

Re: *United States v. The New York and Presbyterian Hospital*, No. 26 Civ. 02480 (S.D.N.Y.)

Dear Judge Engelmayer:

Plaintiff United States respectfully requests that the Court order Defendant The New York and Presbyterian Hospital (“NYP”) to produce documents responsive to three simple, clearly relevant requests contained in the United States’s April 17, 2026, First Set of Requests for Production (“RFPs”). Ex. A. The United States seeks an order compelling Defendant to produce the following materials within fourteen (14) days of ruling: (1) NYP’s agreements, including all amendments thereto, with all commercial payors, (2) documents since April 17, 2021 received, reviewed, or produced by NYP’s Board of Directors, and (3) NYP’s organization charts in effect at any time since April 17, 2021. In the one-hundred-and-one (101) days since the United States served these requests, NYP has failed to produce any responsive documents and even *failed to commit to producing* all responsive documents.¹ Remarkably, NYP refuses to produce these documents while at the same time seeking to compel an astounding 75-request subpoena to a non-party only one month after NYP issued the subpoena. ECF 34 (NYP’s Motion to Compel Aetna).

A. Background and Meet-and-Confer Process

Four hospital systems account for the dominant majority of the hospital services in the market pleaded in the complaint. Defendant NYP is the leader among these four systems. NYP deploys contract restrictions that reduce hospital competition between NYP and its few principal competitors. NYP’s contract restrictions require Aetna, Blue Cross Blue Shield, Cigna, Emblem, UnitedHealth, and other commercial payors to guarantee NYP a place in every network and network feature offered to consumers. NYP has secured this placement despite its high prices and has preserved these provisions in its payor contracts despite payors’ efforts to remove them from their NYP contracts. Payors want “to remove these terms because they effectively block” payors from developing networks to lower healthcare costs for New Yorkers. ECF 40 (Aetna Opposition to NYP’s Motion to Compel) at 3. NYP’s network-placement guarantees “protect and perpetuate NYP’s ability to charge employers higher prices,” *id.*, and reflect its bargaining power over payors. Any payor that does not have NYP in at least one of its health plan networks will not be competitive selling health plans to employers with employees living and working in Manhattan, Queens, Brooklyn, and The Bronx, and to individuals living and working in these boroughs. Because of NYP’s bargaining power, payors have not succeeded in removing these significant impediments to hospital competition. Since NYP’s network-placement guarantees harm hospital competition, they violate Section 1 of the Sherman Act.

NYP lodged a litany of boilerplate objections in the responses and objections to the RFPs (“R&Os”) served on May 18, 2026. Ex. B. Counsel for the United States engaged counsel for NYP in an effort to resolve NYP’s objections. These failed efforts include a June 19 telephonic meet and confer, and written correspondence, *see* June 5, 2026 Letter from S. Mulloy to D.

¹ NYP has also to date failed to commit to produce all documents responsive to the other requests contained in the RFPs. If NYP does not abide by its discovery obligations, the United States may in the future seek the Court’s assistance in compelling production of documents responsive to those requests. In contrast, the United States has committed to producing all materials collected during its pre-complaint investigation of NYP, except for materials NYP produced.

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Munkittrick (Ex. C); June 19, 2026 Letter from S. Mulloy to C. Kass (Ex. D); July 3, 2026 Letter from C. Kass to S. Mulloy (Ex. E); July 16, 2026 Letter from S. Mulloy to C. Kass (Ex. F). Because of NYP's refusal to budge on these simple requests, the United States filed this motion.

B. The Court should compel NYP to produce its contracts with all commercial payors, board documents, and organizational charts.

As the party resisting discovery, NYP bears the burden to show why it should not be compelled to produce the requested documents. *Alzheimer's Found. of Am., Inc. v. Alzheimer's Disease & Related Disorders Ass'n, Inc.*, 2015 WL 4033019, at *5 (S.D.N.Y. June 29, 2015) (citation omitted) ("If a party objects to discovery requests, that party bears the burden of showing why discovery should be denied.").

NYP cannot meet its burden. Although NYP asserted a long list of boilerplate objections, lack of relevance appears to be the only objection that NYP is continuing to assert. Even though NYP's current and past contracts with payors, Board materials, and organization charts are highly relevant to this action, NYP has not committed to producing the documents the United States has requested.

Request 3: NYP's Agreements with Payors.² The United States requested that NYP produce all of its commercial insurance contracts. Contravening Federal Rule 26(b), NYP has asserted the unilateral right to decide which contracts are relevant to this litigation. Specifically, NYP claims that it has "already produced the operative agreements with the *Relevant Payors*," Ex. B at 4 (emphasis added), and refuses to produce any agreements besides those with just five insurers (Aetna, Blue Cross Blue Shield, Cigna, Emblem, and UnitedHealth). Ex. B at 2–3. Although NYP's anticompetitive contracts with these health plans are certainly relevant, other commercial payors are also relevant to this action. Health plans with small market shares have even greater incentives to innovate. Indeed, NYP publicly identifies other commercial health plans with which it has agreements on its website. *See* NewYork-Presbyterian, "Hospital Participating Plans," <https://www.nyp.org/patients-visitors/paying-for-care/hospital-participating-plans> (Ex. G). NYP touts to its current and potential future patients the very same agreements that it asserts are not relevant. NYP cannot have it both ways.

NYP similarly cannot carry its burden of showing an undue burden from searching for and producing its agreements with payors. There are a finite number of commercial payors with which NYP contracts, and such contracts are often kept in a central repository. This means the agreements may be identified and gathered on a go-get basis.

Request 4: NYP's Board Documents.³ NYP objects to producing any NYP board materials that do not relate to a set of topics it unilaterally selected: "insurers, insurer or provider

² Request No. 3 requests "Without regard to date, all agreements and contracts, including all amendments, between the Organization, or any hospital or hospital system that the Organization operates, manages, or affiliates with, and any Payor." Ex. A at 13.

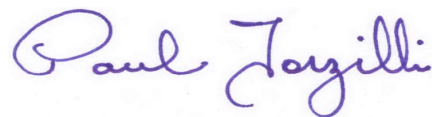
³ Request No. 5 requests "All documents or materials received, reviewed, or produced by the New York-Presbyterian Board of Directors." Ex. A at 13.

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contracting, competition nationally or in the relevant area, plan design, network design, steering, provider rates, and market shares.” Ex. E at 4. While those are relevant topics, there are many others, such as NYP’s analysis of the New York healthcare landscape, its market position, NYP’s or other competing providers’ acquisitions or expansions of hospitals or facilities, NYP’s investment plans and strategy, financial and regulatory barriers to entry, financial strategy and analysis, and the cost of care, among others. In short, all board meeting materials and information submitted to Defendant’s board are relevant in this case because the materials reflect the information that NYP senior executives consider important enough to present to the Board. NYP produced an incomplete set of board materials in the pre-Complaint investigation. Even NYP’s deficient production demonstrates the breadth of relevant topics contained in NYP’s board materials, including strategic planning documents, quality reporting, and important financial information. Furthermore, any attempt to sort and filter board materials by topic would only require additional time and expense while producing the board materials in full subject to any validly asserted and logged privileged claim would impose *less* burden on NYP.

Request 1: NYP’s Organization Charts.⁴ The United States requested NYP’s organization charts in effect at any time since April 2021. Organization charts are obviously relevant—and indeed necessary—for identifying individuals who may have documents or testimony relating to the claims and defenses in this litigation. NYP agrees that refusing to produce organization charts “prevent[s] the parties from engaging in any discussion about custodians or databases.” ECF 34 (NYP’s Motion to Compel Aetna) at 3. NYP abandoned its relevance objection on July 3 and indicated that it was still searching for organization charts. *See* Ex. E at 3. Nevertheless, more than three months since being served with Plaintiffs’ RFP for organization charts and more than three weeks since confirming their relevance, NYP has failed to produce any organization charts, which has slowed Plaintiffs’ ability to begin discovery efficiently.

Respectfully submitted,



By:

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SEAN P. MULLOY (202) 765-4926
Counsel for Plaintiff United States

Cc: All counsel of record (via ECF)

⁴ Request No. 1 requests “One copy of each organization chart, including any updated or revised organization charts, listing all Senior Management and all Persons responsible for (1) negotiating or enforcing the Organization’s contracts with any Payor; (2) analyzing the Organization’s contracts with any Payor; (3) recommending that the Organization’s contracts with any commercial Payor be approved; and (4) approving the Organization’s contracts with any commercial Payor.” Ex. A at 12. The Instructions state that “these Requests seek all responsive documents in the Organization’s possession, custody, or control that were created, modified, sent, or received within five years on the date which these Requests were received.” Ex. A at 2.

EXHIBIT A

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE NEW YORK AND PRESBYTERIAN
HOSPITAL

Defendant.

Civil No. 26-cv-02480-PAE-OTW
Judge Paul A. Engelmayer
Magistrate Judge Ona T. Wang

**PLAINTIFF’S FIRST SET OF REQUESTS
FOR PRODUCTION OF DOCUMENTS FROM
DEFENDANT THE NEW YORK AND PRESBYTERIAN HOSPITAL**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Plaintiff United States of America requests that Defendant The New York and Presbyterian Hospital (“New York-Presbyterian”) produce the documents requested below. Any documents the Organization produces must be produced in accordance with the terms of any Protective Order in effect in this Lawsuit, and any other applicable court orders in this case regarding confidentiality. Documents shall be produced at the office of the U.S. Department of Justice, Antitrust Division, Healthcare and Consumer Products Section, 450 Fifth Street NW, Suite 4100, Washington, DC 20530.

INSTRUCTIONS

1. Documents already produced by the Organization in the Investigation, including in response to any civil investigative demand issued to the Organization in the Investigation, need not be produced in response to these Requests, unless required to comply with any protocols to this Lawsuit concerning electronically stored information. This Instruction does not

necessarily obviate the need to search a document custodian or other location that was searched by you as part of the Investigation.

2. Unless otherwise specified, these Requests seek all responsive documents in the Organization's possession, custody, or control that were created, modified, sent, or received within five years on the date which these Requests were received.

3. In addition to the specific instructions set forth below, these Requests incorporate the instructions set forth in any Case Management Order ("CMO") or Protective Order entered in this Lawsuit, as well as Rules 26 and 34 of the Federal Rules of Civil Procedure and the Local Rules of the U.S. District Court for the Southern District of New York, to the extent those rules are not modified by any Court order. For each responsive document, except for documents for which the Organization claims a valid privilege, or that contain any PII or SHI, produce the entire document along with all attachments, enclosures, or "family" members, and all metadata associated with each such document. When a document contains both responsive and non-responsive content, produce the entire document including the non-responsive portions of the document. When a document contains both privileged and non-privileged material, the non-privileged material must be disclosed to the fullest extent possible without thereby disclosing the privileged material. If a privilege is asserted with regard to part of the material contained in a document, the Organization must clearly indicate the portions as to which the privilege is claimed, and the Organization must produce the part of the document that the Organization does not claim is privileged, along with all "family" members and including all metadata. Each document must be produced in such a fashion, where applicable, to identify the natural person in whose possession, custody, or control they were found, or the server or central file in which they were found. Produce a legible and usable copy of each document requested together with all non-

identical copies and drafts of that document, consistent with the U.S. Department of Justice, Antitrust Division's electronically stored information (ESI) Standard Specifications used in the Investigation and provided with these Requests. Subject to any protocol concerning electronically stored information agreed to by the Defendant or ordered by the Court, all metadata of electronic documents must also be produced. The Organization must retain all of the original documents for inspection or copying throughout the pendency of this Lawsuit, any appeal(s), and any related proceedings.

4. Any responsive document that has been altered, including by the addition of any marginal notes, handwritten notes, underlining, date stamps, received stamps, endorsed or filed stamps, drafts, revisions, or modifications, and other versions of a document is a responsive document in its own right and must be produced.

5. Subject to the Definitions and Instructions in these Requests, and any protocols concerning electronically stored information ordered by the Court or agreed to by the Defendant, produce hard copy documents and electronically stored information in the form of production set forth by the U.S. Department of Justice, Antitrust Division's ESI Standard Specifications, used in the Investigation and provided with these Requests. Notwithstanding any other Instruction, hard copy documents must be submitted in the same order (organized by sequential document-control numbering) as they were found in the Organization's files at the time the documents were collected, and must not be shuffled or otherwise rearranged. For bound hard copy documents—including notebooks, notepads, journals, planners, or other documents bound by staples, binders, or paper clips, or other means—produce all printed pages of the bound hard copy document if any page or part thereof is responsive. For any responsive text messages, produce the surrounding thread of texts involving the same participants in that 24-hour calendar day and in

the same format as produced during the Investigation.

6. If otherwise identical copies of a document are in the possession, custody, or control of more than one natural person or other document custodian, a copy of that document must be produced from each such natural person or other document custodian. The Organization may deduplicate to the extent permitted under and in compliance with the U.S. Department of Justice, Antitrust Division's ESI Standard Specifications, used in the Investigation and provided with these Requests.

7. If any document is withheld based on an objection to any Request, all other documents responsive to that Request not subject to the objection must be produced.

8. The specificity of any single Request shall not limit the generality of any other Request.

9. Where a claim of privilege or other protection from discovery is asserted in objecting to any Request or sub-part thereof, and any document is withheld (in whole or in part) on the basis of such assertion, with the exception of those communications that are exempt under the CMO, the Organization shall provide a log ("Privilege Log") in Microsoft Excel format that identifies, for each document:

- a. the nature of the privilege or protection from discovery that is being claimed with respect to each document (including identification of whether the document is being withheld entirely or redacted);
- b. the following non-privileged metadata: all authors, addressees, and recipients of the document (including those copy recipients and blind copy recipients); the subject line (if an email) or the file name (if non-email); date of the document; type of document (*e.g.*, .pdf, Excel, .msg); Bates range;

family Bates range, if applicable; and custodian(s). The Organization shall also produce a separate index containing an alphabetical list (by last name) of each name on the Privilege Log, identifying titles (for party employees), Organization affiliations, the members of any group or email list on the Privilege Log, where practicable (*e.g.*, Board of Directors), and any name variations used in the Privilege Log for the same individual;

- c. a description of each document containing sufficient information to identify the specific subject matter of the document or communication and to enable Plaintiff to assess the applicability of the privilege or protection claimed and the name of the attorney(s) whose work gives rise to the privilege claim; and
- d. the identity of and any production Bates number assigned to any attachment(s), enclosure(s), cover letter(s), or cover email(s) of each document, including the information outlined in subsections above for each such attachment, enclosure, cover letter, or cover email.

