalf of any such entity.

29. All requests seeking documents “addressing” a topic shall include all documents discussing or referencing, in whole or in part, that topic.

30. This Request incorporates by reference all definitions and procedures in the District’s Standing Order and in the Stipulation and Proposed Order Regarding Protocol for Discovery in this case, which is attached hereto as Exhibit 1.

DOCUMENT REQUESTS

1. All analyses, studies, presentations, memoranda, summaries and reports discussing competition with:

- (a) Hartford Hospital;
- (b) Hospital of Central Connecticut; or
- (c) Saint Francis.

2. Documents sufficient to show the geographic area in which Your facilities predominantly compete and/or draw patients.

3. Documents sufficient to show, for Your hospital: (a) the number of licensed beds; (b) the number of staffed beds; (c) the average level of inpatient occupancy or utilization; and (e) the revenues from commercially insured patients.

4. Documents sufficient to show, for Your hospital, and separately in total and for each of commercially insured and Medicare Advantage patients overall and for the following

service lines (or similar service lines that You track in the ordinary course of business): inpatient cardiology services, inpatient cardiothoracic surgery services, inpatient orthopedic surgery services, outpatient orthopedic surgery services, and outpatient medical oncology services for (a) the total number of discharges and number of discharges by patient zip code; (b) the total number of inpatient days; and (c) net inpatient revenue, both in total and by patient zip code.

5. Documents sufficient to show, for Your hospital, and separately in total and for commercially insured and Medicare Advantage patients, (a) the total number of outpatient orthopedic surgeries and the number of such surgeries by patient zip code, and (b) net revenue for outpatient orthopedic surgeries, both in total and by patient zip code.

6. Documents sufficient to show your marketing, advertising and competitive efforts and plans targeted towards patients, consumers, health plans, employers, physicians, and/or referral sources in all or part of Hartford County.

7. All business plans, strategic plans, marketing plans, medical staff plans, and other analyses, studies, summaries and reports addressing competition in all or part of Hartford County.

8. Annual financial statements for each of Your facilities.

9. Documents sufficient to show each of Your facilities' primary and secondary geographic service area(s), market share(s) within each service area, and the zip codes encompassed by each service area, for inpatient services overall, for outpatient surgical services overall, and for the following service lines (or similar service lines that You track in the ordinary course of business): inpatient cardiology services, inpatient cardiothoracic surgery services, inpatient orthopedic surgery services, outpatient orthopedic surgery services, and outpatient medical oncology services.

10. Documents sufficient to show, and all analyses, studies, presentations, memoranda, summaries and reports discussing patient outmigration from Hartford County.

11. Documents sufficient to identify (separately) all physicians (by name, NPI, number, location, specialty, sub-specialty, and physician group affiliation), advance practice nurses and physicians' assistants (a) employed by You; and (b) not employed by You but having admitting privileges at any of Your facilities by facility and by category of admitting privileges.

12. Documents sufficient to show the number of (a) patients and (b) cases, separately for inpatient and outpatient surgical services, by physician, which the physician has (a) admitted, (b) referred, (c) acted as attending physician for, or (d) otherwise treated at, each of Your facilities, overall and for the following service lines (or similar service lines that You track in the ordinary course of business): inpatient cardiology services, inpatient cardiothoracic surgery services, inpatient orthopedic surgery services, outpatient orthopedic surgery services, and outpatient medical oncology services.

13. All analyses, studies, presentations, memoranda, summaries and reports addressing the effect on physician referrals, referrals to any of Your facilities, or admissions at any of Your facilities of any actual or proposed acquisition of physicians or physician practices or employment of physicians by Hartford Healthcare, Hartford Hospital or Hospital of Central Connecticut.

14. All analyses, studies, presentations, memoranda, summaries and reports addressing Your efforts to recruit physicians (including without limitation the costs of recruiting and any barriers or difficulties in recruiting).

15. All analyses, studies, presentations, memoranda, summaries and reports addressing the total cost of care either overall or by procedure or other category at any of Your

facilities.

16. Documents sufficient to show all reporting protocols, definitions and criteria in reporting data to the Connecticut Hospital Association or Connecticut's All payor claims database.

17. Documents sufficient to show which of Your facilities bill insurers as hospital-based providers (providers that bill through a hospital) and the facility through which they bill insurers in this manner.

18. Documents sufficient to identify the tiered network plans offered in Hartford County in which You participate, if any, and Your tier-placement within those plans.

19. Documents sufficient to identify the bundled pricing contracts You have entered into, if any, with payers offering plans in Hartford County.

20. Documents sufficient to show changes in the volume of orthopedic surgery provided at inpatient and outpatient settings at Your facilities.

21. Documents sufficient to show changes in average reimbursement rates paid (both overall and adjusted for case mix) for each managed care plan (by product) with which You contract.

22. All documents relating to any actual or considered termination, departicipation, withdrawal or nonrenewal of a contract with any payors or health plans, or the threat or communication of any such actual or possible actions.

23. All plans or reports addressing managed care negotiation strategy, relating to, in whole or in part, Your hospitals or other facilities in the Relevant Area.

24. All documents relating to comparisons and/or differences in quality or in any quality metrics at:

- (a) Hartford Hospital or Hospital of Central Connecticut; and
- (b) Any other hospital or group of hospitals.

25. All documents relating to any assessments of the quality or safety of care provided by Your hospitals or physicians in the Relevant Area, including all documents related to: data or reports submitted by You or received from quality or safety rating organizations; or quality measurements or benchmarking.

26. All analyses, studies, presentations, memoranda, summaries and reports relating to consumer preferences for healthcare facilities or providers in the Relevant Area, including without limitation all patient or customer surveys and focus group studies.

27. Documents sufficient to show for each of Your facilities in Hartford County:

- (a) For each year, total patient days, patient discharges, inpatient gross revenue and inpatient net revenue;
- (b) For each year, outpatient orthopedic visits, outpatient orthopedic gross revenue and outpatient net revenue;
- (c) The total number of licensed, available and staffed beds on the first day of each year, and the average daily census for each year;
- (d) For each year, separately for inpatient and outpatient orthopedic services, the dollar amount of each hospital's revenues received and the number of inpatients, inpatient days and outpatient treatment episodes, broken out separately by each of the following principal sources of payment: (i) Medicare; (ii) Medicare Advantage; (iii) Medicaid; (iv) other health plan (separately for each); (v) patients (out of pocket); (vi) no source of payment (charity care patients treated for free of charge); (vii) bad debt;

and (viii) any other source.

28. Documents sufficient to identify (separately) all physicians, APN, and physicians' assistants (by name, location and specialty) for each year in the Relevant Period:

- (a) Employed by You and practicing (in whole or in part) in the Relevant Area; or
- (b) Serving on the active medical staff of (a) Hartford Hospital or (b) Hospital of Central Connecticut

including for each such physician:

- (i) The physician's medical specialty, sub-specialty, and board certifications; and
- (ii) The physician's professional license number, or any other uniform physician identification number and any professional identification number used for reimbursement.

29. Documents sufficient to show numbers of physician by specialty, either in total or by employer, practicing in (in whole or in part) the Relevant Area.

30. Documents sufficient to show all inpatient services provided at Your facility.

31. Documents sufficient to describe the gaps in inpatient services at Your facility.

32. Documents sufficient to identify all physicians (by name, specialty and address) on your active medical staff.

33. Documents sufficient to show Your average inpatient case mix index and any other measures of case complexity that you utilize.

34. Your most recent annual income statement and balance sheet.

35. All analyses, studies, presentations, memoranda, summaries and reports

undertaken within the last year addressing Your financial condition.

36. All analyses, studies, presentations, memoranda, summaries and reports regarding Your investment needs or the ability to make necessary or desired investments in equipment or in Your facility.

37. Documents sufficient to show Your primary service area, as well as the percentage of Your inpatients represented by that primary service area.

38. All analyses, studies, presentations, memoranda, summaries and reports relating to the Acquisition of physicians previously practicing, in whole or in part, at Your facility.

39. All analyses, studies, presentations, memoranda, summaries and reports relating to any competition You face from facilities outside of Hartford County.

40. Documents sufficient to show Your consideration of participation in, or participation in, narrow networks, tiered networks, or bundled pricing programs.

41. All analyses, studies, presentations, memoranda, summaries and reports addressing patient travel patterns for hospital care.

42. All requests for proposal, confidential information memoranda, offering memoranda, or other documents describing Your facilities for purposes of offering them for sale, and all responses thereto, proposals, and other communications relating to possible purchase provided by Hartford HealthCare.

43. Documents sufficient to show your efforts at recruiting, hiring or employing physicians and the timing, costs and difficulties relating thereto.

44. All analyses, studies, presentations, memoranda, summaries and reports addressing (a) your efforts at recruiting physicians and (b) your efforts to hire physicians, or acquire physician practices, with respect to physicians employed by or practicing at Saint

Francis.

EXHIBIT 1

Roberts, Nicole

From: CMECF@ctd.uscourts.gov
Sent: Wednesday, June 8, 2022 1:19 PM
To: CMECF@ctd.uscourts.gov
Subject: Activity in Case 3:22-cv-00050-AVC Saint Francis Hospital and Medical Center v. Hartford HealthCare Corporation et al Order

[EXTERNAL EMAIL]

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.**

U.S. District Court

District of Connecticut

Notice of Electronic Filing

The following transaction was entered on 6/8/2022 at 1:18 PM EDT and filed on 6/8/2022

Case Name: Saint Francis Hospital and Medical Center v. Hartford HealthCare Corporation et al

Case Number: [3:22-cv-00050-AVC](#)

Filer:

Document Number: 82(No document attached)

Docket Text:

ORDER noting and so ordering the parties' stipulation and proposed order regarding the protocol for discovery. Signed by Judge Alfred V. Covello on 06/08/22. (Codeanne, K.)

3:22-cv-00050-AVC Notice has been electronically mailed to:

William S. Fish, Jr wfish@hinckleyallen.com, jmccarthy@hinckleyallen.com

Jeffrey J. Mirman jmirman@haslaw.com, jrosinski@haslaw.com, kalbino@haslaw.com

Patrick M. Fahey pfahey@goodwin.com, kheidel@goodwin.com, lsurdam@goodwin.com

Karen T. Staib kstaib@goodwin.com, dhadam@goodwin.com, kheidel@goodwin.com

Eric Jonathan Stock estock@gibsondunn.com

Alexa Talin Millinger amillinger@hinckleyallen.com, kalbino@hinckleyallen.com

David A. Ettinger dettinger@honigman.com, ahamill@honigman.com, litdocket@honigman.com,
nroberts@honigman.com

Nicholas Burandt nburandt@honigman.com, drobinson@honigman.com, litdocket@honigman.com

Paul Fabien pfabien@honigman.com

Leo Caseria lcaseria@sheppardmullin.com, 3487903420@filings.docketbird.com,
jcampos@sheppardmullin.com, jharper@sheppardmullin.com

Joshua James Obear jobear@gibsondunn.com

Stephen Weissman sweissman@gibsondunn.com

Thomas Dillickrath tdillickrath@sheppardmullin.com

Joseph Antel jantel@sheppardmullin.com

Jamie Elizabeth France jfrance@gibsondunn.com

3:22-cv-00050-AVC Notice has been delivered by other means to:

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 Alfred Covello

**STIPULATION AND [PROPOSED] ORDER REGARDING PROTOCOL FOR
DISCOVERY**

The parties (“Parties”) in the above-captioned action (“Litigation”) have agreed to the terms of this Stipulation and [Proposed] Order Regarding Protocol for Discovery (“Discovery Protocol”) to govern the form of productions made by the Parties in this Litigation. Accordingly, it is ORDERED:

1. SCOPE

A. Absent special circumstances, the provisions set forth in this ESI Protocol shall govern the production of all paper documents and electronically stored information (collectively “ESI”) by the Parties during discovery.

