

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

TIARA YACHTS, INC.,

Plaintiff,

v.

BLUE CROSS BLUE SHIELD OF MICHIGAN,

Defendant.

Civil Action No.: 1:22-cv-603

Judge: Hon. Robert J. Jonker

Magistrate Judge: Ray Kent

ORAL ARGUMENT REQUESTED

**BCBSM'S RESPONSE TO TIARA YACHTS' MOTION
TO COMPEL DISCOVERY**

CONCISE STATEMENT OF ISSUE PRESENTED

Should Defendant Blue Cross Blue Shield of Michigan be compelled to respond to discovery requests even where they have no bearing on Plaintiff Tiara Yachts' claims, are outside the timeframe that applies to Tiara Yachts' claims, and seek claims data that Tiara Yachts' counsel has effectively conceded he does not need?

BCBSM says: No

Plaintiff says: Yes

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	iv
I. INTRODUCTION	1
II. BACKGROUND	2
III. LEGAL STANDARD	4
IV. ANALYSIS	6
A. The Court should accept and enforce the parties' near-agreement on claims data fields.....	6
B. There is ample case support for imposing time limitations on discovery tied to the statute of limitations, and BCBSM has proposed a timeframe extending to two years <i>before</i> the statute of limitations.	8
C. BCBSM's interrogatory answers and objections are proper.....	9
D. Documents related to the Dennis Wegner matter are irrelevant to whether BCBSM breached fiduciary duties to Tiara Yachts.	10
E. BCBSM's objection to producing other information that is not directly related to Tiara Yachts is valid.....	12
V. CONCLUSION.....	14

TABLE OF AUTHORITIES

Cases

<i>Arenas v. Unified Sch. Dist.</i> , No. 15-cv-9359, 2016 WL 6071802, at *6 (D. Kan. Oct. 17, 2016)	8
<i>Bledsoe v. FCA US, LLC</i> , 378 F. Supp. 3d 626 (E.D. Mich. 2019).....	11
<i>DeLuca v. Blue Cross Blue Shield of Mich.</i> , 628 F.3d 743 (6th Cir. 2010).....	7
<i>Greene v. Sears Prot. Co.</i> , No. 15 C 2546, 2017 WL 1134484, at *5 (N.D. Ill. Mar. 27, 2017).....	8
<i>Helena Agri-Enter. LLC v. Great Lakes Grain, LLC</i> , 988 F.3d 260 (6th Cir. 2021).....	5
<i>Majestic Bldg. Maint., Inc. v. Huntington Bancshares, Inc.</i> , No. 15-cv-3023, 2018 WL 3358641, at *10 (S.D. Ohio July 10, 2018).....	8
<i>Martinez v. McGraw</i> , 518 F. App'x 512 (6th Cir. 2014).....	5
<i>State Farm Mut. Auto Ins. Co. v. Angelo</i> , No. 19-10669, 2020 WL 6608887 (E.D. Mich. Nov. 12, 2020)	11
<i>State Farm Mut. Auto. Ins. Co. v. Angelo</i> , 95 F.4th 419 (6th Cir. 2024).....	11
<i>Tiara Yachts, Inc. v. Blue Cross Blue Shield of Mich.</i> , 138 F.4th 457 (6th Cir. 2025).....	11
<i>U.S. ex rel. Customs Fraud Investig., LLC v. Victaulic Co.</i> , 839 F.3d 242 (3d Cir. 2016)	5
<i>U.S. v. Procter & Gamble Co.</i> , 356 U.S. 677, 682 (1958).....	5
<i>Wilson v. MRO Corp.</i> , No. 16-cv-05279, 2017 WL 561333, at *2 (S.D. W. Va. Feb. 10, 2017)	8

Statutes

29 U.S.C. § 1108(b)(2)(vi).....	7
29 U.S.C. § 1185m(a)(1)(A)-(B)	7

Other Authorities

John G. Roberts, Jr. 2015 Year-End Report on the Federal Judiciary 6 (2015)	5
---	---

Rules

Fed. R. Civ. P. 26.....	4, 8, 9, 12
Fed. R. Civ. P. 34(2)(B).....	8

I. INTRODUCTION

Plaintiff Tiara Yachts' January 28, 2026 Motion to Compel Discovery follows several months of extensive back-and-forth between the parties regarding their disputes over the appropriate scope of discovery here. After Defendant Blue Cross Blue Shield of Michigan ("BCBSM") agreed to provide *206 of the 213* data fields Tiara Yachts requested, Tiara Yachts' counsel went silent, ignoring multiple emails from BCBSM's counsel (including an explanation for the seven disagreed-upon fields) before filing its motion.

Tiara Yachts' positions remain unchanged. Despite reducing its total number of requests for production after the Court ordered it to do so on October 9, 2025, Tiara Yachts continues to seek irrelevant information regarding: (1) a purported "whistleblower" named Dennis Wegner who was never involved with BCBSM's Tiara Yachts account; and (2) information about various aspects of BCBSM's claims processing systems, regardless of whether the information relates to Tiara Yachts. Tiara Yachts also continues to seek information from well before the statute of limitations that applies to Tiara Yachts' claims. None of these requests are within the proper scope of discovery.

These issues were not, however, the focus of the parties' attempts to resolve their discovery disputes. Rather, the parties' extensive meet-and-confers related primarily to the issue of Tiara Yachts' claims data. BCBSM was optimistic until the day Tiara Yachts filed its motion that the parties would resolve this issue without the Court's involvement. One week before Tiara Yachts filed this motion, the parties were within *seven data fields*—out of more than 200—of having an agreed-upon list that would allow BCBSM to (finally) gather the claims data necessary for both parties to analyze Tiara Yachts' legal claims. Indeed, the morning that Tiara Yachts filed its motion,

BCBSM's counsel emailed Tiara Yachts' counsel to see if the parties had an agreement on that issue. Unfortunately, Tiara Yachts filed its motion that evening without responding to BCBSM.

II. BACKGROUND

Tiara Yachts submitted its initial set of 74 discovery requests—11 interrogatories and 63 requests for production—to BCBSM on August 5, 2025. BCBSM responded by moving for a protective order, and Tiara Yachts filed a competing motion to compel. (ECF Nos. 82, 86). The Court held a hearing on October 7, 2025. It then issued an order on October 9, 2025, granting Tiara Yachts two weeks to submit no more than 30 requests for production. (ECF No. 109). Tiara Yachts served amended requests on October 23, 2025.

The parties then had an in-person meet-and-confer on November 3, 2025. For the first time at that conference—and despite the extensive discovery briefing that the parties had previously submitted to the Court—Tiara Yachts presented a series of objections to BCBSM's interrogatory answers. (**Ex. A**, BCBSM Response to 11.07.2025 Tiara Letter). The parties discussed Tiara Yachts' new interrogatory objections for nearly the entire conference, and BCBSM's counsel told Tiara Yachts' counsel that BCBSM would investigate and supplement its answers upon obtaining the relevant information. *Id.* After the meeting, Tiara Yachts sent two letters to BCBSM accusing BCBSM of being unprepared to address the objections that Tiara Yachts never raised until the November 3 meeting, and of being unprepared to preview BCBSM's objections to the amended document requests, even though BCBSM's responses were not due for three more weeks. (ECF No. 125-4, PageID.2060-2067).

Tiara Yachts later sent a letter to BCBSM on November 20, 2025, proposing seven categories of claims data that Tiara Yachts wanted produced as part of BCBSM's claims data production. (**Ex. B**, Tiara Yachts 11.20.2025 Claims Data Letter). Despite months of requests from

BCBSM, this was the *first time* Tiara Yachts suggested with any level of specificity the claims data it believes it needs to prove its claims. BCBSM responded to that letter by stating that the proposed data fields it *had already provided* included the information Tiara Yachts requested. (Ex. C, BCBSM Response to Tiara Yachts 11.20.2025 Letter).

BCBSM then served (1) responses to Tiara Yachts' amended document requests, and (2) supplemental answers to Tiara Yachts' interrogatories on November 24, 2025. In those responses, BCBSM objected to producing: (1) documents related to Dennis Wegner; (2) internal training and investigation documents that do not directly relate to Tiara Yachts; (3) documents related to BCBSM's internal claims processing systems that are not directly related to Tiara Yachts; and (4) documents from before 2014. The parties held a virtual meet and confer on December 15, 2025, during which BCBSM confirmed those objections.

