

**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT  
CIVIL APPEAL STATEMENT OF PARTIES AND ISSUES**

Case No: 24-1223 Case Manager: Robin L. Baker

Case Name: Tiara Yachts, Inc. v. Blue Cross Blue Shield of Michigan

Is this case a cross appeal?  Yes  No

Has this case or a related one been before this court previously?  Yes  No

If yes, state:

Case Name: \_\_\_\_\_ Citation: \_\_\_\_\_

Was that case mediated through the court's program?  Yes  No

**Please Identify the Parties Against Whom this Appeal is Being Taken and the Specific Issues You Propose to Raise:**

Appeal taken by Plaintiff/Appellant Tiara Yachts, Inc. against Defendant/Appellee Blue Cross Blue Shield of Michigan ("BCBSM").

Issues that may be raised include, but are not limited to:

1. Whether Plaintiff's Complaint plausibly alleged BCBSM breached its ERISA fiduciary duties by squandering Plan assets through its use of "flipping logic"
2. Whether Plaintiff's Complaint plausibly alleged BCBSM breached its ERISA fiduciary duties by squandering plan assets through knowingly making improper payments for claims using Plan assets.
3. Whether Plaintiff's Complaint plausibly alleged BCBSM breached its ERISA fiduciary duties by paying itself fees based on the amount of Plan assets it wasted.
4. Whether ERISA Sections 1132(a)(3), and ERISA Section 1132(2) with ERISA Section 1109 authorize restitution of BCBSM's ill-gotten plan assets and profits to Plaintiff's Plan, as well as recovery of losses to the Plan caused by BCBSM's breach of fiduciary duty.

This is to certify that a copy of this statement was served on opposing counsel of record this 2nd day of

April, 2024.

Herman D. Hofman

Name of Counsel for Appellant