B. The Parties shall meet and confer in good faith in an effort to agree upon: (a) sources from which and custodians from whom ESI will be collected for review and production; (b) search methods and terms or other filtering or categorization to be applied; and (c) timeframes for collection and review of ESI.

C. Except as noted herein, the Parties agree that the following instructions (“Instructions”) apply to the production of all ESI, including “paper” documents and files stored in electronic format (including, but not limited to, email, messages (e.g. SMS text messages, iMessage, or messaging applications such as WhatsApp, Signal, or Telegraph), note files (both paper notes and electronic notes created using electronic note applications such as Microsoft OneNote), Word documents, PowerPoint documents, Excel documents, Access databases, documents and messages created or saved in collaboration tools such as Microsoft Teams, Microsoft SharePoint, Microsoft Yammer, and Slack, or any other cloud-based software platform, including Google Workspace applications. Nothing in this Discovery Protocol is intended to be an exhaustive list of discovery obligations or rights of a Party producing discoverable information (“Producing Party”) or a Party requesting discoverable information (“Requesting Party”), or any other Party or nonparty.

D. Notwithstanding anything in this Discovery Protocol, the Parties may mutually agree to deviate from the provisions set forth herein as to specific documents or categories of documents. In the event that any Party identifies a circumstance where application of this Discovery Protocol is not technologically possible or practicable, the Producing Party will disclose to the Requesting Party the reason(s) for, and circumstances surrounding, the need to vary from this Discovery Protocol, and the Parties will meet and confer in an effort to reach agreement on an appropriate deviation from this Discovery Protocol.

E. The Parties and their attorneys do not intend by agreeing to this Discovery Protocol to waive their rights to any protection or privilege, including the attorney-client privilege and work product doctrine, or their rights to object to any discovery requests. This

Discovery Protocol does not address or resolve any objections to the scope of the Parties' respective discovery requests.

F. Nothing in this document establishes any agreement as to either the temporal or subject matter scope of discovery in the Litigation. Nothing in this document creates an obligation by any party to produce ESI on back-up tapes or other long-term storage media that were created strictly for use as a data back-up or disaster recovery medium.

G. The Parties shall not be obligated under this document to produce any ESI that is no longer within their possession, custody or control (*i.e.*, lost or deleted) as a result of the routine, good-faith operation of an electronic information system, unless the Party requesting such ESI establishes that there is good cause to believe that the Party from whom such ESI is being requested intentionally failed to preserve, deleted or destroyed the ESI while under an obligation to retain it.

H. Notwithstanding anything to the contrary herein, the following document types are not discoverable in the Litigation except upon a showing of good cause, to include that the information sought is likely material, that it is unavailable from other sources, and that its production will not impose undue burden or expense on the producing party:

- (i) Back-up tapes or other long-term storage media that were created strictly for use as a data back-up or disaster recovery medium.
- (ii) Deleted, erased, or overwritten computer files, whether fragmented or whole, which were deleted in the regular course of business;
- (iii) Data stored in Random Access Memory ("RAM"), cache memory, or in temporary or cache files, including internet history, web browser cache, and cookie files, wherever located;

- (iv) Data stored on photocopiers, scanners, and fax machines; and
- (v) Data stored as server, system, or network logs.

I. Nothing in this Protocol prevents any Party from asserting, in accordance with the Federal Rules of Civil Procedure, that other categories of ESI are not reasonably accessible within the meaning of Rule 26(b)(2)(B).

J. The Parties shall meet and confer to resolve any disputes that arise under this protocol. In the event the Parties cannot reach agreement on a disputed matter, the Parties shall submit the matter to the court.

2. PRODUCTION FORMAT

A. ESI Production Format: ESI shall be produced primarily as single page, uniquely and sequentially numbered CCITT Group IV TIFF image files not less than 300 dpi. The images shall be accompanied by searchable full text files containing the extracted text on a document basis, or if extracted text is unavailable, e.g., image-only PDF files, then searchable text generated using Optical Character Recognition (“OCR”) will be provided. The text files shall be named to match the endorsed number assigned to the image of the first page of the document. The images and text files shall also be accompanied by image cross-reference load files in the format requested by each party (such as Opticon) providing the beginning and ending endorsed number of each document and the number of pages it comprises. The producing Party shall also provide a litigation support database load file (“Data Load File”) corresponding to the TIFF image files and the full text files, that shall contain the requested metadata, as reasonably available, associated with each field specified in Schedule A. For the avoidance of any doubt, there is no obligation on a Party to create metadata where none exists or is not reasonably available. Data Load Files will be provided in both Concordance (DAT) and Summation (DII and Summary.TXT) file formats.

B. **Paper Production Format:** Paper discovery shall be converted to electronic form and produced as single page, uniquely and sequentially numbered CCITT Group IV TIFF image files not less than 300 dpi resolution to enable the generation of searchable text using OCR. The images shall be accompanied by text files containing the OCR-generated searchable full text. The text files shall be named to match the endorsed number assigned to the image of the first page of the document. The images shall also be accompanied by an image cross-reference load file (such as Opticon) providing the beginning and ending endorsed number of each document and the number of pages it comprises. The producing Party shall also provide a Data Load File corresponding to the CCITT Group IV TIFF image files, that shall contain a coded “Custodian” field, as defined in the Production Fields set forth in Schedule A.

C. **Appearance, Content, and Redaction:** Subject to any necessary redaction, each document’s TIFF image file shall contain the same information and same physical representation as the document did in its original format, whether paper or electronic, consistent with the processing specifications set forth in **Section 3. Processing Specifications**. If redaction takes place, it will be logged on a privilege log. Redaction of ESI will be performed on a TIFF imaged version of the document only, and native format files and extracted text will **not** be provided. Unredacted text in a redacted document must be made searchable using OCR. Any redactions must be clearly visible on the face of the produced document (*e.g.*, the Parties should not use white boxes to make redactions on documents with a white background) and OCR searchable (*e.g.*, labeled “Redacted”).

D. **Document Unitization:** If a paper document is more than one page, the document should be unitized using physical unitization. For electronic documents, all unitization should be

defined within the data load file; this includes the designation of parent/attachments both for e-mail and attachments and for compressed files (such as ZIP or RAR files) and their contents.

E. **Color:** If an original document contains color that is necessary to understand the meaning or content of the document, the document shall be produced as single-page, color JPG images. Original document orientation should be maintained (*i.e.*, portrait to portrait and landscape to landscape).

F. **Document Numbering for TIFF Images:** Each page of a document produced in TIFF file format shall have a legible, unique numeric identifier (“Document Number” or “Bates Number”) not less than eight (8) digits (with zero-padding) electronically “burned” onto the image at a place on the document that does not obscure, conceal or interfere with any information originally appearing on the document. The Document Number for each document shall be created so as to identify the producing Party and the Document Number (*e.g.*, “ABC-00000000”). Each Party shall have a unique identifying prefix.

G. **Production of ESI in Native Format:** Except as listed below, ESI produced in TIFF format is not required to be produced in native format unless agreed by the Parties or for good cause shown. Privileged documents that have been redacted in accordance with the provisions herein are not required to be produced in native format. A document produced in native format must not be intentionally manipulated to change the appearance or substance of the document prior to its collection or production.

- (i) Spreadsheets. Spreadsheets, CSV, and .txt files shall be produced solely as native files with a placeholder TIFF image showing the document Bates Number and stating “Produced in Native Format.” The database load files will include a link to the NativeFile field, along with extracted text.

- (ii) PowerPoint. PowerPoint documents shall be produced in both native format, and in TIFF format. The database load files will include a link to the NativeFile field, along with extracted text.
- (iii) Word Documents containing Track changes and/or Comments. Word documents containing Track changes and/or Comments shall be produced as TIFF images with Track Changes and Comments turned off, and in native format.
- (iv) Structured Data. To the extent a response to discovery requires production of discoverable electronic information contained in a database (SAP, SQL, MS Access or other), the producing party may comply by querying the database for discoverable information and generating a report in a reasonably usable and exportable electronic file (for example, Excel or CSV format). The first line of the file will, to the extent possible, show the column headers for each field of data included. The Parties shall meet and confer to finalize the appropriate data extraction and production format for specific information contained in a database.
- (v) Media Files. The producing Party shall produce video, animation or audio files in their Native format with a placeholder TIFF image showing the document Bates Number and stating “Produced in Native Format” and a link in the NativeFile field.

H. **De-duplication**: The Parties shall use commercially acceptable methods (e.g., MD5 or SHA-1 hash values) to identify duplicate ESI and globally de-duplicate ESI. Family groups (e.g., an email and its attachments) shall be de-duplicated only against other family

groups as entities, and no document that is not part of a family group shall be de-duplicated against a member of a family group. The Parties will not de-duplicate loose electronic documents or Hard Copy Information against email attachments. The Parties will not treat a document containing handwritten notes, highlighting, or any other markings as a duplicate of a non-marked or annotated version of the same document. A Party may de-duplicate ESI across its custodians or sources, but if that option is exercised, the Party shall identify each custodian who had a copy of the produced document in the ALL CUSTODIANS field in the Metadata load file. A Party may only de-duplicate “exact duplicate” documents and may not de-duplicate “near duplicate” documents, both of the quoted terms in this sentence being given their ordinary meaning in the e-discovery field. Common system files defined by the NIST library (<http://www.nsr.nist.gov/>) need not be produced.

I. **Third-Party Software**: To the extent that documents produced pursuant to this document cannot be rendered or viewed without the use of proprietary third-party software, the Parties shall meet and confer to minimize any expense or burden associated with the production of such documents in an acceptable format, including issues as may arise with respect to obtaining access to any such software and operating manuals which are the property of a third party.

3. PROCESSING SPECIFICATIONS

The producing Party shall collect and process documents using sound methods that avoid spoliation of ESI. The producing Party shall use the following specifications when converting ESI from its Native format into TIFF image files prior to its production:

- A. All headers and footers shall be displayed.
- B. OLE embedded email signatures and company logo pictures or images (.gif files) in e-mails shall **not** be extracted. However, other OLE embedded objects (e.g., an Excel

spreadsheet embedded within an MS Word document), will be extracted and produced as an attachment to the source document.

C. For archive files (zip, jar, rar, gzip, etc.), extract from the archive and maintain family relationships; do **not** include the source/container file itself in the production.

D. For MS Excel or other spreadsheet files, hidden columns and rows shall be made visible, to the extent reasonably feasible upon collection and processing. Additionally, where present, hidden sheets, headers, and footers should be made visible.

E. PowerPoint documents should be processed with hidden slides and speaker's notes, and comments unhidden, and should display both the slide, speaker's notes, and comments on the TIFF image. Auto-populated fields, with the exception of auto-populating "page-number" fields, shall be replaced with text indicating the field name. For example, auto-populating "date" fields shall be replaced with the text "DATE" (or other similar text) and auto-populating "filepath" fields shall be replaced with the text "PATH" (or other similar text).

4. PRIVILEGE LOG

A. Any document or e-mail or redacted portion of document/e-mail that is identified as privileged for any reason and logged on a privilege log is subject to the following:

- (i) Within 30 days after the substantial completion of document production in response to each document request (and in no event later than 90 days after each document request), the producing party shall serve on the requesting party a privilege log containing any documents withheld on the basis of any claim of privilege or other legal protection ("Privileged Material"). The parties shall promptly provide a privilege log for any subsequently withheld documents.

- (ii) The privilege log shall include sufficient information to allow the receiving party to reasonably assess the claim of privilege, including but not limited to the following information: (i) the date of the document (i.e., the date of the last email in the email chain); (ii) the author(s)/sender(s); (iii) recipients (including recipients copied and/or blind copied); (iv) a description of the contents of the document that, without revealing information itself privileged or protected, is sufficient to understand the basis of the claim of privilege; and (v) the type or nature of the privilege asserted (e.g., attorney-client privilege, work-product doctrine).
- (iii) The parties are only required to provide a single privilege log entry for multiple email messages in the same email thread to the extent such messages are included within one individual email thread. The email that will be logged will be the most inclusive thread with any associated attachments.
- (iv) Documents that contain both privileged and non-privileged/work product protected information will be produced with the privileged/protected information redacted and the non-privileged/protected information visible. Documents or portions thereof that contain redactions for information withheld on privilege/work product grounds will be identified in a privilege log in accordance with Rule 26(b)(5)—with the exception that redacted documents need not be logged provided the basis for the redaction is made plain on the face of the redacted document (e.g., the

email to/from is between counsel and is visible in the produced version of the document).