At that point, the parties' discussions shifted to claims data fields. After the parties' meet-and-confer on December 15, BCBSM sent a letter to Tiara Yachts proposing 96 data fields—20 more than the fields it had already proposed that covered the specific data categories Tiara Yachts identified on November 20—and it produced a Data Dictionary that explained each data field. (Ex. D, 12.15.2025 BCBSM Letter to Tiara Yachts). Tiara Yachts responded to BCBSM's letter on December 23, 2025 by proposing an additional 117 data fields. (ECF No. 125-4, PageID.2070-2077).

BCBSM analyzed the additional data fields and agreed to *all but seven* of them in a letter dated January 16, 2026. (Ex. E, 01.16.2026 BCBSM Letter to Tiara Yachts). In follow-up communications on January 21, 2026, BCBSM explained that three of the fields provided information that would be *duplicative* of other fields BCBSM had already agreed to produce, and that the remaining four would provide information that is *not pertinent* to Tiara Yachts' claims.

(Ex. F, 01.21.26 Emails Between BCBSM and Tiara Yachts). After a week of not receiving a response to that email, BCBSM’s counsel followed up with Tiara Yachts’ counsel on the morning of January 28, 2026. *Id.* Despite having a nearly complete agreement on the claims data fields to be produced, and without any further communication to BCBSM, Tiara Yachts filed its motion to compel on the evening of January 28, 2026.

The claims data issue impacts much of the parties’ discovery disputes. For example, Interrogatory Nos. 3, 5, 6, and 7—all of which Tiara Yachts takes issue with in its motion to compel—ask for claims-identification information that BCBSM will only be able to assess *after* it compiles Tiara Yachts’ claims data based on an agreed-upon set of data fields. It is still not clear that BCBSM will be able to provide answers that are satisfactory to Tiara Yachts at that point (or that it ever could), but it needs the claims data to make that assessment. Contrary to Tiara Yachts’ descriptions in its motion—and as Tiara Yachts’ counsel knows—there is *no way* for BCBSM to pull “all” of the data out of a location that already exists. Rather, BCBSM will have to write a software program to pull data from a live, complex database, and that will require agreement on a set of data fields. Thus, it is a source of considerable frustration for BCBSM that the parties’ discussions regarding claims data fields broke down over only seven fields—only three of which Tiara Yachts mentions in its motion to compel—out of more than 200.

While there are other discrete issues that need to be resolved, the data fields issue that the parties have nearly agreed upon is the most critical.

III. LEGAL STANDARD

Tiara Yachts’ motion misstates the governing discovery standard. Under Fed. R. Civ. P. 26(b), “parties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case[.]” According to Tiara Yachts,

“[a] matter is ‘relevant’ for purposes of Rule 26(b)(1), if it ‘is reasonably calculated to lead to the discovery of admissible evidence.’” ECF No. 87, PageID.1437 (quoting *Martinez v. McGraw*, 518 F. App’x 512, 517 (6th Cir. 2014)). Tiara Yachts then cites a U.S. Supreme Court case *from 1958* for the proposition that the purpose of the “modern” discovery rules is to “make[] trial less a game of blind man’s bluff and more a fair contest with the basic issues and facts disclosed to the fullest practicable extent.” ECF No. 87, PageID.1438 (citing *U.S. v. Procter & Gamble Co.*, 356 U.S. 677 (1958)).

But as the Sixth Circuit has explained, Rule 26(b) was *amended* in 2015 “to require that all discovery be ‘proportional’ in nature.” *Helena Agri-Enter., LLC v. Great Lakes Grain, LLC*, 988 F.3d 260 (6th Cir. 2021). The purpose of the change “was ‘to improve a system of civil litigation that ‘in many cases . . . has become too expensive, time-consuming, and contentious, inhibiting effective access to the courts.’” *Id.* (quoting *U.S. ex rel. Customs Fraud Investig., LLC v. Victaulic Co.*, 839 F.3d 242, 258 (3d Cir. 2016)). “Instead of facilitating costly and delay-inducing efforts to look under every stone in an e-discovery world populated by many stones, the new rule ‘crystallizes the concept of reasonable limits on discovery through increased reliance on the common-sense concept of proportionality.’” *Id.* (quoting John G. Roberts, Jr. 2015 Year-End Report on the Federal Judiciary 6 (2015)). “It is now the power—and *duty*—of the district courts actively to manage discovery and to limit discovery that exceeds its proportional and proper bounds.” *Id.* (internal quotation marks omitted). In short, Tiara Yachts relies on outdated discovery standards to try to justify its abusive discovery practices here.

IV. ANALYSIS

A. The Court should accept and enforce the parties' near-agreement on claims data fields.

Despite nearly reaching agreement on the claims data fields that BCBSM is to produce, Tiara Yachts has decided to once again to move the goal posts and now claims that it wants "all" claims data. No matter how many times he repeats this refrain, Tiara Yachts' counsel knows that the request for "all" claims data is nonsensical, given that BCBSM has to write a program listing specific data fields to retrieve the claims data. Indeed, in alignment with the circular way in which it has discussed claims data fields over the last several months, Tiara Yachts argues, ostensibly in support of its position, that "a full production is not unduly burdensome as BCBSM routinely supplies hundreds of fields to third-party auditors and consultants for similarly situated self-funded plans." (ECF No. 125, PageID.1996). What Tiara Yachts fails to mention after this statement is that *this is exactly what BCBSM has proposed producing to Tiara Yachts.*

As described above, the parties have agreement on over 200 data fields. In its opening brief, Tiara Yachts takes issue with BCBSM's exclusion of three fields that Tiara Yachts has requested: Billed Amount, Approved Charge Amount, and Discount Amount. As BCBSM has explained to Tiara Yachts already—which Tiara Yachts can verify by consulting the Data Dictionary that BCBSM has already produced—"Billed Amount" is a duplicate field of "Charged Amount," and "Approved Charge Amount" is a duplicate of "Approved Amount." Production of duplicative data fields only threatens to further complicate an already complex analysis of Tiara Yachts' claims data.

The Discount Amount field is also definitionally irrelevant to Tiara Yachts' fiduciary-duty and self-dealing claims, as it describes the amount that BCBSM saves on medical claims through network negotiations. The Sixth Circuit has held that BCBSM is not acting in a fiduciary capacity

in these types of negotiations. *See DeLuca v. Blue Cross Blue Shield of Mich.*, 628 F.3d 743 (6th Cir. 2010). Thus, none of the three fields Tiara Yachts has identified in its motion to compel should be part of BCBSM's claims data production.

Tiara Yachts also incorrectly contends that BCBSM has a statutory obligation to produce “all” of Tiara Yachts’ electronic claims data (even if that term had any meaning, which it does not). One statute Tiara Yachts cites, 29 U.S.C. § 1108(b)(2)(vi), mandates disclosure of specific compensation information to “the responsible plan fiduciary” to the extent “required for the covered plan to comply with the reporting and disclosure requirements under this chapter.” It is unclear why Tiara Yachts believes this section applies when it is no longer a BCBSM customer. The other statute Tiara Yachts cites, 29 U.S.C. § 1185m(a)(1)(A)-(B) pertains to restrictions on the content of agreements between group health plans and third-party administrators, but there is currently no operative agreement between BCBSM and Tiara Yachts.

In short, BCBSM sent a proposed list of data fields to Tiara Yachts on January 16, 2026, which includes the “hundreds of fields” that Tiara Yachts identifies in its motion to compel. While Tiara Yachts now claims to have issues with the exclusion of three fields from its proposed list, those fields are outside the scope of discovery, as BCBSM has described. Thus, there is a practical outcome for the Court to reach on this issue: the Court should accept and enforce the extensive list BCBSM has proposed, and put the data fields issue to rest.

B. There is ample case support for imposing time limitations on discovery tied to the statute of limitations, and BCBSM has proposed a timeframe extending to two years *before* the statute of limitations.