Attachments, enclosures, cover letters, and cover emails shall be entered separately on the Privilege Log. The Privilege Log shall include the full name, title, and employer of each author, addressee, and recipient, denoting each attorney acting in a legal capacity with respect to the document with the letters “ESQ,” except that identification of the name and the Organization affiliation for each non-Defendant Person shall be sufficient identification. The Organization shall also identify all Persons working in a legal capacity with respect to the withheld material other than attorneys, *e.g.*, paralegals and legal secretaries, who appear on the Privilege Log. Submit all non-privileged portions of any responsive document (including non-privileged or redactable attachments, enclosures, cover letters, and cover emails) for which a claim of

privilege is asserted, noting where redactions to the document have been made. When responsive, privileged documents attached to responsive, non-privileged documents are withheld from production, insert a placeholder to indicate a document has been withheld from that family.

10. If the Plaintiff agrees to narrow the scope of any of these Requests to a limited group of custodians, a search of each custodian's files must include a search of the files of their predecessors and successors (if applicable); files maintained by their assistants or under their control; and common or shared databases or data sources maintained by the Organization that are accessible by each custodian, their predecessors (and successors, if applicable), or assistants.

11. If the Organization is unable to produce a document that is responsive to a Request not due to a claim of privilege or other legal protection, describe the document, state why it cannot be produced, and, if applicable, state the whereabouts of such document when last in the Organization's possession.

12. These Requests are continuing in nature, and the Organization's duty to supplement its production in response to these Requests pursuant to Federal Rule of Civil Procedure 26(e) is ongoing. Plaintiff reserves the right to seek supplementary responses and the additional supplementary production of documents before trial.

13. Except as specified in Instruction 1, the fact that a document is in the possession of Plaintiff, or is produced by another Person, does not relieve the Organization of the obligation to produce all of the Organization's copies of the same document, even if the Organization's copies are identical in all respects to a document produced or held by another Person.

14. To the extent the Organization contends that responsive documents in its possession, custody, or control cannot be produced pursuant to the notice and consent requirements contained in a protective order or agreement, the written response to these Requests

for Production must identify the specific provisions of the protective order or agreement on which the Organization is relying and the efforts that the Organization has undertaken and will undertake to provide notice and obtain consents.

15. Do not produce any PII or SHI before discussing the information with Plaintiff. If any document responsive to a particular Request contains PII or SHI that is not responsive to that Request, redact the unresponsive PII or SHI before producing the document. Provide any index of documents prepared by any Person in connection with the Organization's response to these Requests for Production that lists such redacted documents by document control number. If the index is available in electronic form, provide it in that form.

16. In producing videos or podcasts, for any video or podcast publicly available on the Organization's website or published by the Organization or its representatives on any other website (including YouTube), the Organization may in the alternative submit written permission for the Plaintiff to download, preserve, and use any such video or podcast through the pendency of this Lawsuit. Should the Organization choose this alternative, in the event the Plaintiff are unable to download and preserve any such video or podcast, the Organization agrees to produce a copy of it upon written request.

17. The present tense includes the past and future tenses. The singular includes the plural, and the plural includes the singular. Words in any gender form (including the masculine, feminine, or neuter) shall include each other gender.

18. If, in responding to these Requests, the Organization encounters any ambiguities when construing a Request, instruction, or definition, the response shall set forth the matter deemed ambiguous and the construction used in responding.

DEFINITIONS

The terms defined and used in each of the Requests below should be construed broadly to the fullest extent of their meaning in a good-faith effort to comply with the Federal Rules of Civil Procedure, the Local Rules, and any Protective Order.

1. The term “the Organization,” “you,” “your,” or “New York-Presbyterian” means The New York and Presbyterian Hospital, its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships, and joint ventures, and all of their present and former directors, officers, employees, agents (including counsel and document vendors), representatives and any Person acting or purporting to act on their behalf. The terms “parent,” “subsidiary,” “affiliate,” and “joint venture” refer to any Person in which there is partial (25% or more) or total ownership or control between New York-Presbyterian and any other Person.

2. The term “agreement” means any understanding, formal or informal, written or unwritten between two or more Persons.

3. The terms “and” and “or” have both conjunctive and disjunctive meanings, and shall be construed as necessary to bring within the scope of the discovery Request all responses that might otherwise be construed as being outside of its scope.

4. The terms “any,” “all,” “each,” and “every” shall be construed as encompassing any and all.

5. The term “Collaborative Work Environment” means a platform used to create, edit, review, approve, store, organize, share, and access documents and information by and among authorized users, potentially in diverse locations and with different devices. Even when based on a common technology platform, Collaborative Work Environments are often configured as separate and closed environments, each one of which is open to a select group of

users with layered access control rules (reader vs. author vs. editor). Collaborative Work Environments include Microsoft SharePoint sites, eRooms, document management systems (e.g., iManage), intranets, web content management systems (“CMS”) (e.g., Drupal), wikis, and blogs.

6. The term “communications” means without limitation communications in oral or written form, including electronic communications, e-mails, facsimiles, telephone communications (including text messages), instant messages, memoranda, writings, audio recordings, meetings, interviews, correspondence, exchange of written or recorded information, face-to-face meetings, or any other form of transmission of information. The phrase “communications between” is defined to include instances where one party addresses the other party, but the other party does not necessarily receive the transmission or respond.

7. The term “discussing” when used to refer to documents means analyzing, constituting, summarizing, reporting on, considering, recommending, setting forth, or describing a subject. Documents that are or contain reports, studies, memoranda, forecasts, analyses, plans, proposals, evaluations, recommendations, directives, procedures, policies, or guidelines regarding a subject should be treated as documents that discuss the subject. However, documents that merely mention or refer to a subject without further elaboration should not be treated as documents that discuss that subject.

8. The term “document” is defined to be synonymous in meaning and equal in scope to the usage of the phrase “documents or electronically stored information” in Rule 34(a)(1)(A) of the Federal Rules of Civil Procedure, and will be interpreted consistently with any Local Rule. For the avoidance of doubt, “document” includes all electronically stored information, including all electronic communications and any attachments thereto (e.g., emails, text messages, instant messages and all attachments to them, chats, information stored on social media accounts like X

(formerly, Twitter), or Facebook, other Messaging Applications, and documents contained in Collaborative Work Environments), files, audio and/or video recordings, data, and databases. This term includes all metadata, formulas, and other embedded, hidden, and bibliographic or historical data describing or relating to any document. A draft or non-identical copy is a separate document within the meaning of this term. This term also includes all writings and hard copy documents. A printout of an email or other electronic document, with or without writing or other markings, is a separate document within the meaning of this term.

9. The term “including” means “including, but not limited to.”

10. The term “Investigation” means the investigation into the potential unlawful agreements between New York-Presbyterian and health insurance companies relating to steering restrictions and contracting conduct conducted by the U.S. Department of Justice, Antitrust Division, that preceded the Lawsuit.

11. The term “Lawsuit” means the lawsuit filed by Plaintiff against The New York and Presbyterian Hospital pending in the United States District Court for the Southern District of New York, Case No. 26-cv-02480-PAE-OTW.

12. The term “Messaging Application” refers to any electronic method that has ever been used by the Organization and its employees to communicate with each other or entities outside the Organization for any business purposes. “Messaging Application” includes platforms, whether ephemeral or non-ephemeral messaging, for email, chats, instant messages, text messages, and other methods of group and individual communication (e.g., Microsoft Teams, Slack). “Messaging Application” may overlap with “Collaborative Work Environment.”

A. The term “Payor” means any Person providing commercial health insurance or access to Provider networks, including managed-care organizations, and rental networks (i.e.,

entities that lease, rent, or otherwise provide direct or indirect access to a proprietary network of Providers), regardless of whether that entity bears any risk or makes any payment relating to the provision of healthcare. The term “Payor” includes Persons that provide Medicare Part C plans but does not include Medicare (except Medicare Part C plans), Medicaid, or TRICARE, or entities that otherwise contract on behalf of Medicare (except Medicare Part C plans), Medicaid, or TRICARE.

13. The term “Person” includes New York-Presbyterian, and means any natural person, corporate entity, partnership, association, joint venture, government entity, trust, or other legal entity. Any reference to a Person that is a business entity includes: that Person’s predecessors (including any pre-existing Person that at any time became part of that entity after a merger or acquisition), successors, parents, divisions, subsidiaries, affiliates, each other Person that is directly or indirectly owned or controlled by any of them; each partnership or joint venture to which any of them is a party; all present and former directors, officers, employees, agents, attorneys, consultants, controlling shareholders (and any entity owned by any such controlling shareholder) of any of them; and any other Person acting for or on behalf of any of them.

14. “Personally Identifiable Information” or “PII” means information or data that would identify an individual, including an individual’s Social Security Number; or an individual’s name, address, or phone number in combination with one or more of his or her (a) date of birth; (b) driver’s license number, or other state or federal government identification number, or a foreign country equivalent identification number; (c) passport number; (d) financial account number; or (e) credit or debit card number.

15. The terms “relating to,” “relate to,” and “relating thereto” mean in whole or in part constituting, containing, concerning, discussing, describing, analyzing, identifying, or

stating.

16. The term “Request” refers to any request identified within these Requests for Production.

17. The term “Senior Management” means any board member, Organization officer, director, employee at or above the level of vice president, and employee with management responsibility for any business unit or service line.

18. The terms “Sensitive Health Information” or “SHI” mean information or data about an individual’s health, including medical records and other individually identifiable health information, whether on paper, in electronic form, or communicated orally. SHI relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

DOCUMENT REQUESTS

1. One copy of each organization chart, including any updated or revised organization charts, listing all Senior Management and all Persons responsible for (1) negotiating or enforcing the Organization’s contracts with any Payor; (2) analyzing the Organization’s contracts with any Payor; (3) recommending that the Organization’s contracts with any commercial Payor be approved; and (4) approving the Organization’s contracts with any commercial Payor.

2. All documents relating to any formal or informal performance evaluations, reviews, or self-assessments for Steve Corwin, Brian Donley, Michael Breslin, Karen Westerfelt, Deepa Kumariah, Paresh Shah, Dov Schwartzben, Lauren Marino, Emily Goodwin, Avraham Munk, Carrie Elwood, Otto Lee, Smith Won, and Maggie Buehler (or the person

responsible for your employee health plan design and offerings).

3. Without regard to date, all agreements and contracts, including all amendments, between the Organization, or any hospital or hospital system that the Organization operates, manages, or affiliates with, and any Payor.

4. All documents, regardless of the date of such documents, responsive to the Civil Investigative Demand issued to New York-Presbyterian on April 22, 2025 in connection with the Investigation, that were withheld or redacted on the basis of a claim of privilege or work product protection for which the Organization provided (1) inadequate or deficient information from which Plaintiff can assess the Organization's privilege claims in the Organization's privilege log of March 8, 2026 or (2) sufficient information in the Organization's privilege log to establish that the document is in fact not privileged or protected by the attorney work product doctrine. For avoidance of doubt, this Request is focused on the categories of documents identified in the privilege log deficiency letter from Plaintiff to Vinay Kohli, dated March 16, 2026, attached as Exhibit 1.

5. All documents or materials received, reviewed, or produced by the New York-Presbyterian Board of Directors.

6. All documents and communications discussing, evaluating, or analyzing New York Presbyterian's employer-sponsored health insurance plan(s) or health benefits offerings for its employees.

7. All data received or collected by the Organization from any third-party in connection with the Investigation, Lawsuit, *Cement And Concrete Workers Dc Benefit Fund v. The New York And Presbyterian Hospital*, Case No. 2:25-cv-05023-ENV-AYS, *UFCW Local 1500 Welfare Fund v. The New York and Presbyterian Hospital*, Case No. 1:25-cv-5571-ENV-

AYS, or any other investigation of or lawsuit against the Organization in which the conduct at issue or allegations resemble the allegations in the Lawsuit.

8. All documents, including any data, produced or received by the Organization in connection with *Cement And Concrete Workers Dc Benefit Fund v. The New York And Presbyterian Hospital*, Case No. 2:25-cv-05023-ENV-AYS, *UFCW Local 1500 Welfare Fund v. The New York and Presbyterian Hospital*, Case No. 1:25-cv-5571-ENV-AYS, or any other investigation of or lawsuit against the Organization in which the conduct at issue or allegations resemble the allegations in the Lawsuit.

Dated: April 17, 2026

CERTIFICATE OF SERVICE

I hereby certify that on April 17, 2026, I served the foregoing on Defendant's counsel of record, including by email at the following email addresses:

vkohli@proskauer.com
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EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE NEW YORK AND PRESBYTERIAN
HOSPITAL,

Defendant.

1:26-CV-2480

Hon. Paul A. Engelmayer, USDJ
Hon. Ona T. Wang, USMJ

**NYP’S RESPONSES AND OBJECTIONS TO THE DIVISION’S
FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and Local Civil Rule 26.1, the New York and Presbyterian Hospital (“NYP”) hereby objects and responds to the United States’ (“DOJ’s” or “Division’s”) April 18, 2026 First Set of Requests for Production of Documents (“the Requests”):

GENERAL OBJECTIONS

NYP asserts the following General Objections (“GOs”), which are incorporated by reference into each of the Specific Responses and Objections below. These GOs govern the scope of any responses by NYP to the Requests and are neither waived nor limited by NYP’s Specific Responses and Objections.

