

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

URIEL PHARMACY HEALTH AND
WELFARE PLAN; AND URIEL PHARMACY,
INC., on their own behalf and on behalf of all
others similarly situated,

Plaintiffs,

VS.

ADVOCATE AURORA HEALTH, INC. and
AURORA HEALTH CARE, INC.,

Defendants.

Case No. 2:22-cv-00610

**DEFENDANTS' MOTION TO FILE DOCUMENTS UNDER RESTRICTED ACCESS
AND RESPONSE TO PLAINTIFFS' OBJECTIONS AND MOTION TO
FILE UNDER RESTRICTED ACCESS**

Defendants Advocate Aurora Health, Inc. and Aurora Health Care, Inc. ("Defendants"), pursuant to General L.R. 79(d)(7), provide the following support for this motion to keep the documents identified herein that are the subject of Plaintiffs' objections in Plaintiffs' Objections and Motion to File Under Restricted Access (ECF No. 235) under restricted access such that access to those documents will be restricted to the Court and counsel for the parties.

I. Defendants propose that the Court adopt its procedure to address documents that may form the basis of the Court's forthcoming decisions.

Defendants respectfully request that the Court adopt the proposed procedure, to which Plaintiffs do not object, whereby Defendants will prepare public versions of the documents the Court relies on in its opinion after the opinion is issued. (*See* ECF Nos. 206, 226, 232, and 240 (outlining the proposed procedure in greater detail); 228 at 14 (Plaintiffs concurring in the adoption of the proposed procedure)). This approach conserves judicial resources and promotes

efficiency, as it saves the Court the time of having to conduct a document-by-document review of what has been submitted under restricted access.

II. Good cause exists to restrict access to the Court and counsel for the parties.

“[T]he antitrust context presents its own particular challenges for courts weighing the public release of information.” *Methodist Health Servs. Corp.*, No. 113CV01054SLDJEH, 2016 WL 5817176, at *18 (C.D. Ill. Sept. 30, 2016), *aff’d*, 859 F.3d 408 (7th Cir. 2017). Discovery “in antitrust litigation, by its broad nature, requires the production of sensitive information regarding business strategy, financials, and operations.” *Id.* (citing *AlliedSignal, Inc. v. B.F. Goodrich Co.*, 183 F.3d 568, 577 (7th Cir. 1999)). Such information often must be shielded from public view, including to eliminate the risk of pricing information being “used by other parties as ‘the basis of effective collusion’ in future negotiations,” and to avoid giving “an unfair advantage” to parties in such negotiations. *Id.* (quoting *Ball Mem’l Hosp., Inc.*, 784 F.2d at 1346). This antitrust litigation is no different.

The sensitive information listed below in Sections II.A–D should be accessible only to the Court and counsel for the parties.

A. Documents previously filed under restricted access

The following documents filed by Plaintiffs have previously been filed under restricted access and Defendants have previously provided the factual basis for keeping such documents under restricted access:

- Declaration of Sarah H. Zimmerman in Support of Plaintiffs’ Opposition to Defendants’ Motion to Exclude the Opinions of Jeffrey J. Leitzinger (“Zimmerman Opposition Declaration”), Ex. 1 (Expert Report of Jeffrey J. Leitzinger, Ph.D. dated November 21, 2025), previously filed as Exhibit 1 to the Declaration of Anne Johnson Palmer in Support of Motion to Exclude Opinions and Testimony of Jeffrey Leitzinger (“Johnson Palmer *Daubert* Declaration”) (ECF No. 209-2);