Tiara Yachts argues incorrectly that it would be improper to impose a time limit on BCBSM's document production related to the ERISA statute of repose.¹ But far from “unilaterally” imposing a time limit, BCBSM presented ample case law in support of its proposal. *See Majestic Bldg. Maint., Inc. v. Huntington Bancshares, Inc.*, No. 15-cv-3023, 2018 WL 3358641, at *10 (S.D. Ohio July 10, 2018) (gathering cases and narrowing discovery to statute of limitations period with one limited, topic-specific exception); *Arenas v. Unified Sch. Dist.*, No. 15-cv-9359, 2016 WL 6071802, at *6 (D. Kan. Oct. 17, 2016) (limiting testimony and documents to limitations period “to avoid unnecessary burden and expense”); *Greene v. Sears Prot. Co.*, No. 15 C 2546, 2017 WL 1134484, at *5 (N.D. Ill. Mar. 27, 2017) (“This Court agrees . . . that plaintiffs have provided no compelling argument that discovery going back” before the statute of limitations period “is warranted”); *Wilson v. MRO Corp.*, No. 16-cv-05279, 2017 WL 561333, at *2 (S.D. W. Va. Feb. 10, 2017) (limiting discovery “[i]n view of the applicable limitations period for Plaintiffs’ claims, and considering that the scope of discovery must be proportional to the needs of the case”). Given this precedent, BCBSM’s proposed time limitation is more than reasonable. Indeed, BCBSM’s proposed timeframe extends *two years before* the ERISA statute of repose.

Moreover, the cost to BCBSM of retrieving claims data from before 2014 adds a layer to the proportionality calculus that must be considered under Fed. R. Civ. P. 26(b). Around that time,

¹ Contrary to Tiara Yachts’ assertion that BCBSM’s “remedy was to move for a protective order and demonstrate good cause under Rule 26(c),” BCBSM took heed of the Court’s admonition *not to file* competing discovery motions. It thus included its proposed timeframe as an objection to Tiara Yachts’ document requests, which Fed. R. Civ. P. 34(2)(B) contemplates. *See id.* (“the response must either state the inspection and related activities will be permitted as requested or state with specificity the grounds for objecting to the request”).

BCBSM changed many of its data storage practices. (Ex. G, Muncy Declaration, ¶ 5). Obtaining data from before 2014 would require not only data retrieval, but also data *restoration*. *Id.* In a separate case with a much smaller scope, BCBSM obtained a quote for the restoration of data back to 2010, which totaled \$85,000. *Id.* ¶ 7. BCBSM expects that the restoration of data in this matter would carry a higher cost. *Id.* ¶ 8. Particularly given that the amount at issue is not yet clear, such a cost for data restoration is out of line with the rationale underlying the 2015 amendments to the Federal Rules of Civil Procedure, including controlling costs. BCBSM thus respectfully requests that the Court apply the proportionality standard under Fed. R. Civ. P. 26(b) and limit the production of claims data to a period starting on January 1, 2014.

C. BCBSM's interrogatory answers and objections are proper.

Tiara Yachts has also taken inconsistent positions with respect to BCBSM's interrogatory answers. For one, in the meet-and-confer discussions between the parties that post-date BCBSM's supplemental interrogatory answers (i.e., discussions after November 24, 2025), Tiara Yachts questioned only BCBSM's objection to Interrogatory No. 11. Tiara Yachts has now raised issues it purportedly has with five other answers. If Tiara Yachts had raised these late-stage issues when the parties were discussing BCBSM's objections, BCBSM would have addressed them. In any event, as to each specific issue that Tiara Yachts raises, BCBSM's response is set forth below:

- **Interrogatory No. 1:** BCBSM is unclear what problem Tiara Yachts has with BCBSM's answer to this interrogatory. Tiara Yachts asked BCBSM to "identify every communication BCBSM had with any Person who has provided a statement or information related in any way to any of the allegations contained in the Complaint." BCBSM answered that no non-privileged, responsive communications exist. This should not be particularly surprising, as BCBSM has only communicated with its internal and external attorneys regarding Tiara Yachts' lawsuit.
- **Interrogatory Nos. 3, 5, 6, 7:** Each of these interrogatories asks BCBSM to identify specific facts about Tiara Yachts' claims data. BCBSM's answers to these interrogatories explain that it needs to examine Tiara Yachts' claims data before it can provide substantive responses. But because of Tiara Yachts' constant goal-post

shifting with respect to the data fields to be produced, BCBSM has not compiled Tiara Yachts' claims data. Once it does so, it will be able to examine the data and determine whether Tiara Yachts' interrogatories cover any information beyond what is contained in the claims data.

- **Interrogatory No. 11:** This interrogatory asks BCBSM to “[i]dentify each and every report, summary, communication, study, or investigation that BCBSM prepared or initiated as a result of the complaints, issues, inquiries, concerns, and notifications raised by any BCBSM employee since January 1, 2017, regarding BCBSM’s claims processing systems including those concerns discussed in **Exhibit A** and **Exhibit C** to Plaintiff’s Complaint.” BCBSM properly objected to this interrogatory for reasons discussed more fully below in Sections IV.D and IV.E.

D. Documents related to the Dennis Wegner matter are irrelevant to whether BCBSM breached fiduciary duties to Tiara Yachts.

As it did in its initial document requests, Tiara Yachts continues to improperly seek documents related to “investigations” conducted by a former BCBSM employee named Dennis Wegner. In support of its contention that Wegner-related documents are within the scope of discovery, Tiara Yachts notes that BCBSM was compelled to produce Wegner-related documents in connection with a case brought against BCBSM by Comau LLC, a former BCBSM ASC customer.

Tiara Yachts fails to mention a critical distinction between this case and *Comau*: Dennis Wegner was Comau’s *account manager*. By contrast, Wegner was *not involved* in Tiara Yachts’ account. Tiara Yachts tries to avoid this critical distinction by citing irrelevant case law. According to Tiara Yachts, Wegner-related documents “bear on: (1) the existence and scope of BCBSM’s wrongdoing; (2) the design and reach of BCBSM’s uniform systems applied across customers, including Tiara Yachts; and (3) BCBSM’s concealment even after specific defects were identified.” (ECF No. 125, PageID.1997).

Tellingly, Tiara Yachts relies on an inapplicable RICO case as the basis for its three-prong relevance framework. *Id.* (citing *State Farm Mut. Auto Ins. Co. v. Angelo*, No. 19-10669, 2020 WL

6608887 (E.D. Mich. Nov. 12, 2020)). In *Angelo*, State Farm claimed that the defendant, Angelo, engaged in widespread auto-insurance fraud “by operating 1-800 numbers and advertisements in order to ‘reach potential patients who have been involved in automobile accidents.’” *State Farm Mut. Auto. Ins. Co. v. Angelo*, 95 F.4th 419, 424 (6th Cir. 2024). “Angelo then recruited doctors to prescribe for those patients medically unnecessary opioids” and provide other unnecessary services at pharmacies and clinics that Angelo owned. *Id.* To prove its RICO claim, State Farm was required to show “(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.” *Bledsoe v. FCA US, LLC*, 378 F. Supp. 3d 626, 649 (E.D. Mich. 2019). In that context, as Tiara Yachts points out, State Farm argued successfully that “communications and patient data, regardless of the insurer, could help show ‘the existence and scope of the fraud scheme; the operation of the predetermined treatment protocol; and the role of each participant in the scheme.’” ECF No. 87, PageID.1439 (quoting *Angelo*, 2020 WL 6608887 at *2).

But this is not a RICO case; it is a claim for breach of ERISA fiduciary duties. As the Sixth Circuit held in Tiara Yachts’ appeal, the Court must “take a functional approach to ERISA fiduciary analysis . . . and ask whether BCBSM ‘was acting as a fiduciary (that is, was performing a fiduciary function) *when taking the action subject to the complaint.*’” *Tiara Yachts, Inc. v. Blue Cross Blue Shield of Mich.*, 138 F.4th 457, 463 (6th Cir. 2025) (emphasis added). Thus, far from the enterprise-wide patterns of racketeering that are at issue in RICO cases, the elements of an ERISA breach of fiduciary duty claim are limited to allegations regarding a defendant’s actions *toward the plaintiff*. The question to be answered here is not whether BCBSM was engaged in an enterprise-wide conspiracy that breached fiduciary duties to *any* of its customers, but rather whether it breached fiduciary duties to *Tiara Yachts*. Communications and other non-public

documents that relate exclusively to the Wegner lawsuit are thus outside the scope of permissible discovery under Fed. R. Civ. P. 26(b).