1. ***The Rules Govern.*** NYP objects to the Requests, including the Definitions and Instructions, to the extent that they are inconsistent with or exceed the obligations imposed by the Federal Rules of Civil Procedure, the Local Rules, or applicable order. In responding to these Requests, NYP will comply with the requirements of the Federal Rules of Civil Procedure, the Local Rules, and applicable orders of the Court.

2. ***Supplemental Discovery Period.*** The Division has already conducted an extensive investigation and received voluminous documents pursuant to the civil investigative demands (“CIDs”) it has previously issued. During the investigation NYP produced documents covering the period from at least April 2023 through April 2025, as well as certain additional documents prior to that period. NYP objects to the Requests, including Instructions 2 and 12, to the extent they seek additional discovery prior to April 2025 on the grounds that any such discovery is not reasonably proportional, is cumulative of the discovery NYP has already produced, or is unduly burdensome. Absent further agreement of the parties or Court Order, NYP shall limit its search for and production of responsive material to the period from April 22, 2025 to March 26, 2026, the date the Complaint was filed (the “Supplemental Discovery Period”), and all offers of production set forth in response to the Specific Requests below are expressly limited to this Supplemental Discovery Period. NYP does not undertake any obligation to supplement its production, pursuant to Fed. R. Civ. P. 26(e) or otherwise, solely due to the passage of time.

3. ***Payor Contracting.*** NYP objects to the Requests to the extent they seek information unrelated to payor contracting, including the effects of payor contracting on prices, costs, volume, output, or quality (or vice versa), on the grounds that such information is not relevant and proportional to the needs of the case. Where specified below in response to Specific Requests, NYP will limit its offers of production to information relating to payor contracting involving the relevant payors.

4. ***Relevant Payors.*** NYP objects to the definition of “Payor” as overly broad, unduly burdensome, and disproportionate to the needs of the case to the extent it extends to any “person providing commercial health insurance or access to Provider networks, including managed-care organizations, and rental networks” other than those identified in the Complaint. NYP will

interpret Payor to mean Aetna, Anthem/Empire, Cigna, Emblem, and/or United. For purposes of these responses, NYP will refer to these entities as the “Relevant Payors.” Absent further agreement, NYP shall not search for or produce documents relating to other insurers, managed-care organizations, rental networks, or other entities other than the Relevant Payors.

5. **Agreements.** Without limiting the foregoing, NYP objects to the definition of “agreement” (Definition 2), as being vague, overly broad, and unduly burdensome. When referring to agreements, NYP shall use the term agreement to mean the executed agreements between NYP and any Relevant Payor.

6. **Scope of Search.** NYP objects to the Requests on the ground that they are, in many instances, compound, overly broad, unduly burdensome, or not proportional to the needs of the case absent reasonable limitations placed on the scope of the search. In the spirit of compromise, NYP may set forth offers of production in response to the specific Requests below. For avoidance of doubt, to the extent responsive documents exist but are not included within NYP’s offer of production, such documents are being withheld on the basis of NYP’s General and Specific Objections. *See* Fed. R. Civ. P. 34(b)(2). Absent agreement of the parties or Court Order, unless otherwise specified, each of NYP’s offers of production are expressly limited to the following:

- a. **Custodian Search.** A custodian search involves collection of a custodian’s emails and other user-generated files, including the network files where the custodian ordinarily stores user-generated files. Where NYP intends to comply with a particular Request by performing a Custodian Search, it will expressly indicate in its offer of production that the search will involve a Custodian Search, and unless otherwise stated, such search shall be in lieu of any Targeted Search with respect to that Specific Request. Any Custodian Searches identified in these Responses will include a reasonable search of the following seven individuals: Michael Breslin, Steve Corwin, Brian Donley, Deepa Kumaraiah, Lauren Marino, Avi Munk, and Dov Schwartzben. For avoidance of doubt, NYP specifically objects to any instructions, including Instructions 10-13, that purport to control the methodology or scope NYP’s custodian search. If additional custodians are added, NYP reserves the right to withdraw or modify any offers of production with respect to any specific Request.

1. **Targeted Search.** In some instances, searching specific central files or systems will be a more efficient and proportional way to respond to particular Requests than conducting a full custodian search. NYP refers to such searches as “Targeted Searches,” otherwise often referred to as “go-gets.” Where NYP intends to comply with a particular Request by performing a Targeted Search, it will expressly indicate in its offer of production that the search will involve a Targeted Search, and unless otherwise stated, such search shall be in lieu of any Custodian Search with respect to that specific Request.
 - b. **Structured Data.** In conducting Targeted Searches for information that is maintained in any database, including information in any transactional, financial, or customer relationship database, NYP’s offers of production are expressly contingent upon investigation and conferral concerning the specific fields of information that are readily-accessible, available, and proportionate. NYP reserves the right to object to the production of any field or time period that is neither relevant to DOJ’s claim or defense nor proportional to the needs of the case.
 - c. **ESI.** NYP objects to the Requests to the extent they call for the production of any electronically stored information that is not reasonably accessible, or that cannot be compiled or produced without unreasonable investments in time and expense. NYP also objects to any ESI protocols, guidelines, directives, or instructions in the DOJ’s Requests, including Instructions 5 and 6. NYP intends to produce responsive, non-privileged documents in a reasonable and not needlessly burdensome and inefficient production format. To the extent desired, NYP is willing to meet and confer regarding production format.
 - d. **Offers of Production Control.** NYP objects to DOJ’s definitions in its Requests as not reasonably proportional to the needs of the case. In responding to these Requests, NYP shall produce documents in accordance with the offers of production set forth herein, without regard to any instructions or definitions in the Requests that may otherwise expand the offer of production or impose additional burdens on NYP.
7. **Time, Place, Manner of Production.** NYP objects to the Requests to the extent that they do not specify a “reasonable time, place, and manner of making the inspection.” *See* Fed. R. Civ. P. 34(b). To the extent NYP makes an offer of production in these Responses, such offer of production contemplates a rolling production. NYP is willing to meet and confer with the Division concerning any mutual substantial completion date for the production of documents.

8. **General Protective Order.** NYP will not produce any confidential information prior to entry of a suitable general protective order and objects to the Requests to the extent they call for the same.

9. **Protected Personal Information.** NYP objects to the Requests to the extent they call for documents that may contain protected personal information (“PPI”). Given the burden of redacting such information on a document-by-document basis, NYP reserves the right to withhold such documents in their entirety. NYP alternatively reserves the right to redact such documents. To the extent NYP does withhold or redact documents containing PPI, it will identify such documents on an appropriate metadata log that does not reveal the PPI. For purposes of this objection, the term PPI means information that contains (i) personally identifiable information, such as social security numbers, home addresses, personal phone numbers; (ii) personal private information that is unrelated to work (*e.g.*, family pictures and texts); and (iii) protected health information as that term is defined in the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as codified at 42 U.S.C. § 1320d, 45 CFR § 160.103, and any applicable New York State law.

10. **Privacy.** NYP objects to the Requests to the extent that they call for the production of information or documents that NYP is barred from producing by (i) any domestic or foreign privacy laws, including HIPAA; (ii) a protective order or restriction on use or dissemination in another case or governmental investigation; (iii) confidentiality agreements with, or licensing restrictions imposed by, third parties; or (iv) statute or agency rule. To the extent NYP withholds otherwise responsive documents on the basis of this Objection, NYP will provide appropriate notice to the DOJ and will meet and confer as requested by the DOJ. For avoidance of doubt, NYP

objects to, and does not agree to follow, Instruction 14, as it imposes obligations beyond those imposed by the Federal Rules of Civil Procedure.

11. ***Privilege.*** NYP objects to the Requests to the extent they call for documents that may contain information protected by any privilege, doctrine, or protection, including without limitation the attorney-client privilege, the work product doctrine, and any other applicable privilege or protection. NYP objects to Instruction 9 to the extent it imposes any logging requirements beyond those imposed by Fed. R. Civ. P. 26(b)(5) or any applicable local rule. NYP will produce a reasonable log that does not impose needlessly burdensome requirements and that complies with the requirements of such rules. Nothing contained in these objections and responses is intended to be, or in any way constitutes, a waiver of any applicable privilege or immunity. Any inadvertent production of information protected by the attorney-client privilege, prepared in anticipation of litigation or trial, or otherwise protected or immune from discovery shall not constitute a waiver of any privilege nor of any other basis for objecting to the use of such material or its subject matter. NYP expressly reserves the right to object to the use or introduction of such information.

12. ***Definitions.*** NYP objects to the definitions. Unless otherwise specified, in responding to these requests, NYP shall employ the common meaning of each term without regard to the definitions set forth in the Requests.

13. ***Possession, Custody, and Control.*** NYP objects to the definition of “Organization,” “you,” “your,” or “New York-Presbyterian” as overly broad, unduly burdensome, irrelevant, and disproportionate to the needs of the case to the extent it seeks to impose any obligation on NYP to search for documents not in NYP’s possession, custody, or control, including “domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships, and

joint ventures, and all of their present and former directors, officers, employees, agents (including counsel and document vendors), representatives and any Person acting or purporting to act on [NYP's] behalf." NYP will interpret the terms to mean the New York and Presbyterian Hospital named as a defendant in this Lawsuit, and will respond to the Requests on behalf of NYP only.

14. **Person.** NYP objects to the definition of "Person" as overly broad, unduly burdensome, and disproportionate to the needs of the case to the extent that (i) with regard to a natural person, it includes any person other than that individual human being, or (ii) with regard to a non-natural person, it includes any legal entity other than the specifically identified legal or juridical entity. For avoidance of doubt, NYP's offers of production do not include searches for any third-party.

15. **Short-Form Objections.** In setting forth these General and Specific Objections, NYP shall use the term "Proportionality" to mean that the Request seeks information that is not "proportional to the needs of the case" under Fed. R. Civ. P. 26(b)(1). NYP uses the terms "Breadth" and/or "Burden" to mean that (i) the Request is overly broad and/or unduly burdensome; (ii) the discovery sought is unreasonably cumulative or duplicative of other information NYP has offered to produce in response to a document request under Fed. R. Civ. P. 34(a); and/or (iii) the burden or expense of the proposed discovery outweighs its likely benefit under Fed. R. Civ. P. 26(b). NYP uses the term "Relevance" to mean that the discovery requested is neither relevant to any party's claim or defense under the Federal Rules of Evidence nor proportional to the needs of the case or is otherwise outside the scope of Fed. R. Civ. P. 26(b)(1). NYP uses the term "Ambiguity" to mean the Request is vague and ambiguous. NYP uses the term "Privilege" to mean that the discovery requested seeks information protected by the attorney-client privilege, the work product doctrine, joint defense or common interest privileges, or any other applicable privilege.

16. ***Reservation of Right to Amend.*** Because discovery is ongoing, NYP's Responses are preliminary in nature and based only on information that is readily available to NYP after a reasonable, but still ongoing, investigation. To the extent necessary or appropriate, NYP reserves the right to supplement its Responses in accordance with Fed. R. Civ. P. 26(e) and 34(b), including – without limitation – by asserting additional objections.

SPECIFIC RESPONSES AND OBJECTIONS¹

REQUEST FOR PRODUCTION NO. 1:

One copy of each organization chart, including any updated or revised organization charts, listing all Senior Management and all Persons responsible for (1) negotiating or enforcing the Organization's contracts with any Payor; (2) analyzing the Organization's contracts with any Payor; (3) recommending that the Organization's contracts with any commercial Payor be approved; and (4) approving the Organization's contracts with any commercial Payor.

Response to Request for Production No. 1: NYP objects to this Request to the extent it seeks information outside the Supplement Discovery Period, GO 2. NYP notes that it has already produced organization charts in response to the CID which are also responsive to this Request. See Instruction 1, NYPDOJ-000222, NYPDOJ-000416–421. Any additional production is not proportional to the needs of the case. Nonetheless, subject to and without waiving its General and Specific Objections, NYP will conduct a Targeted Search for responsive organization charts created during the Supplemental Discovery Period.

REQUEST FOR PRODUCTION NO. 2:

All documents relating to any formal or informal performance evaluations, reviews, or self-assessments for Steve Corwin, Brian Donley, Michael Breslin, Karen Westerfelt, Deepa Kumariah, Paresh Shah, Dov Schwartzben, Lauren Marino, Emily Goodwin, Avraham Munk,

¹ For avoidance of doubt, all offers of production expressly incorporate all limitations on the time, place, and manner of production, including GO 6 (Scope of Search); GO 7 (time, place, manner); and GO 2 (Supplemental Discovery Period). All other limits reflected in the General Objections are similarly incorporated into each specific response without the need to repeat or reference such objections, but NYP will endeavor to identify the most germane objections.

Carrie Elwood, Otto Lee, Smith Won, and Maggie Buehler (or the person responsible for your employee health plan design and offerings).

Response to Request for Production No. 2: NYP objects to this Request as overly broad, unduly burdensome, and disproportionate to the needs of this case to the extent it includes individuals that do not have responsibility for payor contracting, as set forth in GO 3. NYP further objects to this request on the grounds of relevance and proportionality to the extent that such “formal or informal performance evaluations, reviews, or self-assessments” contain information not related to payor contracting.

Subject to and without waiving its general and specific objections, NYP will conduct a Targeted Search of NYP’s Human Resources records for evaluations, reviews, or self-assessments for Steve Corwin, Brian Donley, Michael Breslin, Dov Schwartzben, Lauren Marino, and Avi Munk to the extent such documents relate to payor contracting.

REQUEST FOR PRODUCTION NO. 3:

Without regard to date, all agreements and contracts, including all amendments, between the Organization, or any hospital or hospital system that the Organization operates, manages, or affiliates with, and any Payor.