5. COSTS.

The costs of production pursuant to this Order shall be borne by the Producing Party. However, in agreeing to this Order, no Party waives or relinquishes any right or interest it may have under the Federal Rules of Civil Procedure to seek cost shifting or apportionment for the costs of electronic discovery.

6. THIRD-PARTY DISCOVERY.

A. A Party that issues a non-Party subpoena (the “Issuing Party”) shall include a copy of this Order and the order concerning confidentiality agreed and/or entered in this litigation with the subpoena and state that the Parties in the litigation have requested that third-Parties produce documents in accordance with the specifications set forth herein.

B. The Issuing Party shall produce a copy to all other Parties documents and ESI (including any metadata) obtained under subpoena to a non-Party.

C. If the non-Party production is not Bates-stamped, the Issuing Party will endorse the non-Party production with unique Bates prefixes and numbering scheme prior to reproducing them to all other Parties.

SO ORDERED.

Dated: _____

Honorable Alfred Covello
United States District Court Judge

STIPULATED AND AGREED TO BY:

/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

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

Attorneys for Plaintiff

/s/ Stephen Weissman

Stephen Weissman
Jamie E. France
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5306
(202) 955-8690
sweissman@gibsondunn.com
jfrance@gibsondunn.com

Eric J. Stock
Joshua J. Obear
200 Park Avenue
New York, NY 10166-0193
(212) 351-4000
estock@gibsondunn.com
jobear@gibsondunn.com

Thomas J. Dillickrath
Leo Caseria
SHEPPARD MULLIN RICHTER
& HAMPTON LLP
2099 Pennsylvania Avenue, N.W.
Washington, DC 20006-6801
(202) 747-1900
tdillickrath@sheppardmullin.com
lcaseria@sheppardmullin.com

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

Attorneys for Defendants

SCHEDULE A: PRODUCTION FIELDS

Field Name	Description (E-Mail)	Description (Non-E-mail Loose File or E-mail Attachment)
AttchIDs	Delimited list of beginning document Bates numbers of each attachment, populated for the PARENT email.	Delimited list of beginning document Bates numbers of each attachment, populated for the PARENT container (zip/rar/etc.).
Author	N/A	The person who originally created the electronic file.
BCC	All information contained in the "BCC" field of the e-mail, as well as all other discernable blind copyees.	N/A
BegAttch	Number endorsed on first page of first document in a family (<i>i.e.</i> , documents and all attachments thereto).	Number endorsed on first page of first document in a family (<i>i.e.</i> , documents and all attachments thereto).
BegDoc# (or DocID)	Number endorsed on first page of document.	Number endorsed on first page of document.
CC	All information contained in the "CC" field of the e-mail, as well as all other discernible copyees.	N/A
ConfDes	The confidential designation endorsed on the document, if present.	The confidential designation endorsed on the document, if present.
DateLastMod	N/A	Date the document was last modified. (MM/DD/YYYY).
TimeLastMod		Time the document was last modified in hh:mm:ss format.
Date Created		Date the document was created (MM/DD/YYYY).
Time Created		Time the document was created in hh:mm:ss format
DateSent	Date the E-mail was sent, expressed in MM/DD/YYYY format.	N/A
DateReceived	Date the E-mail was received expressed in MM/DD/YYYY format	N/A
EndAttch	Number endorsed on last page of last document in a family (<i>i.e.</i> , documents and all attachments thereto).	Number endorsed on last page of last document in a family (<i>i.e.</i> , documents and all attachments thereto).
EndDoc#	Number endorsed on last page of	Number endorsed on last page of

Field Name	Description (E-Mail)	Description (Non-E-mail Loose File or E-mail Attachment)
	document.	document.
FileExt	Displays the extension of the file (msg, eml).	Displays the extension of the file (doc, xlsx).
FileName	Original file name, including file extension (Example.MSG).	Original file name, including file extension (Example.XLS, or Example.DOC).
From	All information contained in the "From" field of the e-mail.	N/A
NativeFile	If files produced in native path to file (e.g. NATIVE\samplefile.xls), and an active hyperlink should be included in the data load files for use in document review databases.	If files produced in native path to file (e.g. Attachments\ samplefile.xls), and an active hyperlink should be included in the data load files for use in document review databases.
ParentID	Beginning document Bates number of the parent email, populated for each ATTACHMENT	
Extracted Text Path	File path to the extracted text/OCR file, or the extracted/OCR file link (e.g. ABC001\Text\001\ABC0000001.txt)	File path to the extracted text/OCR file, or the extracted/OCR file link (e.g. ABC001\Text\001\ABC0000001.txt)
File Path		Original file path
MessageID	Message ID of email	N/A
Conversation Index	Conversation Index for email	N/A
Redacted	Indication as to whether the document contains redactions	Indication as to whether the document contains redactions
Custodian	Custodial or non-custodial source(s) identified from which the document was collected.	Custodial or non-custodial source(s) identified from which the document was collected.
All Custodians	For documents that have been deduplicated, the identity of other Custodians who also had the identical document. .	For documents that have been deduplicated, the identity of other Custodians who also had the identical document. .
Subject	Verbatim subject or re: line, as extracted from the e-mail.	
Document Title	N/A	Document title as extracted from the metadata of the file if present. It will not be manually coded if absent in the metadata, and will not be manually coded for paper documents.
TimeSent	Time the email message was sent in hh:mm:ss format.	N/A

Field Name	Description (E-Mail)	Description (Non-E-mail Loose File or E-mail Attachment)
ReceivedTime	Time the email message was sent in hh:mm:ss format.	N/A
To	All information contained in the "To" field of the e-mail.	N/A
Production Volume	Production media volume name, e.g. "VOL001"	Production media volume name, e.g. "VOL001"
MD5 Hash	MD5 hash value.	MD5 hash value.

EXHIBIT B

Roberts, Nicole

From: CMECF@ctd.uscourts.gov
Sent: Tuesday, July 26, 2022 10:27 AM
To: CMECF@ctd.uscourts.gov
Subject: Activity in Case 3:22-cv-00050-SVN Saint Francis Hospital and Medical Center v. Hartford HealthCare Corporation et al Order on Motion for Protective Order

[EXTERNAL EMAIL]

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.**

U.S. District Court

District of Connecticut

Notice of Electronic Filing

The following transaction was entered on 7/26/2022 at 10:27 AM EDT and filed on 7/26/2022

Case Name: Saint Francis Hospital and Medical Center v. Hartford HealthCare Corporation et al

Case Number: [3:22-cv-00050-SVN](#)

Filer:

Document Number: 91(No document attached)

Docket Text:

ORDER granting [90] Joint Motion for Protective Order, given that there is no objection. The Court hereby adopts the proposed order appended at ECF No. [90-1]. Signed by Judge Sarala V. Nagala on 7/26/2022. (Rennie, Carolyn)

3:22-cv-00050-SVN Notice has been electronically mailed to:

William S. Fish, Jr wfish@hinckleyallen.com, jmccarthy@hinckleyallen.com

Jeffrey J. Mirman jmirman@haslaw.com, jrosinski@haslaw.com, kalbino@haslaw.com

Patrick M. Fahey pfahey@goodwin.com, kheidel@goodwin.com, lsurdam@goodwin.com

Karen T. Staib kstaib@goodwin.com, dhadam@goodwin.com, kheidel@goodwin.com

Eric Jonathan Stock estock@gibsondunn.com

Alexa Talin Millinger amillinger@hinckleyallen.com, kalbino@hinckleyallen.com

David A. Ettinger dettinger@honigman.com, ahamill@honigman.com, litdocket@honigman.com, nroberts@honigman.com

Nicholas Burandt nburandt@honigman.com, adeaton@honigman.com, litdocket@honigman.com

Paul Fabien pfabien@honigman.com

Leo Caseria lcaseria@sheppardmullin.com, 3487903420@filings.docketbird.com, jcampos@sheppardmullin.com, jharper@sheppardmullin.com

Joshua James Obear jobear@gibsondunn.com

Stephen Weissman sweissman@gibsondunn.com

Thomas Dillickrath tdillickrath@sheppardmullin.com

Joseph Antel jantel@sheppardmullin.com

Jamie Elizabeth France jfrance@gibsondunn.com

3:22-cv-00050-SVN Notice has been delivered by other means to:

IN THE 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 V. Nagala

[PROPOSED] PROTECTIVE ORDER

1. It is hereby ordered by the Court that the following shall apply to information, documents, excerpts from documents, and other materials produced in this action pursuant to Federal and Local Rules of Civil Procedure governing disclosure and discovery:

2. Information, documents and other materials may be designated by the producing party in the manner permitted (“the Designating Person”). All such information, documents, excerpts from documents, and other materials will constitute “Designated Material” under this Order. The designation shall be either (a) “CONFIDENTIAL” or (b) CONFIDENTIAL-ATTORNEYS’ EYES ONLY.” This Order shall apply to Designated Material produced by any party or third-party in this action.

3. “CONFIDENTIAL” information means information, documents, or things that have not been made public by the disclosing party and that the disclosing party reasonably and in good faith believes contains or comprises (a) trade secrets, (b) proprietary business information, or (c) information implicating an individual’s legitimate expectation of privacy.

4. “CONFIDENTIAL-ATTORNEY’S EYES ONLY” means CONFIDENTIAL information that the disclosing party reasonably and in good faith believes is so highly sensitive that its disclosure to a competitor could result in significant competitive or commercial disadvantage to the designating party.

5. Designated Material shall not be used or disclosed for any purpose other than the litigation of this action and may be disclosed only as follows:

- a. **Parties:** Material designated “CONFIDENTIAL” may be disclosed to parties to this action or directors, officers and employees of parties to this action, who have a legitimate need to see the information in connection with their responsibilities for overseeing the litigation or assisting counsel in preparing the action for trial or settlement. Before Designated Material is disclosed for this purpose, each such person must agree to be bound by this Order by signing a document substantially in the form of Exhibit A.
- b. **Witnesses:** Designated Material, including material designated “CONFIDENTIAL-ATTORNEYS’ EYES ONLY,” may be disclosed to a witness in this action, but only for purposes of testimony in this case, whether at trial, hearing, or deposition, but it may not be retained by the witness. Such witnesses must be persons whom Plaintiff or Defendants believe, in good faith, had prior personal and actual access to the particular material designated as CONFIDENTIAL or CONFIDENTIAL-ATTORNEY’S EYES ONLY, or persons whose statements are expressly mentioned, discussed or referred to in the material as indicated on its face.

- c. **Authors:** Authors, addressees, and recipients of material designated as CONFIDENTIAL or CONFIDENTIAL-ATTORNEYS' EYES ONLY solely to the extent that they have previously had lawful access to the material disclosed or to be disclosed.
- d. **Outside Experts:** Designated Material, including material designated "CONFIDENTIAL-ATTORNEYS' EYES ONLY," may be disclosed to an outside expert for the purpose of obtaining the expert's assistance in the litigation. Before Designated Material is disclosed for this purpose, each such person must agree to be bound by this Order, by signing a document substantially in the form of Exhibit A.
- e. **Counsel:** Designated Material, including material designated "CONFIDENTIAL-ATTORNEYS' EYES ONLY," may be disclosed to outside counsel of record and their associates, paralegals, and regularly employed office staff as well as: (1) John D'Ambrosio, designated in-house counsel for the Defendants, who is not involved in competitive decision-making for Defendants; and (2) Aimee Stow, designated in-house counsel for Plaintiff, who is not involved in competitive decision-making for Plaintiff. A party may designate additional in-house counsel to whom material designated "CONFIDENTIAL-ATTORNEYS' EYES ONLY" may be disclosed provided the identity and job functions of the in-house attorney(s) are disclosed to the producing party and written consent is obtained from the opposing party, which consent shall not unreasonably be withheld.

f. **Other Persons:** Designated Material may be provided as necessary to copying services, translators, and litigation support firms. Before Designated Material is disclosed to such third parties, each such person must agree to be bound by this Order by signing a document substantially in the form of Exhibit A.