E. BCBSM's objection to producing other information that is not directly related to Tiara Yachts is valid.

Finally, Tiara Yachts notes that its Request for Production Nos. 1-18 “seek various types of information about BCBSM’s claims processing systems, including design and operation, internal investigations, implementation of NASCO flip logic (including as applied to Tiara Yachts), changes in design and disclosures to customers regarding implications, other information.” (ECF No. 125, PageID.1998). It notes further that Request Nos. 19-22 seek documents related to the Shared Savings Program, “including its design and implementation, rationale, and implications and calculations regarding Tiara Yachts’ assets.” *Id.* Without identifying a single specific request, Tiara Yachts argues generally that BCBSM has improperly agreed to produce only documentation that relates directly to Tiara Yachts.

But BCBSM’s objection and proposed scope limitation are appropriate. To reiterate, Tiara Yachts’ claims in this case turn on whether BCBSM breached fiduciary duties *to Tiara Yachts*. Any alleged breaches with respect to *other* BCBSM customers do not bear on Tiara Yachts’ claims. As the Sixth Circuit held above, Tiara Yachts’ ERISA claims require a functional, action-specific analysis. To the extent Tiara Yachts wants to show “whether BCBSM dealt with its customers’ plan assets . . . in its own interest” or “the quantum of loss suffered by its customers,” (ECF No. 125, PageID.1999), those determinations have no bearing on whether BCBSM breached a fiduciary duty *to Tiara Yachts*.

Tiara Yachts’ contention on this point becomes even more problematic after examining the underlying practicalities. During the parties’ extensive meet and confer discussions, BCBSM proposed a list of specific custodians and search terms that it would use to gather responsive emails

and other documents from its internal systems. Each search term included a qualifier to retrieve documents that mentioned Tiara Yachts (or an affiliated entity) specifically. That search resulted in over 35,000 document hits, and BCBSM must now pay a team of document reviewers to conduct a relevance review.

In response to BCBSM's list, Tiara Yachts proposed a list of search terms without any Tiara Yachts-specific limitations. All of Tiara Yachts' proposed search terms were facially overbroad. For example, Tiara Yachts suggested the search term "*payment integrity*" *OR* "*shared savings*" *AND* ("*pre-payment forensic billing review*" *OR* "*advanced payment analytics*" *OR* "*subrogation*" *OR* "*provider credit balance recovery*"). This search alone would result in a hit for virtually every document in BCBSM's storage systems that relates in any way to payment integrity or the shared savings program, regardless of any connection to Tiara Yachts. The total number of documents would be in the *millions*, and the vast majority would be completely irrelevant to Tiara Yachts' claims. This is especially improper with respect to Tiara Yachts' shared savings claims, which, as BCBSM has explained, are limited in dollar value. (Ex. H, Ozdarski Declaration, ¶¶ 14-15).

BCBSM's objection to the overly broad document requests Tiara Yachts has made is appropriate under the current Federal Rules. BCBSM has focused its search on documents related to *Tiara Yachts' claims* against BCBSM, not the potential claims of *other customers*. This is especially necessary given Tiara Yachts' counsel's history of using discovery in BCBSM cases to identify new claims and clients. Tiara Yachts should not be granted carte blanche to go on a fishing expedition for information that has no bearing on proving its claims here, much less for its counsel to potentially use for future clients and lawsuits.

V. CONCLUSION

For the reasons described above, BCBSM respectfully requests that the Court: (1) deny Plaintiff's motion to compel; and (2) find that the scope of discovery in this case is limited to that described in BCBSM's discovery responses and this response brief.

Respectfully submitted,

ALLEN OVERY SHEARMAN STERLING US LLP

By: s/ Daniel Lewis

Daniel Lewis (Adm. in W.D. MI, NY Reg. 4084810)
Jeffrey D. Hoschander (Adm. in W.D. MI, NY Reg. 4496337)
599 Lexington Avenue
New York, NY 10022
Telephone: +1.212.848.4000
Facsimile: +1.202.508.8100
daniel.lewis@aoshearman.com
jeff.hoschander@aoshearman.com

Todd M. Stenerson (P51953)
1101 New York Avenue, NW
Washington, DC 20005
Telephone: +1.202.508.8093
Facsimile: +1.202.661.7484
todd.stenerson@aoshearman.com

ZAUSMER, P.C.

By: s/ Mark J. Zausmer

Mark J. Zausmer (P31721)
Michael A. Schwartz (P74361)
Nathan S. Scherbarth (P75647)
Jason M. Schneider (P79296)
32255 Northwestern Hwy., Ste. 225
Farmington Hills, MI 48334
Telephone: +1.248.851.4111
Facsimile: +1.248.851.0100
mzausmer@zausmer.com
mschwartz@zausmer.com
nscherbarth@zausmer.com
jschneider@zausmer.com

Dated: February 11, 2026

Attorneys for Defendant

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

TIARA YACHTS, INC.,

Plaintiff,

v.

BLUE CROSS BLUE SHIELD OF MICHIGAN,

Defendant.

Civil Action No.: 1:22-cv-603

Judge: Hon. Robert J. Jonker

Magistrate Judge: Ray Kent

INDEX OF EXHIBITS

Exhibit A. BCBSM Response to 11.07.2025 Tiara Letter

Exhibit B. Tiara Yachts 11.20.2025 Claims Data Letter

Exhibit C. BCBSM Response to Tiara Yachts 11.20.2025 Letter

Exhibit D. 12.15.2025 BCBSM Letter to Tiara Yachts

Exhibit E. 01.16.2026 BCBSM Letter to Tiara Yachts

Exhibit F. 01.21.26 Emails Between BCBSM and Tiara Yachts

Exhibit G. Muncy Declaration

Exhibit H. Ozdarski Declaration

EXHIBIT A



ZAUSMER, P.C.
32255 Northwestern Highway, Suite 225
Farmington Hills, MI 48334-1530
(248) 851-4111 · Fax (248) 851-0100

MARK J. ZAUSMER
Managing Shareholder
mzausmer@zausmer.com

November 7, 2025

Via E-mail

Perrin Rynders
Varnum LLP
Bridgewater Place
P.O. Box 352
Grand Rapids, MI 49501
prynders@varnumlaw.com

Re: Tiara Yachts, Inc. v. Blue Cross Blue Shield of Michigan
Case No. 1:22-cv-00603
11.03.2025 Discovery Meet and Confer

Dear Perrin:

This is in response to your November 7, 2025 letter regarding our November 3, 2025 meet and confer. As has been par for the course in our dealings on this matter, we clearly had different understandings as to what occurred during the meet and confer. The opening paragraph of your letter describes a lack of “substantive engagement,” then the body of the letter simply omits any description of the substantive discussions we had to prove your mistaken point. Perhaps this is the result of your failure to take detailed notes, as you joked about at the end of our meeting. But it appears to be a bad-faith effort to misrepresent our discussion.

Protective Order

We committed to sending a draft proposed protective order to you by November 14, 2025. We anticipate having the draft to you sooner. The pretend indignation in your letter does not reflect the discussion on this topic that we had in person.

Interrogatories

As I am sure you recall, Tiara Yachts and BCBSM recently spent several weeks extensively briefing their disputes with respect to Tiara Yachts’ initial discovery requests. That briefing focused almost exclusively on the 63 document requests that Tiara Yachts served and Judge Kent found to be improper.



November 7, 2025

Page 2

Indeed, Tiara Yachts' motion to compel *does not take issue with a single specific interrogatory*. You mentioned in general before our meet and confer that you wanted to discuss BCBSM's interrogatory answers, but you did not provide any detail beforehand as to what you wanted to discuss. As a result, the forty minutes we spent reviewing each interrogatory answer individually was the first time we heard any of the issues you had with BCBSM's interrogatory answers.

Based on the detailed notes we took during our meet and confer, here is what we discussed:

- **Interrogatory No. 1:** You took issue with BCBSM objecting on privilege grounds to producing witness statements and asked that we confirm there have been no investigations by any non-attorney in connection with Tiara Yachts' Complaint. We agreed to confirm this.
- **Interrogatory No. 2:** You confirmed that BCBSM's answer to this interrogatory is satisfactory to Tiara Yachts.
- **Interrogatory No. 3:** You asked us to confirm that Tiara Yachts' claims data includes a field for claims where BCBSM identified overpayments made to a Provider. We agreed to confirm that information with BCBSM.
- **Interrogatory No. 4:** You were not satisfied that the individuals identified in answer to Interrogatory No. 2 were "responsible for the design and implementation" of BCBSM's "processing logic" in 1997. We noted that 1997 was nearly 30 years ago, but agreed to look further into whether there is anyone left at BCBSM who fits the description in this interrogatory.
- **Interrogatory No. 5:** The sole issue you raised with respect to this interrogatory was that you believe BCBSM may have performed a claims analysis specific to Tiara Yachts during its 2017/2018 investigation of claims processing issues. We agreed to track that information down.
- **Interrogatory No. 6:** This interrogatory asks BCBSM to "[i]dentify every Claim relating to Plaintiff and its Plan, by unique claim number, that was impacted by BCBSM's claims processing logic, as discuss in Exhibit C to Plaintiff's Complaint." BCBSM answered that it is willing to produce Tiara Yachts' claims data within agreed limits, to which you commented "fair enough." You then asked that BCBSM review Exhibit C but did not make any clearer statements as to what your issue is.