Response to Request for Production No. 3: NYP objects to this Request as overly broad, unduly burdensome, and disproportionate to the needs of this case to the extent it requests information for any entity other than NYP, as set forth in GO 13. NYP notes that it already produced the operative agreements with the Relevant Payors. Without limiting the foregoing, NYP objects to this Request to the extent it seeks information not related to Agreements with Relevant Payors, as set forth in GOs 3, 4 and 5. Subject to and without waiving its general and specific objections, NYP will conduct a Targeted Search for executed agreements between NYP and the Relevant Payors that were not previously produced to the Division.

REQUEST FOR PRODUCTION NO. 4:

All documents, regardless of the date of such documents, responsive to the Civil Investigative Demand issued to New York-Presbyterian on April 22, 2025 in connection with the Investigation, that were withheld or redacted on the basis of a claim of privilege or work product protection for which the Organization provided (1) inadequate or deficient information from which Plaintiff can assess the Organization's privilege claims in the Organization's privilege log of March 8, 2026 or (2) sufficient information in the Organization's privilege log to establish that the document is in fact not privileged or protected by the attorney work product doctrine. For avoidance of doubt, this Request is focused on the categories of documents identified in the privilege log deficiency letter from Plaintiff to Vinay Kohli, dated March 16, 2026, attached as Exhibit 1.

Response to Request for Production No. 4: NYP objects to this request as unduly burdensome and disproportionate to the needs of this case, as DOJ's authority to enforce NYP's compliance with the CID terminated with the filing of this Lawsuit. *See U.S. v. Associated Merchandising Corp.*, 261 F. Supp. 553, 558 (S.D.N.Y. 1966) (in an antitrust action initiated by the Federal Trade Commission, "it is the adjudicative rules, not the investigative ones, which are to govern once a complaint has issued"); *F.T.C. v. Turner*, 609 F.2d 743, 745 (5th Cir. 1980) (where the FTC "assumes a different litigative posture" by becoming a "civil plaintiff," FTC did not "ha[ve] the claimed investigative authority in its new role"); 15 U.S.C. § 1312 (the Attorney General "may, **prior to the institution of a civil or criminal proceeding by the United States** thereon, issue in writing, and cause to be served upon such person, a civil investigative demand" (emphasis added)). NYP further objects to this Request on the grounds that the documents on the CID log included documents that were not in fact responsive to the CID.

Subject to and without waiving its general objections, NYP will conduct a further review of documents identified on its CID privilege log for both responsiveness to the CID and privilege. To the extent NYP identifies privileged documents responsive to the CID, NYP will provide DOJ with an updated privilege log for those documents. To the extent NYP determines that responsive documents listed on the CID log are not privileged or not privileged in full, it will make a further

production. To the extent NYP determines after further review that a document is not responsive to the CID, it will remove the document from the log and not produce it.

REQUEST FOR PRODUCTION NO. 5:

All documents or materials received, reviewed, or produced by the New York-Presbyterian Board of Directors.

Response to Request for Production No. 5: NYP objects to this Request on the grounds that it is overbroad, seeks irrelevant information, and is not proportional to the extent such it seeks information not relate to payor contracting, as set forth in GOs 3-5. NYP also notes that NYP has already produced relevant board materials during the investigation, and that any further production relating to or pre-dating the period covered by the investigation is unduly burdensome and not proportional. Subject to and without waiving its general and specific objections, NYP will conduct a Targeted Search for responsive documents created during the Supplemental Discovery Period containing information regarding payor contracting.

REQUEST FOR PRODUCTION NO. 6:

All documents and communications discussing, evaluating, or analyzing New York Presbyterian's employer-sponsored health insurance plan(s) or health benefits offerings for its employees.

Response to Request for Production No. 6: NYP objects to this Request on the grounds of relevance, burden, breadth, and proportionality, as NYP's "employer-sponsored health insurance plan(s) or health benefits offerings for its employees" are not at issue in this case. NYP will not produce documents in response to this Request.

REQUEST FOR PRODUCTION NO. 7:

All data received or collected by the Organization from any third-party in connection with the Investigation, Lawsuit, Cement And Concrete Workers Dc Benefit Fund v. The New York And Presbyterian Hospital, Case No. 2:25-cv-05023-ENV-AYS, UFCW Local 1500 Welfare Fund v. The New York and Presbyterian Hospital, Case No. 1:25-cv-5571-ENV-AYS, or any other investigation of or lawsuit against the Organization in which the conduct at issue or allegations resemble the allegations in the Lawsuit.

Response to Request for Production No. 7: NYP objects to this request as vague and ambiguous to the extent it seeks information related to any “investigation or lawsuit” other the *Cement Workers* and *UFCW*. In responding to this Request NYP shall limit this request to documents produced in discovery in *Cement Workers* or *UFCW*. NYP further objects to this Request to the extent it seeks to impose any ongoing or continuing obligation to produce or reproduce documents in those cases. The Federal Rules of Civil Procedure do not impose on NYP the obligation to be a clearinghouse or discovery liaison counsel in separate cases, and NYP shall not undertake any such obligation. NYP also objects to the requirement to produce documents it receives in discovery in the *Cement Workers* or *UFCW* cases to the extent such documents are governed by a Protective Order in those cases, unless such protective order specifically permits without further notice re-production in this case. NYP objects to this Request to the extent it seeks documents produced in the *Cement Workers* or *UFCW* cases without regard to the contents of the documents. Absent further agreement or Court Order, NYP will not produce documents in response to this Request. NYP is willing to meet and confer regarding the proper scope, if any, of parallel discovery between this Action and the Related Actions.

REQUEST FOR PRODUCTION NO. 8:

All documents, including any data, produced or received by the Organization in connection with Cement And Concrete Workers Dc Benefit Fund v. The New York And Presbyterian Hospital, Case No. 2:25-cv-05023-ENV-AYS, UFCW Local 1500 Welfare Fund v. The New York and Presbyterian Hospital, Case No. 1:25-cv-5571-ENV-AYS, or any other investigation of or lawsuit against the Organization in which the conduct at issue or allegations resemble the allegations in the Lawsuit.

Response to Request for Production No. 8: NYP objects to this request as vague and ambiguous to the extent it seeks information related to any “investigation or lawsuit” other the *Cement Workers* and *UFCW*. In responding to this Request NYP shall limit this request to documents produced in discovery in *Cement Workers* or *UFCW*. NYP further objects to this

Request to the extent it seeks to impose any ongoing or continuing obligation to produce or reproduce documents in those cases. The Federal Rules of Civil Procedure do not impose on NYP the obligation to be a clearinghouse or discovery liaison counsel in separate cases, and NYP shall not undertake any such obligation. NYP also objects to the requirement to produce documents it receives in discovery in the *Cement Workers* or *UFCW* cases to the extent such documents are governed by a Protective Order in those cases, unless such protective order specifically permits without further notice re-production in this case. NYP objects to this Request to the extent it seeks documents produced in the *Cement Workers* or *UFCW* cases without regard to the contents of the documents. Absent further agreement or Court Order, NYP will not produce documents in response to this Request. NYP is willing to meet and confer regarding the proper scope, if any, of parallel discovery between this Action and the Related Actions.

Dated: May 18, 2026

Respectfully submitted,

/s/ David A. Munkittrick

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**Admitted Pro Hac Vice*

EXHIBIT C



U.S. Department of Justice

Antitrust Division

Liberty Square Building

*450 5th Street, N.W.
Washington, DC 20530*

June 5, 2026

VIA E-MAIL

David A. Munkittrick, Esq.
Proskauer
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New York, NY 10036

Re: *United States v. NYP*, 26-cv-2480-PAE-OTW (S.D.N.Y.)
NYP's Objections to Plaintiff's 1st Set of RFPs

Dear David:

We write regarding New York Presbyterian's ("NYP") Responses and Objections ("Responses") to the United States' ("Plaintiff") First Set of Requests for Production of Documents ("Requests"), provided on May 18, 2026. We have several concerns from your Responses that we would like to discuss on a meet and confer. The issues identified below are based on our initial review of your Responses. Plaintiff reserves the right to raise issues and objections later and Plaintiff's failure to discuss one of NYP's objections should not be construed as Plaintiff's agreement to the objection, a concession that the objection is well founded, or a waiver of Plaintiff's ability to dispute NYP's basis for asserting such an objection in the future.

A. General Objections

Your Responses contain eight pages of "General Objections," which you "incorporate by reference" in each of your responses, plus additional specific objections. You then make each of your offers of production "subject to and without waiving" those objections. In many instances, however, you do not specify how you are relying on those objections to withhold responsive documents. That does not comply with Rule 34's requirement that "an objection must state whether any responsive materials are being withheld on the basis of that objection." Fed. R. Civ. P. 34(b)(2)(C). If you intend to rely on any General or Specific Objection to withhold information responsive to any request as written, you will need to specify which objection you are relying on for which RFP, and to specifically identify the portions of any RFP as written with which you do not intend to comply. The Division will assume that NYP is only withholding information on the basis of an objection when expressly identified in writing.

B. Objection to Obligations Imposed Beyond the Federal Rules

You object to Plaintiff's Requests, including the Definitions and Instructions, to the extent they impose obligations beyond the Federal Rules of Civil Procedure, the Local Rules, or any applicable order (the "Rules") (GO 1), but you do not identify which Definitions or Instructions exceed those Rules. Plaintiffs will assume that you are only objecting to certain Instructions or Definitions that are expressly written in your Responses. If you are withholding any responsive documents or objecting to complying with any of Plaintiff's instructions on the basis that the Instructions or Definitions impose obligations beyond the Rules, we ask that you explain what is being withheld or what instructions will not be complied with, and the basis for your position, during a meet and confer.

C. Relevant Period

You object to Plaintiff's Instruction 2 (GO 2), which identifies the relevant period for the Requests as the last 5 years, on the grounds that such time period is not reasonably proportional, is cumulative of discovery already produced, or it unduly burdensome. Plaintiff disagrees. Plaintiff cannot agree with NYP's proposal to only produce documents between April 22, 2025 and March 26, 2026.

A 5-year time period is reasonable and proportional to the needs of the case, even more so in light of NYP's position that its anti-steering provisions are decades-old and that such provisions were the product of insurer's demands. As such, documents from the past 5 years are highly relevant to Plaintiff's claims and any potential defenses. While you identify that NYP has already produced certain documents during the Division's investigation, Plaintiff's proposed time period is not cumulative because Instruction 1 states that such documents already produced need not be produced again in response to the Requests. Plaintiff's time period is also not unduly burdensome as it is not an excessively long time period and is a clearly defined, finite time period for which NYP can apply a date filter to easily identify responsive documents in the relevant period. On a meet and confer, Plaintiffs seek to further understand the basis for NYP's objection to a 5 year time period, especially in light of *NYP's First Set of RFPs on Plaintiffs which contain no time limit whatsoever* and NYP has expressly sought all documents from a tangentially related litigation matter that is over 26 years old. Given that you have requested non-parties to produce documents going back to at least January 1, 2021, you clearly agree that documents from this timeframe are likely to be relevant to the claims and defenses in this case.

D. "Payor Contracting" Limitation

You object to the Requests for seeking information that is unrelated to payor contracting and state you will only produce information relating to payor contracting (GO 3). NYP's objection based on an extremely narrow interpretation of relevance is improper under the Federal Rules. For information to be discoverable, it need only be "relevant to any party's claim or defense and proportional to the needs of the case." FRCP Rule 26(b)(1). The claims and defenses in this case extend to other issues beyond solely payor contracting and negotiations, including other issues such as, for example, information and facts relating to the affordability of healthcare, challenges facing employers offering or seeking to offer healthcare to employees and their

families, potential solutions employers may consider in addressing these challenges, as well as quality of care, hospital competition, geographic market, product market, and market power, among other issues. The market power issue is reflective of attributes of NYP and other market participants that are not limited to payor contracting, including, but not limited to, brand recognition, reputation, assets, and operations that complement NYP's inpatient GAC services. On a meet and confer, Plaintiffs would like NYP to explain what categories of documents or information NYP is withholding on the basis of this objection.

E. “Relevant Payors” Limitation

You object to the definition of “Payor” in the Requests and assert that you will interpret Payor as only including “Aetna, Anthem/Empire, Cigna, Emblem, and/or United” (GO 4). Plaintiff cannot agree to this limitation. The other commercial payors with whom NYP contracts (or used to contract) are in the relevant market pleaded in the Complaint and are relevant to Plaintiff's claims. There is a finite number of payors with whom NYP contracts, and this case revolves around NYP's contracting practices with each of the commercial payors. The fact that Dov Schwartzben testified that network participation agreements/steering restrictions were “a usual and customary provision in all” NYP payor agreements further supports Plaintiff's request. Schwartzben Dep. 266:4-14 (Mar. 19, 2026). There is therefore no reason to limit discovery to only the five payors you identify.

The only immediate request for which this is pertinent is RFP 3, which requests all agreements and contracts between NYP, or any hospital or hospital system NYP operates, manages, or affiliates with and any Payor. NYP's agreements and contracts with Payors are central to Plaintiffs claims in this case, and as such its agreements with other payors beyond the 5 payors identified are highly relevant to the claims and defenses of this litigation. On a meet and confer, Plaintiffs would like you to explain your basis for withholding responsive documents relating to other payors.

F. “Scope of Search” Objection / Custodian Limitation

You object to the scope of Plaintiff's Requests on the grounds that they are compound, overly broad, unduly burdensome, or not proportional to the needs of the case absent reasonable limitations (GO 6). Specifically, you identify that you will only conduct custodial searches of seven individuals. We note that most, if not all, of the requests in the First Set of RFPs are documents and data that can be identified through targeted searches rather than custodial searches. Plaintiffs seek to discuss your proposed scope of search on a meet and confer. Plaintiffs are available to discuss what custodians would be appropriate for custodial searches going forward.

You additionally object to any ESI protocols, guidelines, directives, or instructions in the DOJ's Requests, including Instructions 5 and 6. Before you make any productions, we would like to understand the ways in which your production will differ from any guidelines or instructions provided.