6. Prior to disclosing or displaying any Designated Material to any person, counsel shall:

- a. Inform the person of the confidential nature of the Designated Material; and
- b. Inform the person that this Court has enjoined the use of the Designated Material by him/her for any purpose other than this litigation and has enjoined the disclosure of that information or documents to any other person.

7. The confidential information may be displayed to and discussed with the persons identified in Paragraphs 5(c) only on the condition that, prior to any such display or discussion, each such person shall be asked to sign an agreement to be bound by this Order in the form attached hereto as Exhibit A. In the event such person refuses to sign an agreement in substantially the form attached as Exhibit A, the party desiring to disclose the confidential information may seek appropriate relief from the Court.

8. A person having custody of Designated Material shall maintain it in a manner that limits access to the Designated Material to persons permitted such access under this Order.

9. Counsel shall maintain a collection of all signed documents by which persons have agreed to be bound by this Order.

10. Documents shall be designated by stamping or otherwise marking the documents with the words “CONFIDENTIAL” or “CONFIDENTIAL-FOR ATTORNEYS’ EYES ONLY” thus clearly identifying the category of Designated Material for which protection is sought under the terms of this Order. Designated Material not reduced to documentary form shall be designated by the producing party in a reasonably equivalent way.

- a.** When electronically stored information is produced which cannot itself be marked with the designation CONFIDENTIAL or CONFIDENTIAL-ATTORNEYS’ EYES ONLY, the physical media on which such electronically stored information is produced shall be marked with the applicable designation.
- b.** The inadvertent failure to designate as CONFIDENTIAL or CONFIDENTIAL-ATTORNEYS’ EYES ONLY any document, transcript, or other material containing CONFIDENTIAL or CONFIDENTIAL-ATTORNEYS’ EYES ONLY information prior to its disclosure shall not be deemed a waiver in whole or in part of a claim that such material constitutes CONFIDENTIAL or CONFIDENTIAL-ATTORNEYS’ EYES ONLY information. The disclosing party may retroactively designate as CONFIDENTIAL or CONFIDENTIAL-ATTORNEYS’ EYES ONLY any document, transcript, or other material containing CONFIDENTIAL or CONFIDENTIAL-ATTORNEYS’ EYES ONLY that it inadvertently disclosed by notifying the parties in writing as soon as practicable after learning of the inadvertent disclosure. After receiving such notice, the parties must thereafter treat the newly designated material as

CONFIDENTIAL or CONFIDENTIAL-ATTORNEYS' EYES ONLY as applicable and the parties must cooperate to restore the proper designation of the inadvertently disclosed material. No prior or disclosure of newly designated material shall be considered a violation of this Protective Order.

11. The parties will use reasonable care to avoid designating as confidential documents or information that does not need to be designated as such.

12. A party may submit a request in writing to the party who produced Designated Material that the designation be modified or withdrawn. If the Designating Person does not agree to the redesignation, or fails to meet and confer in good faith after receipt of the written request for redesignation, within ten business days, the objecting party may apply to the Court for relief. Upon any such application, the burden shall be on the Designating Person to show why the designation is proper. Before filing such an application, the objecting party must attempt in good faith to meet and confer with the Designating Person in an effort to resolve the matter. Any opposition shall be due within ten business days after such an application is filed, and any reply shall be due within five business days after the opposition is filed. The parties may extend or shorten these dates by mutual agreement or by seeking permission from the Court, and a party's consent should not be unreasonably withheld. The Court may award sanctions if it finds that a party's position was taken without substantial justification.

13. Deposition transcripts or portions thereof may be designated either (a) when the testimony is recorded, or (b) by written notice to all counsel of record, given within ten business days after the Designating Person's receipt of the transcript in which case all counsel receiving such notice shall be responsible for marking the copies of the designated transcript or portion thereof in their possession or control as directed by the Designating Person. Pending expiration of

the ten business days, the deposition transcript shall be treated as designated as CONFIDENTIAL-ATTORNEYS' EYES ONLY. When testimony is designated at a deposition, the Designating Person may exclude from the deposition all persons other than those to whom the Designated Material may be disclosed under paragraph 5 of this Order. Any party may mark Designated Material as a deposition exhibit, provided the deposition witness is one to whom the exhibit may be disclosed under paragraph 5 of this Order and the exhibit and related transcript pages receive the same confidentiality designation as the original Designated Material.

14. Any Designated Material which becomes part of an official judicial proceeding or which is filed with the Court is public. Such Designated Material will be sealed by the Court only upon motion and in accordance with applicable law, including Rule 5(e) of the Local Rules of this Court. This Protective Order does not provide for the automatic sealing of such Designated Material. If it becomes necessary to file Designated Material with the Court, a party must comply with Local Civil Rule 5 by moving to file the Designated Material under seal.

15. Filing pleadings or other papers disclosing or containing Designated Material does not waive the designated status of the material. The Court will determine how Designated Material will be treated during trial and other proceedings as it deems appropriate.

16. 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 that all such materials have been destroyed.

17. Inadvertent production of confidential material prior to its designation as such in accordance with this Order shall not be deemed a waiver of a claim of confidentiality. Any such error shall be corrected within a reasonable time.

18. Nothing in this Order shall require disclosure of information protected by the attorney-client privilege, or other privilege or immunity, and the inadvertent production of such information shall not operate as a waiver. If a Designating Party becomes aware that it has inadvertently produced information protected by the attorney-client privilege, or other privilege or immunity, the Designating Party will promptly notify each receiving party in writing of the inadvertent production. When a party receives notice of such inadvertent production, it shall return all copies of inadvertently produced material within three business days. Any notes or summaries referring or relating to any such inadvertently produced material subject to claim of privilege or immunity shall be destroyed forthwith. Nothing herein shall prevent the receiving party from challenging the propriety of the attorney-client privilege or work product immunity or other applicable privilege designation by submitting a challenge to the Court. The Designating Party bears the burden of establishing the privileged nature of any inadvertently produced information or material. In the event of a challenge to the propriety of the designation by a receiving party, such party may retain a copy of the disputed documents, but shall refrain from distributing or otherwise using the inadvertently disclosed information or material for any purpose until any issue of privilege is resolved by agreement of the parties or by the Court. Notwithstanding the foregoing, a receiving party may use the inadvertently produced information or materials to make a motion challenging the privilege designation. If a receiving party becomes aware that it is in receipt of information or materials which it knows or reasonably should know is privileged, Counsel for the receiving party shall immediately take steps to (i) stop reading such information or materials, (ii)

notify Counsel for the Designating Party of such information or materials, (iii) collect all copies of such information or materials, (iv) return such information or materials to the Designating Party, and (v) otherwise comport themselves with the applicable provisions of the Rules of Professional Conduct.

19. Nothing in this Order will bar or otherwise restrict Counsel from rendering advice to his or her client with respect to this matter or from generally referring to or relying upon “CONFIDENTIAL” or “CONFIDENTIAL-FOR ATTORNEYS’ EYES ONLY” material in rendering such advice. Such advice cannot include, however, disclosure of specific information contained in “CONFIDENTIAL” or “CONFIDENTIAL – FOR ATTORNEYS’ EYES ONLY” material, **unless otherwise permitted under this Protective Order.**

20. The foregoing is entirely without prejudice to the right of any party to apply to the Court for any further Protective Order relating to Designated Material; or to object to the production of Designated Material; or to apply to the Court for an order compelling production of Designated Material; or for modification of this Order; or to seek any other relief from the Court.

21. The restrictions imposed by this Order may be modified or terminated only by further order of the Court.

SO ORDERED.

Dated:

U.S. District Judge Sarala V. Nagala

We so move and stipulate, and agree to abide by the terms of this Order

/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

We so move and stipulate, and agree to abide by the terms of this Order

/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/Thomas Dillickrath (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

EXHIBIT A

I have been informed by counsel that certain documents or information to be disclosed to me in connection with the matter entitled _____ have been designated as confidential. I have been informed that any such documents or information labeled “CONFIDENTIAL PRODUCED PURSUANT TO PROTECTIVE ORDER” are confidential by Order of the Court.

I hereby agree that I will not disclose any information contained in such documents to any other person. I further agree not to use any such information for any purpose other than this litigation.

DATED: _____

Signed in the presence of:
_____ (Attorney)



Ron N. Sklar
Office: 312.701.9308
Mobile: 734.972.4952
rsklar@honigman.com

October 28, 2022

Kurt A. Barwis, FACHE
President and CEO
Bristol Health

Re: *Subpoena*
Saint Francis Hospital and Medical Center, Inc. v. Hartford Healthcare Corp., et al.
Case No. 3:22-cv-00050 District of Connecticut

Dear Mr. Barwis,

We represent Saint Francis Hospital and Medical Center, Inc. in the above captioned antitrust case, filed in the District of Connecticut. We have served The Bristol Hospital, Inc. with a subpoena, seeking documents, including data, on a number of subjects that are important to the case. A copy of the subpoena is attached hereto.

We have tried to craft the subpoena so that it would allow us to obtain the materials we need while minimizing any burden to you. That is why many of the requests do not ask for “all documents,” but only “documents sufficient to show” certain topics. Nevertheless, if you believe the subpoena poses an undue burden to you, we would very much welcome talking to you to try to do what we can to reduce that burden. Depositions in this case begin in January, therefore, we welcome the opportunity to work with you to ensure that you are able to respond promptly.

There is a Protective Order in this case, a copy of which is also attached hereto. That order will protect the confidentiality of your documents if they are appropriately designated.

I look forward to talking with you further. If there is someone else who will be handling this matter, please let me know who that is, so that I can communicate with him or her.

Very truly yours,

HONIGMAN LLP

/s/ Ron N. Sklar

Ron N. Sklar

Exhibit B

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

SAINT FRANCIS HOSPITAL AND MEDICAL
CENTER, INC.,

Case No.: 22-cv-00050

Plaintiff,

v.

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

Defendants.

**NON-PARTY THE BRISTOL HOSPITAL, INC.'S
RESPONSES AND OBJECTIONS TO PLAINTIFF'S SUBPOENA**

Pursuant to Rule 45 of the Federal Rules of Civil Procedure, Non-Party The Bristol Hospital, Inc. ("Bristol Hospital"), by and through undersigned counsel, submits the following responses and objections to Saint Francis Hospital and Medical Center, Inc.'s ("Saint Francis Hospital") Subpoena to Produce Documents ("Subpoena").

RESERVATION OF RIGHTS

Bristol Hospital responds to the Subpoena to the best of its knowledge at the present time and reserves the right at any time to supplement, amend, correct, or clarify its responses and objections, but undertakes no obligation to do so beyond the obligations imposed by the Federal Rules of Civil Procedure, the Local Rules of this Court, and other applicable orders or rules. Any supplemental or amended response shall not function as a waiver of any privilege or objection Bristol Hospital has or may assert. Any response to the Subpoena or production of documents or things made by Bristol Hospital will be solely for the purpose of this action, without waiving or intending to waive, but, on the contrary, preserving and intending to preserve: (a) the right to object

on any grounds, at any time, to other discovery requests relating to the subject of the Subpoena to which Bristol Hospital has responded; (b) the right to object, on the grounds of competency, privilege, relevancy, materiality, confidentiality, authenticity, admissibility, or any other proper grounds, to the use of the responses, documents, or information provided by Bristol Hospital as evidence for any purpose, in whole or in part, in any subsequent proceeding, or in any trial in this action or any other action; and (c) the right at any time to revise, correct, supplement, or clarify Bristol Hospital's responses or objections. That Bristol Hospital has objected or responded to a Request for Production ("Request") in the Subpoena is not and should not be taken as an admission that Bristol Hospital accepts or admits the existence of any fact set forth in or assumed by such Request, or as an indication that Bristol Hospital agrees with or adopts any characterization or statement within such Request.

