

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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TIARA YACHTS, INC.,

Case No. 1:22-cv-603

Plaintiff/Counter-Defendant,

Honorable Robert J. Jonker

v.

Magistrate Judge Ray Kent

BLUE CROSS BLUE SHIELD OF MICHIGAN,

Defendant/Counter-Plaintiff.

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**PLAINTIFF/COUNTER-DEFENDANT'S UNOPPOSED MOTION TO AMEND THE  
CASE MANAGEMENT ORDER**

Plaintiff/Counter-Defendant Tiara Yachts, Inc. ("Plaintiff" or "Tiara Yachts"), through its attorneys, Varnum LLP, hereby moves this Court for an order extending the deadlines set forth in the First Case Management Order [ECF No. 80]. Counsel for Tiara Yachts met and conferred on this motion with counsel for Defendant/Counter-Plaintiff, Blue Cross Blue Shield of Michigan ("BCBSM"). BCBSM does not oppose the proposed extension to the Case Management Order, and agrees with the relief sought in this motion. Certain deadlines in the Case Management Order have been amended once before by stipulation. *See* Order Regarding Amending Discovery Deadlines, ECF No. 136, Page.ID2148. In support of this Motion, Tiara Yachts submits and incorporates the accompanying brief by reference. For the reasons set forth in its brief, Plaintiff respectfully requests that the Court enter an Order extending the deadlines in the Case Management Order as follows:

Disclosure of Expert Reports (Rule 26(a)(2)(B)) Plaintiff: Defendant: Rebuttal Reports:	September 28, 2026 October 28, 2026 November 27, 2026
Completion of Discovery	December 29, 2026
Dispositive Motions	January 28, 2027
Second Rule 16 Scheduling Conference: Time: -Updated Joint Status Report due:	March 1, 2027 3:00 P.M. February 22, 2027
ADR To Take Place On Or Before:	December 15, 2026

Respectfully submitted,

**VARNUM LLP**  
*Attorneys for Tiara Yachts, Inc.*

Dated: June 11, 2026

By: /s/ Aaron M. Phelps  
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**PLAINTIFF/COUNTER-DEFENDANT'S BRIEF IN SUPPORT OF  
UNOPPOSED MOTION TO AMEND THE CASE MANAGEMENT ORDER**

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**I. INTRODUCTION**

Defendant/Counter-Plaintiff, Blue Cross Blue Shield of Michigan ("Defendant" or "BCBSM") has failed to uphold its obligations pursuant to the stipulation by which the motion to compel filed by Plaintiff/Counter-Defendant Tiara Yachts, Inc. ("Plaintiff" or "Tiara Yachts") was withdrawn. BCBSM stipulated that it would "make a substantial initial production" of documents by April 30, and that this production "will not be final, but rather the start of a 'rolling' document production[.]" BCBSM proceeded to produce only 546 documents on April 30. The documents were produced password-protected, and the correct password was not provided until five days later. After Tiara Yachts was able to access the production, it quickly became clear that the production was misnumbered with incorrect Bates numbers, document "families" were not produced together, every document in the production was improperly designated "Confidential," and the documents were heavily redacted without basis. It took BCBSM until May 22 to reproduce the documents to fix the Bates numbers. The improper "Confidential" designations and redactions remain in place to this day.<sup>1</sup>

Pursuant to the Court's March 2, 2026 Order, Tiara Yachts' deadline to provide its expert report is set for June 30, 2026. *See* ECF No. 136. As of the filing of this motion, BCBSM has produced only 856 documents—a fraction of the "substantial" initial production and rolling production that was to follow. No additional production has been made since May 22. Now less than three weeks from its expert report deadline, Tiara Yachts still does not have the document production that it was promised by April 30, and the limited production it does have is heavily redacted. This is an expert intensive case involving millions of dollars in contested medical claims.

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<sup>1</sup> Tiara Yachts intends to bring separate motions to address de-designation of the non-confidential documents and production of unredacted documents.

BCBSM's substantial ongoing discovery delays have prevented Tiara Yachts' experts from even beginning their report.

