

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
UNIVERSITY OF CONNECTICUT HEALTH CENTER**

Plaintiff Saint Francis Hospital and Medical Center, Inc., by and through its attorneys, hereby moves this Court to order that University of Connecticut Health Center ("UConn Health") produce documents assessing competitors and market share, as well as all documents responsive to requests 35 and 36 of Saint Francis' subpoena to UConn Health, attached hereto as Exhibit A.

These documents would be highly relevant to the issues in this case, since UConn Health is a competitor of Hartford Hospital in the alleged relevant market, and these documents could establish UConn Health's limited ability to compete effectively with Hartford HealthCare, and therefore help establish Hartford HealthCare's market dominance.

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 multiple custodians.

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 University of Connecticut Health Center.

ORAL ARGUMENT REQUESTED

47737714.7

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

Date: May 12, 2023

Respectfully submitted,

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

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Attorneys for Plaintiff

ORAL ARGUMENT REQUESTED

47737714.7

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 UNIVERSITY OF CONNECTICUT
HEALTH CENTER**

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

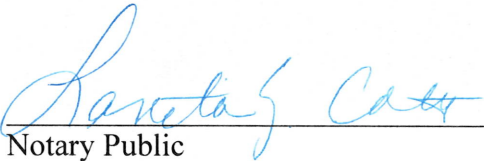
1. I am lead counsel for Saint Francis Health and Medical Center, Inc. ("Saint Francis") in the captioned matter. I have personal knowledge of the facts set forth in this affidavit.
2. I hereby certify that I have conferred with counsel for non-party University of Connecticut Health Center ("UConn Health") in an effort in good faith to resolve by agreement the issues raised by Plaintiff's Motion to Compel Production of Documents by University of Connecticut Health Center 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.



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 UNIVERSITY OF CONNECTICUT HEALTH
CENTER**

I. INTRODUCTION

Plaintiff Saint Francis Hospital and Medical Center, Inc. ("Saint Francis") requests that this Court order University of Connecticut Health Center ("UConn Health") to produce all documents responsive to two of the 44 requests contained in Saint Francis' subpoena to UConn Health, served on UConn Health on November 3, 2022, and attached hereto as Exhibit A, as well as a third summary category set forth below.

While Saint Francis and UConn Health have been able to resolve most of their differences relating to Saint Francis' subpoena, UConn Health has refused to produce certain allegedly non-public documents responsive to the foregoing three requests.¹ As described below, the information sought by these requests is quite clearly relevant to the issues in this case. Moreover, the requests would impose little to no burden on UConn Health, since (1) Saint Francis does not seek all

¹ Saint Francis does not concede that such non-public documents are except from disclosure under the Connecticut Freedom of Information Act. But, as explained below, that issue is irrelevant to UConn Health's obligations in response to Saint Francis' subpoena.

documents, such as emails, but only “readily identified presentations, reports and similar documents within the last two years” (Exhibit B), and (2) Saint Francis does not request an extensive review of documents through, for example, word searches, but only that a single custodian conduct a reasonable search for each request. *See* Exhibit B and discussion *infra*.

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.”).

Under the circumstances, there is no reasonable basis on which to deny this very limited request. The motion should be granted.

II. THE PARTIES’ NEGOTIATIONS AND THE REQUESTS AT ISSUE

On November 3, 2022 Saint Francis served its subpoena on UConn Health. The subpoena included 44 different requests. *See* Exhibit A.

In response to the subpoena, UConn Health served objections on November 28, 2022. *See* Exhibit C. The parties then engaged in negotiations in writing and on telephone and Zoom calls over a period of many weeks. In these negotiations, UConn Health’s counsel provided Saint Francis’ lawyers with copies of, and links to, a variety of public documents relating to issues relevant to the lawsuit. UConn Health also provided one document (an identification of John

Dempsey UConn Health’s primary and secondary service areas) that has not been released to the public.

Saint Francis in turn dramatically reduced its requests to UConn Health. It ultimately has sought further production relating to two topics. The first topic involves documents relating to competition, which are the subject of multiple requests in the subpoena. The second topic involves two of the 44 requests in its subpoena, relating to UConn Health’s financial conditions and assessments of its investment needs. See specific requests in Section III below.

Saint Francis sought to minimize any burden on UConn Health, and explained that it was requesting only a limited search for these documents:

If you could ask Chris Hyers (who we believe is the most appropriate custodian) or his designee to search for such documents, that should be sufficient. As we have discussed, we are not asking for a word search or production of “all documents” including emails. Production of readily identified presentations, reports and similar documents within the last two years and substantially addressing those issues would be sufficient.

See Exhibit B. Saint Francis has thus acted consistent with Rule 45(c)(1), which requires that a party serving a subpoena “shall take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena.”²

Nevertheless, UConn Health has refused to provide any documents other than links to publically available documents responsive to the three requests.