OBJECTIONS TO PLAINTIFF'S DEFINITIONS AND INSTRUCTIONS

Bristol Hospital's Responses are subject to the following objections to Plaintiff's Definitions and Instructions.

1. Bristol Hospital objects to the "Definitions" and "Instructions" set forth in the Subpoena, and to each and every Request, Definition, and Instruction using any term(s) defined therein, to the extent that they are inconsistent with or seek to impose obligations beyond those imposed by the Federal Rules of Civil Procedure, the Local Rules of this Court, the terms of the Stipulation and Order Regarding Protocol for Discovery in this case, and/or the terms of the Protective Order in this case.

2. Bristol Hospital objects to Definition/Instruction No. 2 as disproportionate to the needs of the case and unduly burdensome to non-party Bristol Hospital to the extent it purports to require Bristol Hospital to undertake a search for, collect, review, and/or produce documents while

there is a motion to dismiss pending that could conclude the case, or narrow the claims or subjects at issue. Bristol Hospital further objects to Definition/Instruction No. 2 to the extent it purports to require non-party Bristol Hospital to produce sensitive, confidential, or proprietary information without sufficient protections under the existing Protective Order in the case.

3. Bristol Hospital objects to Definition/Instruction No. 3 as overbroad and unduly burdensome to the extent it purports to require Bristol Hospital to “obtain” documents from its “administrators...commissioners, officials, agents, representatives, sureties and/or indemnitors.” Bristol Hospital further objects to Definition/Instruction No. 3 as vague and ambiguous as the terms “administrators...commissioners, officials, agents, representatives, sureties and/or indemnitors” are undefined.

4. Bristol Hospital objects to Definition/Instruction No. 5 to the extent that it purports to restrict Bristol Hospital from applying appropriate redactions, including but not limited to personally identifiable information (“PII”) or information protected by the Health Insurance Portability and Accountability Act of 1996 and implementing regulations, as amended by the Health Information Technology for Economic and Clinical Health Act and implementing regulations (hereinafter “HIPAA”).

5. Bristol Hospital objects to Definition/Instruction No. 6 as overbroad and unduly burdensome to the extent that it calls for the production of documents for a nearly six-year period from January 1, 2017, through the date of the Subpoena, including documents that are not relevant to any party’s claims or defenses, or the production of which is not proportional to the needs of the case. Bristol Hospital further objects to the definition of the term “Relevant Period” to the extent that it asserts or assumes a legal conclusion regarding relevance.

6. Bristol Hospital objects to Definition/Instruction No. 7 to the extent it purports to impose obligations for a privilege log beyond those imposed by Local Rule 26(e). In responding to this Subpoena, Bristol Hospital will comply with Local Rule 26(e).

7. Bristol Hospital objects to Definition/Instruction No. 8 regarding the term “computer files,” and to each and every Request, Definition, and Instruction using the term, as vague and overbroad.

8. Bristol Hospital objects to Definition/Instruction No. 10 regarding the term “communication,” and to each and every Request, Definition, and Instruction using the term, to the extent it purports to impose obligations beyond those imposed by Local Rule 26(c)(1). In responding to this Subpoena, Bristol Hospital will comply with Local Rule 26(c)(1).

9. Bristol Hospital objects to Definition/Instruction No. 11 regarding the term “Acquisition,” and to each and every Request, Definition, and Instruction using the term, as vague and overbroad, disproportionate to the needs of the case, and unduly burdensome to the extent it purports to require non-party respondent Bristol Hospital to ascertain the “past or consummated acquisitions,” “pending or planned acquisitions,” and/or other referenced “transactions” of Hartford HealthCare. Bristol Hospital further objects to Definition/Instruction No. 11 as vague, ambiguous, and nonsensical to the extent it refers to “a Hartford HealthCare or Hartford HealthCare Physician Network contract with You [i.e., Bristol Hospital].” In responding to this Subpoena, Bristol Hospital will respond based on its present knowledge of Hartford Healthcare Corporation and persons acting on its behalf.

10. Bristol Hospital objects to Definition/Instruction No. 12 regarding the term “Hartford Hospital,” and to each and every Request, Definition, and Instruction using the term, as vague and overbroad, disproportionate to the needs of the case, and unduly burdensome to the

extent it purports to require non-party respondent Bristol Hospital to ascertain the “parents, subsidiaries, affiliates, hospitals, clinics, physician practice groups, predecessors and/or successors, if any” of Hartford Hospital, “and its and their current and/or former representatives and employees; and any person acting on its or their behalf and also includes all officers, directors, employees, consultants, attorneys, authorized agents and/or all other persons acting or purporting to act on behalf of any such entity.” In responding to this Subpoena, Bristol Hospital will respond based on its present knowledge of Hartford Hospital and persons acting on its behalf.

11. Bristol Hospital objects to Definition/Instruction No. 13 regarding the term “Hospital of Central Connecticut,” and to each and every Request, Definition, and Instruction using the term, as vague and overbroad, disproportionate to the needs of the case, and unduly burdensome to the extent it purports to require non-party respondent Bristol Hospital to ascertain the “parents, subsidiaries, affiliates, hospitals, clinics, physician practice groups, predecessors and/or successors, if any” of Hospital of Central Connecticut, “and its and their current and/or former representatives and employees; and any person acting on its or their behalf and also includes all officers, directors, employees, consultants, attorneys, authorized agents and/or all other persons acting or purporting to act on behalf of any such entity.” In responding to this Subpoena, Bristol Hospital will respond based on its present knowledge of Hospital of Central Connecticut and persons acting on its behalf.

12. Bristol Hospital objects to Definition/Instruction No. 14 regarding the term “Hartford HealthCare,” and to each and every Request, Definition, and Instruction using the term, as vague and overbroad, disproportionate to the needs of the case, and unduly burdensome to the extent it purports to require non-party respondent Bristol Hospital to ascertain the “parents, subsidiaries, affiliates, hospitals, clinics, physician practice groups, predecessors and/or

successors, if any,” of Hartford HealthCare Corporation, “and its and their current and/or former representatives and employees; and any person acting on its or their behalf and also includes all officers, directors, employees, consultants, attorneys, authorized agents and/or all other persons acting or purporting to act on behalf of any such entity.” In responding to this Subpoena, Bristol Hospital will respond based on its present knowledge of Hartford Healthcare Corporation and persons acting on its behalf.

13. Bristol Hospital objects to Definition/Instruction No. 15 regarding the term “Saint Francis,” and to each and every Request, Definition, and Instruction using the term, as vague and overbroad, disproportionate to the needs of the case, and unduly burdensome to the extent it purports to require non-party respondent Bristol Hospital to ascertain the “parents, subsidiaries, affiliates, hospitals, clinics, physician practice groups, predecessors and/or successors, if any,” of Saint Francis Hospital and Medical Center, “and its and their current and/or former representatives and employees; and any person acting on its or their behalf and also includes all officers, directors, employees, consultants, attorneys, authorized agents and/or all other persons acting or purporting to act on behalf of any such entity.” In responding to this Subpoena, Bristol Hospital will respond based on its present knowledge of Saint Francis Hospital and Medical Center and persons acting on its behalf.

14. Bristol Hospital objects to Definition/Instruction No. 18 regarding the term “Relevant Area,” and to each and every Request, Definition, and Instruction using the term, to the extent that it asserts or assumes a legal conclusion regarding relevance. In responding to this Subpoena, Bristol Hospital will substitute “Hartford County” for the term “Relevant Area” without taking a position or waiving any argument as to whether Hartford County is the relevant area for the parties’ claims and defenses.

15. Bristol Hospital objects to Definition/Instruction No. 19 regarding the term “documents sufficient to show,” and to each and every Request, Definition, and Instruction using the term, as vague and ambiguous. Bristol Hospital further objects to Definition/Instruction No. 19 as overbroad, disproportionate to the needs of the case, and unduly burdensome to the extent it purports to require non-party respondent Bristol Hospital to “generate” any reports and/or to produce more than one document, or combination of documents, that provides the information requested.

16. Bristol Hospital objects to Definition/Instruction No. 20 regarding the terms “relate to” and “relating to,” and to each and every Request, Definition, and Instruction using the terms as vague and overbroad, disproportionate to the needs of the case, and unduly burdensome to the extent it purports to require non-party respondent Bristol Hospital to determine what “arise[s] out of, or [is] in any way or manner, directly or indirectly, in whole or in part, legally, factually, or logically connected with the matter discussed.” In responding this Subpoena, Bristol Hospital will respond based on its present knowledge of what a document or information “constitute[s], consist[s] of, discuss[es], refer[s] to, [or] reflect[s] on.”

17. Bristol Hospital objects to Definition/Instruction No. 25 regarding the term “reports,” and to each and every Request, Definition, and Instruction using the term, as vague and ambiguous. Bristol Hospital further objects to Definition/Instruction No. 25 as overbroad, disproportionate to the needs of the case, and unduly burdensome to the extent it purports to require non-party respondent Bristol Hospital to “generate” any reports.

18. Bristol Hospital objects to Definition/Instruction No. 26 as overbroad, disproportionate to the needs of the case, and unduly burdensome as to non-party Bristol Hospital to the extent that it seeks to impose obligations beyond those imposed by the Federal Rules of

Civil Procedure, the Local Rules of this Court, the terms of the Stipulation and Order Regarding Protocol for Discovery in this case, and/or the terms of the Protective Order in this case.

19. Bristol Hospital objects to Definition/Instruction No. 27 as overbroad, disproportionate to the needs of the case, and unduly burdensome as to non-party Bristol Hospital to the extent that it seeks to impose obligations beyond those imposed by the Federal Rules of Civil Procedure, the Local Rules of this Court, the terms of the Stipulation and Order Regarding Protocol for Discovery in this case, and/or the terms of the Protective Order in this case.

20. Bristol Hospital objects to Definition/Instruction No. 28 regarding the terms “You” and “Your,” and to each and every Request, Definition, and Instruction using the terms. As actually used in the Requests, the terms “You” and “Your” would be vague, ambiguous, overbroad, disproportionate to the needs of the case, unduly burdensome – and nonsensical – if applied to Bristol Hospital’s “parents, subsidiaries, affiliates, hospitals, clinics, physician practice groups, predecessors and/or successors...and its and their current and/or former representatives and employees; and any person acting on its or their behalf and also includes all officers, directors, employees, consultants, attorneys, authorized agents and/or all other persons acting or purporting to act on behalf of any such entity.” In responding this Subpoena, Bristol Hospital will interpret the terms “You” or “Your” as referring to Bristol Hospital and persons acting on its behalf.

21. Bristol Hospital objects to Definition/Instruction No. 30 as overbroad and unduly burdensome to the extent it purports to require non-party Bristol Hospital to comply with all of the protocols in Sections 2 (“Production Format”) and 3 (“Processing Specifications”) in the Parties’ Stipulation and Proposed Order Regarding Protocol for Discovery in this case. If any of the Requests remain pending after a decision on the Motion to Dismiss, Bristol Hospital is willing to meet and confer with Plaintiff regarding appropriate production and processing protocols for the

documents to be produced. Bristol Hospital further objects this Definition/Instruction to the extent it purports to impose obligations for a privilege log beyond those imposed by Local Rule 26(e). In responding to this Subpoena, Bristol Hospital will comply with Local Rule 26(e).

**SPECIFIC RESPONSES AND OBJECTIONS TO
REQUESTS FOR PRODUCTION OF DOCUMENTS**

The foregoing Objections to Plaintiff's Definitions and Instructions, and Reservation of Rights are incorporated into each and every specific Response as if set forth fully therein.

