

**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 PLAINTIFF'S MOTION
TO COMPEL DISCOVERY**

CONCISE STATEMENT OF ISSUE PRESENTED

Should Defendant Blue Cross Blue Shield of Michigan (“BCBSM”) be compelled to produce any documents beyond those it has already agreed to produce, where Plaintiff has served a series of facially overbroad, irrelevant discovery requests that go well beyond the proportionate needs of this case?

BCBSM says: No

Plaintiff says: Yes

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I. INTRODUCTION

Plaintiff's motion to compel is a continuation of its bad-faith discovery tactics in this matter. To make BCBSM look like the unreasonable party, Plaintiff makes several material misrepresentations, including that BCBSM is "stonewalling" discovery and refusing to produce any documents, in direct contradiction to the written responses BCBSM has already provided. Plaintiff also misrepresents the nature of numerous verbal and email communications between counsel regarding Plaintiff's discovery responses. Indeed, at their September 8, 2025 in-person meet and confer, the parties' counsel agreed that they had a productive conversation. But immediately after that, Plaintiff took a series of aggressive, underhanded steps designed to create a paper trail for unwarranted motion practice.

BCBSM has already provided important information in response to Plaintiff's interrogatories (as evidenced by the fact that Plaintiff barely mentions BCBSM's interrogatory answers in its motion). BCBSM has also agreed to search for and produce documents responsive to a substantial portion of Plaintiff's document requests. As BCBSM has told Plaintiff multiple times, including in its written discovery responses and during its September 8 meet and confer, this includes BCBSM's agreement to produce Plaintiff's electronic claims data within a reasonable timeframe. Plaintiff's counsel has litigated against BCBSM for years, knows that it takes time for BCBSM to compile and produce data, and has agreed to reasonable timeframes for productions in other cases. Plaintiff's discovery tactics in this case seem to be primarily aimed at establishing Plaintiff's counsel's knowledge base for future litigation against BCBSM.

Particularly given that context, BCBSM objects to producing documents in response to Plaintiff's facially irrelevant, overbroad, disproportionate discovery requests. These include:

- Requests for communications that pre-date the internet (**Ex. A**, RFP Nos. 20 and 21);
- Information regarding BCBSM’s payment systems that is nearly 30 years old (**Ex. A**, Interrogatory No. 4);
- All communications in BCBSM’s possession, without time limitation, that relate to the vast network of programs that make up its Payment Integrity Systems, regardless of whether they applied to Plaintiff—a prime example of Plaintiff’s counsel’s efforts to use discovery in this case to seek information that will be relevant to his next one (**Ex. A**, RFP No. 55);
- 20 separate requests related to information from a separate lawsuit (**Ex. A**, RFP Nos. 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 34, 36, 37, 38, 39, 40, 41, 42, 43);
- All communications BCBSM has ever had with *any* third-party vendor regarding Payment Integrity (**Ex. A**, RFP No. 56); and
- All documents BCBSM has ever created “relating to” its identification of excessive insurance claims (**Ex. A**, RFP No. 8).

The Federal Rules of Civil Procedure were amended in 2015 specifically to address this type of overreach in discovery. Under the amended Rules, courts and parties have an obligation to ensure that information sought in discovery is both relevant and proportional to the needs of the case. Plaintiff’s disputed discovery requests are neither. Plaintiff’s motion should be denied, and the Court should grant BCBSM the protective order it seeks in ECF No. 82.

II. BACKGROUND

Plaintiff's motion involves the 74 separate discovery requests that it served on BCBSM on August 5, 2024, although Plaintiff's motion focuses primarily on its 63 requests for production of documents. More specifically, Plaintiff has requested:

- Every complaint BCBSM has received regarding alleged overpayments *since 1984*, along with every related communication and document in BCBSM's possession (Plaintiff's contract with BCBSM started in 2006). (Ex. A, RFP Nos. 20, 21);
- Every "program, policy, procedure, or disclosure" related to the BlueCard Program, also *dating to 1984*. (Ex. A, RFP No. 45);
- Essentially every document related to a purported "whistleblower" lawsuit that was filed six years ago in Wayne County Circuit Court. Plaintiff has dedicated 20 requests for production to seeking this information. (Ex. A, RFP Nos. 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 34, 36, 37, 38, 39, 40, 41, 42, 43);
- The identity of *every* "Person responsible for the design and implementation of BCBSM's 1997 claims 'processing logic.'" (Ex. A, Interrogatory No. 4);
- The identity of "*all* third-party vendors whom BCBSM has engaged to provide cost management services and savings programs," including those other than the Shared Savings Program at issue here. (Ex. A, Interrogatory No. 10);
- Every document in BCBSM's possession that is "related to" certain topics, including BCBSM's general policies and practices for identifying and responding to excessive and fraudulent claims, internal training regarding such claims, communications regarding unrelated investigations of such claims, BCBSM's claims processing system, and internal audits to identify alleged overpayments. (Ex. A, RFP Nos. 2, 3, 4, 5, 6, 7, 8, 22, 23, 24, 25, 33). In addition to the use of the overly broad phrase "related to," these requests do not have *any* time limitations.
- All communications "related in any way to handling communications with BCBSM's former, current, or prospective customers regarding an abusive provider's practice(s)," regardless of whether those communications related to Plaintiff. (Ex. A, RFP No. 54);
- "[A]ll documents and communications related to BCBSM's Payment Integrity Services" and "all documents and communications with any service providers or third-party vendors, former and current, relating in any way to" Payment Integrity Services, even though BCBSM's Payment Integrity Services encompass programs that extend *well beyond* those at issue here. (Ex. A, RFP Nos. 55, 56);