G. Time, Place, Manner of Production

You state that NYP plans on rolling productions in response to these Requests (GO 7). Plaintiffs agree to rolling productions so long as productions of documents that are relevant to specific deponents are completed in a reasonable amount of time ahead of such depositions. Plaintiffs are open to have a discussion concerning a mutual substantial completion date for production of documents on a meet and confer so that the Parties can conduct discovery in an efficient manner.

H. Protected Personal Information

You object to producing documents containing protected personal information (PPI) (GO 9), and claim to reserve the right to fully withhold such documents. Plaintiff's proposed Protective Order, which you resisted, protects personal information. ECF 20-1, Plaintiff's Proposed Protective Order, Ex. A ¶ 2. In light of Plaintiff's proposed protective order for personal information, we see no basis for withholding documents based on this objection, once and if our proposed Protective Order is entered. If the Court enters your protective order instead, we are willing to consider you seeking leave to amend it in order to enable it to afford the appropriate protection for the information that appears to be within the scope of this objection.

Plaintiffs cannot agree to your reservation of a right to withhold documents on the basis that they contain the very broad categories of PPI you identify, such as, for example personal phone numbers. To the extent there are responsive text messages that contain personal phone numbers (or are on employee's personal phones), such text messages should be produced and not withheld on the basis of PPI. On a meet and confer, we seek to understand if you disagree, and your basis for seeking to withhold such documents.

I. Privilege Instruction

You object to Instruction 9 as imposing privilege logging requirements beyond those imposed by the Federal Rules of Civil Procedure (GO 11). Given the significant deficiencies in NYP's produced privilege logs during the Division's Investigation, and its inability to remedy those deficiencies to date, Plaintiff has concerns about NYP's objections to Plaintiff's privilege instructions which are standard instructions. On a meet and confer, Plaintiffs seek an explanation of which portions of Instruction 9 NYP intends to not comply with in this and future productions.

J. "Possession, Custody, and Control" Objection

You object to the definition of "Possession, Custody, or Control" (GO 13). You state you will search and produce materials on behalf of New York and Presbyterian Hospital only. On a meet and confer, please be prepared to explain the basis of your objection and to excluding the subsidiaries and divisions of NYP in your response, and why such entities should not be considered in NYP's control. We seek to understand whether there are responsive documents you are withholding based on this objection.

K. RFP 1 (Organization Charts)

You state that NYP has already produced organization charts responsive to this Request, but Plaintiff understands there have been a number of leadership changes at NYP within the last year. As such, Plaintiff requests updated organization charts that reflect these changes. We understand from your response that NYP will produce these updated organizational charts, but if that is not correct, we ask that you clarify that in our meet and confer. Additionally, for the organization charts preceding April 22, 2025, we would ask that you confirm if you have such organization charts and are withholding them, and on what basis you are withholding them.

L. RFP 2 (Performance Evaluations)

You object to this request for performance evaluations for a number of individuals on the basis that they do not have responsibility for payor contracting. That is not an appropriate basis to withhold evaluations for these individuals. Many of the individuals identified in this request, but excluded from your list of proposed custodians, are on the managed care team and have or had responsibility for evaluating, negotiating or enforcing contractual terms with payors. These include Paresh Shah, Emily Goodwin, Carrie Elwood, Otto Lee, and Smith Won. The additional individuals have job functions that are pertinent to the claims and defenses in this case. Karen Westerfelt, Group Senior Vice President, Strategic Initiatives and Chief and Regulatory Planning at NYP, is heavily involved in evaluating the New York City healthcare market, competition, and NYP's competitors, which are central issues in Plaintiff's case. Others like Paresh Shah, Chief Operating Officer at NewYork-Presbyterian/Weill Cornell Division, are senior leaders at NYP. Lastly, the Request seeks the performance evaluations for Maggie Buehler or any other appropriate person responsible for NYP's employee health plan design and offerings. As further described below for RFP 6, NYP's consideration of employee health benefits that contain steering features, do not contain steering features, or consider broad or "open" networks is relevant to Plaintiff's claims and relevant to preparing for NYP's defenses as gleaned from NYP's 60-page answer.

NYP cannot claim that retrieving performance reviews for this limited set of individuals is unduly burdensome as they can be retrieved through a targeted search from NYP's human resources systems. Plaintiffs seek to further discuss this issue on a meet and confer.

M. RFP 3 (Payor Agreements)

You object to this request for NYP's agreements and contracts with payors on the basis that it is overly broad, unduly burdensome, and disproportionate to the needs of the case. Plaintiffs disagree with these objections as NYP's contracts with payors are central to this case and are highly relevant to Plaintiffs claims, which are about NYP's contracts with payors. Plaintiff does not agree to limit NYP's response to this Request to only Relevant Payors as NYP's agreements with other payors are also relevant. This request is not unduly burdensome as NYP has a central repository of payor agreements and is able to retrieve such documents through a targeted search. Plaintiff seeks to discuss these objections and NYP's proposed limitations to its production at a meet and confer. Plaintiff also seeks to understand better how NYP interprets

its General Objection 3 and 5 in relation to this request, and what, if any documents, it seeks to withhold on the basis of either of those objections.

N. RFP 4 (Improperly Withheld Documents on CID Privilege Log)

RFP 4 requests documents that were improperly withheld on the basis of privilege during the Investigation or where inadequate information was provided in the log to assess the validity of the privilege claim. Notwithstanding your objections, we understand that you agree to re-review your privilege log and produce unprivileged documents and to produce a revised privilege log. If that is incorrect, please let us know. On a meet and confer, please be prepared to speak to what categories of documents you are withholding from production in response to this request. Specifically, please be prepared to discuss whether you will produce the following categories identified in the March 16, 2026 privilege deficiency letter:

- The 978 documents where the privilege log description identified that the document is not privileged;
- The 1907 documents where no attorney was identified anywhere on the entry; and
- The documents that contain third parties in the communications (as many as at least 1107 individuals on NYP's legend).

On the meet and confer, we would like to discuss whether NYP has waived privilege and what authority NYP has for continuing to maintain privilege after having failed to explain its privilege claims in spite of multiple attempts highlighting these issues.

O. RFP 5 (NYP Board Documents)

RFP 5 requests all NYP board documents. You agree to conduct a search for such documents only after April 22, 2025. But the Request goes back 5 years. To the extent not already produced in the Investigation, we request that you produce board documents for the past 5 years. This is a finite set of documents that can easily be identified through a targeted search, thereby imposing minimal burden on NYP. Your limitation that you will only produce board documents if they relate to "payor contracting," is also improper as other topics are relevant to the claims and defense in this litigation, as explained earlier in this letter.

P. RFP 6 (NYP Employee Health Plan Documents)

You object to this request for documents relating to NYP's health insurance plans and health benefits offerings on the basis of relevance, burden, breadth, and proportionality. On a meet and confer, we would like to hear the basis of this objection. You say NYP's employee health plans are not an issue in this case but Plaintiffs disagree. Given that multiple NYP employees testified in investigational depositions that NYP considered the use of narrow networks and other steering mechanisms in its own health plan, such documents are relevant to this case.

Q. RFP 7 (Data Received or Collected from Third Parties)

RFP 7 requests data received or collected by NYP in connection with the Investigation, Lawsuit, or other related *Cement Workers* and *UFCW* cases, and any other related investigation/lawsuits. We are unclear regarding your response as on the one hand you state “NYP shall limit this request to documents produced in discovery in Cement Workers or UFCW” while on the other hand you state “Absent further agreement or Court Order, NYP will not produce documents in response to this request.” On a meet and confer, we seek to clarify NYP’s position and what it plans on producing or withholding in response to this request. First, the request seeks data received or collected by NYP, not merely documents produced in discovery. RFP 7 is broader than documents or data produced in discovery. Please be prepared to discuss if there is anything you are withholding in response to RFP 7 that is outside of the documents and data produced in discovery in the *Concrete Workers* or *UFCW* cases. Second, RFP 7 is substantially similar to NYP’s request to Plaintiff in its first Set of RFPs (RFP 5), which similarly seeks data DOJ collected or received in its Investigation or in connection with the Lawsuit. We seek to better understand why you are not willing to produce data in response to this request if you have such data.

R. RFP 8 (Documents Produced or Received in Connection with Private Suits)

RFP 8 requests all documents and data produced or received by NYP in connection with the *Cement Workers* and *UFCW* cases, or any other related investigations/lawsuits. Similar to your response to Request 7, we are unclear regarding your response as on the one hand you state “NYP shall limit this request to documents produced in discovery in Cement Workers or UFCW” while on the other hand you state “Absent further agreement or Court Order, NYP will not produce documents in response to this request.” On a meet and confer, we seek to understand if there are documents responsive to RFP 8 that you are withholding and on what basis. If you are withholding documents on the basis of a protective order, please be prepared to speak to whether such documents are being withheld only on the basis of a notice requirement or if such documents cannot be produced subject to the terms of the protective order.

Sincerely,

/s/ Sean P. Mulloy

Sean P. Mulloy
Trial Attorney, Antitrust Division
U.S. Department of Justice

EXHIBIT D



U.S. Department of Justice

Antitrust Division

Liberty Square Building

*450 5th Street, N.W.
Washington, DC 20530*

June 19, 2026

VIA E-MAIL

Colin Kass, Esq.
Proskauer
1001 Pennsylvania Ave, N.W.
Suite 600 South
Washington, DC 20004

Re: *United States v. NYP*, 26-cv-2480-PAE-OTW (S.D.N.Y.)
NYP's Objections to Plaintiff's 1st Set of RFPs

Dear Colin:

Thank you for the meet-and-confer on Thursday, June 11, 2026. I write to summarize the parties' discussion regarding New York Presbyterian's ("NYP") objections to Plaintiff's First Set of Requests for Production. This letter should not in any way be construed as agreement to any of NYP's objections, as we reserve all rights.

General Objections

As a general matter, you represented that the General Objections provided in your May 18, 2026 Responses and Objections ("R&Os") to the Plaintiff's First Set of RFPs only apply when you specifically invoke them in your specific responses to each RFP. We interpret this to mean that you are not asserting a General Objection if it has not been specifically invoked.

Relevant Time Period

In response to Instruction 2, calling for documents going back 5 years, you object (General Objection 2) to producing documents outside of the time range of April 22, 2025, through March 26, 2026. Your basis for this objection is that NYP produced documents through April 2025 in response to a different set of document requests, Plaintiff's Civil Investigative Demand ("CID") to NYP dated April 22, 2025. We noted that your discovery requests for non-party payors were for a similar five-year timeframe, and that your RFPs to Plaintiff have no time limit, and purport to seek documents relating to matters from over 26 years ago. You explained your position that DOJ had already received all the "key documents" during the investigation

phase. You stated that if there are documents for the earlier time period (before April 22, 2025), “we can talk about it.”

As we explained on the call, there is no undue burden to identify, collect and produce documents responsive to the go-get Requests in Plaintiff’s First Set of RFPs from the past five years. Such documents are highly likely to be relevant to this litigation, as they seek “key” information about NYP’s core operations. The relevance is particularly true in light of the multi-year contracting cycles between NYP and payors central to this litigation. Further, Plaintiff’s First Set of RFPs call for different documents than those previously produced by NYP in response to the CID. We therefore ask that you produce the documents for the 5-year timeframe identified in the Requests. Please confirm that you agree to a five-year period for the production of documents responsive to Plaintiff’s First Set of RFPs.

Topics Beyond “Payor Contracting”

Though you assert in General Objection 3 that you object to producing any documents responsive to Plaintiff’s First Set of RFPs that do not explicitly pertain to payor contracting, on the meet-and-confer, you explained that his objection specifically applies only to RFP 6, which seeks documents relating to NYP’s employee health plans. You stated that it was your position that topics outside of payor contracting are not relevant to this case.

Plaintiff’s position is that there are many topics relevant to the claims and defenses of this case outside of payor contracting, including rising healthcare costs, employers’ attempts to find solutions to rising healthcare costs, relative costs of competing hospitals in the alleged relevant markets, competition, relevant product market, relevant geographic market, quality, and NYP’s attributes, among others. There are also many factual propositions asserted in Defendant’s Answer that fall outside the scope of payor contracting.

We address RFP 6 below. To the extent there are any other categories of documents that NYP will not produce on the basis of this objection, please explain what you are withholding.

Custodians

You object to producing documents from any custodians except Michael Breslin, Steve Corwin, Brian Donley, Deepa Kumaraiah, Lauren Marino, Avi Munk, and Dov Schwartzben (General Objection 6.a). On the meet-and-confer, we emphasized that almost all of the First Set of RFPs called for documents that could be identified without custodial searches (most likely through a targeted search or on a go-get basis). We explained that the limited set of custodians proposed in Defendant’s R&Os were likely too limited and that there will be additional NYP custodians with relevant information. We added that Plaintiff reserves its right with regard to discussing and identifying appropriate custodians that may have documents and information responsive to specific requests for production. On the call, you conceded it was a “good point” that Plaintiff’s First Set of RFPs entailed targeted searches or go gets that did not necessitate the identification of custodians to be searched. Given this discussion, we will proceed with the understanding that you will not stand on any custodian-based objection to any of Plaintiff’s First Set of RFPs unless you promptly inform us otherwise.