Given the status of discovery and impending deadlines, an extension to the current expert report, discovery, mediation, and dispositive motion deadlines is necessary. Tiara Yachts proposes the schedule set forth in the proposed order attached as **Exhibit A**. The parties have met and conferred on the relief sought in this motion. BCBSM agrees that an extension is necessary and agrees to the deadlines set forth in the proposed order attached as **Exhibit A**.

**II. BACKGROUND**

Tiara Yachts filed a Motion to Compel on January 28, 2026 after BCBSM failed to produce documents in response to Tiara Yachts' discovery requests and asserted unfounded objections to Tiara Yachts' interrogatories in lieu of responding. *See* ECF Nos. 124-125. While that motion was pending, the parties stipulated to amend the Court's Case Management Order to extend their respective expert report deadlines and the discovery deadline to give the parties time to complete discovery and prepare their expert reports. *See* ECF No. 132. Pursuant to the parties' stipulation, the Court entered an order amending the Case Management Order and setting the following deadlines:

Disclosure of Expert Reports (Rule 26(a)(2)(B))	
Plaintiff:	June 30, 2026
Defendant:	July 31, 2026
Rebuttal Reports:	August 28, 2026
Completion of Discovery	September 30, 2026
Dispositive Motions	October 30, 2026
Second Rule 16 Scheduling Conference:	December 7, 2026
Time:	3:00 P.M.
-Updated Joint Status Report due:	November 30, 2026
ADR To Take Place On Or Before:	September 30, 2026

*See* ECF No. 136. Under this Order, Tiara Yachts' expert reports are set to be due June 30, 2026.

After the Case Management Order was amended, the parties entered into a stipulation under which Tiara Yachts' motion to compel was withdrawn, without prejudice. *See* ECF No. 140. In an effort to resolve Tiara Yachts' motion to compel without Court intervention, BCBSM agreed to make a "substantial" production of documents collected through its internal search. *Id.* BCBSM committed to making this "substantial" initial production by April 30, 2026. *Id.* BCBSM further committed that this April 30, 2026 production would be "the start of a 'rolling' document production." *Id.*

The purpose of the stipulation was to try to resolve BCBSM's discovery deficiencies without requiring the Court's time in a hearing. While Tiara did not agree that BCBSM's initial search for documents was adequate or that the production BCBSM agreed to make would ultimately resolve the motion, Tiara agreed to withdraw its motion to compel without prejudice, give BCBSM an opportunity to cure its discovery deficiencies, review BCBSM's production to identify any remaining deficiencies, and address any additional concerns that remained after the production was complete.

Tiara's attempts to work with BCBSM to resolve the motion to compel have failed. Nearly two months after the stipulation was submitted, BCBSM has still not produced the documents it promised. BCBSM's purported "substantial" initial production consisted of 546 documents, many of which were simply reproductions from the *Comau* litigation. The only partial supplemental "rolling" production was received on May 22 and consisted of an additional 310 documents.

There were also several issues with the limited production that BCBSM made. As an initial matter, the documents were produced password-protected, and BCBSM did not provide the correct password to access the documents until five days later. The production was misnumbered with

incorrect Bates numbers. Every document in the production was improperly designated "Confidential," even though there does not appear to be any trade secret or other confidential research, development, or commercial information in any the documents. The documents were also heavily redacted. After Tiara Yachts raised these issues, BCBSM agreed to fix the Bates numbers and re-produce with emails and their attachments linked as a family group. See 5/12/2026 Tiara Yachts Correspondence, **Exhibit B**; 5/22/2026 BCBSM Response, **Exhibit C**. It took BCBSM until May 22 to fix these issues and issue the re-production. Every document in the re-issued is still marked "Confidential" and the documents are still improperly redacted.

In addition to misrepresenting its initial production of 546 documents as "substantial," BCBSM has also not followed through on its stipulation to produce the remainder of the responsive documents in a "rolling" production. BCBSM committed to a "complete or at least nearly complete" supplemental production by May 30. See 5/11/2026 Correspondence, **Exhibit D**. But BCBSM did not produce any additional documents on May 30. Instead, BCBSM claimed that it could not produce the remaining documents because it had to "divert resources" to fix the issues with its first faulty production. See 5/29/2026 Correspondence, **Exhibit E**. To this day, BCBSM has still not produced the remaining documents and has not committed to a new date by which Tiara will receive the documents BCBSM promised in the April 14, 2026 Stipulation. See ECF No. 140. The only documents BCBSM has produced remain mis-designated as "Confidential" and heavily redacted.