- “[A]ll documents and communications relating to deficiencies, errors, and/or missing information in [BCBSM’s] claims data for Plaintiff, the Plan, or *other ASC customers*,” thus explicitly fishing for information that has *nothing to do with Plaintiff*. (Ex. A, RFP No. 57);
- “[A]ll documents and communications regarding BCBSM’s decision to implement the Shared Savings Program” and “all documents and communications relating to the costs that were avoided or recovered as a result of the Shared Savings Program,” even though neither topic relates to how the Shared Savings Program *impacted Plaintiff*. (Ex. A, RFP Nos. 58, 61);
- “[A]ll documents and communications relating BCBSM’s investigation and/or analysis of claims impacted by its system logic” and “all documents and communications reflecting BCBSM’s disclosure of the implications of its system logic,” again regardless of *whether* those documents and communications impacted Plaintiff; (Ex. A, RFP Nos. 62, 63);
- *All of BCBSM’s company financial statements*. (Ex. A, RFP No. 35);
- Documents and information that are targeted toward Plaintiff and the Plan, but extend well beyond ERISA’s 6-year statute of repose. (Ex. A, RFP Nos. 3, 31, 32, 44, 53, 60, Interrogatory Nos. 5, 6, 7, 8, 9); and
- Documents and communications related to BCBSM’s internal investigation of the claims here and its claims processing systems generally. (Ex. A, RFP Nos. 46, 47, Interrogatory Nos. 1, 3).

Plaintiff describes its requests very differently in a summary list included in its motion, largely glossing over how facially abusive most of them are. ECF No. 87, PageID.1435-36. Its motion benignly describes one of its requests for 40 years’ worth of communications, RFP No. 21, as seeking “[r]ecords involving BCBSM’s internal claims processing systems and how they function” It does not even mention the separate, related request, RFP No. 20, that would encompass 40 years’ worth of *internal* communications. *Id.* Six out of the 11 items in Plaintiff’s summary list relate to its 20 requests for information regarding the Wegner lawsuit. *Id.* The remainder of Plaintiff’s summary is *five* vague descriptions for Plaintiff’s remaining *43 requests*.

Nowhere in Plaintiff's motion does Plaintiff mention that BCBSM has committed to searching for and producing documents that are responsive to more than a third of Plaintiff's mostly improper document requests. This includes commitments to produce Plaintiff's electronic claims data within the time period applicable to its claims, as well as documents that are sufficient to describe the Payment Integrity policies and processes that applied to Plaintiff. ECF No. 87-6, Response Nos. 4, 5, 6, 31.

Instead, Plaintiff repeats the refrain throughout its motion that BCBSM has "refused" to produce any documents. ECF No. 87, PageID.1431, 1437, 1444, 1445. Plaintiff even goes so far as to misrepresent the discussions between Plaintiff's counsel and BCBSM's counsel on September 4 and 8, 2025. Plaintiff states that on September 4, "BCBSM confirmed it would not produce any documents and, for the first time, stated it would file a motion for protective order against all discovery." ECF No. 87, PageID.1437. This never happened, as evidenced by BCBSM's written responses to Plaintiff's discovery requests and the content of its motion for protective order. BCBSM would never have stated (and did not state) that it is not producing any documents when its written responses *commit* to searching for and producing responsive documents. The same goes for the September 8 meetings, at which Plaintiff falsely claims that BCBSM "(again) refused to commit to producing even a single document" ECF No. 87, Page.1437.

The claimed factual basis for Plaintiff's motion to compel is built on high-level, inaccurate generalizations that gloss over the actual language of the discovery documents at issue, as well as outright misrepresentations of BCBSM's statements.

III. LEGAL STANDARD

Plaintiff's deceptive tactics extend even to its description of the applicable legal 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 Plaintiff, “[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)). Plaintiff then cites a U.S. Supreme Court case *from 1958* 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 & Gambel Co.*, 356 U.S. 677, 682 (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, Plaintiff relies on outdated—an amended—discovery standards to try to justify its abusive discovery practices here.

IV. ANALYSIS

A. The Court's denial of BCBSM's motion to stay discovery does not give Plaintiff carte blanche to abuse the discovery process.

Plaintiff first argues that BCBSM has violated court orders by objecting in any manner to Plaintiff's abusive discovery requests. ECF No. 87, PageID.1431, 1441. Plaintiff points to a statement by the Court in denying BCBSM's earlier motion to stay discovery (pending resolution of its motion to dismiss) that "the better way of handling Plaintiff's claim is with a fully developed factual record, and it's certainly, I think an appropriate time to start down that road." ECF No. 81, PageID.1310:13-16. Plaintiff then makes the verifiably false claim that BCBSM has "refused to produce" any documents and "deliberately withheld" discovery. ECF No. 87, PageID.1431.

This is a bad faith misrepresentation of both the nature of the Court's statement and BCBSM's attempt to establish a reasonable scope of discovery in the face of Plaintiff's abusive requests. Nowhere did the Court say that its purpose in denying BCBSM's motion to stay discovery was to allow Plaintiff to ask for *whatever it wants* and require BCBSM to acquiesce without objection. Plaintiff served dozens of discovery requests on BCBSM that are out of scope while mixed with some that request relevant, proportionate information. BCBSM has answered several interrogatories directly, agreed to search for and produce documents that are within the scope of discovery, and objected where Plaintiff went too far afield.

BCBSM acknowledges that it has yet to produce the documents it has committed to searching for and producing. But this is not for any dilatory purpose. Rather, BCBSM is searching for responsive documents in multiple databases at multiple locations, and it must then review those documents for relevance.¹ Moreover, BCBSM has committed to meeting and conferring with

¹ Plaintiff tips its hand a bit too much in its most recent filing, ECF No. 96, where it demands that BCBSM should be required to produce all documents that hit on any search terms BCBSM uses.