ESI

With regard to your General Objection 6.c pertaining to electronically stored information, you confirmed that it is your intention to produce documents in conformance with the way you produced documents to the Division during the pre-Complaint investigation of NYP. You also confirmed that you intend to comply with the ESI protocol that was included in your subpoenas to non-party payors of June 5, 2026

Protected Personal Information

You object to producing “protected personal information” (“PPI”), which you define as “information that contains (i) personally identifiable information, such as social security numbers, home addresses, personal phone numbers; (ii) personal private information that is unrelated to work (*e.g.*, family pictures and texts); and (iii) protected health information as that term is defined in the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as codified at 42 U.S.C. § 1320d, 45 CFR § 160.103, and any applicable New York State law.” (General Objection 9). Additionally, in your R&Os you take the position that you reserve the right to withhold in its entirety any documents containing PPI and provide a log of any information withheld or redacted on the basis of this objection. On the meet-and-confer, we asked for more clarity on the categories of information included in your definition of PPI and your basis for withholding the entire documents (rather than redacting such information). We explained that the purpose of the Protective Order is to protect sensitive information and does not allow for withholding or redacting otherwise responsive documents. Further, we expressed concern that your definition of PPI is more expansive than the proposed definitions of Personally Identifiable Information or Sensitive Health Information in Plaintiff’s proposed Protective Order. ECF 20-1, Plaintiff’s Proposed Protective Order, Ex. A ¶ 2. NYP’s definition of PPI, for example, includes personal cell phone numbers, which could result in NYP fully withholding or redacting relevant and responsive text messages on employee’s personal cell phones. On the meet-and-confer, you clarified that NYP will not withhold responsive text messages on the basis of this objection, nor would NYP redact personal cell phone numbers from the responsive messages as the numbers are necessary to identify the chat participants. You instead said this objection was most concerned with personal health information.

We do not agree with your objection. The presence of *some* health information in a responsive, non-privileged document is *not a basis to withhold the entire document*. In any event, Plaintiff’s Proposed Protective Order protects Sensitive Health Information. *See* ECF 20–1 at ¶ 19 (defining “Sensitive Health Information” or “SHI”), ¶ 33 (protecting SHI). Additionally, Instruction 15 provides appropriate protection for Sensitive Health Information by stating that NYP should redact unresponsive SHI before producing the document or should discuss the information with Plaintiff before producing any SHI. Refusing to produce the document altogether is not a reasonable option. If there are categories of documents you plan to withhold or redact because they contain sensitive information, we are open to discussing it. To the extent NYP believes additional protection is required to protect health information, Plaintiff is available to meet and confer.

Privilege Instructions

Regarding your objection to the privilege logging instructions in the Requests (General Objection 11), we asked if there were particular portions of the instructions that you object to as imposing obligations beyond the Federal Rules. You said you did not review the list of categories in the instructions to “figure it out.”

We would again ask that if there are specific categories of information requested by the privilege log instructions that you find objectionable, you identify those to us. Otherwise, we will assume that NYP will generally comply with the instructions, which Plaintiff believes are in line with the Federal Rules. Because your privilege assertions and logging have been inadequate, with multiple rounds of inadequate privilege log submissions that have put the privilege in jeopardy for multiple documents, it is important that we receive all information that we would reasonably need to ensure we can fairly assess any privilege claims you may make.

Possession, Custody, and Control

You object to producing documents in the possession, custody, or control of NYP’s “domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships, and joint ventures, and all of their present and former directors, officers, employees, agents (including counsel and document vendors), representatives and any Person acting or purporting to act on [NYP’s] behalf.” (General Objection 13). On the meet-and-confer, you stated that you will produce documents from the selected relevant custodians and that you are not withholding any responsive documents based on the fact that they refer to or are relevant to a subsidiary or affiliated entity of NYP. If that understanding is incorrect, please let us know.

RFP 1 (Org Charts)

On RFP 1, you confirmed that NYP will produce the organization charts for time period of April 2025 to March 2026, the time period following the collection range for the pre-Complaint investigation. We asked if NYP possess organization charts for the time period between January 2021 and April 2025, and you stated that you would check. We stated that such older organization charts would be relevant and helpful in discussing potential predecessor custodians during such time frame.

Please confirm if NYP has organization charts going back to January 2021. If so, we would ask that NYP produce them.

RFP 2 (Performance Evaluation Materials)

Regarding RFP 2, we asked you to explain the basis of your objection to producing performance evaluation materials for the 14 individuals requested. You explained your position that Dov Schwartzben is the main relevant person involved in payor contracting as well as a few other people on the managed care team that he copies on emails. We explained that the list of individuals for whom we requested performance evaluations are either individuals who are involved in payor contracting, are on the NYP managed care team, or are otherwise likely to

have information relevant to this litigation. You also took the position that the performance evaluations, which reflect how employees performed at their job, are not relevant, and noted that such information may sometimes be personal.

As we explained on the call, there is no undue burden associated with collecting and producing the performance evaluation materials for this finite number of individuals, as such information is usually kept in a central repository or HR platform that could be easily gathered. These responsive documents are also relevant because they identify the duties and responsibilities of relevant individuals, which can aid in understanding who would be within the relevant scope of discovery, including depositions and custodial document collections. Additionally, employees' performance reviews often reflect and summarize goals and performance criteria that could relate to payor contracting, including steering provisions and employee plan design, which are clearly relevant to the claims and defenses in this case. We ask that NYP produce the performance evaluation materials for the 14 individuals that are responsive to this RFP.

We also asked for clarity on whether Maggie Buehler is the person responsible for NYP's employee health plan design and offerings. You stated that you would find out and let us know. Please provide this information by Friday, June 26.

RFP 3 (Payor Agreements)

We asked for the basis for your objections to (1) producing commercial payor agreements for payors besides Aetna, Anthem/Empire, Cigna, Emblem, and United, and (2) producing payor agreements prior to April 2025. You stated that this case turns on the five large payors and that you have a concern that it takes time and effort to pull contracts for the other payors, though you did not provide any information about the time and effort it may take to collect contracts for these other payors with whom NYP does business. You added that, in your view, other payors are not relevant. We explained that we disagreed and believe that the agreements between NYP and other payors are clearly relevant to the claims and defenses in the litigation, which are focused on NYP's contracting conduct in general. If your contracts with any commercial health insurer has anticompetitive provisions akin to the ones in your contracts with Aetna, Anthem/Empire, Cigna, Emblem, and United, we are entitled to know that information. If the contracts do not have such provisions, we are entitled to know that information as well. Though the presence other insurers in the New York area may not suit your preferred view of the facts, their contracts with your organization are still relevant. And smaller insurers may have relevance beyond their size, as small firms may have large incentives to innovate with steered plans. We also stated that we understand, based on experience obtaining discovery from similar organizations, that they typically keep their contracts in a central repository, which means collecting and producing such agreements would not be unduly burdensome. We also note that your subpoenas to non-parties define "Insurer" to expressly include the insurers for which you do not want to search for responsive contracts. *See, e.g.,* New York Presbyterian Subpoena to Aetna Health, Inc. at Definition 5 (defining "Insurer" to include "any other person engaged in the provision or administration of health benefits in the relevant area").

Given their relevance to this litigation, we again ask that NYP produce all its responsive agreements and amendments, regardless of date, with the finite number of commercial payors with whom NYP contracts. Please let us know whether you continue to maintain your objection to producing any such responsive documents.

RFP 4 (Documents Improperly Withheld on Privilege Log)

We asked you to confirm that you will re-review NYP's privilege log submitted during the pre-Complaint investigation and that you will produce non-privileged documents on the log. After acknowledging that the previously submitted privilege log was "screwed up," you confirmed that you would re-review it and stated that NYP expects to be able to produce a revised log, and any non-privileged documents reflected on the log, in a few weeks. If you are unable to produce your updated privilege log by July 10, please let us know promptly.

Non-Responsive Documents

In your Response to RFP 4, you state "To the extent NYP determines after further review that a document is not responsive to the CID, it will remove the document from the log and not produce it." We asked if there were any other categories of documents, besides documents that are not responsive to the CID, that you plan to withhold. You confirmed that you would produce all non-privileged documents responsive to the CID listed on NYP's previous privilege log. To be clear, the RFP asks for *all documents* that you have withheld on the grounds of privilege, not only the ones that you *ex post* decide to identify as responsive to the CID. Proskauer has had more than a year to rectify relatively straightforward privilege issues and admittedly "screwed up."

Third-Parties

We asked for NYP to explain its position regarding whether the inclusion of Bill Gold, an outside consultant and President of Gold Health Strategies, Inc., on communications breaks any privilege claim. You stated that your position is that the inclusion of Mr. Gold on NYP's communications does not break privilege. You said NYP's position is that Mr. Gold, whom you concede is not an employee of New York Presbyterian, is functionally equivalent to a NYP employee. We asked if you could provide any supporting authority for NYP's position. You refused to provide any authority. As explained in our previous privilege log deficiency letters, it is Plaintiff's understanding that Mr. Gold is not an attorney, not an employee of NYP, and that his role is not that of a functional equivalent NYP employee. Plaintiff takes the position that the inclusion of Mr. Gold on any communication renders the communications not protected by the attorney-client privilege. Please clarify if there is additional information that you believe suggests there is a basis to support a privilege claim for such documents. If not, we again ask you to produce communications with Mr. Gold that are on NYP's previous privilege logs. We also note that you specifically declined to identify authority supporting your position. Declining to provide authority during the meet and confer process makes it difficult to define, refine, and resolve disputes. If you continue to refuse to provide legal authority for your positions, it is more likely that the parties will take unnecessary disputes to the Court to resolve. We therefore reiterate our request that you provide authority that supports your position on communications

including Mr. Gold and as to why NYP has not waived its privilege claims by not properly documenting its claims during the investigation.

We also note that Mr. Gold is only one of many third-parties contained in NYP's most recent privilege log. As we have raised in our previous deficiency letters, NYP's log and legend contains at least 1107 individuals who are not NYP employees or attorneys, and appear to be third parties that would break any attorney-client privilege claim. If there are other third-parties in NYP's log and legend that you take the position do not break privilege, please let us know who those individuals are and your basis for why the individual does not break privilege.

Log Descriptions That Establish Documents Are Not Privileged

We also raised that for 978 documents on NYP's log, the description provided indicates that the document is not privileged or does not have privileged information. Examples of these descriptions include "Email containing privileged individuals but does not contain privileged communication." You acknowledged that there were significant issues on the log. We ask that such documents be produced.

Documents Containing No Attorney

Our June 5, 2026 letter regarding your R&Os to the Plaintiff's First Set of RFPs also reiterates that there are at least 1907 documents for which you have claimed attorney-client privilege where no attorney was identified anywhere on the privilege log entry. We ask that these documents be produced, or ask that you provide further information as to why such documents are in fact privileged.

Waiver of Privilege Claims

As explained in our March 16, 2026 privilege log deficiency letter, and again in our June 5, 2026 letter, we take the position that given NYP's repeated failure to provide information adequate for the Division to assess NYP's privilege claim, despite multiple attempts by Plaintiff to highlight these issues, NYP has failed to carry its burden of establishing the presence of the privilege and its failures constitute a waiver of its purported privilege claims. If NYP disagrees, please provide an explanation of why NYP has not waived its privilege claims, as well as what authority NYP has for continuing to maintain its privilege claims.

RFP 5 (Board Documents)

We asked for your basis for withholding board documents (1) based on date (limiting the scope of your production to only after April 22, 2025) and (2) based on the content of the document not addressing payor contracting. You explained that you believe board documents that do not address contracting are not relevant. We explained that there are a larger number of relevant issues in this case, including for example, NYP market strategy, the rising costs of healthcare and attempts to address the issue, as well as competition between healthcare providers, among other topics. We explained that NYP's board documents likely touch on many

of these topics, and are thus relevant to this case. You said you would consider Plaintiff's position and take that back.

You also said that if the older documents were important to Plaintiffs, you would consider going back 5 years.

Given that we do not believe there is a legitimate objection to this request, we ask that NYP produce all of its board documents from April 2021 to the present.

Notably, you have subpoenaed non-parties for Board documents discussing a broad range of topics. For example, Request Fifty-Four (54) to Aetna Health, Inc. asks for "[a]ll board or board committee materials or minutes relating to NYP; provider contracting; profits and losses; cost of care; competition nationally or in the relevant area; plan design; network design; steering; or provider rates, medical loss ratios, premiums, enrollment, retention, or market share for any health plan offered in the relevant area." This Request appears to seek documents from a 5½-year period, commencing January 1, 2021. Since NYP is a party to this litigation, rather than a non-party whose burden the parties are obliged to minimize, *see* Fed. R. Civ. P. 45(d)(1), we expect NYP to produce all non-privileged Board materials from April 2021 to the present.

RFP 6 (NYP Employee Health Plan Documents)

We asked you to explain your justification for refusing to produce documents relating to NYP's employer-sponsored health insurance plans or health benefits offerings that would be responsive to RFP 6. You stated that such documents would not be relevant because none of the documents would be about excluding NYP to create a narrow network, and because such documents would be more about concepts like vertical integration or avoiding double marginalization. We explained that multiple employees of NYP, including Dov Schwartzben and Steve Corwin, testified during their pre-Complaint depositions that NYP on multiple occasions considered narrow networks for NYP's own employee health plan offering. Plaintiffs view documents relating to this consideration as highly relevant to this case because they include NYP's own analysis and assessments of the benefits and drawbacks of steering, narrow networks and/or tiered networks, such as analysis of potential cost-savings, potential drawbacks of such plans, and demand for such plans among NYP's employee, among other relevant topics. Because these materials may tend to disprove your claims that any network configuration other than what you characterize as "open" networks are beneficial in healthcare, we have the right to reasonable discovery on this topic.

Given that you do not have a valid relevance objection to this request, Plaintiffs request that you produce NYP's documents responsive to this request.

RFP 7 (Data Collected or Received from Third-Parties)

We clarified that what RFP 7 requests is distinct from RFP 8. We noted that RFP 7, which was written to mirror RFP 6 in Defendant's First Set of RFPs to Plaintiff, seeks data that was collected or received by NYP from any third-party in connection with the DOJ's Investigation or Lawsuit, or any of the private cases. Our understanding is that counsel is

unaware whether NYP possesses responsive data. Please confirm whether NYP possesses responsive data, and if so, whether you are withholding such data on the basis of any objections.