In sum, Tiara Yachts' efforts to work with BCBSM to resolve its discovery deficiencies and its reliance on BCBSM's commitments in the April 14, 2026 stipulation have left Tiara with only an insignificant, partial, improperly-redacted production of documents less than three weeks

before its deadline to provide expert reports. BCBSM's failure to uphold its end of the stipulation has necessitated this extension.

**III. ARGUMENT**

Requests to modify a Case Management Order are governed by Fed. R. Civ. P. 16(b)(4), which provides that such orders may be modified upon a showing of "good cause" and "with the judge's consent." There is "good cause" here to extend the current deadlines in the Case Management Order. Tiara Yachts has been diligent in pursuing discovery, but BCBSM's repeated and ongoing failures to fulfill its discovery obligations have made it impossible for Tiara Yachts to meet the current expert disclosure deadline. To ensure the parties have an adequate time to prepare their expert reports and finish discovery, Tiara Yachts would propose that the following deadlines be adopted:

Disclosure of Expert Reports (Rule 26(a)(2)(B))	
Plaintiff:	September 28, 2026
Defendant:	October 28, 2026
Rebuttal Reports:	November 27, 2026
Completion of Discovery	December 29, 2026
Dispositive Motions	January 28, 2027
Second Rule 16 Scheduling Conference:	March 1, 2027
Time:	3:00 P.M.
-Updated Joint Status Report due:	February 22, 2027
ADR To Take Place On Or Before:	December 15, 2026

There is no prejudice to BCBSM from the proposed extension. In fact, BCBSM agrees that the extension is necessary and agrees to the proposed dates set forth in **Exhibit A**.

**IV. CONCLUSION**

For the reasons set forth above, Tiara Yachts respectfully requests that the Court enter the unopposed proposed order attached as **Exhibit A** amending the deadlines set forth in the First Case

Management Order [ECF No. 80] and the March 2, 2026 Order Regarding Amending Discovery Deadlines [ECF No. 136].

Respectfully submitted,

**VARNUM LLP**  
*Attorneys for Tiara Yachts, Inc.*

Dated: June 11, 2026

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

# Exhibit A

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

TIARA YACHTS, INC.,

Case No.1:22-cv-603

Plaintiff/Counter-Defendant,

Honorable Robert J. Jonker

v.

Magistrate Judge Ray Kent

BLUE CROSS BLUE SHIELD OF MICHIGAN,

Defendant/Counter-Plaintiff.

**SECOND ORDER AMENDING SCHEDULING ORDER**

For the reasons set forth in Plaintiff Tiara Yachts, Inc.'s Motion to Amend the Case Management Order, the deadlines set forth in the First Case Management Order [ECF No. 80] and the March 2, 2026 Order Regarding Amending Discovery Deadlines [ECF No. 136] are hereby amended as follows:

Disclosure of Expert Reports (Rule 26(a)(2)(B)) Plaintiff: Defendant: Rebuttal Reports:	September 28, 2026 October 28, 2026 November 27, 2026
Completion of Discovery	December 29, 2026
Dispositive Motions	January 28, 2027
Second Rule 16 Scheduling Conference: Time: -Updated Joint Status Report due:	March 1, 2027 3:00 P.M. February 22, 2027
ADR To Take Place On Or Before:	December 15, 2026

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Hon. Robert J. Jonker  
United States District Court Judge

# Exhibit B

**From:** Rynders, Perrin  
**Sent:** Tuesday, May 12, 2026 4:54 PM  
**To:** jschneider@zausmer.com; mzausmer@zausmer.com; Lewis, Daniel  
**Cc:** Phelps, Aaron M.; Selvius, Gage M.; Harner, Laura J.  
**Subject:** BCBSM's latest document production -- problems to be fixed

Jason (and BCBSM defense team), I want to identify some problems with your client's most recent production:

1. Your client's latest production overlaps with BCBSM's previous production. Specifically, BCBSM-Tiara 000266-268 were also used in your November 24, 2025, production.
2. Your client's latest production does not link attachments to the parent e-mail. Although that production does include all standard fields in the .dat/load file, the field where the beginning Bates number for an attachment would be included isn't populated. It's an easy fix, and if your e-discovery person should talk to mine, I'll work with you to get that set up.
3. BCBSM has marked everything confidential, even documents that were de-designated in *Comau*. Some time ago I sent you a spreadsheet prepared by Bodman noting what documents were de-designated in that case. I can resend if you need it again. But my concern isn't only with respect to the documents previously produced (and de-designated) in *Comau*. It's simply not the case that everything BCBSM produced is confidential.

