

**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

**BCBSM'S RESPONSE TO PLAINTIFF'S MOTION TO COMPEL
PRODUCTION OF PROVIDER CONTRACTS, SETTLEMENT REPORTS,
AND POLICIES AND PROCEDURES**

CONCISE STATEMENT OF ISSUE PRESENTED

Should the Court grant Plaintiff Tiara Yachts' motion to compel production of documents that BCBSM has already agreed to produce?

BCBSM says: No.

Plaintiff says: Yes.

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I. INTRODUCTION

This motion is yet another rerun from Plaintiff Tiara Yachts, Inc.’s discovery playbook. Plaintiff made overbroad discovery requests, pretended to spend weeks meeting and conferring with Defendant Blue Cross Blue Shield of Michigan (“BCBSM”), reached the doorstep of a reasonable agreement, then pulled the rug and filed a motion to compel that claims *BCBSM* is causing discovery delays. This is not the first time Plaintiff has run this very play, having done so previously in relation to claims data. As detailed in prior briefing, BCBSM agreed at the outset of this case to produce Plaintiff’s claims data. BCBSM proposed a list of about 70 claims data fields on September 24, 2025. It took Plaintiff two months to respond to that list with any level of specificity. The parties then spent several weeks discussing appropriate fields, at the end of which BCBSM agreed to 200 of 207 fields that Plaintiff proposed. Plaintiff then filed a motion to compel without any further discussion and followed that motion with an even larger request list.

The facts here are substantially similar. Plaintiff has requested documents and information related to its claims data, much of which is only traceable by specific claim numbers. Considering that Plaintiff’s claims data contains tens of thousands of individual claims, BCBSM has maintained objections based on burden and disproportionality. In apparent acknowledgement of that burden, on July 24, 2026 (three months after receiving the claims data), Plaintiff sent BCBSM a list of 2,317 claims that are *actually* in dispute. Then, following a meet-and-confer on August 3, in apparent further acknowledgment of the burden on BCBSM of tracking claim-specific documents and information for thousands of claims, Plaintiff proposed limiting the search to 50 claims that Plaintiff would choose without input from BCBSM. BCBSM agreed to this proposal with respect to all but one category of documents, Electronic Data Interchanges (“EDIs” or “EDI files”), based

on the burden that will be required to pull those documents. Plaintiff then responded that the entire deal was off and filed this motion to compel.

After Plaintiff filed its motion to compel, BCBSM continued internal discussions regarding the EDI files, which included having its IT team perform a collection based on sample claim numbers from Plaintiff's dispute list. BCBSM found that the burden of pulling EDI files, while still substantial, was not as significant as it had previously believed based on its initial discussions with BCBSM personnel. BCBSM then emailed Plaintiff's counsel stating that it would agree to produce EDI files based on Plaintiff's proposed 50-claim list and requested that Plaintiff's counsel withdraw the motion to compel because there is now nothing left in dispute. Plaintiff's counsel declined to withdraw the motion.

II. BACKGROUND

This is the second motion to compel documents that Plaintiff currently has pending. It filed a separate motion to compel documents in categories other than those raised in this motion on July 8, 2026. ECF No. 170. For some reason, the first motion did not address any of the issues raised in this motion even though both involve discovery responses that BCBSM had issued before the first motion. Indeed, Plaintiff never raised the issues in this motion with BCBSM until July 24, 2026. At that time, Plaintiff raised issues with Request for Production Nos. 3, 15, 16, 23, and 24. (**Exhibit A**, 07.24.2026 Meet-and-Confer Email).

The parties scheduled an initial meet-and-confer on those topics for August 3, 2026. (**Exhibit B**, 08.03.2026 Meet-and-Confer Email). A few hours before the meet-and-confer, Plaintiff stated for the first time that it also wanted to discuss Request for Production Nos. 4, 5, 9, and 14. *Id.*

During the meet-and-confer, Plaintiff's counsel suggested a path toward resolution of the parties' disputes that involved Plaintiff selecting a reduced list of 50 claims and BCBSM producing claim-specific documents related to the claims in that reduced list. (**Exhibit C**, 08.04.2026 Proposal Summary). Additionally, Plaintiff's counsel suggested that the parties' disputes related to RFP Nos. 4 and 5 could be resolved through a new request for production Plaintiff had served, RFP No. 26, which is more specific about the documents Plaintiff seeks. *Id.*

After subsequent oral discussions and two emails sent on August 13 and 21, 2026, BCBSM agreed to every aspect of Plaintiff's proposal except one: the production of EDIs. (**Exhibit D**, 08.13.2026 BCBSM Response; 08.21.2026 BCBSM Response). As BCBSM has stated several times to Plaintiff, the burden of producing EDIs is significant. There are two types of EDIs: (1) EDI 837s—which are claim intake transactions that BCBSM receives from providers; and (2) EDI 835s—which are claim remittance transactions that go from BCBSM to providers. (**Exhibit E**, Declaration of Deanna Bordeau, ¶¶ 4, 5). EDI claim transactions are grouped by submitter, then provider, and contain information related to various numbers of claims, largely depending on factors such as the size of the provider and how many claims that provider submits on a single EDI file. *Id.* ¶ 6.