RFP 8 (Documents Produced or Received in Private Suits)

We asked if you have any documents responsive to RFP 8, and if so, for an explanation of your basis for withholding it. You clarified that to date only a small number of agreements between the plaintiffs in the private suits and Empire have been produced to NYP. You also explained that there is a stipulation in those cases stating that these documents would be treated as outside-counsel-eyes-only. You clarified that to date there is no protective order yet in the private suits. Please direct us to the language prohibiting you from producing to Plaintiff the already produced agreements in the private suits. *See* Instruction 14. Please also confirm that the stipulation in the private cases is the only basis upon which you will object to producing documents responsive to this RFP.

To the extent that there is future discovery in the *Cement and Concrete Workers* or *UFCW* cases that is responsive this RFP, we ask that NYP agree to produce such documents, subject to the terms of the Protective Orders in this case and those cases. Please let us know if you will agree.

Sincerely,

/s/ Sean P. Mulloy
Sean P. Mulloy
Trial Attorney, Antitrust Division
U.S. Department of Justice

EXHIBIT E



Proskauer Rose LLP 1001 Pennsylvania Avenue, NW Suite 600 South Washington, DC 20004-2533

July 3, 2026

By Email

Sean Mulloy
U.S. Department of Justice
Antitrust Division
450 Fifth Street N.W., Suite 4100
Washington, DC 20530

Re: *U.S. v. NYP*, 26-cv-2480-PAE-OTW (S.D.N.Y.)
Response to June 19th Letter re NYP's R&O's to DOJ's 1st RFPs.

Dear Sean:

We write in response to your June 5th and 19th letters and the parties' June 11th meet and confer regarding NYP's Responses and Objections to the DOJ's First Set of Requests for Production.¹

A. General Objections.

In our R&O's, NYP asserted several general objections. In your June 19th letter, you assert that, on the meet and confer, NYP "represented that the General Objections ... only apply when you specifically invoke them in your specific responses to each RFP," and that NYP is "not asserting a General Objection if it has not been specifically invoked." That is not what we said on the meet and confer. As we explained on our call, several general objections – General Objection 6 (Scope of Search), General Objection 7 (time, place, manner), and General Objection 2 (Supplemental Discovery Period) – apply across all RFPs, and were not repeated in response to each and every RFP. *See* NYP's R&Os, at 8 n.1. Other general objections, however, are, by their nature, specific to particular topics. For those, we endeavored to identify the specific RFPs that raised the concern by cross-referencing the applicable General Objection in our specific responses to your RFPs. At the end of each specific RFP, consistent with Fed. R. Civ. P. 34(b)(2)(C), we identified the categories of documents NYP intends to produce, with all other documents being withheld on the basis of its objections. To be clear, however, NYP is not waiving any specific or general objection, unless it does so expressly in writing.

B. General Objection 2 – Relevant Period.

In General Objection 2, NYP objected to the DOJ's blanket definition of the relevant period, particularly as it required us to redo efforts we had already undertaken in responding to the DOJ's CID during the Investigation. As we explained, while there may (or may not) be grounds for "topping off" the production to bring it current, going back before the time period the DOJ deemed relevant during the Investigation is generally unwarranted. In your June 19th letter, you

¹ This letter concerns DOJ's April 17, 2026 First Set of Requests for Production; NYP's May 18, 2026 Responses and Objections; the DOJ's June 5, 2026 and June 19, 2026 letters; and the parties' June 11, 2026 meet and confer.

argue that, for the “go-get Requests,” there should be no burden. As we explained, we believe this issue is better addressed in response to each specific request, as discussed below.²

C. General Objection 3 -- “Payor Contracting.”

In General Objection 3, NYP objected to producing documents that are unrelated to payor contracting. This is an example of a General Objection that applies to several specific RFPs. Therefore, we set forth the objection in detail in the General Objections, and cross-referenced it in the specific RFPs to which it applied. *See* RFPs 2, 3, and 5. In your letter, you assert that, on the meet and confer, we “explained that his [*sic*] objection specifically applies only to RFP 6.” That is not what we said. For example, we plan to limit production of board materials (RFP 2) and annual personnel reviews (RFP 5) to payor contracting, and RFP 3 to the Relevant Payors. As we explained, for RFP 2, we believe it is both inappropriate and irrelevant to seek performance reviews that are not relevant to the issues in this case. Similarly, the NYP board discusses a range of issues that have nothing to do with any issue in this case. Accordingly, we believe that documents that have nothing to do with payor contracting should be excluded. That is, we do not believe specifications that call for “types of documents” – irrespective of any relevant subject matter – are appropriate requests. If there are subjects beyond payor contracting that you believe are relevant, then we would be open to having a discussion about whether performance reviews and/or board materials discussing those subjects ought to be produced.

D. Custodians

In your letter, you assert that all of your requests “entailed targeted searches or go gets that did not necessitate the identification of custodians to be searched.” Despite this, you took issue with our objection to the scope of any custodian search beyond the individuals NYP identified. In light of your concession that you are not seeking a custodial search, it would seem the entire discussion is moot. For avoidance of doubt, however, we have not waived any objections to any custodial search and – in light of your concession – do not intend to undertake any custodial search in response to these requests. If you would like to discuss the matter further, please let us know.

E. ESI

While NYP intends to make future productions in accordance with its prior productions, we have not reached any specific agreement with regard to ESI protocols.

F. PPI

We agree that a further meet and confer concerning PPI is warranted. Please let us know your availability.

G. Additional Logging Requirements Not Specified By Federal Rule.

In your letter you assert that you “will assume that NYP will generally comply with the instructions that it believes are in line with the Federal Rules.” This is incorrect. NYP intends to

² In support of your position that a broader date range should apply, you advance several arguments. We do not believe it is productive to debate the issue outside of the specific requests. Suffice it to say, we disagree with each of your arguments.

comply fully with the Federal Rules without regard to your instructions. NYP does not understand the Federal Rules to give the DOJ the right to assert any instructions whatsoever.

H. Possession, Custody, or Control.

NYP stands by its objections. As you noted, this issue is largely governed by the scope of any custodian search. Since your requests do not call for custodian searches (see above), this would seem to be a moot point. In any event, obviously, if a document is found in the files of a custodian that NYP agrees to search, then it has “possession, custody, or control” of the document. NYP, however, objects to any obligation to search for documents beyond that to the extent such documents are not in the possession, custody, or control of NYP itself.

I. RFP 1 – Org Charts.

We are still checking whether we have organization charts back to 2021. We will follow up separately.

J. RFP 2 – Performance Reviews.

Your June 19th letter does not address the concerns we stated in our objections. As we explained, we agreed to produce the performance reviews that discuss payor contracting for the six individuals that have some involvement in payor contracting. In response, you argue that performance reviews are important because they “identify the duties and responsibilities” of the fourteen people you identified. That puts the cart before the horse. You should identify the reasons why you need each person’s performance review, and why such reviews are necessary – as opposed to a general job description. Given the massive production NYP made during the Investigation, it is hard to believe you cannot make a threshold showing of relevance tied to each person, or explain what you need from each person’s performance reviews that would help you prove a disputed fact.

Regarding Maggie Buehler, Ms. Buehler’s role at NYP is Program Manager – Retirement & Benefits, Total Rewards. Her responsibilities are primarily administrative, include directing, administering, and implementing benefit plans for NYP’s benefit-eligible employees, serviced by an internal call center. She has responsibilities for managing vendor relationships, and she participates in technology solutions and communications to facilitate benefits to employees. Ms. Buehler has no role whatsoever in employee benefit design or contract negotiations.

K. RFP 3 – Payor Agreements.

As we explained, because it requires significant effort to compile the full contractual history for each entity identified, it is important that we have a common list of payors for whom NYP will engage in that exercise. We proposed the five insurers that the DOJ itself claims is dominant. If you have other insurers you would like us to search, please identify them.

L. RFP 4 – Privilege Log.

NYP is currently reviewing its CID privilege log.³ Given the size of the log, your arbitrary July 10th deadline is unworkable. When we have a better sense of how long it will take to complete the log, we will let you know. NYP, however, does anticipate that it will be producing any non-privileged documents, and supplemental log entries, on a rolling basis.

With respect to non-privileged, non-responsive documents, NYP stands on its objection.

With respect to Bill Gold, your letter mischaracterizes our meet and confer. On the meet and confer, you asked for any cases that support NYP's contentions that NYP is entitled to maintain privilege over documents that were sent to or received by Bill Gold in connection with his work in assisting with payor contracting on behalf of NYP. As we explained, a meet and confer is not an opportunity for the parties to engage in oral argument regarding their position or to exchange case law. The parties are fully capable of conducting their own legal research. To the extent the parties reach impasse on this issue, we will support our position with relevant authority.

With regard to other third parties or other alleged deficiencies, we believe any dispute is premature until you receive our revised privilege log. To the extent you have concerns about any document's privileged nature (including but not limited to the inclusion of a third party on the document), we can address it at that time. NYP declines to engage in a hypothetical discussion before then.

Finally, you state that the Division "takes the position" that NYP has waived privilege. We disagree.

M. RFP 5 – Board Documents.

NYP will agree to go back to 2021 for relevant Board materials. NYP, however, continues to object to producing all board materials, regardless of subject matter. Indeed, in your letter, you specifically invoke NYP's request for insurer board materials as an appropriate model. But NYP's request *is* limited to relevant subject matters. While we believe the production of such materials should be limited "payor contracting," we are willing to expand it to board materials relating to insurers, insurer or provider contracting, competition nationally or in the relevant area, plan design, network design, steering, provider rates, and market shares. Please let us know if that works for you.

N. RFP 6 – NYP's Own Employee Health Plan.

NYP does not believe that documents relating to its own employee health plan are relevant. In your June 19th letter, you argue that, to the extent such documents bear on contracting generally outside the context of the employee health plan itself, such documents might be relevant. But NYP has already searched for and produced documents relating to its payor contracting generally, so documents that concern the impact, if any, of employee contracts on broader payor contracting dynamics would have already been picked up by the Investigation production. Since you have not

³ As we noted in our objections, this litigation is not the appropriate forum in which to litigate NYP's CID production or prior privilege claims. Nor does our offer to re-review its CID log waive NYP's jurisdictional or other objections, or give the DOJ the right to use this litigation to seek post-lawsuit compliance with the investigational requests.

identified any documents concerning NYP's employee health plan that would be relevant to this case, other than those that have already been produced, we do not believe a further search is warranted. That said, we are willing to further meet and confer to further discuss this issue.⁴

O. RFP 7 – Data Collected or Received from Third Parties.

You assert that RFP 7 “was written to mirror RFP 6 in Defendant’s First Set of RFPs, [which] seeks data that was collected or received by NYP from any third-party in connection with the DOJ’s Investigation or Lawsuit.” There is no parallel between the two situations. Unlike the DOJ, NYP did not have the power of compulsory process during the Investigation and has issued no subpoenas in the class actions. In any event, other than the Anthem agreement that two of the named plaintiffs produced pursuant to court order (and pursuant to a protective order that prohibits re-production in this case), NYP has not received any documents from third parties pursuant to any compulsory process. NYP maintains its objection to producing documents that its counsel has collected through its own search of public records.

P. RFP 8 – The Anthem Agreement.

In your letter, you ask us to “direct” you to the protective order in the class action that prohibits NYP from producing the Anthem agreement the plaintiffs produced to us. We direct you to *UFCW Local 1500 Welfare Fund v. New York Presbyterian*, No. 1:25-cv-5571, ECF 33 (E.D.N.Y.). We confirm that this is the only basis on which we object to producing the document, other than the fact that you still refuse to agree to the protective order that NYP has proposed and that the Court has largely approved of. As to future document productions in the class actions, NYP will address the issue when, or if, it arises. NYP is not clairvoyant, and thus is unwilling to pre-commit to producing documents it has not yet requested or seen.

Best regards,

/s/ *Colin Kass*

⁴ During the status conference, you indicated that you planned on serving a second set of RFPs. It may be worth folding this request into that second set, since RFP 6 would appear to call for a custodian search.

EXHIBIT F



U.S. Department of Justice

Antitrust Division

Liberty Square Building

*450 5th Street, N.W.
Washington, DC 20530*

July 16, 2026

VIA E-MAIL

Colin Kass, Esq.
Proskauer Rose LLP
1011 Pennsylvania Ave, N.W.
Suite 600 South
Washington, DC 20004

Re: *United States v. The New York and Presbyterian Hospital*, 26-cv-2480-PAE-OTW (S.D.N.Y.), NYP's Objections to Plaintiff's 1st Set of RFPs

Dear Colin:

This letter responds to your July 3, 2026, letter regarding your Responses and Objections to Plaintiff's First Set of RFPs to NYP.

A. General Objection 2 – Relevant Time Period

Plaintiff disagrees with your conclusion that “going back before the time period the DOJ deemed relevant during the Investigation is generally unwarranted.” July 3, 2026 Letter from C. Kass to S. Mulloy, at 1. You have not responded to Plaintiff's arguments identified in our meet and confer and June 19th letter that demonstrate why your objection to a 5-year relevant period is without merit:

- In your Answer, NYP has raised issues and defenses¹ that extend to a time period before the time period of documents produced during the Investigation. Documents from the time period going back to 2021 are therefore relevant to the claims and defenses in this case.
- You call DOJ's proposed time period a “blanket definition” yet Defendant uses practically the same relevant period definition in its subpoena to non-parties in this action. Surely what is appropriate for non-parties is an appropriate relevant period for

¹ Examples of such statements in NYP's Answer include that the “All Products Clause” in NYP's contracts with payors are “decades-old” and that “insurers themselves demanded” them when they were put into place. *See* Answer at 1, 6. NYP has also made many claims about “insurers repeatedly threaten[ing] to exclude NYP” and that “several have made good by notifying members of NYP's exclusion.” Answer at 4. A broader timeframe back to 2021 will capture more time period when such events would have occurred.

discovery on Parties, and even more so since you “must take reasonable steps to avoid imposing undue burden or expense on a person subject to” a document subpoena, Fed. R. Civ. P. 45(d)(1).