III. UCONN HEALTH SHOULD BE REQUIRED TO PRODUCE ALL AVAILABLE DOCUMENTS IN RESPONSE TO THE THREE DISPUTED REQUESTS

A. Request for Competition Documents

² A number of the issues discussed in Exhibit B have been resolved. As a result, the request in this Motion is significantly narrower than what is outlined in Exhibit B.

The “condensed request” seeks “documents involv[ing] assessments of competitors or market shares”. Exhibit B.

The document requests in the subpoena that discuss “assessments of competition or market share”, among other things, include the following:

1. All analyses, studies, presentations, memoranda, summaries and reports discussing competition with:
 - (a) Hartford Hospital;
 - (b) Hospital of Central Connecticut; or
 - (c) Saint Francis.
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..
39. All analyses, studies, presentations, memoranda, summaries and reports relating to any competition You face from facilities outside of Hartford County.

Such documents are unquestionably highly relevant to this case. This antitrust case, of course, is all about competition between hospitals such as Hartford Hospital and Hospital of Central Connecticut (owned by HHC) and University of Connecticut John Dempsey Hospital (owned by UConn Health). Moreover, the Amended Complaint specifically addresses HHC’s competitive strength and UConn’s competitive weakness. Saint Francis’ Amended Complaint

alleges that Hartford HealthCare (“HHC”) possesses dominant market power, and have harmed competition in, two relevant geographic markets, Hartford County and the Hartford Area. *See* Amended Complaint (Doc. No. 33) at ¶¶ 133, 142, 145, 146. UConn Health is located in both these relevant markets. The Amended Complaint very specifically alleges that UConn Health does not possess sufficient resources to be an effective competitor to HHC or to otherwise constrain its monopoly power, Amended Complaint ¶ 27, because of its “financial crisis”.

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.

* * *

33. UConn [University of Connecticut John Dempsey Hospital] (which has less than 200 staffed hospital beds) is also not significantly competitive with Hartford HealthCare. The hospital has suffered very serious financial losses in recent years. Its medical staff is made up entirely of University of Connecticut medical faculty, who focus significantly on scholarship and research, and spend less time on patient care than do most community physicians. In 2019, UConn had less than 3,000 commercially insured discharges, less than 20% of the figure at the two Hartford HealthCare hospitals. UConn has explained in its financial statements that its financial health is adversely affected by its “low reimbursement rate for services provided...” as well as “cost factors resulting from its status as a public entity.”

34. UConn is facing a financial crisis, and is not in a position to vigorously compete with Hartford HealthCare. The administration of Governor Ned Lamont has questioned whether the state can afford to continue subsidizing the hospital, whose expenses have increased by 54% over the last decade. The state has been paying 40% of the health and retirement benefits for UConn Health, an expense that hospitals typically pay themselves. (One problem is that UConn Health’s benefit rates are three times that of other area hospitals.)

35. Many observers have questioned whether this subsidization can or should continue. The Connecticut Senate Minority Leader has

stated that “we should never have done the UConn Health Center hospital. It has come back to haunt us. It has not made money and it is not making money.” The Connecticut Mirror concluded that “nearly every aspect of UConn Health is in the red and relying on state aid.” In its 2021 budget summary, the Governor’s office stated that “the UConn Health Center is in desperate need of additional state support.” Yet after a seeking a partner for UConn Health, government officials have concluded that “no other hospitals or organizations presented a suitable plan to team up” with the medical complex.

The Complaint also alleges at ¶ 159 that “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.”

UConn Health’s documents assessing its competitors, such as HHC could provide significant information on these issues.

Similarly, antitrust cases always address market share, since the “prima facie” case in challenging mergers and acquisitions (such as the physician acquisitions in this case) directly addresses market share. *See Saint Alphonsus Med. Ctr.—Nampa, Inc. v. St. Luke’s Health Sys., Ltd.*, No. 1:12-cv-00560 (BLW), 2014 WL 407446, at *22 (D. Idaho Jan. 24, 2013), *aff’d*, 778 F.3d 775 (9th Cir. 2015). Therefore, the request for documents addressing market shares is also highly relevant here.

This request also certainly meets the proportionality test. This is a very substantial case, alleging “serious harm to health care competition and consumers in the Hartford County area”, Complaint ¶ 1. Saint Francis alleges that Hartford HealthCare 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.”).

Given the limitation on the numbers of requests and the nature of the search required as described above, the burden involved here is quite minor. And 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, certainly adequately protects against disclosure of competitively sensitive information. See Doc. 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.

“[P]rivacy 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”).

UConn Health’s remaining argument is that it has produced some publically available documents, and that ought to be sufficient. But none of the public documents produced to date discuss competition with other specific hospital systems. Nor do they include any detailed discussion of market shares. Saint Francis is entitled to discovery of documents that do so, if they exist.