Because of the nature of the EDI files, they are not stored in the EDI database by claim number. *Id.* ¶ 7. Instead, they are stored by file receipt date, and each EDI transaction must be individually searched to determine whether a specific claim has been included using various data elements within each EDI file. *Id.* ¶ 8. To assess the burden that this process entails, an EDI analyst on BCBSM's IT team performed this process for 3 claims that are listed on Plaintiff's list of 2,317 disputed claims. *Id.* ¶ 9. Based on that exercise, BCBSM's IT team estimates that it will take at least a half hour per claim to pull EDI forms. *Id.* ¶ 10-12.

Extrapolating from the IT team’s assessment, pulling EDIs for all of the 2,137 disputed claims that Plaintiff has identified would take at least 1,068.5 hours to complete. Even pulling from Plaintiff’s proposed list limited to 50 claims, the process would take more than three full working days. BCBSM employees have operational responsibilities beyond responding to Plaintiff’s unreasonable discovery requests, and BCBSM, accordingly, has not made undue burden and disproportionality objections that are merely “boilerplate,” as Plaintiff argues in its motion. Rather, BCBSM’s objection is based on the nature of the EDI files, which BCBSM has substantiated through concrete effort estimates derived from an actual sampling by its IT team.

Despite the significant burden that pulling the requested EDI files would entail—and while it maintains that 1,068.5 hours to pull the files for Plaintiff’s list of 2,137 claims remains disproportionate and overly burdensome—BCBSM has agreed to produce them in connection with the 50-claim list that Plaintiff’s counsel previously proposed. Yet for reasons that are unclear, Plaintiff has declined to withdraw its motion to compel. (**Exhibit F**, 09.03.26 Email Correspondence).

III. ANALYSIS

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[.]” Further, Rule 26(b)(2) makes clear that “[a] party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost.” 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, 273 (6th Cir. 2021). “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.* at 274 (internal quotation marks omitted).

A. The parties have reached agreement on all of the topics addressed on Plaintiff’s motion.

As detailed in the emails attached to this response, the parties have reached an agreement: Plaintiff is to provide a list of 50 disputed claims to BCBSM, and BCBSM will search for and produce each of the following with respect to the applicable claims (if found after a reasonable search and if they exist): (1) Explanation of Benefits forms; (2) Provider Investigation Requests; (3) applicable professional fee schedules; (4) negotiated rate agreements between BCBSM and facilities that provided services related to the claims listed; (5) provider manuals and certain related supplemental documents (referred to as “The Record”); and (6) EDI 837 and EDI 835 files. This covers all of the items addressed in Plaintiff’s motion to compel. BCBSM therefore requests that the Court enforce the parties’ agreement and deny Plaintiff’s motion as moot.

B. BCBSM’s objection to producing EDI files should be sustained beyond the 50-claim list.

BCBSM has objected to producing the 835 and 837 EDI files from the time Plaintiff first requested them, primarily because searching for and locating those documents would be extremely burdensome. BCBSM has supported that assertion with a Declaration from a member of its IT team, consistent with its obligations under the Federal Rules. *See* Fed. R. Civ. P. 26(b)(2). The Declaration shows that Plaintiff’s demand for EDI files would take considerable effort. This is not mere speculation: BCBSM’s IT team ran sample searches and determined that it would take 1,068.5 hours to pull the EDI files applicable to Plaintiff’s list of 2,137 disputed claims. Given this showing, it is appropriate for the Court to find that BCBSM’s objections to Plaintiff’s Request for Production No. 24 are valid.

IV. CONCLUSION

BCBSM submits that Plaintiff's motion to compel presents nothing for the Court to compel, and the Court should therefore deny Plaintiff's motion. BCBSM also requests sanctions pursuant to 28 U.S.C. § 1927 for Plaintiff counsel's vexatious refusal to withdraw its motion to compel despite BCBSM's agreement with its proposed resolution of the parties' discovery dispute.