REQUEST NO. 1:

1. All analyses, studies, presentations, memoranda, summaries and reports discussing competition with:

- (a) Hartford Hospital;
- (b) Hospital of Central Connecticut; or
- (c) Saint Francis.

RESPONSE TO REQUEST NO. 1:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital. Bristol Hospital also objects to this Request to the extent it calls for the disclosure of sensitive, confidential, or proprietary information without sufficient protections under the existing Protective Order in the case. Bristol Hospital additionally objects to this Request on the ground that the term "competition" is undefined, vague, and ambiguous, and to the extent that the Request calls for a legal conclusion as to "competition."

REQUEST NO. 2:

2. Documents sufficient to show the geographic area in which Your facilities predominantly compete and/or draw patients.

RESPONSE TO REQUEST NO. 2:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request to the extent that it calls for a legal conclusion as to the term "compete." Bristol Hospital additionally objects to this Request on the ground that the terms "compete" and "draw" are undefined, vague, and ambiguous. Subject to and without waiving the foregoing objections, if this Request remains pending after a decision on the Motion to Dismiss, Bristol Hospital will produce documents sufficient to show the geographic area served by the hospital, as defined by 42 C.F.R. § 411.357(e)(2)(i).

REQUEST NO. 3:

3. Documents sufficient to show, for Your hospital: (a) the number of licensed beds; (b) the number of staffed beds; (c) the average level of inpatient occupancy or utilization; and (d) the revenues from commercially insured patients.

RESPONSE TO REQUEST NO. 3:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request to the extent that it seeks information already in Plaintiff's possession or available to Plaintiff from public sources, including the Connecticut Office of Health Strategy. Subject to and without waiving the foregoing objections, if this Request remains pending after a decision on the Motion to Dismiss, Bristol Hospital is willing to meet and confer with Plaintiff regarding a reasonable search for documents sufficient to show the requested information that is not available to Plaintiff from other sources, if any.

REQUEST NO. 4:

4. Documents sufficient to show, for Your hospital, and separately in total and for each of commercially insured and Medicare Advantage patients overall and for the following service lines (or similar service lines that You track in the ordinary course of business): inpatient cardiology services, inpatient cardiothoracic surgery services, inpatient orthopedic surgery services, outpatient orthopedic surgery services, and outpatient medical oncology services for (a) the total number of discharges and number of discharges by patient zip code; (b) the total number of inpatient days; and (c) net inpatient revenue, both in total and by patient zip code.

RESPONSE TO REQUEST NO. 4:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital. Bristol Hospital also objects to this Request as vague and unclear. Bristol Hospital additionally objects to this Request to the extent that it seeks information already in Plaintiff's possession or available to Plaintiff from other sources, including the Connecticut Hospital Association's ChimeData. Bristol Hospital additionally objects to this Request to the extent it calls for the disclosure of sensitive, confidential, or proprietary information without sufficient protections under the existing Protective Order in the case. Bristol Hospital further objects to this Request to the extent it calls for the disclosure of information protected under HIPAA.

REQUEST NO. 5:

5. Documents sufficient to show, for Your hospital, and separately in total and for commercially insured and Medicare Advantage patients, (a) the total number of outpatient orthopedic surgeries and the number of such surgeries by patient zip code, and (b) net revenue for outpatient orthopedic surgeries, both in total and by patient zip code.

RESPONSE TO REQUEST NO. 5:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request as duplicative of Request No. 4. See Bristol Hospital's Response to Request No. 4.

REQUEST NO. 6:

6. Documents sufficient to show your marketing, advertising and competitive efforts and plans targeted towards patients, consumers, health plans, employers, physicians, and/or referral sources in all or part of Hartford County.

RESPONSE TO REQUEST NO. 6:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request on the ground that the terms "marketing," "advertising," and "competitive" are undefined, vague, and ambiguous. Bristol Hospital further objects to this Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital. Bristol Hospital also objects to this Request to the extent it calls for the disclosure of sensitive, confidential, or proprietary information without sufficient protections under the existing Protective Order in the case.

REQUEST NO. 7:

7. All business plans, strategic plans, marketing plans, medical staff plans, and other analyses, studies, summaries and reports addressing competition in all or part of Hartford County.

RESPONSE TO REQUEST NO. 7:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital. Bristol Hospital additionally objects to

this Request on the ground that the term “competition” is undefined, vague, and ambiguous. Bristol Hospital further objects to this Request to the extent it calls for the disclosure of sensitive, confidential, or proprietary information without sufficient protections under the existing Protective Order in the case.

REQUEST NO. 8:

8. Annual financial statements for each of Your facilities.

RESPONSE TO REQUEST NO. 8:

In addition to Bristol Hospital’s Objections to Plaintiff’s Definitions and Instructions, Bristol Hospital objects to this Request to the extent that it seeks information already in Plaintiff’s possession or available to Plaintiff from public sources, including the Connecticut Office of Health Strategy.

REQUEST NO. 9:

9. Documents sufficient to show each of Your facilities’ primary and secondary geographic service area(s), market share(s) within each service area, and the zip codes encompassed by each service area, for inpatient services overall, for outpatient surgical services overall, and for the following service lines (or similar service lines that You track in the ordinary course of business): inpatient cardiology services, inpatient cardiothoracic surgery services, inpatient orthopedic surgery services, outpatient orthopedic surgery services, and outpatient medical oncology services.

RESPONSE TO REQUEST NO. 9:

In addition to Bristol Hospital’s Objections to Plaintiff’s Definitions and Instructions, Bristol Hospital objects to this Request as vague and unclear, including on the ground that the terms “primary... geographic service area” and “secondary geographic service area” undefined,

vague, and ambiguous. Bristol Hospital also objects to this Request to the extent that it seeks information already in Plaintiff's possession or available to Plaintiff from other sources, including the Connecticut Hospital Association's ChimeData. Subject to and without waiving the foregoing objections, if this Request remains pending after a decision on the Motion to Dismiss, Bristol Hospital is willing to meet and confer with Plaintiff regarding a reasonable search for documents sufficient to show the requested information that is not available to Plaintiff from other sources, if any, for the geographic area served by the hospital, as defined by 42 C.F.R. § 411.357(e)(2)(i).

REQUEST NO. 10:

10. Documents sufficient to show, and all analyses, studies, presentations, memoranda, summaries and reports discussing patient outmigration from Hartford County.

RESPONSE TO REQUEST NO. 10:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital to the extent it calls for "all analyses, studies, presentations, memoranda, summaries and reports discussing" the issues identified in the Request. Bristol Hospital further objects to this Request on the ground that the term "patient outmigration" is undefined, vague, and ambiguous. Subject to and without waiving the foregoing objections, if this Request remains pending after a decision on the Motion to Dismiss, Bristol Hospital is willing to meet and confer with Plaintiff regarding a reasonable search for documents sufficient to show patient outmigration from the geographic area served by the hospital, as defined by 42 C.F.R. § 411.357(e)(2)(i), if any.

REQUEST NO. 11:

11. Documents sufficient to identify (separately) all physicians (by name, NPI, number, location, specialty, sub-specialty, and physician group affiliation), advance practice nurses and physicians' assistants (a) employed by You; and (b) not employed by You but having admitting privileges at any of Your facilities by facility and by category of admitting privileges.

RESPONSE TO REQUEST NO. 11:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital to the extent it calls for the identification of: "all physicians (by name, NPI, number, location, specialty, sub-specialty, and physician group affiliation), advance practice nurses and physicians' assistants" employed or having admitting privileges at Bristol Hospital facilities. Bristol Hospital further objects to this Request as calling for the disclosure of sensitive, confidential, or proprietary information without sufficient protections under the existing Protective Order in the case. Subject to and without waiving the foregoing objections, if this Request remains pending after a decision on the Motion to Dismiss, Bristol Hospital is willing to meet and confer with Plaintiff regarding the production, for a reasonable time period, of de-identified information responsive to this Request.

REQUEST NO. 12:

12. Documents sufficient to show the number of (a) patients and (b) cases, separately for inpatient and outpatient surgical services, by physician, which the physician has (a) admitted, (b) referred, (c) acted as attending physician for, or (d) otherwise treated at, each of Your facilities, overall and for the following service lines (or similar service lines that You track in the ordinary course of business): inpatient cardiology services, inpatient cardiothoracic surgery services,

inpatient orthopedic surgery services, outpatient orthopedic surgery services, and outpatient medical oncology services.

RESPONSE TO REQUEST NO. 12:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital, particularly as it calls for the disclosure of information "by physician" that is highly sensitive, confidential, and/or proprietary to Bristol Hospital.

REQUEST NO. 13:

13. All analyses, studies, presentations, memoranda, summaries and reports addressing the effect on physician referrals, referrals to any of Your facilities, or admissions at any of Your facilities of any actual or proposed acquisition of physicians or physician practices or employment of physicians by Hartford Healthcare, Hartford Hospital or Hospital of Central Connecticut.

RESPONSE TO REQUEST NO. 13:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request as vague and unclear. Bristol Hospital further objects to this Request to the extent it calls for the disclosure of sensitive, confidential, or proprietary information without sufficient protections under the existing Protective Order in the case. Bristol Hospital additionally objects to this Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital to the extent it calls for "all analyses, studies, presentations, memoranda, summaries and reports" concerning the issues identified in the Request. Subject to and without waiving the foregoing objections, if this Request remains pending after a decision on the Motion to Dismiss, Bristol Hospital is willing to meet and confer with

Plaintiff in order to determine whether it has any documents responsive to this Request, and a reasonable search if any.

REQUEST NO. 14:

14. All analyses, studies, presentations, memoranda, summaries and reports addressing Your efforts to recruit physicians (including without limitation the costs of recruiting and any barriers or difficulties in recruiting).

RESPONSE TO REQUEST NO. 14:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital. Bristol Hospital additionally objects to this Request to the extent it calls for the disclosure of sensitive, confidential, or proprietary information without sufficient protections under the existing Protective Order in the case. Bristol Hospital further objects to this Request on the ground that the terms "barriers" and "difficulties" are undefined, vague, and ambiguous.

REQUEST NO. 15:

15. All analyses, studies, presentations, memoranda, summaries and reports addressing the total cost of care either overall or by procedure or other category at any of Your facilities.

RESPONSE TO REQUEST NO. 15:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital to the extent it calls for "all analyses, studies, presentations, memoranda, summaries and reports" concerning the issues identified in the Request. Bristol Hospital additionally objects to this Request on the ground that the terms "total

cost of care” and “other category” are undefined, vague, and ambiguous. Bristol Hospital further objects to this Request to the extent that it seeks information already in Plaintiff’s possession or available to Plaintiff from public sources, including the Connecticut Office of Health Strategy and/or the Centers for Medicare & Medicaid Services’ Medicare Cost Reports.

REQUEST NO. 16:

16. Documents sufficient to show all reporting protocols, definitions and criteria in reporting data to the Connecticut Hospital Association or Connecticut’s All payor claims database.

RESPONSE TO REQUEST NO. 16:

In addition to Bristol Hospital’s Objections to Plaintiff’s Definitions and Instructions, Bristol Hospital objects to this Request as overbroad, disproportionate to the needs of this case, and unduly burdensome to the extent it calls for “all reporting protocols, definitions and criteria” without regard to whether they are relevant to the claims or defenses in this case. Bristol Hospital also objects to this Request to the extent that it seeks information already in Plaintiff’s possession or available to Plaintiff from other sources, including the Connecticut Hospital Association. Subject to and without waiving the foregoing objections, if this Request remains pending after a decision on the Motion to Dismiss, Bristol Hospital is willing to meet and confer with Plaintiff regarding a reasonable search for documents sufficient to show the requested information that is not available to Plaintiff from other sources, if any.

REQUEST NO. 17:

17. Documents sufficient to show which of Your facilities bill insurers as hospital-based providers (providers that bill through a hospital) and the facility through which they bill insurers in this manner.