Plaintiff to determine appropriate search terms, a process that has been significantly delayed by Plaintiff filing unnecessary discovery motions. Indeed, any delays Plaintiff is experiencing in obtaining relevant documents is due, in part, to Plaintiff's insistence on using bad-faith discovery tactics that reduce BCBSM's capacity to focus on complying with its written commitments.

The Court held that discovery would not be stayed. It did not rule on the proper scope of discovery in this case. BCBSM has been forced to use the tools available to it under the Federal Rules of Civil Procedure to ensure that Plaintiff's discovery requests are limited to a scope that complies with the Federal Rules, regardless of the impact on Plaintiff's counsel's future litigation efforts. That is the purpose of BCBSM's motions currently before the Court.

B. BCBSM's objections are valid.

1. There is ample case support that limiting discovery to an applicable statute of limitations period is appropriate.

Plaintiff argues incorrectly that it would be improper to limit BCBSM's document production to the ERISA statute of repose. But BCBSM has already presented ample case law in support of this 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,

ECF No. 96, PageID.1715. Plaintiff is saying the quiet part out loud here: that it wants every document it can get its hands on, *regardless of relevance*, as part of its blatant fishing expedition.

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”).

To the extent, however, the Court agrees with Plaintiff that the statute of limitations argument is unripe and therefore not appropriate for a time limitation on Plaintiff’s discovery requests, *some* time limitation is still needed. As already noted, Plaintiff’s requests would require BCBSM to search through several decades’ worth of documents and information. Plaintiffs’ two pre-internet requests will have BCBSM trying to locate and dig through storage boxes even though Plaintiff’s claims could not extend back that far, and numerous others have no time limitation at all. BCBSM suggests January 1, 2014 as a reasonable “look back” timeframe. For the reasons described in the following section, that would be a proportional time limitation on the production of Plaintiff’s electronic claims data. And as Plaintiff notes at several points in its motion, that period represents the claims data and related materials that Plaintiff primarily seeks. ECF No. 87, PageID.1443-44.

2. BCBSM agreed before Plaintiff filed its motion to provide electronic claims data within the applicable statute of limitations.

Plaintiff claims that BCBSM has “deliberately withheld” or “refused” to produce Plaintiff’s electronic claims data. ECF No. 87, PageID.1431, 1437. This is untrue, as shown by BCBSM’s written discovery responses. ECF No. 87-6, Response Nos. 31. BCBSM reiterated its commitment to reasonably producing documents during the parties’ meet-and-confer sessions, despite Plaintiff’s statements to the contrary. Indeed, before filing this response, BCBSM supplied Plaintiff a list of the data fields it will produce.

Plaintiff also incorrectly contends BCBSM has a statutory obligation to produce all of Plaintiff’s electronic claims data. The statute Plaintiff 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 not at all clear why Plaintiff believes this section applies.²

BCBSM’s statute of limitations arguments apply with equal force to Plaintiff’s claims data. But the cost to BCBSM of retrieving documents from *before 2014* adds a layer to the proportionality calculus that must be considered under Fed. R. Civ. P. 26(b). Around that time, BCBSM changed many of its data storage practices. (**Ex. B**, 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 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—in the alternative to applying a time limitation based on the ERISA statute of repose—that the Court apply the proportionality standard under Fed. R. Civ. P. 26(b) and limit the production of electronic claims data to 2014 through the end of Plaintiff’s contractual relationship with BCBSM.

3. Documents related to the Dennis Wegner matter are not relevant to whether BCBSM breached fiduciary duties to Tiara Yachts.

Plaintiff has dedicated nearly half of its motion to documents it seeks from a lawsuit that Dennis Wegner filed against BCBSM in 2019. Indeed, the amount of space Plaintiff dedicates to

² Plaintiff’s other two statutory citations are even more difficult to discern. The “Consolidated Appropriations Act, 2021” relates to ERISA provisions for emergency medical services, and 29 U.S.C. § 1185 is titled “Standards relating to benefits for mothers and newborns.”

this tertiary issue is a prime example of the tactics its motion uses to distract from the line-item detail that shows the facially overbroad, improper nature of its requests.³ According to Plaintiff, Wegner-related documents will “help illuminate: (1) the existence and prevalence of BCBSM’s wrongdoing, (2) the operation and scope of BCBSM’s systems (common to all customers, including Tiara Yachts), and (3) BCBSM’s concealment of its wrongdoing, even when specific issues were brought to light.” ECF No. 87, PageID.1439.

Tellingly, Plaintiff relies on a 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 Plaintiff 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

³ Plaintiff also dedicates a significant portion of its brief analogizing this case to a prior lawsuit its counsel litigated against BCBSM on behalf of Comau, another BCBSM ASC customer. Suffice it to say as to those arguments: this is a separate lawsuit that Plaintiff’s counsel elected to litigate separately in a different district. This is especially relevant to the Wegner-related documents, as Wegner acted as Comau’s account manager but not Plaintiff’s. It also shows how Plaintiff’s counsel prefers every individual case against BCBSM to cover all of his other BCBSM litigation.

predetermined treatment protocol; and the role of each participant in the scheme.” ECF No. 87, PageID.1439 (quoting *Angelo*, 2020 WL 6608887 at *2).

By contrast, this is not a RICO case, but a claim for breach of ERISA fiduciary duties. As the Sixth Circuit held on 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—as explained by the Sixth Circuit in this case—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 its fiduciary duties *to Plaintiff*. 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).