November 7, 2025

Page 3

- **Interrogatory No. 7:** You asked us to confirm that Tiara Yachts' claims data will show claims impacted by BCBSM's Shared Savings Program and how the SSP was applied to those claims. We stated that we would confirm this information with BCBSM and, if the claims data is insufficient, share information related to how the SSP impacted Tiara Yachts. We also noted that Tiara Yachts' SSP claim appears to be *de minimis*, and you stated that you recalled that from our discovery briefing.
- **Interrogatory Nos. 8 and 9:** You asked for information as to what Payment Integrity Services were included in BCBSM's base administrative fee before it implemented the SSP and what is included in the base administrative fee now. We agreed to find out what information BCBSM has on this topic.
- **Interrogatory No. 10:** You confirmed that BCBSM's answer to this interrogatory is satisfactory.
- **Interrogatory No. 11:** This interrogatory asks for Wegner-related materials. We noted that there may remain an impasse on Wegner-related information.

We discussed each of these topics with BCBSM the day after our meet and confer, and BCBSM is currently gathering relevant information.

Given the productive forty-minute discussion we had on these topics, your statement that we "declined to substantively engage" with you was—to say the least—surprising. Equally surprising was that you made this accusation and then spent only six lines of your letter addressing the substantive discussion that took up nearly our entire meeting.

Deposition of Person Most Knowledgeable on Claims Data

We appreciate you sending the deposition notice that we discussed related to claims data. We are working with BCBSM to identify the correct deponent and will get back to you with proposed dates.

As to your description of our discussion related to the claims data itself, you have again misrepresented BCBSM's position with respect to providing claims data to Tiara Yachts (as you did in your discovery briefing). We noted that we have already proposed producing claims data with 70+ data fields that you have agreed to in past cases, including *Comau*, and that we have asked repeatedly for a proposal from you about what other data fields you think you need. When we asked yet again for a



November 7, 2025

Page 4

proposal as to additional fields, you had a discussion with your associate, Justin Wolber, who appeared by telephone, about whether it would be possible to provide that information to us. The two of you agreed that you would be able to do so.

Your letter conspicuously omits any reference to your commitment to provide information about what additional data fields you believe Tiara Yachts needs. This has become an extreme source of frustration for BCBSM, as we noted during our meeting. It seems that your goal is not actually to obtain Tiara Yachts' claims data, but rather to make it impossible for BCBSM to gather the data so you can engage in motion practice and accuse BCBSM of obstructing discovery. Needless to say, this tactic is unlikely to move the ball forward on a productive discovery process.

Revised Requests for Production

You are correct that BCBSM has not yet stated its objections to your amended document requests. You served the amended requests on October 23, 2025. Some are duplicates of your prior requests, others are new. Under the Federal Rules of Civil Procedure, BCBSM has until November 24, 2025 to provide its written responses and objections. BCBSM will follow the Rules and expects Tiara Yachts to do the same.

We also note here that you omitted another critical detail of our meet and confer. During the meet and confer, we explained BCBSM's concern that, given Tiara Yachts' appeal of Judge Kent's discovery order, it appears that Tiara Yachts currently has 85 document requests outstanding, despite the limit of 30 that Judge Kent put in place. You stated that the 22 amended requests you served on October 23 are the only requests outstanding.

Path Forward

Your threat of motion practice if you do not receive a written response to your letter by November 10 is not well received. Again, BCBSM has two weeks from that date to serve objections and responses to your amended document requests, and it is obtaining information that we agreed to obtain related to Tiara Yachts' interrogatories. It is highly unlikely that Judge Kent will look favorably on a motion to compel that: (1) is filed two weeks before BCBSM's responses to Tiara Yachts' document requests are due; and (2) completely ignores the substantive progress made during our meet and confer with respect to BCBSM's interrogatory answers (which, again, was the first time Tiara Yachts raised any specific issues with BCBSM's interrogatory answers).

Here is our proposal for moving forward:



November 7, 2025

Page 5

- 1) Tiara Yachts will confirm in writing by November 14, 2025 that it has withdrawn its initial set of document requests, and that its amended requests are the only ones outstanding;
- 2) Tiara Yachts will provide a list of additional data fields it believes it needs in connection with its claims data by November 14, 2025;
- 3) BCBSM will serve responses and objections to Tiara Yachts' amended document requests on November 24, 2025, in accordance with the Federal Rules of Civil Procedure. It is unlikely that this will include all responsive documents, as Tiara Yachts seems committed to obstructing the gathering of claims data, which would take longer than two weeks even if BCBSM could start now. BCBSM is open to discussing an appropriate date for a meet and confer on any objections it has to the amended document requests, and agrees that before Thanksgiving would be a good goal;
- 4) BCBSM is gathering the information identified above in connection with its interrogatory answers. At a minimum, we will inform you of the progress made by November 14, 2025.

We would also prefer to avoid motion practice on these issues, and we believe Judge Kent would prefer that as well. Please feel free to contact me if you would like to discuss these issues further.

Sincerely,

ZAUSMER, P.C.

A handwritten signature in blue ink, appearing to read "Mark J. Zausmer".

Mark J. Zausmer

EXHIBIT B

VARNUM

Bridgewater Place | Post Office Box 352
Grand Rapids, Michigan 49501-0352
Telephone 616 / 336-6000 | Fax 616 / 336-7000 | www.varnumlaw.com

Perrin Rynders

Direct 616 / 336-6734
prynders@varnumlaw.com

November 20, 2025

ZAUSMER, PC
Attn: Mark J. Zausmer, Esq.
Jason M. Schneider, Esq.
32255 Northwestern Hwy., Suite 225
Farmington Hills, MI 48334
mzausmer@zausmer.com
JSchneider@zausmer.com

**Re: Tiara Yachts, Inc. v. Blue Cross Blue Shield of Michigan
Case No. 1:22-cv-00603
Additional Claims Data Fields**

Dear Counsel:

This supplements one of the matters addressed in a previous letter, namely the necessary fields to be included when the claims data is produced. Previously, I noted that the claims data must include all fields related to the Shared Savings Program (what was purportedly saved, what was Tiara Yachts charged, what did BCBSM pay itself, etc.) and "flip logic" (what claims were subject to that logic, what claims involved a non-par provider treated as a participating provider, etc.). Now I write to address additional fields that are needed.

These fields relate to how a particular claim was paid and why it was paid that way. You have not shared what fields BCBSM has or how they are named (I previously asked for BCBSM's "data dictionary" for the various kinds of claims), so I may not be using the exact terms, but necessary claims fields include those along the lines of the following: "pricing method," "billing method," "payment method," "contract type," and "reimbursement type."

Thank you for your attention.

Sincerely,

VARNUM



Perrin Rynders

PR/ibp
Encl.

cc. Daniel Lewis, via e-mail only (daniel.lewis@aoshearman.com)

EXHIBIT C



ZAUSMER, P.C.
32255 Northwestern Highway, Suite 225
Farmington Hills, MI 48334-1530
(248) 851-4111 · Fax (248) 851-0100

MARK J. ZAUSMER
Managing Shareholder
mzausmer@zausmer.com

November 25, 2025

Via E-mail

Perrin Rynders
Varnum LLP
Bridgewater Place
P.O. Box 352
Grand Rapids, MI 49501
prynders@varnumlaw.com

Re: Tiara Yachts, Inc. v. Blue Cross Blue Shield of Michigan
Case No. 1:22-cv-00603
Response to 11.20.2025 Correspondence re Claims Data Fields

Dear Perrin:

This is in response to your November 20, 2025 letter regarding the data fields to be included in BCBSM's production of Tiara Yachts' claims data. Specifically, you have requested that BCBSM's data production include fields showing: (1) Shared Savings-related information, including the charges to Tiara Yachts and fees charged by BCBSM;¹ (2) data related to out-of-state, non-participating providers; (3) pricing method; (4) billing method; (5) payment method; (6) contract type; and (7) reimbursement type.