- Zimmerman Opposition Declaration, Ex. 2 (Expert Rebuttal Report of Jeffrey J. Leitzinger, Ph.D. dated March 23, 2026), previously filed as Exhibit 2 to the Johnson Palmer *Daubert* Declaration (ECF No. 209-3);
- Zimmerman Opposition Declaration, Ex. 3 (Expert Report of Patrick S. Romano, M.D., M.P.H. dated November 21, 2025), previously filed as Exhibit 13 to the Declaration of Anne Johnson Palmer in Support of Defendants’ Oppositions to Plaintiffs’ Motion for Class Certification and Plaintiffs’ Motions to Exclude Opinions Offered by Jonathan Orszag (“Johnson Palmer Opposition Declaration”) (ECF No. 237-13);
- Zimmerman Opposition Declaration, Ex. 11 (Expert Rebuttal Report of David Dranove, Ph.D. dated March 23, 2026), previously filed as Exhibit 4 to the Johnson Palmer Opposition Declaration (ECF No. 237-4);
- Zimmerman Opposition Declaration, Ex. 12 (Transcript of Jeffrey Leitzinger’s depositions dated April 20, 2026), previously filed as Exhibit 20 to the Johnson Palmer Opposition Declaration (ECF No. 237-20);
- Zimmerman Opposition Declaration, Ex. 16 (Transcript of Jonathan Orszag’s deposition dated March 5, 2026), previously filed as Exhibit 21 to the Johnson Palmer Opposition Declaration (ECF No. 237-21);
- Zimmerman Opposition Declaration, Ex. 17 (Expert Report of Patrick S. Romano, M.D., M.P.H. dated November 21, 2025), previously filed as Exhibit 13 to the Johnson Palmer Opposition Declaration (ECF No. 237-13);
- Zimmerman Opposition Declaration, Ex. 23 (Expert Report of Jonathan Orszag dated January 20, 2026), previously filed as Exhibit 8 to the Johnson Palmer Opposition Declaration (ECF No. 237-8);
- Zimmerman Opposition Declaration, Ex. 27 (Redefining Value: The 4Square & its Impact on Advocate Aurora North and the Business Community – AAHEDWI00311317), previously filed as Exhibit 86 to the Johnson Palmer Opposition Declaration (ECF No. 237-86);
- Zimmerman Opposition Declaration, Ex. 29 (Mercer Study – AAHEDWI01501491), previously filed as Exhibit 47 to the Johnson Palmer Opposition Declaration (ECF No. 237-47); and
- Zimmerman Opposition Declaration, Ex. 30 (Transcript of the deposition of Titus Muzi dated June 2, 2025).

Defendants respectfully request that these documents remain under restricted access

based on the factual support Defendants previously provided for the documents identified in the list above when the documents were first filed. ECF Nos. 206, 232.

B. Excerpts from deposition transcripts of Defendants' witnesses and confidential documents produced by Defendants

Defendants ask that the following documents be filed under restricted access:

- Zimmerman Opposition Declaration, Ex. 4 (Managed Care Overview – AAHEDWI00450873);
- Zimmerman Opposition Declaration, Ex. 5 (Advocate Aurora Health Future Back: Core Team Working Session – AAHEDWI00756315);
- Zimmerman Opposition Declaration, Ex. 6 (Transcript of Jim Skogsbergh's deposition dated June 26, 2025);
- Zimmerman Opposition Declaration, Ex. 8 (The SEIU's Untruths – AAHEDWI01571755);
- Zimmerman Opposition Declaration, Ex. 9 (Email from Ed How to Tim Sheehy dated September 14, 2005 – AAHEDWI01585711);
- Zimmerman Opposition Declaration, Ex. 10 (Email from Ed How to Mark Amborius dated September 15, 2005 – AAHEDWI01585715);
- Zimmerman Opposition Declaration, Ex. 13 (Transcript of Richard Klein's deposition dated May 9, 2025);
- Zimmerman Opposition Declaration, Ex. 26 (Email from Titus Muzi to Richard Klein dated December 4, 2018 – AAHEDWI00573958);
- Zimmerman Opposition Declaration, Ex. 28 (Metro Milwaukee Health Care: Studies on Costs and How We Can Turn the Tide – AAHEDWI01587785); and
- Zimmerman Opposition Declaration, Ex. 32 (Transcript excerpts of Jeff Anderson 30(b)(6) deposition dated June 11, 2025).