Plaintiff also incorrectly relies on a criminal Medicare fraud case to support its position. ECF No. 87, PageID.1439 (citing *United States v. English*, 785 F.3d 1052 (6th Cir. 2015)). But just as this is not a RICO case, it is also not a criminal Medicare fraud case. The Court should reject Plaintiff’s efforts to broaden the scope of its claims and ensure that the scope of discovery aligns with ERISA’s focus on the nature of BCBSM’s relationship *to Plaintiff*.

4. BCBSM’s proposed scope limitations on SSP-related documents are appropriate under Fed. R. Civ. P. 26(b).

Finally, Plaintiff contends falsely that “BCBSM has objected to providing any requested records concerning its” Shared Savings Program. ECF No.87, PageID.1442. Plaintiff believes this is improper because “[e]very document that bears on how the SSP was conceived, marketed,

priced, implemented, and internally evaluated, regardless of the customer, goes directly to (1) whether BCBSM exercised discretionary authority over its customers' plans' assets, (2) whether it dealt with those assets in its own interest, and (3) the quantum of loss suffered by its customers (including Tiara Yachts)." ECF No. 87, PageID.1443 (citing *Angelo*, 2020 WL 6608887, at *2).

First, BCBSM has not objected to producing all documents regarding the SSP. It *agreed* to search for and produce responsive documents related to: (1) "any aspects of the Shared Savings Program that applied to" Plaintiff within an appropriate timeframe; (2) any disclosures of the SSP to Plaintiff; (3) Plaintiff's electronic claims data within appropriate time limits; and (4) communications to Plaintiff regarding the SSP. ECF No. 87-6, Response Nos. 58, 59, 61, 63.

Second, Plaintiff yet again frames the scope of discovery on this topic with reference to a RICO case. But the scope of an ERISA claim is narrower than the scope of a RICO case. *Tiara Yachts*, 138 F.4th at 463. It is targeted toward BCBSM's fiduciary duty *to Plaintiff*. Factually, this is especially critical with respect to the SSP. The SSP was implemented for BCBSM's existing customers in April 2018. (Ex. C, Ozdarski Declaration, ¶ 6). Plaintiff terminated its contract with BCBSM in December 2018. *Id.* ¶ 7. There was then a two-year period where BCBSM engaged in reconciliation activities for claims Plaintiff had made during its contractual period. *Id.* ¶ 8. The only SSP services applied to Plaintiff's claims during this period were Retro Data Mining and Recovery and Subrogation Services. *Id.* ¶¶ 9. In other words, less than half of the services BCBSM provided under the SSP applied to Plaintiff. *Id.* ¶ 10. Moreover, based on the internal investigation it has completed to date, Plaintiff's claims only resulted in nine SSP recoveries, totaling less than \$17,000. *Id.* ¶ 14. And nearly that entire amount—all but \$212.25—relates to subrogation recoveries, *id.* ¶ 15, which are not a valid legal basis for Plaintiff's breach of fiduciary duty claims given that they involve recovery of payments from non-provider third-parties.

Given this limited dollar amount and the relevancy issues described in this section, it would be disproportionate to the needs of this case for BCBSM to provide every document in its possession related to the SSP. The documents it has already agreed to produce are more than adequate for the needs of this case.

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, motion for protective order (ECF No. 82), and this response brief.

Respectfully submitted,

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Dated: September 24, 2025

EXHIBIT A

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TIARA YACHTS, INC.,

Plaintiff,

v.

BLUE CROSS BLUE SHIELD OF MICHIGAN,

Defendant.

Case No. 1:22-cv-603

Honorable Robert J. Jonker

Magistrate Judge Ray Kent

**PLAINTIFF'S FIRST SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT**

Plaintiff Tiara Yachts, Inc. ("Plaintiff" or "Tiara") submits the following interrogatories and requests for production of documents under Fed. R. Civ. P. 33 and 34 to Defendant Blue Cross and Blue Shield of Michigan. Defendant is required to answer and supplement these interrogatories and requests for production of documents in full compliance with those rules.

GENERAL DEFINITIONS

Except as specifically noted in a particular discovery request, the following definitions shall apply to each of the following terms throughout these discovery requests:

1. "Document" or "documents" means anything covered by Fed. R. Civ. P. 34(a).
2. "Defendant," "BCBSM," "you," and "your" means or refers to Blue Cross and Blue Shield of Michigan; its employees, agents, attorneys, representatives, subsidiaries, and accountants; and every person or entity that possesses information or documents on behalf of Blue Cross and Blue Shield of Michigan.

3. "Communication" or "communications" means any spoken or written transfer of information or documents from one or more persons to one or more other persons.

4. "Person" or "persons" means and includes, without limitation, any natural person, firm, association, organization, partnership, business trust, corporation, limited liability company, public entity, or any other type of entity

5. "Identity" or "identify," when used with reference to a natural *person*, means to state with respect to such person:

- a. His or her name.
- b. His or her present residence address and telephone number.
- c. The identity of the person or entity by whom he or she is employed, or with whom he or she is affiliated.
- d. His or her title, duty, or position at his or her place or place of employment/affiliation.
- e. His or her past and present relationships to Defendant.

Once a person has been identified, it is sufficient thereafter when identifying that person merely to state his/her/its name.

6. "Identity" or "identify," when used with respect to a *document*, means to assign a unique alpha-numeric designation to such document and to state:

- a. The type of document (letter, memorandum, etc.).
- b. The identity of the author/addressor of the document.
- c. The identity of the addressee of the document.
- d. The identity of all recipients of indicated or blind copies.
- e. Its date.
- f. Its subject matter.
- g. The total number of pages.
- h. The identity of all attachments or appendices.
- i. The identity of all persons to whom it or its contents were distributed, shown, or explained.
- j. The identity of the present custodian.
- k. The identity of each natural person whose testimony could be used to authenticate the document.