RESPONSE TO REQUEST NO. 17:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request to the extent that it seeks information already in Plaintiff's possession or available to Plaintiff from public sources, including the Connecticut Office of Health Strategy and/or the Centers for Medicare & Medicaid Services' Medicare Cost Reports. Subject to and without waiving the foregoing objections, if this Request remains pending after a decision on the Motion to Dismiss, Bristol Hospital is willing to meet and confer with Plaintiff regarding a reasonable search for documents sufficient to show the requested information that is not available to Plaintiff from other sources, if any.

REQUEST NO. 18:

18. Documents sufficient to identify the tiered network plans offered in Hartford County in which You participate, if any, and Your tier-placement within those plans.

RESPONSE TO REQUEST NO. 18:

Subject to and without waiving the foregoing objections, if this Request remains pending after a decision on the Motion to Dismiss, Bristol Hospital is willing to meet and confer with Plaintiff regarding a reasonable search for documents sufficient to show the requested information that is not available to Plaintiff from other sources, if any.

REQUEST NO. 19:

19. Documents sufficient to identify the bundled pricing contracts You have entered into, if any, with payers offering plans in Hartford County.

RESPONSE TO REQUEST NO. 19:

Subject to and without waiving the foregoing objections, if this Request remains pending after a decision on the Motion to Dismiss, Bristol Hospital is willing to meet and confer with Plaintiff

regarding a reasonable search for documents sufficient to show the requested information that is not available to Plaintiff from other sources, if any.

REQUEST NO. 20:

20. Documents sufficient to show changes in the volume of orthopedic surgery provided at inpatient and outpatient settings at Your facilities.

RESPONSE TO REQUEST NO. 20:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request on the ground that the terms "changes" and "volume" are undefined, vague, overbroad and ambiguous. Bristol Hospital also objects to this Request to the extent that it seeks information already in Plaintiff's possession or available to Plaintiff from other sources, including the Connecticut Hospital Association. Subject to and without waiving the foregoing objections, if this Request remains pending after a decision on the Motion to Dismiss, Bristol Hospital is willing to meet and confer with Plaintiff regarding a reasonable search for documents sufficient to show the requested information that is not available to Plaintiff from other sources, if any.

REQUEST NO. 21:

21. Documents sufficient to show changes in average reimbursement rates paid (both overall and adjusted for case mix) for each managed care plan (by product) with which You contract.

RESPONSE TO REQUEST NO. 21:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request to the extent it calls for the disclosure of sensitive, restricted, confidential, or proprietary information without sufficient protections under the existing

Protective Order in the case. Bristol Hospital also objects to this Request on the ground that the term “changes” is undefined, vague, overbroad and ambiguous.

REQUEST NO. 22:

22. All documents relating to any actual or considered termination, departicipation, withdrawal or nonrenewal of a contract with any payors or health plans, or the threat or communication of any such actual or possible actions.

RESPONSE TO REQUEST NO. 22:

In addition to Bristol Hospital’s Objections to Plaintiff’s Definitions and Instructions, Bristol Hospital objects to this Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital. Bristol Hospital additionally objects to this Request on the ground that the term “actual or considered termination, departicipation, withdrawal or nonrenewal” and/or any combination thereof is undefined, vague, overbroad and ambiguous. Bristol Hospital further objects to this Request to the extent it calls for the disclosure of sensitive, restricted, confidential, or proprietary information without sufficient protections under the existing Protective Order in the case.

REQUEST NO. 23:

23. All plans or reports addressing managed care negotiation strategy, relating to, in whole or in part, Your hospitals or other facilities in the Relevant Area.

RESPONSE TO REQUEST NO. 23:

In addition to Bristol Hospital’s Objections to Plaintiff’s Definitions and Instructions, Bristol Hospital objects to this Request as overbroad, irrelevant, disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital. Bristol Hospital additionally objects to this Request to the extent it calls for the disclosure of sensitive, restricted, confidential,

or proprietary information without sufficient protections under the existing Protective Order in the case. Bristol Hospital also objects to this Request on the ground that the term “managed care negotiation strategy” is undefined, vague, overbroad and ambiguous.

REQUEST NO. 24:

24. All documents relating to comparisons and/or differences in quality or in any quality metrics at:

- (a) Hartford Hospital or Hospital of Central Connecticut; and
- (b) Any other hospital or group of hospitals.

RESPONSE TO REQUEST NO. 24:

In addition to Bristol Hospital’s Objections to Plaintiff’s Definitions and Instructions, Bristol Hospital objects to this Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital. Bristol Hospital also objects to this Request as nonsensical to the extent it purports to require Bristol Hospital to produce information that does not involve Bristol Hospital. Bristol Hospital also objects to this Request to the extent that it seeks information already in Plaintiff’s possession or available to Plaintiff from public sources, including the Centers for Medicare & Medicaid Services’ Medicare Compare and/or the Connecticut Hospital Association’s ChimeData. Bristol Hospital further objects to this Request to the extent it calls for the disclosure of sensitive, confidential, or proprietary information without sufficient protections under the existing Protective Order in the case.

REQUEST NO. 25:

25. All documents relating to any assessments of the quality or safety of care provided by Your hospitals or physicians in the Relevant Area, including all documents related to: data or

reports submitted by You or received from quality or safety rating organizations; or quality measurements or benchmarking.

RESPONSE TO REQUEST NO. 25:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request to the extent that it seeks information already in Plaintiff's possession or available to Plaintiff from other sources, including the Centers for Medicare & Medicaid Services' Medicare Compare and/or the Connecticut Hospital Association's ChimeData. Bristol Hospital also objects to this Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital to the extent it calls for "all documents" concerning the issues identified in the Request. Bristol Hospital further objects to this Request to the extent it calls for the disclosure of sensitive, confidential, or proprietary information without sufficient protections under the existing Protective Order in the case. Bristol Hospital additionally objects to this Request on the ground that the term "your...physicians" is undefined, vague, and ambiguous." Subject to and without waiving the foregoing objections, if this Request remains pending after a decision on the Motion to Dismiss, Bristol Hospital is willing to meet and confer with Plaintiff in order to determine whether it has any documents responsive to this Request, and a reasonable search for reports submitted by Bristol Hospital, or received by Bristol Hospital from quality or safety rating organizations, regarding assessments of the quality or safety of care provided by Bristol Hospital.

REQUEST NO. 26:

26. All analyses, studies, presentations, memoranda, summaries and reports relating to consumer preferences for healthcare facilities or providers in the Relevant Area, including without limitation all patient or customer surveys and focus group studies.

RESPONSE TO REQUEST NO. 26:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital. Bristol Hospital also objects to this Request to the extent it calls for the disclosure of sensitive, confidential, or proprietary information without sufficient protections under the existing Protective Order in the case. Bristol Hospital additionally objects to this Request to the extent it may call for the disclosure of information protected under HIPAA.

REQUEST NO. 27:

27. Documents sufficient to show for each of Your facilities in Hartford County:
- (a) For each year, total patient days, patient discharges, inpatient gross revenue and inpatient net revenue;
 - (b) For each year, outpatient orthopedic visits, outpatient orthopedic gross revenue and outpatient net revenue;
 - (c) The total number of licensed, available and staffed beds on the first day of each year, and the average daily census for each year;
 - (d) For each year, separately for inpatient and outpatient orthopedic services, the dollar amount of each hospital's revenues received and the number of inpatients, inpatient days and outpatient treatment episodes, broken out separately by each of the following principal sources of payment: (i)

Medicare; (ii) Medicare Advantage; (iii) Medicaid; (iv) other health plan (separately for each); (v) patients (out of pocket); (vi) no source of payment (charity care patients treated for free of charge); (vii) bad debt; and (viii) any other source.

RESPONSE TO REQUEST NO. 27:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request to the extent that it seeks information already in Plaintiff's possession or available to Plaintiff from other sources, including the Connecticut Hospital Association's ChimeData. Bristol Hospital also objects to this Request to the extent it calls for the disclosure of sensitive, confidential, or proprietary information without sufficient protections under the existing Protective Order in the case. Subject to and without waiving the foregoing objections, if this Request remains pending after a decision on the Motion to Dismiss, Bristol Hospital is willing to meet and confer with Plaintiff in order to determine whether it has any documents responsive to this Request that are not available to Plaintiff from other sources.

REQUEST NO. 28:

28. Documents sufficient to identify (separately) all physicians, APN, and physicians' assistants (by name, location and specialty) for each year in the Relevant Period:

- (a) Employed by You and practicing (in whole or in part) in the Relevant Area;
or
- (b) Serving on the active medical staff of (a) Hartford Hospital or (b) Hospital of Central Connecticut including for each such physician:
 - (i) The physician's medical specialty, sub-specialty, and board certifications; and

- (ii) The physician's professional license number, or any other uniform physician identification number and any professional identification number used for reimbursement.

RESPONSE TO REQUEST NO. 28:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital. Bristol Hospital also objects to this Request as nonsensical to the extent it purports to require Bristol Hospital to produce information regarding individuals "[s]erving on the active medical staff of (a) Hartford Hospital or (b) Hospital of Central Connecticut." Bristol Hospital further objects to this Request to the extent it calls for the disclosure of sensitive, confidential, or proprietary information without sufficient protections under the existing Protective Order in the case. Subject to and without waiving the foregoing objections, if this Request remains pending after a decision on the Motion to Dismiss, Bristol Hospital is willing to meet and confer with Plaintiff regarding the production of de-identified information, for a reasonable time period, regarding physicians, APN, and physicians' assistants employed by Bristol Hospital.

REQUEST NO. 29:

29. Documents sufficient to show numbers of physician by specialty, either in total or by employer, practicing in (in whole or in part) the Relevant Area.

RESPONSE TO REQUEST NO. 29:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request on the ground that the Request is vague, overbroad, ambiguous and nonsensical to the extent it purports to require Bristol Hospital to produce information

regarding physicians not employed by Bristol Hospital. Bristol Hospital further objects to this Request as duplicative of Request No. 28. See Bristol Hospital's Response to Request No. 28.

REQUEST NO. 30:

30. Documents sufficient to show all inpatient services provided at Your facility.

RESPONSE TO REQUEST NO. 30:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request on the ground that the term "all inpatient services" is undefined, vague, overbroad and ambiguous. Bristol Hospital also objects to this Request to the extent that it seeks information already in Plaintiff's possession or available to Plaintiff from other sources, including the Connecticut Hospital Association's ChimeData. Subject to and without waiving the foregoing objections, if this Request remains pending after a decision on the Motion to Dismiss, Bristol Hospital is willing to meet and confer with Plaintiff regarding a reasonable search for documents sufficient to show the requested information that is not available to Plaintiff from other sources, if any.

REQUEST NO. 31:

31. Documents sufficient to describe the gaps in inpatient services at Your facility.

RESPONSE TO REQUEST NO. 31:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request on the ground that the terms "sufficient to describe" and "gaps"/"gaps in inpatient services" are undefined, vague, overbroad and ambiguous. To the extent that this Request is seeking information regarding what inpatient services are or are not provided at Bristol Hospital's facilities, Bristol Hospital also objects to the Request as duplicative of Request No. 30 and refers Plaintiff to Bristol Hospital's Response to Request No. 30.

REQUEST NO. 32:

32. Documents sufficient to identify all physicians (by name, specialty and address) on your active medical staff.

RESPONSE TO REQUEST NO. 32:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request as duplicative of Request No. 11. See Bristol Hospital's Response to Request No. 11.

REQUEST NO. 33:

33. Documents sufficient to show Your average inpatient case mix index and any other measures of case complexity that you utilize.

RESPONSE TO REQUEST NO. 33:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request on the ground that the term "other measures of case complexity" is undefined, vague, overbroad and ambiguous. Bristol Hospital further objects to this Request to the extent that it seeks information already in Plaintiff's possession or available to Plaintiff from public sources, including the Connecticut Office of Health Strategy and/or the Connecticut Hospital Association's ChimeData

REQUEST NO. 34:

34. Your most recent annual income statement and balance sheet.

RESPONSE TO REQUEST NO. 34:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request to the extent that it seeks information already in Plaintiff's

possession or available to Plaintiff from public sources, including the Connecticut Office of Health Strategy.