These documents consist of a deposition transcript excerpt from a corporate representative for Defendants and internal documents and communications. The excerpt and documents contain sensitive information regarding Defendants' business practices, market analysis, proprietary business intelligence, operations, and other information that Defendants

keep confidential and do not regularly share in the ordinary course of business. Public disclosure of this information would cause Defendants harm because it would disclose Defendants' confidential and proprietary information about its strategies and analysis of competitors to its competitors, thereby giving such parties a competitive advantage. Good cause thus exists to restrict access to this information. *See Patriot Universal Holdings, LLC v. Formax, Inc.*, 24 F. Supp. 3d 802, 808 (E.D. Wis. 2014) (granting motion to seal where "the materials contained therein [were] confidential business records"); *see also Wisconsin Alumni Rsch. Found. v. Apple, Inc.*, No. 14-CV-062-WMC, 2015 WL 6453837, at *2 (W.D. Wis. Oct. 26, 2015) (granting motion to seal "manufacturing agreements" with third parties and others as well as "related documents" where such documents are not disclosed or otherwise made public); *SmithKline Beecham Corp. v. Pentech Pharm., Inc.*, 261 F. Supp. 2d 1002, 1008 (N.D. Ill. 2003) (holding that information about terms and conditions of contracts "that might give other firms an unearned competitive advantage" is legitimately confidential information that competitors should not have); *Methodist Health*, 2016 WL 5817176, at *18 ("Specific to the healthcare industry, the Seventh Circuit has acknowledged that the release of provider-payer rate negotiations could result in an unfair advantage to providers.") (citing *Ball Mem'l Hosp., Inc. v. Mut. Hosp. Ins., Inc.*, 784 F.2d 1325, 1345 (7th Cir. 1986)).

C. Expert report and expert deposition transcript

Defendants ask that the following documents remain under restricted access:

- Zimmerman Opposition Declaration, Ex. 18 (Transcript of Louis Rossiter's deposition dated April 17, 2026); and
- Zimmerman Opposition Declaration, Ex. 19 (Expert Rebuttal Report of Patrick S. Romano, M.D., M.P.H. dated March 23, 2026)

This expert report and expert deposition transcript pertain to Defendants' internal

performance metrics and analyses, business practices, proprietary business intelligence, and contracting and business strategy that Defendants do not regularly disclose and keep confidential. In addition, the reports and transcripts contain information deemed confidential by third parties that relate to these third parties' contract terms, business practices, market analyses, proprietary business intelligence, and other information these third parties keep confidential or do not regularly share. Such information is entitled to protection. *See Grove US LLC v. Sany Am. Inc.*, No. 13-C-677, 2019 WL 969814, at *9 (E.D. Wis. Feb. 28, 2019) ("The sealed exhibits and filings in this case reference confidential, non-public, proprietary, and competitive information regarding the parties' business operations. This information is worthy of confidentiality under Federal Rule of Civil Procedure 26(c)(1)(G).").

D. References to these documents in Plaintiffs' briefs

For the reasons set forth above, *see supra* §§ II.A-C, Defendants request that Plaintiffs' Opposition to Defendants' Motion to Exclude the Expert Testimony of Jeffrey J. Leitzinger (ECF No. 236) remain under restricted access, as these filings reference the documents described above and disclose the confidential information contained therein.

III. General Local Rule 79(d)(4) Certification.

Defendants certify under General Local Rule 79(d)(4) that they met and conferred with Plaintiffs in a good faith attempt to limit the scope of the documents and materials subject to this request.

CONCLUSION

For the reasons set forth above, Defendants respectfully request that the Court enter an order overruling Plaintiffs' objections and ordering that access to the documents identified above remain restricted to the Court and counsel for the parties.

Defendants also respectfully request that the Court adopt Defendants' outlined procedure whereby Defendants will prepare public versions of documents relied upon by the Court fourteen days after the Court issues its forthcoming decisions.

Date: August 24, 2026

/s/ Nathan Oesch

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