Respectfully submitted,

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Dated: September 4, 2026

Attorneys for Defendant

EXHIBIT A

Jason M. Schneider

From: Selvius, Gage M. <gmselvius@varnumlaw.com>
Sent: Friday, July 24, 2026 2:42 PM
To: Jason M. Schneider
Cc: Phelps, Aaron M.; Rynders, Perrin; Hofman, Herman D.; Mark J. Zausmer; Lewis, Daniel
Subject: Tiara Yachts - Meet and Confer
Attachments: Claim Numbers Exhibit - Motion.xlsx

[EXTERNAL EMAIL]

Jason,

As you know, Tiara Yachts' requests for production include the following documents related to the Tiara Yachts' claims:

- **RFP #3**— communications between BCBSM and any Provider involving BCBSM disputing the amount of a claim
- **RFP #15**—the provider contracts, including the fee schedule or negotiated agreement that BCBSM had with each Provider
- **RFP #16**—Provider Investigation Requests
- **RFP #23**—Explanations of Benefits
- **RFP #24**—EDI 837 files and EDI 835 electronic remittance advice files

BCBSM has not produced anything in response to these requests. If BCBSM agrees to produce all of these documents for the claims identified in the attached list claim of claim numbers, we will agree to limit our request to those specific claims for now. If not, we will move forward with a motion to compel. Please let us know when you are available to meet and confer to discuss, no later than Tuesday of next week. Please include Aaron and Perrin on your response, as I will be on vacation next week.

Gage

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EXHIBIT B

Jason M. Schneider

From: Rynders, Perrin <prynders@varnumlaw.com>
Sent: Monday, August 3, 2026 9:38 AM
To: Jason M. Schneider
Cc: Mark J. Zausmer
Subject: This afternoon's call

[EXTERNAL EMAIL]

Jason,

Ahead of our conversation this afternoon, I want to outline the areas for discussion. You've already seen Gage's e-mail from the week before last, which identified the following document production requests and suggested we limit them to the specific claims on the spreadsheet that was shared with you:

- **RFP #3**—communications between BCBSM and any Provider involving BCBSM disputing the amount of a claim
- **RFP #15**—the provider contracts, including the fee schedule or negotiated agreement that BCBSM had with each Provider
- **RFP #16**—Provider Investigation Requests
- **RFP #23**—Explanations of Benefits
- **RFP #24**—EDI 837 files and EDI 835 electronic remittance advice files

In the past, BCBSM has attempted to defend overpayments with excuses that rely on such information, which is not in the data produced so far. If BCBSM is going to defend itself with something, that information should be produced. Additionally, we seek the following documents that are not specifically tied to claims data:

- **RFP #4** — copies of all BCBSM written policies, practices, or systems to identify improper claims
- **RFP #5** — copies of all internal training, instructions, and directives to employees about identifying or responding to improper or fraudulent claims
- **RFP #9** — all documents about the design and operation of BCBSM's claims processing system including training manuals for providers
- **RFP #14** — all annual and quarterly settlements concerning Tiara Yachts and its Plan

The rationale for producing these items is similar: if BCBSM has policies/training materials/etc. that it will point to in defense of its actions, we should see them; and if it has such materials but didn't adhere to them, we should also see them. I look forward to working this all out this afternoon..



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EXHIBIT C

Jason M. Schneider

From: Rynders, Perrin <prynders@varnumlaw.com>
Sent: Tuesday, August 4, 2026 3:04 PM
To: Jason M. Schneider; Mark J. Zausmer
Cc: Lewis, Daniel; Phelps, Aaron M.; Selviu, Gage M.
Subject: Follow up to meet/confer

[EXTERNAL EMAIL]

Jason, thanks to you and Mark for your time yesterday afternoon. As we discussed, I think it's good for us to memorialize what we discussed/agreed to, to avoid any misunderstandings. Let me know if I missed anything or got anything wrong. And I look forward to your response regarding my suggestions—as mentioned, I'm eager to resolve these issues or tee up another motion to compel.

I'd like to start with the areas of agreement:

- Our RFP #3: you believe that all communications between BCBSM and a provider about a dispute over a claim involving a Tiara Yachts participant/beneficiary were captured by your search terms. BCBSM isn't refusing to produce all responsive documents; rather, BCBSM thinks it has done so already. Nevertheless, you will confer with your client about whether other search terms might yield additional responsive documents, and BCBSM will produce anything else that it finds. Because BCBSM has stated objections to this request, we would like a formal statement that all responsive documents have been produced and nothing has been withheld based on objections or otherwise.
- Our RFP #15: BCBSM will produce the responsive documents. We did not discuss a deadline to produce those documents. I would like that to happen quickly, and before the next set of depositions in a few weeks.
- Our RFP #14: You think BCBSM has produced all annual and quarterly settlements, but you are going to double-check and produce anything that wasn't already produced. This is not an issue of disagreement—if the requested documents exist and have not been produced, BCBSM will do so.
- Your request for all communications between our clients: I confirmed yesterday that our client has produced everything that it has. We have gone back to confirm this. Nevertheless, as with all discovery obligations, if anything else is identified we will produce it. Relatedly, I confirmed that we do not represent the broker, and you are permitted to contact them directly about responding to your subpoena.