Additionally, public documents by their nature may only tell the story that a hospital deems appropriate for a public audience. They may not include a frank discussion of a hospital’s difficulties, which are highly relevant here. This is particularly true for a public entity such as

UConn Health, which depends on the Governor and Legislature, and ultimately the public, to provide it with substantial financial support. As such, inevitably, its public documents send a political message, and can be expected to be crafted with that message in mind.

“Ordinary course” internal documents are important in evaluating market behavior. *See e.g. Fed. Trade Comm’n v. RAG-Stiftung*, 436 F. Supp. 3d 278, 312-13 (D.D.C. 2020). (“Only an examination of the real-world evidence—including ordinary course documents, bidding data, and testimony from market participants—can supply an accurate picture of the industry and competitive dynamics.”) *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 *21 (“ordinary course documents” of insurance companies and defendants cited in support of analysis of competitive effects in hospital merger case).

It is very common for health antitrust cases to rely upon internal documents such as memos provided to a board of directors and strategic plans, and even documents sufficiently confidential that they were only introduced at trial *in camera* and/or only cited in redacted form. *See In the Matter of Promedica Health Sys., Inc.*, 2012-1 Trade Cases P 77840 (F.T.C.), 2012 WL 1155392 (MSNET Mar. 28, 2012) at *9-11, 26-27, 29, 30-34, 38-40 (relevant documents cited included strategic plans, presentations and recommendations to board on strategic options, including highly confidential documents that were redacted in the Federal Trade Commission opinion or reviewed only *in camera*); *Hackensack Meridian, supra* at *12, 21-22, 24 (cites to redacted documents and internal presentations to the hospital executive committee); *In the Matter of Evanston Nw. Healthcare Corp.*, No. 9315, 2007 WL 2286195 at *10-13 (MSNET Aug. 6, 2007) (reliance on board and other meeting minutes, reports to board and management, outline for a strategic planning retreat, and strategic planning analysis of merger by consulting Bain Consulting Group).

Saint Francis is entitled to internal documents that more frankly (and likely more intensively) address these relevant issues. It should not be limited to documents which may provide only a sanitized version of reality.

In the course of the parties' discussions, counsel for UConn Health suggested that it is "transparent" and that its public documents provide a realistic picture of its situation. But if that is true, then there should be no objection to providing private documents which (if UConn Health were correct) would disclose no more than is contained in the public record. Saint Francis is entitled to see the relevant documents it has requested, in order to determine the reality of UConn Health's competitive situation.

B. Documents Addressing Financial Assessments and Investment Needs

The same conclusion applies to Requests 35 and 36, addressing financial condition and investments:

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.

These requests address UConn Health's financial condition, which is specifically the subject of ¶ 33 – 35 of Saint Francis' Complaint, quoted above. If UConn Health's financial condition is impeding its ability to compete effectively, that would be directly relevant to the allegations of the Amended Complaint.

Similarly, documents responsive to Request 36 will reveal whether UConn is able to make the kinds of investments that are necessary in order to remain competitive. The allegations in the Complaint indicate that it is unable to do so.

As with the first category of documents, discussed above, the size and significance of the case and the limited burden involved in searching for and producing responsive documents more than satisfies the proportionality test. A reasonable search by a single financial executive at UConn Health would satisfy Saint Francis' concerns with regard to Requests 35 and 36.

It is true that UConn's financial *statements* are public, and are therefore available to Saint Francis. But the issue in the case goes beyond the financial statements themselves. A frank assessment of that issue can only be contained in UConn's internal documents. For example, in *ProMedica, supra*, 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 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 their significant is quite another. And a fully candid assessment of their significance is likely to be reflected in private documents.

For the reasons addressed above, UConn Health's concern regarding confidentiality and its production of not public documents are not significant reasons to deprive Saint Francis of relevant discovery. The documents should be produced.

IV. CONCLUSION

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

Date: May 12, 2023

Respectfully submitted,

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

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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 University of Connecticut Health Center.

/s/David A. Ettinger
David A. Ettinger

**INDEX OF EXHIBITS TO PLAINTIFF'S MEMORANDUM IN SUPPORT OF MOTION
TO COMPEL PRODUCTION OF DOCUMENTS BY
UNIVERSITY OF CONNECTICUT HEALTH CENTER**

<u>Exhibit</u>	<u>Description</u>
A	Plaintiff's Rule 45 Subpoena to University of Connecticut Health Center
B	March 28, 2023 Ettinger letter to Wittenbrink re Subpoena
C	Objections of UConn Health to Rule 45 Subpoena by Plaintiff

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:

University of Connecticut Health Center
Office of The General Counsel
263 Farmington Ave., Farmington, CT 06032

(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
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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 University of Connecticut Health Center.