All subsequent references to a document once identified may be made by stating the document identification number assigned by you pursuant to the above instruction.

7. "Identity" or "identify," when used with reference to a *communication*, means to:
 - a. Identify the person or persons making or originating the communication.
 - b. Identify the person or persons to whom or in whose presence the communication was made.
 - c. State when and where the communication was made.
 - d. Identify all documents that embody, relate to, or refer to the communication.
 - e. State the substance of the communication.

For each communication for which a claim of privilege or work-product is made, respond to sub-parts a through e above; state the subject matter of the communication; identify all persons to whom some or all of the contents of the communication were communicated; and state the nature of the privilege or work-product claim asserted.

8. "Identity" or "identify," when used with respect to a *fact* or *reason*, means to state for each such fact or reason:

- a. All events, conditions, data observations, or states of affairs that support or relate to the fact or reason.
- b. All subsidiary facts, data, or observations from which or by which the fact or reason is observed, inferred, or detected.
- c. The logical reasoning by which the fact or reason is inferred from subsidiary events, conditions, observations, data, or states of affairs.
- d. All corroborating facts, reasons, or data.

9. "Identify" or "identify," when used with respect to a *Claim* or *Claims* means to state:

- a. the claim(s) number;
- b. the billed amount(s);
- c. the amount(s) paid;
- d. the reason for any discount, network rate, or repricing that was applied (or not applied); and
- e. whether any subsequent negotiation or refund request was made.

10. The term "specify" as used herein shall mean:

- a. To describe fully and in detail by reference to underlying facts rather than by reference to ultimate facts or conclusions of fact or laws.
- b. Where applicable, to particularize as to (i) time, (ii) place, and (iii) manner.
- c. To set forth all relevant facts necessary to the complete understanding of the act, process, event, or thing in question.

11. The words "any," "each," "all," and "every," include the singular and the plural, and they shall be deemed interchangeable.

12. When an inquiry is made for information related to an occurrence "between" two dates, the inquiry seeks information for the period including the years or dates designated.

13. As used herein, the singular includes the plural and the plural includes the singular. Similarly, words of one gender shall be deemed to include words of all genders.

14. The term "Complaint" as used hereafter shall mean, unless otherwise specifically noted, the Complaint filed by Plaintiff in the captioned matter.

SPECIAL DEFINITIONS

1. "ASC" shall mean the Administrative Services Contract entered into by and between Tiara Yachts, Inc. and BCBSM, together with all schedules, amendments, riders, renewals, exhibits, or other modifications during the Contractual Period.

2. "Claim(s)" "claims(s)" means any request for payment or reimbursement of medical, hospital, pharmaceutical, or other health-related expenses incurred by an Enrollee from a Provider, as further defined in the parties' former ASC.

3. "Contractual Period(s)" means from January 1, 2006 until December 31, 2018.

4. "Employee" as defined in the parties' former ASC, means the following who were eligible and enrolled for coverage, (i) employees as designated by the Plan; (ii) if applicable, retirees and their surviving spouses as designed by the Plan; and (iii) COBRA beneficiaries.

5. **"Enrollee"** as defined in the parties' former ASC, means an individual who is enrolled in Tiara's self-funded health benefit Plan, either as an Employee, spouse, or as a dependent of an Employee.

6. **"Plan"** means the S2 Yachts, Inc. Employee Benefit Plan, sponsored by Tiara.

7. **"Provider"** means any healthcare provider or facility that submits claims to BCBSM to be paid.

8. **"Wegner's Complaint"** means the complaint filed by Dennis Wegner against BCBSM in *Dennis Wegner v. BCBSM*, No 19-001808-CD (Wayne Cnty. Cir. Ct.).

INSTRUCTIONS

1. Each Discovery Request is to be answered separately in writing. However, if the answer to any Discovery Request would be the same as the answer to any other Discovery Request, the answer may be incorporated by reference thereto.

2. In answering these Discovery Requests, you are required to furnish such information in answer thereto as is available to you or that is available to or could be obtained by BCBSM from its subsidiaries, affiliates, employees, agents, representatives, sureties, or indemnitors.

3. All electronically stored information (ESI) and computerized information or records must be produced in its native format and with a load file set that ties together the native file, text, and metadata. Paper documents, including notes or spreadsheets in paper form, shall be produced as Single-page Group IV TIFF images at 300 x 300 dpi resolution for black and white pages or single-page JPEG images at 300 x 300 dpi resolution for color pages. The production shall be searchable and shall include the appropriate Load/Utilization files which will, at a minimum, contain the following fields:

- a. Beginning Production Number
- b. Ending Production Number
- c. Beginning Attachment Production Number
- d. End Attachment Production Number
- e. Custodian/Source
- f. Confidentiality
- g. Document Type
- h. Document Properties
- i. Page Counts
- j. Created Date
- k. Last Modified Date
- l. OCR .TXT file
- m. MD5 Hash

4. If you know of the existence, past or present, of any document described in a document request but are unable to produce such document because it is not presently in your possession, custody or control, you shall so state in your response to such request, and you shall identify such document, and the individual(s) in whose possession, custody or control the document was last known to reside. If such document no longer exists, state when, how and why such document ceased to exist.

5. These Discovery Requests shall be deemed continuing so as to require you to file supplementary answers if you obtain further or different information between the time of answering these Discovery Requests and the time of trial.

6. If, because of a claim of attorney-client privilege, work product, or other protection, you withhold from production any document called for by these document requests, please provide a written schedule or log setting forth for each document withheld the following information:

- a. The nature of the privilege claimed (e.g., attorney-client, work product, etc.).
- b. The name of any attorney with respect to whom the privilege is claimed.
- c. The basis for claiming the privilege as to the specific information or document involved.
- d. The author, addressee, persons to whom copies were furnished, and date.
- e. A description of the subject matter of each such document.
- f. The current custodian of each copy of the document.