BCBSM previously provided Tiara Yachts a list of data fields that encompasses the requested information. Additionally, attached is an updated list that includes four new fields with additional information related to Shared Savings data (rows 78-81). BCBSM will also provide Tiara Yachts with information showing any fees charged to Tiara Yachts in connection with the Shared Savings Program.

Please let us know if we can take this confirmation that BCBSM's data production will include the information you have requested as an agreement on data fields. BCBSM wants to produce Tiara Yachts' claims data (in a manner that is not unduly burdensome), as it has been saying for several months. For that to happen, we need agreement on the data fields. If we can take your letter as agreement on the data fields, BCBSM will immediately be able to start compiling Tiara Yachts' claims data. It expects that process to take approximately six weeks.

¹ For clarity, BCBSM rejects your formulation, "what did BCBSM pay itself." BCBSM does not "pay itself" anything in connection with the Shared Savings Program.



November 25, 2025
Page 2

One other item we need to discuss: what is your intention as to the deposition you noticed for December 2, 2025? To be clear, that date will not work for BCBSM. However, we would like to understand your present intention as to the deposition so we can arrange a mutually agreeable date.

Please get back to us as soon as you can.

Sincerely,

ZAUSMER, P.C.

A handwritten signature in blue ink, appearing to read "Mark J. Zausmer".

Mark J. Zausmer

EXHIBIT D



ZAUSMER, P.C.
32255 Northwestern Highway, Suite 225
Farmington Hills, MI 48334-1530
(248) 851-4111 · Fax (248) 851-0100

MARK J. ZAUSMER
Managing Shareholder
mzausmer@zausmer.com

December 15, 2025

Via E-mail

Perrin Rynders
Varnum LLP
Bridgewater Place
P.O. Box 352
Grand Rapids, MI 49501
prynders@varnumlaw.com

**Re: Tiara Yachts, Inc. v. Blue Cross Blue Shield of Michigan
Case No. 1:22-cv-00603
Response to 12.01.2025 Correspondence re Claims Data Fields**

Dear Perrin:

This is in response to your letter dated December 1, 2025, as well as topics you raised in follow-up emails. It is intended to be a demonstration of our continued good-faith efforts to resolve the parties' ongoing discovery disputes.

Claims Data Fields

As we stated in our last letter, the data fields that were agreed upon in *Comau* materially cover each of the categories of information you described in your letters dated November 20 and December 1. And more importantly, as we have also mentioned several times, those data fields are the core of any claim and provide all the detail necessary for your expert to assess Tiara Yachts' legal claims. Additionally, as further demonstration of our continued good faith, we have agreed to add 20 data fields that are described in the attached Data Dictionary (Rows 76 through 95).

That said, there are still some issues to clarify, and we have attempted to do so below. Based on your December 1 letter, it seems that the major conceptual hurdle to clear is that you believe there are single data fields that represent the specific information categories you have requested. This does not comport with how BCBSM stores its claims data. Rather, each of your suggested categories will require analysis of several data fields in combination:



December 15, 2025

Page 2

- 1) Flip Logic: There are two fields that show, when read in combination, whether flip logic applied to a claim. They are (a) PARTICIPATING_STATUS_CD, which describes whether a provider participates in a Blue Cross network; and (2) ITS_PROV_CLASSIFICATION, which describes the provider classification for out-of-state providers (“ITS” stands for “Interplan Teleprocessing System”).
- 2) Shared Savings: You had specific questions about what the Shared Savings fields that have been proposed mean. DOCNUM describes the Shared Savings program that was applied to a particular claim (if there was one applied at all). The other three fields reflect savings amounts for the Advanced Editing program. But for the reasons discussed below, we do not expect the available claims data related to Shared Savings to be material in this case.
- 3) Pricing Method: You were correct in your December 1 letter to point out ITS_PRICING_METHOD as the descriptor for pricing method. As mentioned above, ITS signifies an out-of-state provider, and this field describes how pricing is determined for the out-of-state provider.
- 4) Billing Method: This is somewhat difficult to answer because a provider’s claim is effectively the bill. The method of submission depends on the information reflect in several fields, including whether the provider is in-state or out-of-state (signified by the ITS fields), the CLAIM_TYPE_CD (i.e., facility claim or professional claim), and the PARTICIPATING_STATUS_CD. Further, the field for SOURCE_SYSTEM denotes what source the data comes to BCBSM from.
- 5) Payment Method: There are several data fields that are relevant to this determination. CHARGED_AMT is the amount charged by the provider; APPROVED_AMT is BCBSM’s approved amount for the claim; PAID_AMT is the amount paid to the provider; COPAY_AMT and COINSURANCE_AMT show how much of a claim is paid by the member. There is also a field, CHECK_NUM, which represents the check number.
- 6) Contract Type: This requested category is somewhat unclear. If you are asking about the type of contract Tiara Yachts had, it would be, as you know, an Administrative Services Contract. We do not understand that information to be part of the claims data. If you are talking about the member’s plan information, MEMBER_CONTRACT contains the member’s contract number. The fields added in the attached Data Dictionary for Group Number and Package Code are also both relevant to this category.



December 15, 2025

Page 3

- 7) Reimbursement Type: From our understanding, based on the data fields available, there does not seem to be any difference between this category and “Payment Method.” If you meant something different, please clarify.

List of Data Fields Attached to 11.12 Letter

We have examined the list of additional data fields you attached to your letter on November 12 and inquired about again in your December 1 letter. The list raises many more questions than it answers. The main question it raises is a fundamental one: what do you mean by “claims data?”

The list you sent has three broad categories under which individual data fields are included. The first is “Standard Member Data.” Definitionally, this category would not include data that BCBSM received from any providers in connection with individual claims. Instead, it would include data from an 834 File Feed form that *Tiara Yachts submitted periodically* to BCBSM. The main purpose of this form was to keep BCBSM updated on group eligibility information for Tiara Yachts, not to process individual claims. The second category is for Rx data, meaning prescription drug claims. As we understand them, Tiara Yachts’ claims do not involve prescription drug coverage, and these data fields would therefore be irrelevant. The third category is entitled “Medical,” which we think is the only category that would include “claims data” relevant to Tiara Yachts’ legal claims.

Differentiating between these three categories is critical because at the individual data-field level, there is significant overlap between the three categories. For example, all three categories in your list include the fields RECORD_TYPE, FILE_DATE, FILE_TIME, DATA_TYPE, and countless others. Those duplications become apparent from a side-by-side comparison of the fields proposed for each category.

Even the Medical category standing alone is extremely repetitive. There are 36 different fields for DIAGNOSIS_CODE, even though it is extremely unlikely that any single claim would involve 36 separate diagnoses. Similarly, there are 25 ICD_PROCEDURE fields and 36 fields for whether a particular diagnosis was PRESENT_ON_ADMISSION. Suffice it to say that BCBSM does not see any value in producing claims data with countless duplicate data fields.

On the whole, the list you provided elevates quantity over quality and does not seem to be useful. Indeed, the only specific reason you provided for sharing this list with your November 12 letter is to lament that a mere 70 data fields is “insufficient” and note that “BCBSM has recently shared claims data



December 15, 2025

Page 4

consisting of hundreds of fields.” You provide no rationale as to *why* BCBSM should add fields to its production. Simply stated, “we want more because you gave others more” is not conducive to the case-by-case analysis necessary to assess relevance and proportionality under the Federal Rules. We think the fields proposed in the attached Data Dictionary will be more than enough for your expert to assess Tiara Yachts’ legal claims.

Total SSP Payments

The attached Shared Savings summary shows the total Shared Savings realized by Tiara Yachts, as well as the fees BCBSM received. As you can see, the total Shared Savings fees BCBSM received in connection Tiara Yachts’ claims was \$16,813.65. Of that total, \$16,601.40 were fees paid to BCBSM in connection with subrogation claims. The remaining \$212.25 were for Retro Data Mining services provided by Equian. BCBSM is working on locating and gathering any underlying data it has in connection with these Shared Savings amounts.

Document Production Issues

You raised two issues related to BCBSM’s document production. The first is whether there are more documents forthcoming. The answer to that question is yes. As stated in our cover email to the initial production, our intent was for that production to be the first in a rolling production (assuming the parties can agree on a protective order that will actually protect confidential information).