We also discussed potential resolutions to avoid discovery motion practice:

- Our RFP ## 16, 23, and 24: There might be some distinctions between different documents (EOBs less complicated than EDIs), but in general my suggestion was that I could identify fewer than the roughly 2,300 claims on the spreadsheet (e.g., 50—although I note that in another matter we discussed 50 per year) for which BCBSM would produce everything it has. These would include Provider Investigation Requests, EOBs, and EDIs. The goal would be to ascertain how those materials corroborate or refute the claims data that has been produced before insisting on that information for all the claims identified by *finHealth* as involving overcharges. Upon further reflection, this would be a process that requires adjustments to the current case management order, such as the following:
 - Tiara identifies 50 claims by August 15.

- BCBSM produced the requested information by September 15.
- The parties meet and confer thereafter. We would use this process to narrow or resolve disputes. For example, if the materials supplied prove that the 50 claims were properly processed, then we would not need the same materials for the other 2,300 plus claims. To the extent the materials prove that some of the 50 claims were improperly paid, we could likely narrow the scope of the requests to a subset of necessary documents. Obviously, we could also use this information to inform ADR as well – whether in full or as to certain categories.
- Expert reports would have to be held open pending final agreement/court order regarding completion of whatever further discovery is necessary from this process.
- Our RFP ## 4, 5, and 9: I suggested proposing additional search terms to capture these documents. With respect to 4 and 5, I think the better approach is to narrow our request to: all BCBSM Provider Manuals, Provider Handbooks, and equivalent provider-facing reference guides, including but not limited to those published or made available through web-DENIS, amendments, bulletins, updates, supplements, throughout the Contractual Period, that describe billing requirements, covered and non-covered services, CPT/HCPCS code requirements, revenue code requirements, claim submission procedures, and/or the criteria, conditions, edits, or codes applied by BCBSM to approve, deny, pend, or reject claims submitted by providers for enrollees of Tiara Yachts' Plan (you may have guessed that these are the literal procedures BCBSM always says it follows per the ASC, so are obviously relevant and readily available). While we believe these materials are within the scope of the existing document requests 4 and 5, to avoid any doubt, we served a more specific request yesterday. If we can't reach agreement on production of these materials, they are what we would seek in a new motion to compel.

Regarding our RFP #14, I didn't specifically talk to you about other documents identified in BCBSM's initial disclosures besides the annual and quarterly settlements, but my hope is that BCBSM would produce those documents too (if it hasn't done so already). I suspect this is not an area of contention, but because I was not specific about documents other than the settlements, I want to note it now.

Lastly, I promised to take another look at your interrogatories 15, 20, and 21 to see if we would be willing to back off our objections on relevance grounds. I do not expect to change my mind on that, but I have not had an opportunity to take another look, and I will do so. Your position is that the requested documents would go to defenses and the counterclaim, revolving around Tiara Yachts' status as a co-fiduciary.



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EXHIBIT D

Jason M. Schneider

From: Jason M. Schneider
Sent: Thursday, August 13, 2026 5:14 PM
To: Rynders, Perrin; Mark J. Zausmer
Cc: Lewis, Daniel; Phelps, Aaron M.; Selviu, Gage M.
Subject: RE: Follow up to meet/confer

Perrin,

Ahead of our call tomorrow, here is our point-by-point response to Tiara Yachts' proposal on the discovery issues we discussed last week:

- 1) RFP No. 3: BCBSM can confirm that it is not withholding any documents responsive to this request. The document search it conducted did not result in any relevant results. That said, BCBSM has agreed to search files within its Corporate Fraud Investigation unit for potentially responsive documents. If that expansion of our search results in any responsive documents, we will produce them. Otherwise, we will supplement BCBSM's responses to state that it does not have any responsive documents based on the searches it conducted.
- 2) RFP No. 15: BCBSM agrees to produce provider fee schedules from 2016 through the end of Tiara Yachts' contractual relationship with BCBSM. That timeframe aligns with the Tiara Yachts claims data. BCBSM's production will not include negotiated agreements with facilities. We anticipate having the provider fee schedules to you before the depositions that are scheduled to occur the week of August 24.
- 3) RFP No. 14: The phrase "annual and quarterly settlements" in BCBSM's initial disclosures refers to the Administrative Service Annual Summaries that were included in BCBSM's first production. The terminology in the initial disclosures was based on file extension names rather than the title on the Excel files' cover sheets. BCBSM has produced any documents it has located that fit within the categories identified in its initial disclosures.
- 4) RFP Nos. 4, 5, 9 (out of order from your email): BCBSM agrees to produce its provider manuals from 2016 through the end of Tiara Yachts' contractual relationship with BCBSM. Technically, this is not stored as a single "manual" and includes documents/information from disparate sources. We are determining the best way to produce the information, and we will follow-up as soon as we have that figured out.
- 5) RFP Nos. 16, 23: BCBSM agrees with your proposal on the EOBs and PIRs. Once you identify 50 claims (if we need to adjust timing on your list based on the date of this response, we can do that), we will locate the relevant documents and produce them within 30 days. On the EOBs, this should be a straightforward, albeit time-consuming, manual process.