INTERROGATORIES

1. Since July 1, 2022, 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, including, for each communication, the name of the Person contacted and the date, time, length, and content of each such communication.

ANSWER:

2. Identify the persons most knowledgeable about BCBSM's claims processing systems, including those used in connection with BCBSM's Shared Savings Program and claims processing logic systems (including, its NASCO platform).

ANSWER:

3. Identify all Claims during the Contractual Period related to Plaintiff and its Plan where you identified a Provider was overpaid, and for each particular Claim explain how the overpayment was discovered and what, if anything, was done in response.

ANSWER:

4. Identify each Person responsible for the design and implementation of BCBSM's 1997 claims "processing logic," pursuant to which BCBSM began paying the charged amount for certain claims submitted by out-of-state non-participating providers to which a member had been referred by a participating provider and any documents related in any way to the design and implementation of such amended claims processing logic. *See* Complaint, **Exhibit C** (ECF No. 1-4, PageID.40-43).

ANSWER:

5. Identify and describe every way in which Plaintiff and its Plan was impacted by BCBSM's claim processing logic (its flip logic system), as discussed in **Exhibit A** and **Exhibit C** to Plaintiff's Complaint (ECF No. 1-2, PageID.25-29, BCBSM-Comau 00029292-00029295; ECF No. 1-4, PageID.40-43, BCBSM-Comau 00029315-29317).

ANSWER:

6. Identify every Claim relating to Plaintiff and its Plan, by unique claim number, that was impacted by BCBSM's claims processing logic, as discussed in **Exhibit C** to Plaintiff's Complaint (ECF No. 1-4, PageID.40-43, BCBSM-Comau 00029315-29317), including identifying any documents or communications relating to the analysis or investigation of such impact.

ANSWER:

7. Identify every Claim during the Contractual Period relating to Plaintiff and its Plan, by unique claim number, for which BCBSM retained a fee pursuant to the Shared Savings Program.

ANSWER:

8. Identify, and describe in detail, all cost management services and programs within BCBSM's base administrative fee, that BCBSM provided to Plaintiff and its Plan *prior* to implementing the Shared Savings Program, and any documents reflecting such services.

ANSWER:

9. Identify, and describe in detail, all cost management services and programs within BCBSM's base administrative fee, that BCBSM provided to Plaintiff and its Plan *after* implementing the Shared Savings Program, and any documents reflecting such services, including those services identified in **Exhibit E** and **Exhibit F** of Plaintiff's Complaint (ECF No. 1-6, PageID.51-59, BCBSM-Comau 00019835-00019842; ECF No. 1-7, PageID.60-72, BCBSM-Comau 00029035-00029046).

ANSWER:

10. Identify all third-party vendors whom BCBSM has engaged to provide cost management services and savings programs, including vendors like MultiPlan, as identified in **Exhibit E** and **Exhibit F** of Plaintiff's Complaint (ECF No. 1-6, PageID.51-59, BCBSM-Comau 00019835-00019842; ECF No. 1-7, PageID.60-72, BCBSM-Comau 00029035-00029046).

ANSWER:

11. Identify 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 (ECF No. 1-2, PageID.25-29, BCBSM-Comau 00029292-00029295; ECF No. 1-4, PageID.40-43, BCBSM-Comau 00029315-29317).

ANSWER:

[Intentionally left blank].

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Produce a privilege log for all documents withheld on the basis of the attorney-client privilege and/or work-product doctrine.

RESPONSE:

2. Produce all documents and communications you relied upon in answering the above interrogatories, or which support the answers given in response to the above interrogatories.

RESPONSE:

3. For all claims associated with Plaintiff during the Contractual Periods, produce all documents, including communications, between BCBSM and any Provider related to BCBSM disputing the amount being sought by the Provider, Employee, or Enrollee.

RESPONSE:

4. Produce all documents relating to BCBSM's policies, practices, or systems for identifying excessive claims submitted by Providers, Employees, or Enrollees.

RESPONSE:

5. Produce all documents relating to BCBSM's policies, practices, or systems for identifying fraudulent claims submitted by Providers, Employees, or Enrollees.

RESPONSE:

6. Produce all documents relating to BCBSM's policies, practices, or systems discussing what response actions should be taken when a claim submitted by a Provider, Employee, or Enrollee is identified as potentially excessive, duplicative, or fraudulent.

RESPONSE:

7. Produce all documents relating to internal training, instructions, or directives about identifying or responding to excessive or fraudulent claims submitted by Providers, Employees, or Enrollees.

RESPONSE:

8. Produce all documents, including internal and external communications, relating to identifying, investigating or responding to excessive or fraudulent claims submitted by Providers, Employees, or Enrollees.

RESPONSE:

9. Produce all documents, including internal BCBSM communications, related to Dennis Wegner's Complaint, concerns, and/or investigation into excessive payments made to Providers, Employees, or Enrollees.

RESPONSE:

10. Produce all internal communications related to the termination of Dennis Wegner's employment.

RESPONSE:

11. Produce all documents, including internal BCBSM communications, relating to Rod Begosa's involvement with the allegations made by Dennis Wegner regarding excessive payments made to Providers, Employees, or Enrollees.

RESPONSE:

12. Produce all documents, including internal BCBSM communications, relating to Robert Hopper's, Lori Shannon's, Gary Gavin's, David Malik's involvement with, and/or Ken Dallafior's knowledge about, the allegations made by Dennis Wegner, in Wegner's Complaint, regarding excessive payments made to Providers, Employees, or Enrollees.