You also inquired about the format of BCBSM’s document production. The format of BCBSM’s initial production was a function of wanting to demonstrate good faith and produce documents to Tiara Yachts as quickly as possible. We are aware of Tiara Yachts’ ESI formatting requests and intend to comply with them.

Interrogatory No. 11

You asked in your December 8, 2025 email whether BCBSM intends to stand on its objection to Interrogatory No. 11. The answer is yes.



December 15, 2025
Page 5

Depositions

Hopefully the substance of this letter will negate the need for the claims data deposition you have requested. If not, we can discuss dates. We do not think conducting the depositions before the holidays will be feasible.

Our continued goal is to work in good faith toward resolving the parties' discovery disputes in a manner that properly accounts for both parties' interests and the discovery instructions established by the Federal Rules. Please feel free to reach out if you have any follow-up questions or want to further discuss any of the matters addressed in this letter.

Sincerely,

ZAUSMER, P.C.

A handwritten signature in blue ink, appearing to read "Mark J. Zausmer".

Mark J. Zausmer

EXHIBIT E



ZAUSMER, P.C.
32255 Northwestern Highway, Suite 225
Farmington Hills, MI 48334-1530
(248) 851-4111 · Fax (248) 851-0100

MARK J. ZAUSMER
Managing Shareholder
mzausmer@zausmer.com

January 16, 2026

Via E-mail

Perrin Rynders
Varnum LLP
Bridgewater Place
P.O. Box 352
Grand Rapids, MI 49501
prynders@varnumlaw.com

**Re: Tiara Yachts, Inc. v. Blue Cross Blue Shield of Michigan
Case No. 1:22-cv-00603
Response to 12.23.2025 Correspondence**

Dear Perrin:

This is in response to your letter dated December 23, 2025 and is intended to be a demonstration of our continued good-faith efforts to resolve the parties' ongoing discovery disputes.

Confidentiality and Protective Order

As you know, this issue has been resolved. The Court entered our agreed Protective Order with a minor modification on January 13, 2026. There is nothing left to discuss on this topic.

Claims Data Fields

Attached is a list of claims data fields that BCBSM is willing to provide. On review, you will find that it largely aligns with the list you provided in your December 23 letter. Please confirm that with this list, we have agreement on the data fields BCBSM will produce. If so, BCBSM will immediately begin to gather Tiara Yachts' claims data.

ESI Protocol and Search Terms

BCBSM has reviewed Tiara Yachts' proposed edits to BCBSM's custodian list and search terms. BCBSM agrees that one of Tiara Yachts' proposed search terms should be added to the search BCBSM has already agreed to conduct: *(process* /10 "at charge") AND (tiara OR s2)*.



January 16, 2026
Page 2

The other search terms, additional custodians, and modified time period, however, are unacceptably overbroad. If BCBSM were to run the searches Tiara Yachts proposes, it would never be able to conduct an appropriate relevance review, even though the vast majority of the search hits would be irrelevant. As an example, the search term “*payment integrity*” OR “*shared savings*” AND (“*pre-payment forensic billing review*” OR “*advanced payment analytics*” OR “*subrogation*” OR “*provider credit balance recovery*”) would result in millions of hits, particularly given that BCBSM’s custodian lists includes multiple executives in the Payment Integrity Group. Nearly all the documents from just this one search term would be irrelevant, and nearly every other search term Tiara Yachts has proposed suffers from the same defect. Running them all would be wildly disproportionate to the needs of this case.

As to the proposed additional custodians, Tiara Yachts is fully aware at this point of BCBSM’s stance with respect to Dennis Wegner. His irrelevance to these proceedings was further confirmed in Tiara Yachts’ discovery responses, in which Tiara Yachts stated that it has not had any communications with Wegner. The rest of the proposed custodian names seem to be from the members of the “workgroup” whose emails are attached to Tiara Yachts’ Complaint, and membership in that group appears to be their only purported relevance. But BCBSM has already included members of that group in its search terms, and any workgroup emails relevant to this case will already be included in the results of its search. Simply adding custodian names whose relevance is duplicative of other custodians’ relevance is unnecessary and disproportionate to the needs of this case.

As to the proposed timeframe, BCBSM has made its position on this topic clear in prior correspondence and briefing. The 2014 timeframe ties to the claims data that is proportionate and relevant, and it extends back two years before the applicable statute of limitations. Going back further than that would uncover only information that is irrelevant and disproportionate to the needs of the case.

Confirmation of Outstanding Objections

Below are BCBSM’s responses to each of the issues you have addressed in this section of your letter:

- **Claims Data.** See “Claims Data Fields” section above. BCBSM believes this issue has been resolved and is eager to gather and produce Tiara Yachts’ claims data.
- **Pre-2014 Materials.** See “ESI Protocol” section above. BCBSM maintains that pre-2014 materials are irrelevant and disproportionate, as it has stated at length in prior correspondence and briefing.



January 16, 2026
Page 3

- **Dennis Wegner Materials.** See “ESI Protocol” section above. BCBSM maintains that information related to Dennis Wegner is irrelevant and disproportionate, as it has stated at length in prior correspondence and briefing.
- **Flip Logic and SSP.** BCBSM maintains that only information directly related to Tiara Yachts is both relevant and proportional to the needs of this case, as explained at length in prior correspondence and briefing.

While BCBSM and Tiara Yachts remain at an impasse on several discovery topics that will likely need to be resolved by the Court, BCBSM is encouraged that the parties should be at an agreement on the claims data fields to be produced. As requested above, please confirm as soon as possible that BCBSM’s understanding on that issue is correct, and feel free to call with any questions.

Sincerely,

ZAUSMER, P.C.

A handwritten signature in blue ink, appearing to read "Mark J. Zausmer".

Mark J. Zausmer

EXHIBIT F

Jason M. Schneider

From: Jason M. Schneider
Sent: Wednesday, January 28, 2026 10:28 AM
To: 'Rynders, Perrin'
Cc: 'Wolber, Justin M.'; Mark J. Zausmer; 'Lewis, Daniel'; 'Phelps, Aaron M.'; 'Hofman, Herman D.'
Subject: RE: Tiara v. BCBSM - Response to 12.23 Letter

Perrin,

Following up on the below. Do we have an agreement on the data fields?

Best,

Jason M. Schneider

Associate

Zausmer »

ZAUSMER, P.C.
32255 Northwestern Highway, Suite 225
Farmington Hills, MI 48334-1530
Direct: (248) 254-4849
www.zausmer.com

This email and any attachments may be privileged or confidential. If you are not the intended recipient, please delete the email and any attachments and notify us immediately.

From: Jason M. Schneider
Sent: Wednesday, January 21, 2026 3:17 PM
To: Rynders, Perrin <prynders@varnumlaw.com>
Cc: Wolber, Justin M. <jmwolber@varnumlaw.com>; Mark J. Zausmer <MZausmer@zausmer.com>; Lewis, Daniel <daniel.lewis@aoshearman.com>; Phelps, Aaron M. <ampsphelps@varnumlaw.com>; Hofman, Herman D. <hdhofman@varnumlaw.com>
Subject: RE: Tiara v. BCBSM - Response to 12.23 Letter

Yes:

- CARRIER_ID: This provides information related to other insurance carriers' identities, which is not pertinent. To the extent another carrier impacts a particular claim, our list includes Coordination of Benefits fields.
- CLAIM_CNTRL: This is duplicative of ICN_CLAIM_CONTROL_NUM.
- HIC_NUM: This is simply a claim identification number specific to Medicare claims and is not pertinent.
- MEMBER_SSN: This is not relevant and, in any event, is superfluous given the other personal identifying information included in BCBSM's proposed list.
- BILLED_AMT: This is duplicative of CHARGED_AMT.

- APPRV_CHG_AMT: This is duplicative of APPROVED_AMT.
- DISCOUNT_AMT: BCBSM's negotiated fee amounts are not pertinent to Tiara's claims.

Best,

Jason M. Schneider

Associate



ZAUSMER, P.C.

32255 Northwestern Highway, Suite 225

Farmington Hills, MI 48334-1530

Direct: (248) 254-4849

www.zausmer.com

This email and any attachments may be privileged or confidential. If you are not the intended recipient, please delete the email and any attachments and notify us immediately.