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 University of Connecticut Health Center 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:

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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

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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:

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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)

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Attorneys for Plaintiff

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

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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)

Exhibit B



David A. Ettinger
Office: 313.465.7368
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March 28, 2023

Lynn Wittenbrink
Assistant Attorney General
UConn Health
263 Farmington Ave. MC-1093
Farmington, CT 06030-1093

Re: *Subpoena to UConn Health*

Dear Lynn,

Thank you for sending us the links to a variety of public documents involving UConn Health. They were very helpful and also allowed us to find other public documents.

Our review of these documents will allow us to substantially reduce what we need in response to our subpoena. However, it does not eliminate those needs, for several reasons.

First, the public documents are in some cases, incomplete, and in other cases reference documents that are not included. In particular:

1. A 5/20/2019 UConn Clinical Affairs Peer Review Subcommittee says that “Dr. Agwunobi presented slides from or communications survey that polled over 1,000 people in the greater Hartford area trying to determine how our brand is doing, what our reputation is in the market compared to other hospitals . . .” The survey in question and the slides in question were not attached. Please produce them.
2. Most, but not all, of the Finance Committee Minutes were available. We are missing the following Finance Committee Minutes
 - A. 12/2022
 - B. 6/2022
 - C. 3/2023

Please produce them.

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3. We have also been unable to locate testimony or reports to the Governor or General Assembly on UConn Health's financial condition within the last two years. Please provide such testimony or links to it.
4. Similarly, we are missing UConn Medical Group Operations Reports for the following months:
 - A. For 2022 (missing: Jan, Apr, Jun, July, Sept, and Oct.)
 - B. For 2021 (missing: Jan, Apr, Jul, and Oct.)
 - C. For 2020 (missing: Jan, Apr, May, Jun, Jul, Oct, and Dec.)
 - D. For 2019 (missing: Jul, Oct, Nov, and Dec.)
 - E. For 2018 (missing: May, July, Sep, and Oct)
 - F. For 2017 (missing: Jan, Mar, Apr, Jun, Jul, and Oct)

Please produce them.

5. We have a handful of monthly CEO Reports but are missing most of them. Please produce them for the period from 2017 to the present.

Additionally, there are a number of areas where we are seeking important information that is not contained in the public documents. In particular:

1. The public documents refer to the Farmington Valley, but do not include a precise definition of that area or of UConn Health's primary service area. So we will need a document that addresses at least one of these issues.
2. None of these documents involve assessments of competitors or market shares. If such documents exist, we will need them. If you could ask Chris Hyers (who we believe is the most appropriate custodian) or his designee to search for such documents, that should be sufficient. As we have discussed, we are not asking for a word search or production of "all documents" including emails. Production of readily identified presentations, reports and similar documents within the last two years and substantially addressing those issues would be sufficient.
3. We have seen numerous references to a proposed public/private partnership, but have not seen any of the actual documents setting forth the plans in that regard (including Cain Brothers presentations), the requests for potential partners, or the responses to those requests. We also saw a reference to an April 2018 report to the General Assembly, but

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have been unable to locate it. We will need those documents. Again, a reasonable search by Mr. Hyers or his designee will suffice.

4. We also need documents responsive to Item 16 of the subpoena.

Very truly yours,

HONIGMAN LLP

/s/David A. Ettinger
David A. Ettinger

Exhibit C

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

ST. FRANCIS HOSP'L. AND MEDICAL	:	
CENTER, INC.	:	CIVIL NO. 3:22-CV-0050(SVN)
<i>Plaintiff</i>	:	
	:	
v.	:	
	:	
HARTFORD HEALTHCARE CORP.,	:	
ET AL.	:	
<i>Defendants</i>	:	NOVEMBER 28, 2022

OBJECTIONS OF UCONN HEALTH TO RULE 45 SUBPOENA BY PLAINTIFF

Pursuant to Rule 45 of the Federal Rules of Civil Procedure, the University of Connecticut Health Center, (UConn Health), states its objections to the Plaintiff’s subpoena as follows. UConn Health notes that the undersigned counsel contacted counsel for the Plaintiff via email in an effort to 1) obtain additional time within which to provide objections to the subpoena and 2) set up a time to discuss and narrow the subpoena. A response has been received and the parties intend to discuss the subpoena in an attempt to reach an agreement as to what will be produced. The parties agreed that objections to the subpoena could be provided by UConn Health to the Plaintiff on November 28, 2022.

General Objections

Please take notice that UConn Health, without waiving any further objections and/or assertions of privilege as to any specific documents in the future, including but not limited to when or if such documents are identified, hereby serves these written objections in response to the Plaintiff’s subpoena seeking production of documents. All of these general objections are incorporated into each of the specific Production Requests without being restated.