On the PIRs, BCBSM will need to identify sources for relevant documents based on the providers that correspond to your list of 50 claims. We want to make clear that we are not certain without conducting these searches that responsive documents exist. If we identify responsive, non-privileged documents, we will produce them.

- 6) RFP No. 24: BCBSM does not agree to include EDIs in this process. As we have discussed, gathering EDIs will be prohibitively time-consuming and expensive, particularly in proportion to the scope of Tiara Yachts' claims. BCBSM maintains that the EOBs it has agreed to produce will be sufficient to corroborate Tiara Yachts' claims data.
- 7) BCBSM's RFPs: Thank you for stating your positions on BCBSM's RFPs. Please let us know as soon as you can confirm your position on Tiara Yachts' bank account information.

Talk to you tomorrow morning.

Best,

Jason M. Schneider

Shareholder

Zausmer 

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

Sent: Tuesday, August 4, 2026 3:04 PM

To: Jason M. Schneider <JSchneider@zausmer.com>; Mark J. Zausmer <MZausmer@zausmer.com>

Cc: Lewis, Daniel <daniel.lewis@aoshearman.com>; Phelps, Aaron M. <amphelps@varnumlaw.com>; Selvius, Gage M. <gmselvius@varnumlaw.com>

Subject: Follow up to meet/confer

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 - BCBSM produced the requested information by September 15.
 - The parties meet and confer thereafter. We would use this process to narrow or resolve disputes. For example, if the materials supplied prove that the 50 claims were properly processed, then we would not need the same materials for the other 2,300 plus claims. To the extent the materials prove that some of the 50 claims were improperly paid, we could likely narrow the scope of the requests to a subset of necessary documents. Obviously, we could also use this information to inform ADR as well – whether in full or as to certain categories.
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EXHIBIT E

Jason M. Schneider

From: Jason M. Schneider
Sent: Friday, August 21, 2026 9:48 AM
To: Phelps, Aaron M.; Rynders, Perrin; Mark J. Zausmer
Cc: Lewis, Daniel; Selvius, Gage M.; Hofman, Herman D.
Subject: RE: Follow up to meet/confer

Aaron,

Setting aside the settlement issues we have been discussing over the last couple days, I believe we have agreement on all but one of the discovery items you raised in your 8/19 email:

- 1) We will have the fee schedules (for professional claims) and provider manuals ready for production by September 4. My understanding is that the provider manuals apply to any type of provider, as you described.
- 2) BCBSM will produce relevant agreements between BCBSM and the facilities that provided services with respect to the 50 claims that Tiara plans to identify. For clarity, without seeing which claims Tiara has identified, we cannot commit to producing a facility agreement for every facility-related claim. There are some circumstances in which an agreement between BCBSM and the facility may not exist.

These agreements will likely not be ready for production by September 4. After we see Tiara's list of claims, we will be able to identify a production date.

- 3) BCBSM maintains its objections as to the EDI files. We have spoken with members of BCBSM's IT team about retrieving these files. They estimated that it could take 8 hours to retrieve information for a single claim. Thus, even with Tiara's reduced list of 50 claims, retrieving the information would be a significant, disproportionate burden.

Further, BCBSM cannot say it will *never* rely on *any* EDI information. As an example, if a situation arises where an EDI might shed light on an issue with a single claim, it may be worth expending the extensive resources that will be necessary for retrieving that information. In that instance, we would retrieve and produce the information.

- 4) BCBSM does not object to extending the scheduling order dates. That said, based on Tiara's past practice of making factual misrepresentations about BCBSM in its motions for extensions of the scheduling order (and other unopposed filings), BCBSM reserves its right to file any response necessary to correct the record.

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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From: Phelps, Aaron M. <amphelps@varnumlaw.com>

Sent: Friday, August 21, 2026 8:53 AM

To: Jason M. Schneider <JSchneider@zausmer.com>; Rynders, Perrin <prynders@varnumlaw.com>; Mark J. Zausmer <MZausmer@zausmer.com>

Cc: Lewis, Daniel <daniel.lewis@aoshearman.com>; Selvius, Gage M. <gmselvius@varnumlaw.com>; Hofman, Herman D. <hdhofman@varnumlaw.com>

Subject: RE: Follow up to meet/confer

[EXTERNAL EMAIL]

Jason,

We are filing our motions today. Based on the prior conversations, I understand the discovery related matters are opposed. I need to represent to the court your position relative to the amendment to the case management order. Please respond to that.

Thanks-

VARNUM

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333 Bridge Street NW, Suite 1700
Grand Rapids, Michigan 49504
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Aaron M. Phelps
Partner

Direct: 616-336-6257

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From: Phelps, Aaron M.