RESPONSE:

13. Produce any documents, including internal BCBSM communications, related to you directing Dennis Wegner to cease inquiring about the amount of claims for which Providers, Employees, or Enrollees were being reimbursed, to "stand down," or to refrain in any way from alerting any BCBSM customers of overpayments made to Providers, Employees, or Enrollees, as alleged in Wegner's Complaint.

RESPONSE:

14. Produce any documents, including internal BCBSM communications, related to Dennis Wegner complaining, notifying, or expressing his concerns to David Malik, or any other BCBSM employee, regarding Providers, Employees, or Enrollees being overpaid for certain claims.

RESPONSE:

15. Produce all documents, including internal and external communications, related to Dennis Wegner receiving customer alerts about excessive payments made to Providers, Employees, or Enrollees, including a customer's concern about significant medical claims in excess of \$250,000, as alleged in Wegner's Complaint.

RESPONSE:

16. Produce all documents, including internal and external communications, related to Dennis Wegner's research and discovery of two BCBSM customers being billed for excessive payments made to Providers, Employees, or Enrollees, totaling \$125,000 and \$75,000, as alleged in Wegner's Complaint.

RESPONSE:

17. Produce all documents, including internal and external communications, related to BCBSM reimbursing a customer in excess of \$600,000 for overbilling, as alleged in Wegner's Complaint.

RESPONSE:

18. Produce all documents related to Dennis Wegner's investigation into excessive payments made to Providers, Employees, or Enrollees, including any internal memos, communications, notes, or summaries created by Dennis Wegner.

RESPONSE:

19. Produce all emails involving Dennis Wegner related in any way to alleged or actual overpayments to Providers, Employees, or Enrollees; excessive charges from Providers, Employees or Enrollees; fraudulent charges from Providers, Employees, or Enrollees; or any other concerns related to an inaccurate Provider, Employee or Enrollee payment or payment requests.

RESPONSE:

20. Produce all documents, including internal BCBSM communications, in which an individual, including current or former employees, has complained, expressed concern, or notified you in any way of excessive payments being made to Providers, Employees, or Enrollees from 1984 to present.

RESPONSE:

21. Produce all documents, including communications, between you and any Provider, Employee, or Enrollee related to excessive or fraudulent claims submitted from 1984 to present.

RESPONSE:

22. Produce all documents, including internal BCBSM communications, related to the system(s) that BCBSM used to process Plaintiff's and the Plan's Claims that potentially caused (or causes) too much money to be paid for certain claims of Providers, Employees, or Enrollees.

RESPONSE:

23. Produce all documents and internal communications regarding the inability of BCBSM's claims processing system to prevent Providers, Employees, or Enrollees from being overpaid.

RESPONSE:

24. Produce all studies, reports, surveys, summaries, analyses, memoranda, guidelines, or other documents pertaining to BCBSM's internal processing and payment of excessive or fraudulent claims.

RESPONSE:

25. Produce all documents supporting your defenses in this case.

RESPONSE:

26. Produce all documents you have identified in your Rule 26(a)(1) initial disclosures.

RESPONSE:

27. Produce all documents evidencing your policies, practices, and procedures relating to inquiries (both internal and external) about responding to complaints of Providers, Employees, or Enrollees being overpaid for claims.

RESPONSE:

28. Produce all ASC Billing Reports relating to Plaintiff and its Plan.

RESPONSE:

29. Produce a copy of the fee schedule (or similar document) that BCBSM had with each Provider, that submitted Claims related to Plaintiff and its Plan, for the Contractual Periods.

RESPONSE:

30. Produce all documents explaining or discussing how BCBSM's claims processing software works, including training manuals, explanations for customers, and software guides.

RESPONSE:

31. Produce a complete electronic set of all of the Claims data relating to the Claims you processed on behalf of Plaintiff and its Plan.

RESPONSE:

32. To the extent not contained in the immediately preceding request, produce electronic data showing the amount of each Claim submitted by any Provider, Employee, or Enrollee to BCBSM for any person covered by Plaintiff and its Plan, and the corresponding data showing the amount of the Claim for which the Provider, Employee, or Enrollee was paid.

RESPONSE:

33. Produce all documents related to any audit or investigation conducted by BCBSM or any third party engaged by BCBSM to identify overpayments made to Providers, Employees, or Enrollees on behalf of Plaintiff and its Plan.

RESPONSE:

34. Produce all documents related to any committees, action teams, groups of individuals, or individuals that investigated or examined (or oversaw any investigation or examination) the allegations regarding BCBSM's claims processing system made by Dennis Wegner in Wegner's Complaint, or any issues related to or similar to what Mr. Wegner alleged in his lawsuit, or prior to his lawsuit, regarding BCBSM's claims processing system.

RESPONSE:

35. Produce a copy of your Annual Statements, quarterly and annual DIFS Statements, and Statutory Financial Statements from the start of the Contractual Periods until the present.

RESPONSE:

36. Produce any and all documents in Defendant's possession, custody, or control constituting, reflecting, or relating to the *Wegner* Case, including, but not limited to Complaint(s), Answer(s), Arbitration hearing transcripts, Motions and responses to Motions, Appeal petitions, all Opinions and Orders issued by any court, Charges filed with any Administrative Agency related to the legal action and all related Position Statements, Determinations, or Orders.

RESPONSE:

37. Produce all transcripts or recordings (including both audio and video) of any under-oath testimony of any BCBSM employee, former employee, expert, consultant, or other agency of BCBSM's made in connection with the *Wegner* Case.