1. UConn Health objects to the subpoena as it fails to allow a reasonable time within which to comply, especially given the scope of the subpoena. The subpoena gives UConn Health less time than a party would have to respond to a discovery request. This, coupled with the breadth of the subpoena, makes it onerous and unreasonably burdensome on an

2. **UConn Health objects to the subpoena as it is so overbroad that it violates Rule 45's requirement that the party issuing the subpoena seek to avoid imposing undue burden on the entity that has been subpoenaed. The subpoena subjects UConn Health to more than undue burden. The Plaintiff alleged in its complaint that UConn Health has lesser resources than Plaintiff¹ and yet seeks to impose an immense burden on UConn Health by virtue of its subpoena. The subpoena attempts to impose obligations upon UConn Health that exceed those set forth in Federal Rules 26, 34 and 45.**
3. **UConn Health objects to the subpoena as the instructions themselves are overbroad and at times inconsistent with either the request or each other.**
4. **UConn Health objects to the subpoena in its entirety to the extent that it is vague, ambiguous, confusing, and/or contrary to the plain meaning of the terms involved. As to many of the requests, UConn Health can only guess as to the documents sought by Plaintiff.**
5. **UConn Health objects to the subpoena to the extent that it purports to require the production of documents that are not in UConn Health's possession, custody, or control.**
6. **No objection or limitation, or lack thereof, or statement that UConn Health will produce documents constitutes an admission as to the existence or nonexistence of documents or information possessed by UConn Health.**
7. **UConn Health objects to the Subpoena in its entirety to the extent that it is not reasonably calculated to lead to the discovery of admissible evidence, and in that it is overly broad and not proportional to UConn Health's involvement in the matter nor is it proportional to the claims in this matter.**
8. **UConn Health objects to the Subpoena in its entirety to the extent that it calls for document-by-document identification of those documents that are protected by the**

¹ Compl. ¶¶ 32-26 (UConn Health disputes some of the allegations that pertain to UConn Health but does not dispute that there are limits to its resources.)

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attorney-client privilege, common interest privilege, and work product protection, and seeks to impose obligations beyond the scope of Federal Rules 26, 34 and 45. Given the number of documents subject to review by UConn Health, UConn Health further objects on the grounds that such an instruction imposes an undue burden.

9. Neither UConn Health's Responses and/or Objections to the Subpoena nor the production of any documents by UConn Health shall be construed as: (a) an admission as to the relevance, admissibility, or materiality of any such documents or their subject matter; (b) a waiver or abridgment of any applicable privilege; (c) an agreement that requests for similar documents will be treated similarly; or (d) a waiver of any applicable objection including the immense burden Plaintiff seeks to impose on UConn Health.
10. UConn Health reserves all of its rights, including its right to supplement, amend, or correct any of its Responses and/or Objections to the Subpoena and its right to object to the admissibility of any part of any document produced in response to any Request or information contained in any such document.
11. UConn Health objects to the Subpoena in its entirety to the extent that (a) the discovery sought by any of the requests is unreasonably cumulative and duplicative, or is obtainable from another source that is more convenient, less burdensome, and/or less expensive; (b) the requested documents are already in the possession of the Plaintiff or Plaintiff's agent(s); (c) Plaintiff has obtained the material sought by any request or demand in any other proceeding or pursuant to any other means; (d) the documents are a matter of public record or could be obtained from any other party or its counsel's files; and/or (e) the documents are equally accessible to the Plaintiff from sources other than UConn Health, and the Plaintiff is obligated to avoid burdening UConn Health under these circumstances.
12. UConn Health objects to the extent that the burden or expense of any demand outweighs its likely benefit.
13. UConn Health objects to the terms "any" and "all" as used throughout the Subpoena as

14. UConn Health objects to the Production Requests insofar as the majority of them seek answers to questions in the style of an Interrogatory. As a non-party, UConn Health is not subject to Interrogatories.
15. UConn Health objects to these Production Requests as they are duplicative in a number of instances, evidencing that little care was taken to minimize the burden on UConn Health as required by Rule 45. The Production Requests are so duplicative as to border on harassment.
16. UConn Health objects to these Production Requests as they are frequently unintelligible and vague and/or hard to understand. The list of requested documents numbers 44, exclusive of subparts, and within any given numbered Production Request unrelated items are requested together with the word “and”, so the number 44, while already prodigious, is misleading. The subpoena is more burdensome than if it requested 44 sets of documents that were related.
17. Retrieving the requested information is or could be costly.

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 University of Connecticut Health Center.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this instruction as it imposes an undue burden and is inconsistent with UConn Health's obligations pursuant to the Federal Rules of Civil Procedure.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this instruction as it is vague and inconsistent with Rule 45, particularly in its breadth. In addition, UConn Health objects to the Subpoena in its entirety to the extent that it purports to require the production of documents that are not in its possession, custody, or control.