Sent: Wednesday, August 19, 2026 4:56 PM

To: 'Jason M. Schneider' <JSchneider@zausmer.com>; Rynders, Perrin <prynders@varnumlaw.com>; Mark J. Zausmer <MZausmer@zausmer.com>

Cc: Lewis, Daniel <daniel.lewis@aoshearman.com>; Selvius, Gage M. <gmselvius@varnumlaw.com>; Hofman, Herman D. <hdhofman@varnumlaw.com>

Subject: RE: Follow up to meet/confer

Jason-

We appreciate the agreements we have reached so far. Can you confirm a date by which we will receive the agreed fee schedules and relevant provider manuals (we understand these manuals will relate to any type of provider – lab, physician, facility, etc.).

However, we cannot accept BCBSM's refusal to provide EDI files. Your stated basis for objecting relates to the burden of manually producing these records. To be clear, the "E" in EDI stands for

“electronic.” These are electronic records easily identified by reference to the claim numbers. Our request is not burdensome. Indeed, the whole point of limiting our interim request to 50 claims was to make this a very easy process. We suspect it would take BCBSM less than a day to manually enter 50 claim numbers into its systems and pull the EDI files. Further, you have not agreed that BCBSM will not rely on these files (or their contents), underscoring their relevance.

Similarly, we cannot accept BCBSM’s objection to producing the facility agreements. We believe, based on the existing record, that BCBSM paid providers excessive amounts on certain claims. We do not believe these amounts (sometimes many multiples of the Medicare benchmark), were consistent with BCBSM’s own facility agreements. In other words, the basis of our claim (in part) is that BCBSM didn’t pay according to its agreements and BCBSM’s defense is that it did, making the facility agreements themselves unquestionably relevant.

Absent some immediate breakthrough on these two issues, we plan to file a motion to compel this week.

Related to above, we cannot complete our expert reports under the current schedule. We plan to file a motion to amend the scheduling order to move all dates out three months. Please let us know if you concur.

Finally, regarding Mark’s request to discuss “partial settlement,” we do not see a path to settling just part of the case. Obviously, BCBSM can stipulate to liability as to the flip-logic and SSP claims, rendering further discovery on those matters moot. If BCBSM wishes to discuss settlement of all claims at issue, we are open to that and also open to moving the mediation to earlier date if that would be useful.

Thanks-

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

Sent: Thursday, August 13, 2026 5:14 PM

To: Rynders, Perrin <prynders@varnumlaw.com>; Mark J. Zausmer <MZausmer@zausmer.com>

Cc: Lewis, Daniel <daniel.lewis@aoshearman.com>; Phelps, Aaron M. <amphelps@varnumlaw.com>; Selvius, Gage M. <gmselvius@varnumlaw.com>

Subject: RE: Follow up to meet/confer

Perrin,

Ahead of our call tomorrow, here is our point-by-point response to Tiara Yachts’ proposal on the discovery issues we discussed last week:

- 1) RFP No. 3: BCBSM can confirm that it is not withholding any documents responsive to this request. The document search it conducted did not result in any relevant results. That said, BCBSM has agreed to search files within its Corporate Fraud Investigation unit for potentially responsive documents. If that expansion of our search results in any responsive documents, we will produce them. Otherwise, we will supplement BCBSM's responses to state that it does not have any responsive documents based on the searches it conducted.
- 2) RFP No. 15: BCBSM agrees to produce provider fee schedules from 2016 through the end of Tiara Yachts' contractual relationship with BCBSM. That timeframe aligns with the Tiara Yachts claims data. BCBSM's production will not include negotiated agreements with facilities. We anticipate having the provider fee schedules to you before the depositions that are scheduled to occur the week of August 24.
- 3) RFP No. 14: The phrase "annual and quarterly settlements" in BCBSM's initial disclosures refers to the Administrative Service Annual Summaries that were included in BCBSM's first production. The terminology in the initial disclosures was based on file extension names rather than the title on the Excel files' cover sheets. BCBSM has produced any documents it has located that fit within the categories identified in its initial disclosures.
- 4) RFP Nos. 4, 5, 9 (out of order from your email): BCBSM agrees to produce its provider manuals from 2016 through the end of Tiara Yachts' contractual relationship with BCBSM. Technically, this is not stored as a single "manual" and includes documents/information from disparate sources. We are determining the best way to produce the information, and we will follow-up as soon as we have that figured out.
- 5) RFP Nos. 16, 23: BCBSM agrees with your proposal on the EOBs and PIRs. Once you identify 50 claims (if we need to adjust timing on your list based on the date of this response, we can do that), we will locate the relevant documents and produce them within 30 days. On the EOBs, this should be a straightforward, albeit time-consuming, manual process.