From: Rynders, Perrin <prynders@varnumlaw.com>

Sent: Wednesday, January 21, 2026 2:43 PM

To: Jason M. Schneider <JSchneider@zausmer.com>

Cc: Wolber, Justin M. <jmwolber@varnumlaw.com>; Mark J. Zausmer <MZausmer@zausmer.com>; Lewis, Daniel <daniel.lewis@aoshearman.com>; Phelps, Aaron M. <amphelps@varnumlaw.com>; Hofman, Herman D. <hdhofman@varnumlaw.com>

Subject: RE: Tiara v. BCBSM - Response to 12.23 Letter

[EXTERNAL EMAIL]

I'd like the claims data collection to start also. Glad we're aligned on that point. Can you tell me what fields those some of those seven are duplicative of, and which of those seven don't include useful information and why?

From: Jason M. Schneider <JSchneider@zausmer.com>

Sent: Wednesday, January 21, 2026 2:40 PM

To: Rynders, Perrin <prynders@varnumlaw.com>

Cc: Wolber, Justin M. <jmwolber@varnumlaw.com>; Mark J. Zausmer <MZausmer@zausmer.com>; Lewis, Daniel <daniel.lewis@aoshearman.com>; Phelps, Aaron M. <amphelps@varnumlaw.com>; Hofman, Herman D. <hdhofman@varnumlaw.com>

Subject: RE: Tiara v. BCBSM - Response to 12.23 Letter

Perrin,

You are correct with respect to the Wegner documents, documents that are not directly related to Tiara Yachts, documents from before 2014, and the search terms.

As to the claims data fields, the list we provided omits only 7 fields (out of more than 100) from the list you proposed in December: CARRIER_ID, CLAIM_CNTRL, HIC_NUM, MEMBER_SSN, BILLED_AMT, APPRV_CHG_AMT, and DISCOUNT_AMT. Each of these fields is either duplicative of another field or not pertinent to any claims analysis Tiara will need to perform. Thus, as we said in our response letter last week, we *should* have an agreement on the claims data fields, and BCBSM would like to start the data collection.

If you do not agree, a phone call or Teams meeting on the data fields issue may be beneficial.

Best,

Jason M. Schneider

Associate



ZAUSMER, P.C.

32255 Northwestern Highway, Suite 225

Farmington Hills, MI 48334-1530

Direct: (248) 254-4849

www.zausmer.com

This email and any attachments may be privileged or confidential. If you are not the intended recipient, please delete the email and any attachments and notify us immediately.

From: Rynders, Perrin <prynders@varnumlaw.com>

Sent: Tuesday, January 20, 2026 11:40 AM

To: Jason M. Schneider <JSchneider@zausmer.com>

Cc: Wolber, Justin M. <jmwolber@varnumlaw.com>; Mark J. Zausmer <MZausmer@zausmer.com>; Lewis, Daniel

<daniel.lewis@aoshearman.com>; Phelps, Aaron M. <amphelps@varnumlaw.com>; Hofman, Herman D.

<chdhofman@varnumlaw.com>

Subject: RE: Tiara v. BCBSM - Response to 12.23 Letter

[EXTERNAL EMAIL]

Jason, my understanding is that we have reached impasse. Correct me if I'm wrong. BCBSM is unwilling to produce any Wegner documents. It is unwilling to produce any flip logic or SSP documents that aren't "directly related to Tiara Yachts." BCBSM is unwilling to produce anything from before 2014, even documents explaining the genesis and evolution of flip logic. BCBSM requires including "AND [some version of Tiara Yachts]" to all electronic searches. And putting aside our client's right to all claims data, BCBSM is only willing to "largely" meet the specifics of the list we provided in December—which literally means "not all."

If I've summarized things correctly, we are at impasse. However, if you think a phone call or Teams meeting, or even a face-to-face meeting, would be constructive let me know. Our plan is to renew our motion to compel within the next couple of days.

From: Jason M. Schneider <JSchneider@zausmer.com>

Sent: Friday, January 16, 2026 4:18 PM

To: Rynders, Perrin <prynders@varnumlaw.com>

Cc: Phillips, Isabella B. <ibphillips@varnumlaw.com>; Wolber, Justin M. <jmwolber@varnumlaw.com>; Mark J. Zausmer

<MZausmer@zausmer.com>; Lewis, Daniel <daniel.lewis@aoshearman.com>

Subject: Tiara v. BCBSM - Response to 12.23 Letter

Perrin,

Please see the attached.

Best,

Jason M. Schneider

Associate



ZAUSMER, P.C.

32255 Northwestern Highway, Suite 225

Farmington Hills, MI 48334-1530

Direct: (248) 254-4849

www.zausmer.com

This email and any attachments may be privileged or confidential. If you are not the intended recipient, please delete the email and any attachments and notify us immediately.

EXHIBIT G

DECLARATION OF STEVEN MUNCY

I, Steven Muncy, declare the following under penalty of perjury under the laws of the United States of America:

1. I make this declaration on my personal knowledge.
2. I am presently employed by Blue Cross Blue Shield of Michigan Mutual Insurance Company, ("BCBSM"), as IT Manager. I have held this position for 2.5 years. I have been employed by BCBSM for 10 years. I am personally familiar with the facts set therein and if called upon to do so, I could and would competently testify thereto.
3. My job responsibilities include managing BCBSM's Data Analyst, Data Architecture, and Data Modeling teams, including those resources that complete ad-hoc requests for data (BIRT Reports). In connection with my job responsibilities, I work with data collection teams and various other teams within BCBSM to collect and process structured data (also referred to as claims data) in connection with litigation in which BCBSM is a party.
4. Based on BCBSM's customary storage practices, BCBSM can retrieve data from its current storage systems dating to 2014.
5. To access BCBSM data from before that time would require not data retrieval, but data restoration, as BCBSM changed its data storage practices and policies significantly around 2014, and it has also archived a significant amount of pre-2014 data from its systems.
6. This data-restoration process is both time consuming and costly.
7. In a recent BCBSM litigation with less data at issue than in Tiara Yachts' ERISA lawsuit against BCBSM, I estimated that it would cost approximately \$85,000 to restore BCBSM data from the time period of 2010 through 2014.
8. Based on my experience with the restoration of BCBSM data in the litigation

setting, it is my understanding and belief that the cost of restoring pre-2014 BCBSM data in this case would be higher than in the case referenced above.

Steve Muncy

STEVEN MUNCY

DATED: September 24, 2025

EXHIBIT H

DECLARATION OF PAUL OZDARSKI

I, Paul Ozdarski, declare as follows under penalty of perjury under the laws of the United States of America:

1. I make this declaration on my personal knowledge.
2. I am currently a Director in the Payment Integrity Operations Department at Blue Cross Blue Shield of Michigan (“BCBSM”). I have been in my current role for 1 years and with the Payment Integrity Department for 9 years.
3. My responsibilities include payment integrity activities including system architecture, project delivery, audit and operations, InterPlan Operation (BlueCard) representation for BCBSM, and Claim Operations.
4. It is my understanding that Tiara Yachts has brought this lawsuit against BCBSM alleging that BCBSM breached its fiduciary duties by applying its Shared Savings Program to Tiara Yachts’ claims.
5. The Shared Savings Program is a cost-sharing program designed to save BCBSM’s customers money by conducting, for example, advanced pre- and post-payment insurance claim analytics.
6. The Shared Savings Program was implemented in 2018. For existing customers at the time, including Tiara Yachts, the Program went into effect in April 2018.
7. Tiara Yachts terminated its contract with BCBSM in December 2018.
8. After Tiara Yachts’ termination, there was an approximately two-year runout period in which BCBSM reconciled existing claims with dates of service prior to December 31, 2018 on Tiara Yachts’ behalf.
9. This reconciliation only included application of Retro Data Mining and Recovery

and Subrogation services.

10. Thus, less than half of the services available under the Shared Savings Program were applied to claims connected with Tiara Yachts.

11. In total, Tiara Yachts' claims resulted in only *nine recoveries* in connection with the Shared Savings Program.

12. The total amount recovered for those claims was \$56,045.42.

13. As compensation for the services it provided under the Shared Savings Program, BCBSM retained a 30% share of any savings Tiara Yachts' realized from the services.

14. The amount BCBSM retained for compensation, which is the amount of Tiara Yachts' ERISA claim against BCBSM in connection with the Shared Savings Program, was \$16,813.65.

15. Further, nearly the entire amount that BCBSM retained—all but \$212.25—related to recoveries from the Shared Savings Program's subrogation services.


PAUL OZDARSKI

DATED: September 24, 2025