4. Documents attached to each other must not be separated.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this instruction as it is vague and inconsistent with Rule 45, particularly in its breadth. In addition, UConn Health objects to this instruction as it is inconsistent with the wording of the individual requests.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this instruction as it is vague and inconsistent with Rule 45, particularly in its breadth. In addition, UConn Health objects to this instruction as it is inconsistent with the wording of the individual requests.

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.”

OBJECTION: The subpoenaed party, UConn Health, objects to this instruction as it is vague and inconsistent with Rule 45, particularly in its breadth.

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.

OBJECTION: The subpoenaed party, which is not a company, UConn Health, objects to this instruction as it is vague and inconsistent with Rule 45 as well as Local Rule 45, particularly in its breadth. See general objections. The fact that these instructions are not tailored to UConn Health but are boilerplate evidences lack of effort on the part of the Plaintiff to minimize the burdens imposed on UConn Health.

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.

OBJECTION: The subpoenaed party, UConn Health, objects to this instruction as it is vague and inconsistent with Rule 45, particularly in its breadth.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this instruction as it is vague and inconsistent with Rule 45, particularly in its breadth. In addition, UConn Health objects to this instruction as it is inconsistent with the wording of the individual requests.

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.

OBJECTION: The subpoenaed party, UConn Health, objects to this instruction as it is vague and inconsistent with Rule 45, particularly in its breadth.

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.

OBJECTIONS: See objections above, incorporated herein.

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.

OBJECTIONS: UConn Health objects to this instruction as it exceeds the requirements of the Federal Rules of Civil Procedure including but not limited to Rule 45, imposes an undue burden, and is vague and unintelligible.

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.

OBJECTIONS: UConn Health objects to this instruction as it exceeds the requirements

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of the Federal Rules of Civil Procedure including but not limited to Rule 45, imposes an undue burden, and is vague and unintelligible.

28. “You” or “Your” refers to University of Connecticut Health Center 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.

OBJECTIONS: UConn Health objects as this instruction is extremely broad and poses an undue burden, lengthening the amount of time required to respond to the subpoena. UConn Health further objects as it cannot be compelled to provide documents that are privileged and/or not within its possession.

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

OBJECTION: The subpoenaed party, UConn Health, objects to this instruction as it is vague and inconsistent with Rule 45, particularly in its breadth and is inconsistent with the individual Production Requests.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible, and imposes an undue burden. In addition, UConn Health objects to this request as it might be seeking confidential and/or proprietary information constituting trade secrets belonging to UConn Health.

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

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. The definitions provided by Plaintiff make this request even more difficult to understand. Moreover, this is not a Request for Production but an Interrogatory directed towards a non-party. The plaintiff is asking what geographic area UConn Health predominantly competes within and/or draws its patients from.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible both taken as a whole or by individual subpart. In addition, UConn Health objects as this is not a Request for Production but an Interrogatory directed towards a non-party. The plaintiff is asking three obvious questions—the number of licensed beds, the average level of inpatient occupancy or utilization and revenues from commercially insured patients. UConn Health notes that the subparts to this request are listed as a, b, c and e. Subpart (e) is not clearly related to subparts (a), (b), or (c). The request joins unrelated topics. The multi-part request is also extremely broad and would impose an undue burden and is objected to on that basis.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is not a Request for Production but a series of Interrogatories directed towards a non-party. The multi-part request is also extremely broad and would impose an undue burden and is objected to on that basis.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is not a Request for Production but a series of Interrogatories directed towards a non-party. The multi-part request is also extremely broad in every particular and would impose an undue burden and is objected to on that basis.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is not a Request for Production but a series of Interrogatories directed towards a non-party. The multi-part request is also extremely broad in every particular and would impose an undue burden and is objected to on that basis. In addition, UConn Health objects to this request as it seeks confidential and/or proprietary information constituting trade secrets belonging to UConn Health.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. The multi-part request is also extremely broad in every part and would impose an undue burden and is objected to on that basis. In addition, UConn Health objects to this request as it seeks confidential and/or proprietary information constituting trade secrets belonging to UConn Health.

8. Annual financial statements for each of Your facilities.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is not a Request for Production but an Interrogatory directed towards a non-party. The request is also extremely broad and would impose an undue burden and is objected to on that basis.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is not a Request for Production but an Interrogatory directed towards a non-party. The multi-part request is also extremely broad in each part and would impose an undue burden and is objected to on that basis. It is also duplicative of at least one previous request having to do with geographic area.