On the PIRs, BCBSM will need to identify sources for relevant documents based on the providers that correspond to your list of 50 claims. We want to make clear that we are not certain without conducting these searches that responsive documents exist. If we identify responsive, non-privileged documents, we will produce them.

- 6) RFP No. 24: BCBSM does not agree to include EDIs in this process. As we have discussed, gathering EDIs will be prohibitively time-consuming and expensive, particularly in proportion to the scope of Tiara Yachts' claims. BCBSM maintains that the EOBs it has agreed to produce will be sufficient to corroborate Tiara Yachts' claims data.
- 7) BCBSM's RFPs: Thank you for stating your positions on BCBSM's RFPs. Please let us know as soon as you can confirm your position on Tiara Yachts' bank account information.

Talk to you tomorrow morning.

Best,

Jason M. Schneider

Shareholder

Zausmer 

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32255 Northwestern Highway, Suite 225

Farmington Hills, MI 48334

Direct: (248) 254-4849

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From: Rynders, Perrin <prynders@varnumlaw.com>**Sent:** Tuesday, August 4, 2026 3:04 PM**To:** Jason M. Schneider <JSchneider@zausmer.com>; Mark J. Zausmer <MZausmer@zausmer.com>**Cc:** Lewis, Daniel <daniel.lewis@aoshearman.com>; Phelps, Aaron M. <amphelps@varnumlaw.com>; Selvius, Gage M. <gmselvius@varnumlaw.com>**Subject:** Follow up to meet/confer**[EXTERNAL EMAIL]**

Jason, thanks to you and Mark for your time yesterday afternoon. As we discussed, I think it's good for us to memorialize what we discussed/agreed to, to avoid any misunderstandings. Let me know if I missed anything or got anything wrong. And I look forward to your response regarding my suggestions—as mentioned, I'm eager to resolve these issues or tee up another motion to compel.

I'd like to start with the areas of agreement:

- Our RFP #3: you believe that all communications between BCBSM and a provider about a dispute over a claim involving a Tiara Yachts participant/beneficiary were captured by your search terms. BCBSM isn't refusing to produce all responsive documents; rather, BCBSM thinks it has done so already. Nevertheless, you will confer with your client about whether other search terms might yield additional responsive documents, and BCBSM will produce anything else that it finds. Because BCBSM has stated objections to this request, we would like a formal statement that all responsive documents have been produced and nothing has been withheld based on objections or otherwise.
- Our RFP #15: BCBSM will produce the responsive documents. We did not discuss a deadline to produce those documents. I would like that to happen quickly, and before the next set of depositions in a few weeks.
- Our RFP #14: You think BCBSM has produced all annual and quarterly settlements, but you are going to double-check and produce anything that wasn't already produced. This is not an issue of disagreement—if the requested documents exist and have not been produced, BCBSM will do so.
- Your request for all communications between our clients: I confirmed yesterday that our client has produced everything that it has. We have gone back to confirm this. Nevertheless, as with all discovery obligations, if anything else is identified we will produce it. Relatedly, I confirmed that we do not represent the broker, and you are permitted to contact them directly about responding to your subpoena.

We also discussed potential resolutions to avoid discovery motion practice:

- Our RFP ## 16, 23, and 24: There might be some distinctions between different documents (EOBs less complicated than EDIs), but in general my suggestion was that I could identify fewer than the roughly 2,300 claims on the spreadsheet (e.g., 50—although I note that in another matter we discussed 50 per year) for which BCBSM would produce everything it has. These would include Provider Investigation Requests, EOBs, and EDIs. The goal would be to ascertain how those

materials corroborate or refute the claims data that has been produced before insisting on that information for all the claims identified by *finHealth* as involving overcharges. Upon further reflection, this would be a process that requires adjustments to the current case management order, such as the following:

- Tiara identifies 50 claims by August 15.
- BCBSM produced the requested information by September 15.
- The parties meet and confer thereafter. We would use this process to narrow or resolve disputes. For example, if the materials supplied prove that the 50 claims were properly processed, then we would not need the same materials for the other 2,300 plus claims. To the extent the materials prove that some of the 50 claims were improperly paid, we could likely narrow the scope of the requests to a subset of necessary documents. Obviously, we could also use this information to inform ADR as well – whether in full or as to certain categories.
- Expert reports would have to be held open pending final agreement/court order regarding completion of whatever further discovery is necessary from this process.
- Our RFP ## 4, 5, and 9: I suggested proposing additional search terms to capture these documents. With respect to 4 and 5, I think the better approach is to narrow our request to: all BCBSM Provider Manuals, Provider Handbooks, and equivalent provider-facing reference guides, including but not limited to those published or made available through web-DENIS, amendments, bulletins, updates, supplements, throughout the Contractual Period, that describe billing requirements, covered and non-covered services, CPT/HCPCS code requirements, revenue code requirements, claim submission procedures, and/or the criteria, conditions, edits, or codes applied by BCBSM to approve, deny, pend, or reject claims submitted by providers for enrollees of Tiara Yachts' Plan (you may have guessed that these are the literal procedures BCBSM always says it follows per the ASC, so are obviously relevant and readily available). While we believe these materials are within the scope of the existing document requests 4 and 5, to avoid any doubt, we served a more specific request yesterday. If we can't reach agreement on production of these materials, they are what we would seek in a new motion to compel.