All the above suggests you should consider re-doing the latest production. The overlap of Bates numbers is merely aggravating, but the other fixes might be easier if you start over. However, I don't want to cause further delay of BCBSM's upcoming production(s).

Whether you start over or not, I want to make sure we don't have these problems in the future. Again, the linkage of attachments to their parent e-mails is easy to do, and I will gladly facilitate a conversation between our respective tech people who will fix the issue. Let me know if that would help.



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**Perrin Rynders**  
Partner

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\*\*\*\*\*

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\*\*\*\*\*

# Exhibit C

**From:** Jason M. Schneider <JSchneider@zausmer.com>  
**Sent:** Friday, May 22, 2026 4:04 PM  
**To:** Rynders, Perrin  
**Cc:** Harner, Laura J.; Selvius, Gage M.; Mark J. Zausmer; Lewis, Daniel  
**Subject:** Tiara v. BCBSM - Document Re-Production

Perrin,

You should have just received our updated document production. The password is: 2Fy%x7\_8\$G:[.

The re-production includes BCBSM's initial production. It also includes some new documents, particularly ones that were previously in need of redactions (privilege and other customer information). The document order is changed a bit from the prior production as a result, but the technical issues you raised with the prior production should be taken care of.

As to the flip logic issues, BCBSM is looking into data fields and calculations. My understanding is that there are some issues on this topic that you may be familiar with already, and BCBSM is working through those to maintain consistency with other matters. As soon as I know more, I will let you know.

On the confidentiality topic, Gage, could you please send me the *Comau* de-designation chart?

Feel free to reach out if you have any questions. Hope you have a great weekend.

Best,

**Jason M. Schneider**

Shareholder

**Zausmer** 

ATTORNEYS & COUNSELORS

32255 Northwestern Highway, Suite 225

Farmington Hills, MI 48334

Direct: (248) 254-4849

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# Exhibit D

**From:** Jason M. Schneider <JSchneider@zausmer.com>  
**Sent:** Monday, May 11, 2026 4:05 PM  
**To:** Rynders, Perrin; Mark J. Zausmer; Lewis, Daniel  
**Cc:** Phelps, Aaron M.; Selvius, Gage M.  
**Subject:** RE: BCBSM document production to Tiara Yachts

Perrin,

We are anticipating the next batch of documents to go out by May 30, 2026. The second batch should be complete or at least nearly complete as to the BCBSM custodial documents.

Best,

**Jason M. Schneider**

Shareholder



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---

**From:** Rynders, Perrin <prynders@varnumlaw.com>  
**Sent:** Tuesday, May 5, 2026 3:20 PM  
**To:** Jason M. Schneider <JSchneider@zausmer.com>; Mark J. Zausmer <MZausmer@zausmer.com>; Lewis, Daniel <daniel.lewis@aoshearman.com>  
**Cc:** Phelps, Aaron M. <amphelps@varnumlaw.com>; Selvius, Gage M. <gmselvius@varnumlaw.com>  
**Subject:** BCBSM document production to Tiara Yachts

[EXTERNAL EMAIL]

Jason, what can you tell me about (a) how far BCBSM has gotten in its document production and (b) when the next tranche should be expected?