RESPONSE:

38. Produce a copy of every deposition transcript (including exhibits) from any deposition taken in the *Wegner* Case.

RESPONSE:

39. Produce a copy of every discovery answer from any party in the *Wegner* Case.

RESPONSE:

40. Produce all witness lists (including both lay and expert witnesses) from the *Wegner* Case.

RESPONSE:

41. Produce all exhibit lists filed or exchanged in the *Wegner* Case.

RESPONSE:

42. Produce all exhibits listed on any exhibit list filed or exchanged in the *Wegner* Case.

RESPONSE:

43. Produce all expert reports from the *Wegner* Case.

RESPONSE:

44. Produce each Schedule B as referenced in Plaintiff's ASCs and/or Schedule As to its ASC.

RESPONSE:

45. Produce a copy of each program, policy, procedure, or disclosure of the BlueCard Program, including any amendments, that existed from March 1, 1984, until present.

RESPONSE:

46. Produce any communications, including any notes related to any such communications, with every Person whom You contacted, consulted, or interviewed in relation to this case.

RESPONSE:

47. Produce all notes, summaries, or transcripts from any interview of any employee, former employee, or potential witness related to this case.

RESPONSE:

48. Produce all documents and communications related to any Provider Investigation Request, as that term may be used by the Blue Cross Blue Shield Association Inter-Plan Programs Manual, that You sent to any Par/Host Plan, as that term is commonly used by entities apart of the BCBSA, for any Provider that provided services to an Enrollee of the Plan.

RESPONSE:

49. Produce any documents and communications showing all vendors that BCBSM engaged to conduct forensic bill review, payment analytics, and provider credit recovery, or any other cost containment programs, and any documents, communications, and reports related to such engagements.

RESPONSE:

50. Produce any documents and communications involving every member and employee, current and former, of the account management team and "cross functional stakeholders" at BCBSM, as referenced in the 2017/9/12 E-mail from Robert Hopper, bates stamped BCBSM-Comau 00029292, **Exhibit A** to Plaintiff's Complaint (ECF No. 1-2, PageID.26-28).

RESPONSE:

51. Produce all documents and communications regarding the "scrip for account management team to follow in their conversation with groups" as referenced in the 2017/9/12 E-mail from Robert Hopper, bates stamped BCBSM-Comau 00029292, **Exhibit A** to Plaintiff's Complaint (ECF No. 1-2, PageID.26-28).

RESPONSE:

52. Produce any documents You have provided to or obtained from non-parties, whether by a subpoena or voluntary disclosure, that refer or relate to the subject matter of this litigation.

RESPONSE:

53. Produce all Annual and Quarterly Settlements related to Plaintiff and its Plan.

RESPONSE:

54. Produce all communications with any BCBSM account representative or employee related in any way to handling communications with BCBSM's former, current, or prospective customers regarding an abusive provider's practice(s) and any documents, scripts, agendas, and training materials related in any way to such communications.

RESPONSE:

55. Produce all documents and communications related to BCBSM's Payment Integrity Services (as identified in the Payment Integrity: Ensuring the Accuracy of Claims, **Exhibit F** to Complaint, ECF No. 1-7, PageID.62-72).

RESPONSE:

56. Produce all documents and communications with any service providers or third-party vendors, former and current, relating in any way to BCBSM's Payment Integrity Services (as identified in the Payment Integrity: Ensuring the Accuracy of Claims, **Exhibit F** to Complaint, ECF No. 1-7, PageID.62-72).

RESPONSE:

57. Produce all documents and communications relating to deficiencies, errors, and/or missing information in Your claims data for Plaintiff, the Plan, or other ASC customers.

RESPONSE:

58. Produce all documents and communications regarding BCBSM's decision to implement the Shared Savings Program with respect to its self-funded customers.

RESPONSE:

59. Produce all documents and communications reflecting BCBSM's disclosure of the Shared Savings Program to Plaintiff.

RESPONSE:

60. Produce all of Plaintiff's monthly customer invoices, from 2006 to present.

RESPONSE:

61. Produce all documents and communications relating to the costs that were avoided or recovered as a result of the Shared Savings Program, which relate to Tiara or BCBSM self-funded customers generally.

RESPONSE:

62. Produce all documents and communications relating BCBSM's investigation and/or analysis of claims impacted by its system logic, as discussed in **Exhibit C** to Plaintiff's Complaint (ECF No. 1-4, PageID.41-43, BCBSM-Comau 00029315-29317), including but not limited to, BCBSM's investigation of claims processed in 2016 where BCBSM found \$23 million in potential savings.

RESPONSE:

63. Produce all documents and communications reflecting BCBSM's disclosure of the implications of its system logic, as discussed in **Exhibit C** to Plaintiff's Complaint (ECF No. 1-4, PageID.41-43, BCBSM-Comau 00029315-29317), to Plaintiff or BCBSM's self-funded customers generally.

RESPONSE:

Respectfully submitted,

VARNUM LLP

Attorneys for Tiara Yachts, Inc.

Dated: August 4, 2025

By: /s/ Herman D. Hofman
Perrin Rynders (P38221)
Aaron M. Phelps (P64790)
Herman D. Hofman (P81297)
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hdhofman@varnumlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on August 4, 2025, I served via electronic mail a copy of **PLAINTIFF'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT** upon the following:

ALLEN OVERY SHEARMAN STERLING US LLP

Daniel Lewis (Adm. in E.D. MI, NY Reg. 4084810)
Jeffery D. Hoschander (Adm. in E.D. MI, NY Reg. 4496337)
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Date: August 4, 2025

By: /s/ Theresa Christians
Theresa Christians

EXHIBIT B

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 C

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

PAUL OZDARSKI

DATED: September 24, 2025

**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: Hon. Ray Kent

INDEX OF EXHIBITS

Exhibit A. Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant.

Exhibit B. Muncy Declaration.

Exhibit C. Ozdarski Declaration.