Regarding our RFP #14, I didn't specifically talk to you about other documents identified in BCBSM's initial disclosures besides the annual and quarterly settlements, but my hope is that BCBSM would produce those documents too (if it hasn't done so already). I suspect this is not an area of contention, but because I was not specific about documents other than the settlements, I want to note it now.

Lastly, I promised to take another look at your interrogatories 15, 20, and 21 to see if we would be willing to back off our objections on relevance grounds. I do not expect to change my mind on that, but I have not had an opportunity to take another look, and I will do so. Your position is that the requested documents would go to defenses and the counterclaim, revolving around Tiara Yachts' status as a co-fiduciary.



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EXHIBIT F

DECLARATION OF DEANNA BORDEAU

I, Deanna Bordeaux, declare as follows under penalty of perjury under the laws of the United States of America:

1. I have personal knowledge of the facts in this declaration. If called as a witness, I will competently testify that the declaration is true and correct.

2. I am an employee of Blue Cross Blue Shield of Michigan (“BCBSM”), and my current title is IT Manager II – EDI Operations Support.

3. I have been advised of Plaintiff Tiara Yachts, Inc.’s Request for Production No. 24, which seeks the production of Electronic Data Interchange (EDI) 835 and 837 transactions related to certain claims at issue in Plaintiff’s lawsuit against BCBSM.

4. EDI 837s are claim-intake transactions that BCBSM receives from providers.

5. EDI 835s are claim-remittance transactions that go from BCBSM to providers.

6. EDI claim transactions are grouped by submitter, then provider, and contain information related to various numbers of claims, largely depending on factors such as the size of the provider and how many claims that provider submits on a single EDI file.

7. Because of the nature of the EDI files, they are not stored in the EDI database by claim number.

8. Instead, they are stored by file receipt date, and each EDI transaction must be individually searched to determine whether a specific claim has been included using various data elements within each EDI file.

9. To assess the burden that this process entails, an EDI Analyst on my team performed this process for 3 claims that are listed on Plaintiff’s list of 2,317 disputed claims.

10. It took the analyst one hour to pull EDI transactions related to those three claims

based on the information provided. If not all necessary information is provided, it would take longer to search for each EDI transaction.

11. However, two of the claims used for the sampling were included on the same EDI file, which reduced the amount of time it took to pull files for those two claims.

12. Based on the sampling exercise described, and accounting for the reduced time related to two of the sample claims, I estimate that it will take a half hour per claim to pull EDI transactions. If not all necessary information is provided, it would take longer to search for each EDI transaction.

Deanna Bordeau

Deanna Bordeau

DATED: September 3, 2026

EXHIBIT G

Jason M. Schneider

From: Phelps, Aaron M. <amphelps@varnumlaw.com>
Sent: Thursday, September 3, 2026 8:19 AM
To: Jason M. Schneider
Cc: Rynders, Perrin; Selvius, Gage M.; Lewis, Daniel; Mark J. Zausmer
Subject: RE: Tiara Yachts v. BCBSM - EDI Files

[EXTERNAL EMAIL]

I'm shocked to learn it wasn't that hard after all....

We will evaluate BCBSM's production that is due tomorrow and will respond next week regarding your request below.

Also, we plan to file a motion to compel the two depositions that you cancelled and seek sanctions re same. Please advise if you concur or if you'd like to have a further conference regarding that motion.

Aaron

From: Jason M. Schneider <JSchneider@zausmer.com>
Sent: Wednesday, September 2, 2026 7:42 PM
To: Phelps, Aaron M. <amphelps@varnumlaw.com>
Cc: Rynders, Perrin <prynders@varnumlaw.com>; Selvius, Gage M. <gmselvius@varnumlaw.com>; Lewis, Daniel <daniel.lewis@aoshearman.com>; Mark J. Zausmer <MZausmer@zausmer.com>
Subject: Tiara Yachts v. BCBSM - EDI Files

Aaron,

After further discussion, BCBSM has agreed to produce EDI files for the 50 claims that would be identified in Tiara's list. As you know, this is only real point of contention in Tiara's recent motion compel.

In light of the agreement on the EDI files, will Tiara withdraw its motion to compel?

Best,

Jason M. Schneider

Shareholder

Zausmer »

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Farmington Hills, MI 48334

Direct: (248) 254-4849

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