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# **Exhibit E**

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**From:** Jason M. Schneider <JSchneider@zausmer.com>  
**Sent:** Friday, May 29, 2026 1:38 PM  
**To:** Rynders, Perrin  
**Cc:** Selvius, Gage M.; Phillips, Isabella B.; Phelps, Aaron M.; Mark J. Zausmer; Lewis, Daniel  
**Subject:** RE: Tiara v. BCBSM - Proposed Discovery Extension

Perrin,

Responses to each of your questions:

1. My understanding from BCBSM is that the two fields we identified previously are the correct fields for identifying claims impacted by flip logic. That said, as I mentioned before, there is a technical issue with the calculation that BCBSM is trying to figure out. This is taking some time. I will provide more information as soon as I have it.
2. I have not had a chance to review the Comau spreadsheet yet. Aiming to get back to you next week on that.
3. As I mentioned on our last call, there will not be a production today. The re-production diverted resources from reviewing the remaining documents, and we will need a couple more weeks (which I also mentioned on our previous call but inadvertently did not include in the follow-up email on 5/19). I am not sure about the size of the production. You will note that the re-production included more documents than the initial one. I thought those would be part of the second production rather than the re-production.
4. As part of reviewing the Comau de-designations, we are going to consider de-designations of non-Comau documents. The Comau spreadsheet will be helpful as an analogy, and we've noted the documents you mentioned below as well.
5. We have considered this request. We examined documents collected from the custodians and search terms that you have a copy of and identified documents responsive to Tiara's RFPs "that relate or apply to Tiara Yachts, even if Tiara Yachts is not specifically mentioned in the documents, without date limitation," as stated in the stipulation on April 14. Beyond that description, the manner of the search we conducted is attorney work product.

Best,

**Jason M. Schneider**

Shareholder

**Zausmer** 

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Direct: (248) 254-4849

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---

**From:** Rynders, Perrin <prynders@varnumlaw.com>  
**Sent:** Friday, May 29, 2026 1:06 PM  
**To:** Jason M. Schneider <JSchneider@zausmer.com>  
**Cc:** Selvius, Gage M. <gmselvius@varnumlaw.com>; Phillips, Isabella B. <ibphillips@varnumlaw.com>; Phelps, Aaron M. <amphelps@varnumlaw.com>; Mark J. Zausmer <MZausmer@zausmer.com>; Lewis, Daniel <daniel.lewis@aoshearman.com>  
**Subject:** RE: Tiara v. BCBSM - Proposed Discovery Extension

[EXTERNAL EMAIL]

While I consider your proposal, let me address a few related details, the answers to which might affect my response:

1. Regarding the flip logic issue, my expectation is that BCBSM should easily and quickly answer our questions. I don't understand the delay and would like some insight into that. Also, what about my suggestion of having a BCBSM employee who understands this issue talk directly to our expert(s) to avoid potential problems with translation between technical novices such as us?
2. We have re-sent the Bodman spreadsheet and cover letter addressing the de-designation of numerous Comau documents that, when produced again in this matter, were marked as confidential. Is there any reason to not de-designate the same documents without further delay?
3. My understanding is that we will be getting BCBSM's largest production today. Are we on track for that? And how much do you believe will be left to produce after that?
4. More generally about confidentiality designations, I previously pointed out as just one example a document that was created for external distribution but nevertheless marked as confidential. Obviously, that designation was improper. BCBSM has also marked as confidential such non-confidential documents as routine contract documents. Such documents have often been used in my litigation against BCBSM without being designated as confidential or requiring submission to the court under seal. I plan to challenge BCBSM's blanket confidentiality designations. Do you want an opportunity to voluntarily de-designate anything before that happens?
5. I'm still waiting for information about how BCBSM filtered documents that met all search criteria (which I don't accept as proper, but we agreed to take up once your initial production is complete). What can you tell me regarding that?

---

**From:** Jason M. Schneider <JSchneider@zausmer.com>  
**Sent:** Friday, May 29, 2026 11:19 AM  
**To:** Rynders, Perrin <prynders@varnumlaw.com>  
**Cc:** Selvius, Gage M. <gmselvius@varnumlaw.com>; Phillips, Isabella B. <ibphillips@varnumlaw.com>; Mark J. Zausmer <MZausmer@zausmer.com>; Lewis, Daniel <daniel.lewis@aoshearman.com>  
**Subject:** Tiara v. BCBSM - Proposed Discovery Extension

Perrin,

BCBSM is still tracking down information in response to the flip-logic issues you raised with the claims data. We are aware that the expert report deadline is coming up, and that these issues will impact Tiara's and BCBSM's ability to submit timely expert reports.

As such, we think it would be appropriate to extend the current scheduling order deadlines.

A draft stipulation and order is attached. Let us know if you agree to submitting this for entry.

Best,

**Jason M. Schneider**

Shareholder

**Zausmer** 

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