REQUEST NO. 35:

35. All analyses, studies, presentations, memoranda, summaries and reports undertaken within the last year addressing Your financial condition.

RESPONSE TO REQUEST NO. 35:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request as overbroad, irrelevant and disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital. Bristol Hospital also objects to this Request to the extent it calls for the disclosure of sensitive, confidential, or proprietary information without sufficient protections under the existing Protective Order in the case.

REQUEST NO. 36:

36. All analyses, studies, presentations, memoranda, summaries and reports regarding Your investment needs or the ability to make necessary or desired investments in equipment or in Your facility.

RESPONSE TO REQUEST NO. 36:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request as overbroad, irrelevant and disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital. Bristol Hospital objects to this Request to the extent it calls for the disclosure of sensitive, confidential, or proprietary information without sufficient protections under the existing Protective Order in the case.

REQUEST NO. 37:

37. Documents sufficient to show Your primary service area, as well as the percentage of Your inpatients represented by that primary service area.

RESPONSE TO REQUEST NO. 37:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request as duplicative of Request No. 9. See Bristol Hospital's Response to Request No. 9.

REQUEST NO. 38:

38. All analyses, studies, presentations, memoranda, summaries and reports relating to the Acquisition of physicians previously practicing, in whole or in part, at Your facility.

RESPONSE TO REQUEST NO. 38:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, including but not limited to Bristol Hospital's objection to the definition of the term "Acquisition," Bristol Hospital objects to this Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital. Bristol Hospital also objects to this Request to the extent it calls for the disclosure of sensitive, confidential, or proprietary information without sufficient protections under the existing Protective Order in the case. Subject to and without waiving the foregoing objections, if this Request remains pending after a decision on the Motion to Dismiss, Bristol Hospital is willing to meet and confer with Plaintiff in order to determine whether it has any documents responsive to this Request, and a reasonable search if any.

REQUEST NO. 39:

39. All analyses, studies, presentations, memoranda, summaries and reports relating to any competition You face from facilities outside of Hartford County.

RESPONSE TO REQUEST NO. 39:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital. Bristol Hospital additionally objects to this Request to the extent that it calls for a legal conclusion as to "competition." Bristol Hospital further objects to this Request on the ground that the terms "competition" and "face" are undefined, vague, and ambiguous. Bristol Hospital also objects to this Request to the extent it calls for the disclosure of sensitive, confidential, or proprietary information without sufficient protections under the existing Protective Order in the case.

REQUEST NO. 40:

40. Documents sufficient to show Your consideration of, or participation in, narrow networks, tiered networks, or bundled pricing programs.

RESPONSE TO REQUEST NO. 40:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital. Bristol Hospital further objects to this Request on the ground that the terms "narrow networks," "tiered networks," "bundled pricing programs" and "consideration" are undefined, vague, and ambiguous. Subject to and without waiving the foregoing objections, if this Request remains pending after a decision on the Motion to Dismiss, Bristol Hospital is willing to meet and confer with Plaintiff in order to determine whether it has any documents responsive to this Request, and a reasonable search if any.

REQUEST NO. 41:

41. All analyses, studies, presentations, memoranda, summaries and reports addressing patient travel patterns for hospital care.

RESPONSE TO REQUEST NO. 41:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital. Bristol Hospital further objects to this Request to the extent that it purports to require Bristol Hospital to provide information that is already in Plaintiff's possession or available to Plaintiff from other sources. Subject to and without waiving the foregoing objections, if this Request remains pending after a decision on the Motion to Dismiss, Bristol Hospital is willing to meet and confer with Plaintiff in order to determine whether it has any documents responsive to this Request, and a reasonable search if any.

REQUEST NO. 42:

42. All requests for proposal, confidential information memoranda, offering memoranda, or other documents describing Your facilities for purposes of offering them for sale, and all responses thereto, proposals, and other communications relating to possible purchase provided by Hartford HealthCare.

RESPONSE TO REQUEST NO. 42:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, and without taking a position or waiving any argument as to whether any such information exists, Bristol Hospital objects to this Request to the extent it calls for the disclosure of sensitive, restricted, confidential, or proprietary information without sufficient protections under the existing Protective Order in the case. Bristol further objects to this Request as overbroad, disproportionate to the needs of this case, and unduly burdensome as to non-party Bristol Hospital.

REQUEST NO. 43:

43. Documents sufficient to show your efforts at recruiting, hiring or employing physicians and the timing, costs and difficulties relating thereto.

RESPONSE TO REQUEST NO. 43:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to this Request duplicative of Request No. 14. See Bristol Hospital's Response to Request No. 14.

REQUEST NO. 44:

44. All analyses, studies, presentations, memoranda, summaries and reports addressing (a) your efforts at recruiting physicians and (b) your efforts to hire physicians, or acquire physician practices, with respect to physicians employed by or practicing at Saint Francis.

RESPONSE TO REQUEST NO. 44:

In addition to Bristol Hospital's Objections to Plaintiff's Definitions and Instructions, Bristol Hospital objects to part (a) of this Request as duplicative of Request Nos. 14 and 43. See Bristol Hospital's Response to Request No. 14. Subject to and without waiving the foregoing objections, if part (b) of this Request remains pending after a decision on the Motion to Dismiss, Bristol Hospital is willing to meet and confer with Plaintiff in order to determine whether it has any documents responsive to part (b) of the Request, and a reasonable search if any.

DATED: January 5, 2023

WIGGIN AND DANA LLP

By: /s/ Jenny R. Chou
Jenny R. Chou
Maureen Weaver
Grace M. Ronayne
One Century Tower
P.O. Box 1832
New Haven, CT 06508-1832

Phone: (203) 498-4400
Fax: (203) 782-2889
E-mail: jchou@wiggin.com

Attorneys for The Bristol Hospital, Inc.

Exhibit C

From: Ettinger, David A. <DEttinger@honigman.com>
Sent: Thursday, March 2, 2023 12:34 PM
To: Chou, Jenny
Cc: Obear, Joshua; Sklar, Ron N.; Ronayne, Grace; Stock, Eric J.; Fosburgh, Elizabeth
Subject: RE: Bristol subpoena

Thanks.

We have been reviewing the public data available regarding Bristol, and in light of Bristol's financial status, and the public data we've been able to find, we can dramatically reduce the scope of our request. We would be satisfied, at least for now, with receiving the following documents from Bristol:

1. Any reports or presentations by Cain Brothers (for either internal or external audiences).
2. A current medical staff roster.
3. Bristol's request for proposal (or similar document) seeking potential partners or purchasers.
4. Any NRC or similar surveys regarding patient preferences for hospitals that Bristol possesses.
5. Hospital board minutes for the last 12 months.

This request requires a relative handful of very specific documents. I'm sure that Mr. Barwis, for example, could locate these documents in a few minutes. Under the circumstances, this ought to avoid any need for further discussion about payment of costs.

Please let me know if this is acceptable, and, if so, when Bristol believes that it can produce the documents.

From: Chou, Jenny
Sent: Wednesday, March 1, 2023 7:12 PM
To: Ettinger, David A.
Cc: Obear, Joshua ; Sklar, Ron N. ; Ronayne, Grace ; Stock, Eric J. ; Fosburgh, Elizabeth
Subject: RE: Bristol subpoena

[EXTERNAL EMAIL]

David,

Please see publicly filed documents at <https://emma.msrb.org/IssueView/Details/ER391482>, under "Continuing Disclosure".

Regards,
Jenny

Jenny R. Chou
Direct: 203.498.4302 | jchou@wiggin.com
www.wiggin.com

Exhibit D

From: Chou, Jenny <JChou@wigginc.com>
Sent: Wednesday, April 12, 2023 12:28 PM
To: Ettinger, David A.
Cc: Obear, Joshua; Sklar, Ron N.; Ronayne, Grace; Stock, Eric J.; Fosburgh, Elizabeth
Subject: RE: Bristol subpoena

[EXTERNAL EMAIL]

David,

Bristol would be willing to produce the RFP as a compromise in exchange for Saint Francis [and Hartford Healthcare] withdrawing the requests for any reports or presentations by Cain Brothers and the board minutes, but as it appears Saint Francis is not able to commit to that, we will stand on our objections.

Regards,
Jenny

Jenny R. Chou

Direct: 203.498.4302 | jchou@wigginc.com
www.wigginc.com



CONNECTICUT | NEW YORK | PHILADELPHIA | WASHINGTON, DC | PALM BEACH

From: Ettinger, David A. <DEttinger@honigman.com>
Sent: Wednesday, April 12, 2023 10:37 AM
To: Chou, Jenny <JChou@wigginc.com>
Cc: Obear, Joshua <JObear@gibsondunn.com>; Sklar, Ron N. <RSklar@honigman.com>; Ronayne, Grace <GRonayne@wigginc.com>; Stock, Eric J. <EStock@gibsondunn.com>; Fosburgh, Elizabeth <EFosburgh@gibsondunn.com>
Subject: Re: Bristol subpoena

Are you going to provide us with the RFP?

David A. Ettinger

HONIGMAN LLP

O 313.465.7368
M 248.737.0923
dettinger@honigman.com

**Honigman celebrates 75 years of service
1948 - 2023**

On Apr 6, 2023, at 4:56 PM, Chou, Jenny <JChou@wigginc.com> wrote:

From: Chou, Jenny <JChou@wiggin.com>
Sent: Thursday, April 6, 2023 4:06 PM
To: Ettinger, David A.
Cc: Obear, Joshua; Sklar, Ron N.; Ronayne, Grace; Stock, Eric J.; Fosburgh, Elizabeth
Subject: RE: Bristol subpoena

[EXTERNAL EMAIL]

David,

Thank you for your email below and your understanding as Bristol Hospital has been evaluating your requests.

Please see Bristol Hospital's responses below, all of which are subject to (1) Bristol Hospital's Reservation of Rights and Objections to Plaintiff's Definitions and Instructions in Bristol Hospital's Responses and Objections to Plaintiff's Subpoena; and (2) Bristol Hospital's understanding, based on our prior joint conferences with Plaintiff's and Defendants' counsel, that Bristol Hospital's responses to Plaintiff's Subpoena would satisfy Defendants' Subpoena:

1. Any reports or presentations by Cain Brothers (for either internal or external audiences).
Response: Bristol Hospital objects to producing these documents as they are irrelevant and disproportionate to the needs of this case, and contain sensitive, confidential, and proprietary information.
2. A current medical staff roster.
Response: Subject to and without waiving Bristol Hospital's objections to Subpoena Request Nos. 11, 28, 29, and 32, Bristol Hospital will agree to produce a de-identified list of medical staff by provider type, specialty, and status (employed, contracted, or independent).
3. Bristol's request for proposal (or similar document) seeking potential partners or purchasers.
Response: Bristol Hospital objects to producing such documents as they are irrelevant and disproportionate to the needs of this case, and contain sensitive, confidential, and proprietary information.
4. Any NRC or similar surveys regarding patient preferences for hospitals that Bristol possesses.
Response: Bristol Hospital refers to and incorporates its objections to Subpoena Request No. 26.
5. Hospital board minutes for the last 12 months.
Response: Bristol Hospital objects to this request as disproportionate to the needs of this case and unduly burdensome as to Bristol Hospital as a non-party. Bristol Hospital further objects to this request as its board minutes contain sensitive, confidential, and proprietary information that is irrelevant to this litigation. Subject to and without waiving the foregoing objections, if the Requesting Party(ies) will agree to cover Bristol Hospital's costs for doing so, Bristol Hospital would be willing to review the board minutes for any non-privileged discussion of the litigation, and produce a redacted copy of such portion of the board minutes, if any.

I am available to discuss jointly with both parties' counsel next week if it would be helpful.

Regards,
Jenny

Jenny R. Chou

Direct: 203.498.4302 | jchou@wiggin.com
www.wiggin.com