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

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is

vague and unintelligible. UConn Health further objects to this request as it is at least partly an Interrogatory directed towards a non-party. The request is also extremely broad and would impose an undue burden and is objected to on that basis. In addition, UConn Health objects to this request as it seeks confidential and/or proprietary information constituting trade secrets belonging to UConn Health.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is at least partly an Interrogatory directed towards a non-party. The multi-part request is also extremely broad and would impose an undue burden and is objected to on that basis. UConn Health further objects as some of this information is publicly available.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is at least partly a series of Interrogatories directed towards a non-party. The multi-part request is also extremely broad in each part and would impose an undue burden and is objected to on that basis.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is at least partly a series of Interrogatories directed towards a non-party. The multi-part request is also extremely broad in each part, the parts being unrelated, and would impose an undue burden and is objected to on that basis. In addition, UConn Health objects to this request as it seeks confidential and/or proprietary information constituting trade secrets belonging to UConn Health.

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).

OBJECTIONS: The subpoenaed party, UConn Health, objects to this multi-part request as it is extremely broad and poses an undue burden.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is at least partly an Interrogatory directed towards a non-party. The multi-part request is also extremely broad in each part and would impose an undue burden and is objected to on that basis.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is at least partly an Interrogatory directed towards a non-party. The request is also extremely broad and would

impose an undue burden and is objected to on that basis. UConn Health further objects to this request as this information is available from sources other than non-party UConn Health and UConn Health should not be burdened in this manner.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is at least partly an Interrogatory directed towards a non-party. The request is also extremely broad and would impose an undue burden and is objected to on that basis.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is at least partly Interrogatories directed towards a non-party. The request is also extremely broad and would impose an undue burden and is objected to on that basis. Moreover, UConn Health objects to this request as responsive documents may include documents subject to a non-disclosure clause and/or agreement and which documents may belong to an outside entity pursuant to contract.

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

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is at least partly an Interrogatory directed towards a non-party. The request is also extremely broad and would impose an undue burden and is objected to on that basis. In addition, UConn Health objects to this request as it seeks confidential and/or proprietary information constituting trade secrets belonging to UConn Health. Moreover, UConn Health objects to this request as responsive

documents may include documents subject to a non-disclosure clause and/or agreement and which documents may belong to an outside entity pursuant to contract.

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

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is at least partly an Interrogatory directed towards a non-party. The request is also extremely broad and would impose an undue burden and is objected to on that basis.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is at least partly a series of Interrogatories directed towards a non-party. The request is also extremely broad and would impose an undue burden and is objected to on that basis. In addition, UConn Health objects to this request as it seeks confidential and/or proprietary information constituting trade secrets belonging to UConn Health. Moreover, UConn Health objects to this request as responsive documents may include documents subject to a non-disclosure clause and/or agreement and which documents may belong to an outside entity pursuant to 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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is at least partly a series of Interrogatories directed towards a non-party. The multi-part request is also extremely broad in each part and would impose an undue burden and is objected to on that basis. In addition, UConn Health objects to this request as it seeks confidential and/or proprietary

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information constituting trade secrets belonging to UConn Health. Moreover, UConn Health objects to this request as responsive documents may include documents subject to a non-disclosure clause and/or agreement and which documents may belong to an outside entity pursuant to contract.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is at least partly a series of Interrogatories directed towards a non-party. The request is also extremely broad and would impose an undue burden and is objected to on that basis. In addition, UConn Health objects to this request as it seeks confidential and/or proprietary information constituting trade secrets belonging to UConn Health. Moreover, UConn Health objects to this request as responsive documents may include documents subject to a non-disclosure clause and/or agreement and which documents may belong to an outside entity pursuant to contract.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is at least partly a series of Interrogatories directed towards a non-party. The request is also extremely broad and would impose an undue burden and is objected to on that basis. In addition, UConn Health objects to this request as it seeks confidential and/or proprietary information constituting trade secrets belonging to UConn Health and may also be seeking information protected by the peer review privilege. Moreover, UConn Health objects to this request as responsive documents may include documents subject to a non-disclosure clause and/or agreement and which documents

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it seeks information that is confidential and privileged with regard to patient care and implicates, inter alia, the peer review privilege, statutory confidentiality, attorney-client privilege and the like. This request poses an undue burden and is disproportionate to the needs of the case which do not have to do with patient care or safety and is objected to on that basis. The subpoenaed party, UConn Health, further objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is at least partly a series of Interrogatories directed towards a non-party.

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.

OBJECTION: This request poses an undue burden on the subpoenaed party, and is objected to on that basis. The request seeks all patient surveys regardless of whether such surveys are related to consumer preferences for healthcare facilities or providers in the Relevant Area as defined by plaintiff. UConn Health objects to this request as it seeks confidential and/or proprietary information constituting trade secrets belonging to UConn Health. Moreover, UConn Health objects to this request as responsive documents may include documents subject to a non-disclosure clause and/or agreement and which documents may belong to an outside entity pursuant to contract.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is at least partly a series of Interrogatories directed towards a non-party. The multi-part request is also extremely broad in each particular with unrelated subparts and would impose an undue burden and is objected to on that basis. In addition, UConn Health objects to this request as it seeks confidential and/or proprietary information constituting trade secrets belonging to UConn Health.

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

- (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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is at least partly a series of Interrogatories directed towards a non-party. The multi-part request is also extremely broad in each part and would impose an undue burden and is objected to on that basis. This request is also duplicative and is objected to on that basis. Some of the information/documents responsive to this request are publicly available, and this request is objected to on this basis as well.

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.

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is at least partly a series of Interrogatories directed towards a non-party. The request is also extremely broad and would impose an undue burden and is objected to on that basis. Some of the information/documents responsive to this request are publicly available, and this request is objected to on this basis as well.

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

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is at least partly a series of Interrogatories directed towards a non-party. The request is also extremely broad and would impose an undue burden and is objected to on that basis. Some of the

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information/documents responsive to this request are publicly available, and this request is
objected to on this basis as well.

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

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is at least partly an Interrogatory directed towards a non-party. The request is also extremely broad and would impose an undue burden and is objected to on that basis. UConn Health objects to this request as it seeks confidential and/or proprietary information constituting trade secrets belonging to UConn Health.

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

OBJECTIONS: The subpoenaed party objects to this request to the extent it seeks home addresses of any of its physicians. The subpoena party objects as this is a duplicative request and as imposing an undue burden. Some of the information/documents responsive to this request are publicly available, and this request is objected to on this basis as well.

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

OBJECTIONS: The subpoenaed party, UConn Health, objects to this request as it is vague and unintelligible. UConn Health further objects to this request as it is at least partly an Interrogatory directed towards a non-party. The request is also extremely broad and would impose an undue burden and is objected to on that basis. UConn Health objects to this request as it seeks confidential and/or proprietary information constituting trade secrets belonging to UConn Health. Moreover, UConn Health objects to this request as responsive documents may include documents subject to a non-disclosure clause and/or agreement and which documents may belong to an outside entity pursuant to contract.

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

OBJECTIONS: This request is duplicative of one or more previous request(s) and is objected to on that basis.

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

OBJECTIONS: This request is duplicative of one or more previous request(s) and is objected to on that basis.

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.

OBJECTIONS: UConn Health objects to this request as it is vague and unintelligible. It is unclear what is meant by “investment(s)”. This request imposes an undue burden and is further objected to on that basis. UConn Health objects to this request as it seeks confidential and/or proprietary information constituting trade secrets belonging to UConn Health.

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

OBJECTIONS: UConn Health objects to this request as it is vague and unintelligible and to the extent it is able to be understood it is duplicative. This multi-part request imposes an undue burden and is further objected to on that basis. It is unclear whether this request is overall or by practice area. In addition, this request is duplicative of one or more previous request(s) and is objected to on that basis.

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.

OBJECTIONS: UConn Health objects to this request as it is vague and unintelligible. This request imposes an undue burden and is further objected to on that basis. UConn Health objects to this request as it seeks confidential and/or proprietary information constituting trade secrets belonging to UConn Health. In addition, this request is duplicative of one or more

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

OBJECTIONS: UConn Health objects to this request as it is vague and unintelligible. This request imposes an undue burden and is further objected to on that basis. UConn Health objects to this request as it seeks confidential and/or proprietary information constituting trade secrets belonging to UConn Health. In addition, this request is duplicative of one or more previous request(s) and is objected to on that basis.

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

OBJECTIONS: UConn Health objects to this request as it is vague and unintelligible. This request imposes an undue burden and is further objected to on that basis. UConn Health objects to this request as it seeks confidential and/or proprietary information constituting trade secrets belonging to UConn Health. Moreover, UConn Health objects to this request as responsive documents may include documents subject to a non-disclosure clause and/or agreement and which documents may belong to an outside entity pursuant to contract. In addition, this request is duplicative of one or more previous request(s) and is objected to on that basis.

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

OBJECTIONS: UConn Health objects to this request as it is vague and unintelligible. This request imposes an undue burden and is further objected to on that basis. In addition, this request is duplicative of one or more previous request(s) and is objected to on that basis.

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

OBJECTIONS: UConn Health objects to this request as it is vague and unintelligible. This request imposes an undue burden and is further objected to on that basis. UConn Health objects to this request as it seeks confidential and/or proprietary information constituting trade secrets belonging to UConn Health. In addition, this request is duplicative of one or more previous request(s) and is objected to on that basis.

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

OBJECTIONS: UConn Health objects to this request as it is vague and unintelligible. This request imposes an undue burden and is further objected to on that basis. This request is clearly duplicative of others, and is also objected to on that basis.

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.

OBJECTIONS: UConn Health objects to this request as it is vague and unintelligible. This request imposes an undue burden and is further objected to on that basis. This request is clearly duplicative of others, and is also objected to on that basis.

UCONN HEALTH

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CERTIFICATION

I hereby certify that a copy of the foregoing was emailed to the following
on November 28, 2022, at the listed email addresses:

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