- Your requests to Plaintiff have no time limit whatsoever, and you have explicitly requested documents from the Division’s *Aetna-Prudential* matter, an enforcement action in a different market that was resolved in 1999, over 26 years ago.
- For requests that are go-get, there is no undue burden with producing the documents with a 5-year date filter.
- Last, as you represented to the Court in a motion compelling a non-party to produce documents responsive to requests that have *no date limitation*: date bounds are best managed by compliance plans for specific requests “not arbitrary date cut-offs,” *USA v. New York Presbyterian*, 1:26-cv-2480 (S.D.N.Y.) ECF 34 (“NYP’s Motion to Compel Aetna”) at 3.

In any case, the fact that the Division limited its discovery during the investigation does not make other materials irrelevant. Plaintiff is willing to consider date ranges with respect to individual requests if you provide a persuasive reason but in general will continue to assert that a 5-year timeframe going back to 2021 is appropriate. By 5pm on Monday, July 20, please confirm if you will agree to produce all documents from the 5-year period, or if you intend to continue to stand on this objection.

B. General Objection 3 – “Payor Contracting”

In your July 3 letter, you state that you object to producing documents that do not relate to payor contracting, and state that this objection applies to RFPs 2 (Performance Reviews), 3 (Payor Agreements), and 5 (Board Documents). This objection makes no sense with respect to RFP 3, which seeks your agreements with payors, as all such agreements are necessarily related to payor contracting. We do not agree that you can limit your search and production of documents to “payor contracting” for RFPs 2 and 5. We will respond to this objection for each of those RFPs below.

C. Custodians

The only relevant discussion of custodians for this set of RFPs is with respect to RFP 6, which requests “All documents and communications discussing, evaluating, or analyzing New York Presbyterian’s employer-sponsored health insurance plan(s) or health benefits offerings for its employees.” As discussed below, NYP should identify which custodian or custodians would be the appropriate NYP employee(s) that would have documents responsive to this RFP. For future sets of RFPs, Plaintiff will discuss appropriate custodians for a reasonable search for those RFPs at that time.

D. RFP 1 – Org Charts

You stated you were checking whether you have organization charts back to 2021. This is an important first step in beginning to discuss appropriate set of custodians for your compliance with current and future discovery requests. Indeed, you have conceded as much when you represented to the Court that you need a non-party to produce such “organizational information *within seven days*,” because, by your lights, failure to do so within 38 days of the request is so long it requires court intervention. NYP’s Motion to Compel Aetna at 1, 3 (noting

June 8 subpoena issuance, seeking organization information compliance within seven days). Therefore, let us know by 5pm on Monday, July 20 whether you will commit to producing organization charts responsive to RFP 1 dating back to 2021, seven days from today, that is by Thursday, July 23. If you do not have organization charts going back to 2021, please let us know how far back you have them.

E. RFP 2 – Performance Reviews

RFP 2 requests “All documents relating to any formal or informal performance evaluations, reviews, or self-assessments for” 14 key employees at NYP. You state that you have agreed “to produce the performance reviews that discuss payor contracting for the six individuals that have some involvement in payor contracting.” You do not identify the six individuals in your most recent letter but we understand you are likely referring to Steve Corwin, Brian Donley, Michael Breslin, Dov Schwartzben, Lauren Marino, and Avi Munk. Please confirm if those are the six individuals you are referring to. Please confirm if you agree to produce these performance reviews going back to 2021.

You continue to object to producing performance review materials for the other eight individuals requested by RFP 2. You ask that we identify the reasons why we need performance reviews for the other eight individuals we identified. As we’ve already explained, these fourteen individuals are either members of NYP’s Managed Care team (that is, the team that directly and indirectly negotiates contracts with commercial payers or enforces the contract terms) or senior leaders at NYP. These are individuals very likely to possess information relevant to the claims and defenses at issue in this case, and are likely to be key deponents or trial witnesses in this litigation. Performance reviews and self-assessments include statements made by the employee and/or their supervisor about their role, goals and objectives, and the duties performed in each employee’s job. These are witness statements, and/or statements from witness’s supervisors. And the discussion contained in performance evaluations is at the heart of the witness’s job duties. Such statements made by employees and by their employer about job and work functions are highly relevant and Plaintiff is entitled to them in discovery.

You asked that we make a showing of relevance for each individual. We did this already, but you failed to respond to our explanation of relevance for these individuals included in our June 19th letter. To summarize those points for your benefit, four of these eight individuals are members of NYP’s managed care team and are involved in payor contracting. These include Emily Goodwin, Carrie Elwood, Otto Lee, and Smith Won. The others are members of the NYP’s senior leadership team. These include Karen Westerfelt, Group Vice President, Strategic Initiatives and Chief of Regulatory Planning; Deepa Kumariah, current Chief Operating Officer and former Chief Medical Officer; and Paresh Shah, former Chief Operating Officer and current Executive Vice President Eastern Market for NYP.

The last of the 14 individuals was Maggie Buehler or the person responsible for NYP’s employee health plan design and offerings. You clarified that Ms. Buehler has no role relating to employee benefit design. Please clarify who would be the appropriate employee at NYP “responsible for your employee health plan design and offerings.” RFP 2 requests performance review materials for such employee.

You also object to producing any performance reviews unrelated to payor contracting on the basis that they are not relevant. Any objection based on irrelevance lacks merit. Performance reviews may discuss a litany of tasks and goals beyond payor contracting that are still relevant. Examples of such topic topics include NYP's market performance and market shares, competition, business strategy, pricing and other strategies, NYP's financial performance (NYP's costs, revenue and margins), and the quality of NYP's services. There are many other relevant topics and Plaintiff need not provide you a comprehensive list. Limiting a search to only performance reviews relating to payor contracting excludes performance reviews that are likely to discuss many topics relevant to the claims and defenses in this suit and are therefore relevant.

You have also not claimed an undue burden in complying with this request as such documents could be gathered on a go-get basis from NYP's HR repository or review platform. Attempting to sort and filter the reviews by topic (such as excluding reviews that are not about payor contracting) is more burdensome and time-intensive than just producing the reviews for the requested employees in full.

Please let us know by 5pm on Monday, July 20 if you will agree to produce the performance review materials in full for the 14 employees, for the 5-year period requested, or if you intend to continue to stand on your objections.

F. RFP 3 – Payor Agreements

RFP 3 requests all agreements and contracts between NYP and any commercial payor. Although you concede that payor contracting is a relevant topic to the claims and defense in this action, you selectively ignore your own position when it comes to the simple, not unduly burdensome request to produce your commercial payor contracts. You have objected to producing any of NYP's agreements beyond only five insurers that you deemed important. This is completely unacceptable and there is no basis for your objection. You ask that we identify payors for you to search but it is not Plaintiff's obligation to provide a list of insurers. It is NYP's obligation to conduct a reasonable search for documents in its possession, custody, and control responsive to this request. NYP knows—or should know—the commercial payors with which it contracts. NYP identifies the participating insurance plans on its website. *See* <https://www.nyp.org/patients-visitors/paying-for-care/hospital-participating-plans>. As a start, NYP should produce all the agreements with insurers for commercial health insurance plans listed on NYP's website. Or NYP can conduct a reasonable search and propose a list of payors based on the commercial payors with which it contracts.

Please let us know by 5pm on Monday, July 20, which commercial payor agreements you will produce in response to RFP 3, and when you will produce them. If you intend to stand on your objection and are unwilling to conduct a reasonable search for NYP's agreements with commercial payors beyond the five insurers you identify, we will consider this an impasse.

G. RFP 4 – Privilege Log Documents

We understand that NYP is currently reviewing its CID privilege log and plans to submit a revised log and produce any non-privileged or downgraded and redacted documents on the log that are responsive to the CID. You have called our July 10 deadline unworkable but NYP's lack of a proposed timeline is unworkable. It has been nearly 7 months since we first identified significant deficiencies with NYP's privilege log in a letter dated December 19,

2026. Likewise, it has been approximately 4 months since we identified continuing deficiencies in your most recent revised log, submitted on March 8, 2026. In this time you have identified and clawed back numerous documents you claim are privileged. *See* April 24, 2026 letter from V. Kohli to K. Knutsen; June 2, 2026 letter from V. Kohli to K. Knutsen; June 8 letter from V. Kohli to K. Knutsen. But you have not produced a single downgraded document. By 5pm on Monday, July 20, we request that NYP propose a timeline for when it will make its first rolling production, as well as a proposed deadline for when NYP will produce its revised log. If you cannot manage to propose a reasonable timeline by Monday, July 20, nearly eight months after we first identified deficiencies in your log, we will consider it an impasse on this issue.

With regard to Bill Gold, your letter mischaracterizes our discussion in the meet and confer. When asked if you could provide authority to support the proposition that Bill Gold, a third party, does not break privilege, you stated that you will not engage in that discussion in a meet and confer. In fact, despite multiple repeated requests, you have refused to provide any factual basis or legal authority to support your assertion that the inclusion of Bill Gold on communications would not constitute waiver. *See* December 19, 2025 letter from S. Mulloy to V. Kohli at 4; March 16, 2026 letter from S. Mulloy to V. Kohli at 6. As we have explained, your refusal to engage in this discussion during meet and confers and in correspondence makes it difficult to define, refine, and resolve disputes and is likely to result in parties taking unnecessary disputes to the Court for resolution. This is a counterproductive approach to litigation. You provide no response to this. You also provide no response to our request that you provide authority that supports your position regarding why the inclusion of Mr. Gold on communications does not waive any privilege claim.

You conclusorily state you disagree with the United States' position that NYP has waived its privilege claims by failing to correct significant deficiencies in your privilege log over the course of 7 months but you provide no explanation or authority as to why NYP has not waived its privilege claims given that it has, in your own words, produced a "screwed up" privilege log, despite multiple attempts by Plaintiff to highlight these issues. Simply put, a privilege claim is a shield from discovery only if it is validly asserted. Its valid assertion requires two acts. First, the person "must" "expressly make the claim." Fed. R. Civ. P. 26(b)(5)(A)(i). Second, the party "must" provide a reasonable amount of information that "will enable the other parties to assess the claim." Fed. R. Civ. P. 26(b)(5)(A)(ii). For privilege log entries that we have flagged, sometimes on multiple occasions, as deficient, you did not perform that two acts that you "must" in order to assert validly the privilege.

Plaintiff maintains its position that NYP's repeated failure to remedy such deficiencies constitutes both failure to assert the privilege in the first instance and waiver of its privilege claims.

H. RFP 5 – Board Documents

In your July 3 letter, you agree to produce NYP Board materials going back to 2021, but you continue to propose limiting which board materials you will produce based on your arbitrary and unilateral choice of topics. We understand you are no longer standing on your objection to producing documents unrelated to payor contracting, but you propose producing materials related to the following topics only: "insurers, insurer or provider contracting, competition nationally or in the relevant area, plan design, network design, steering, provider rates, and market shares." July 3, 2026 Letter from K. Cass to S. Mulloy, at 4. Plaintiff cannot

agree to limit the scope of board documents by topic. While the topics you highlight are certainly relevant issues, there are many other relevant topics as well. Some non-exhaustive examples would include NYP's market position and market power, quality of care analysis or comparisons, physician or provider referral patterns, NYP or other competing provider's acquisitions or expansions of hospitals or facilities, investment plans and strategy, financial strategy and analysis, among many other topics. Other examples include topics requested by NYP in its own subpoenas to payors for their board materials, such as cost of care, profit and losses, and medical loss ratios. Plaintiff need not identify an exhaustive list of topics as everything contained in NYP's board documents is relevant to this case.

If NYP is unwilling to produce its board documents in full, subject to appropriate redactions for validly asserted privilege claims, we are at an impasse on this RFP and will seek to compel the production of such materials. Please let us know by 5pm on Monday, July 20 if NYP will produce its board documents in full for the 5-year period, or if NYP intends to stand on its objection.

I. RFP 6 – NYP's Own Employee Health Plan

NYP's assertion that because it has already produced documents relating to payor contracting generally, documents concerning negotiations with payors for its own employee contracts "would have already been picked up by the Investigation production" is not sufficient. This is not a suitable replacement for a reasonable inquiry to determine what documents in NYP's possession, custody, or control are responsive to RFP 6. This request seeks all documents relating to its employee health plans because there may be documents evaluating the viability, costs, and desirability of the use of narrow network plans or tiered plans in the network design for NYP's own employees. Such documents would not have been captured in NYP's Investigation production because the custodians searched are not necessarily the individuals responsible for such analysis and because the CID request did not specifically request this. Additionally, the timeframe covered by the Investigation production is much more limited as this request seeks documents going back to 2021. We ask that by 5pm on Monday, July 20 NYP make a proposal regarding which NYP employee or employees would be the appropriate custodian likely to have documents responsive to this request.

J. RFP 7 – Data Collected or Received from Third Parties

You state that "NYP has not received any documents from third parties pursuant to any compulsory process." July 3, 2026 Letter from C. Kass to S. Mulloy, at 5. To be clear, this RFP requests data from any third-party in connection with the Investigation, Lawsuit, related private litigations, or similar investigations or lawsuits, obtained with or without a compulsory process. Please confirm whether NYP has *any* data responsive to RFP 7. By negative implication, your response indicates you do have data responsive to RFP 7, though it was obtained through means other than compulsory process. Let us know by 5pm on Monday, July 20 whether we have drawn an incorrect inference. If not, please confirm that you will produce such responsive data.

K. RFP 8 – Documents Produced or Received in Private Suits

Plaintiff understands that NYP does not have any documents responsive to this RFP other than a single agreement with Anthem, which is currently subject to a confidentiality

stipulation. Plaintiff agrees the parties can discuss future discovery materials in the private suits that may be responsive to this Request at a later date once those materials are exchanged. It is our expectation that you will make appropriate arrangements in the private suits so that confidentiality is not a future bar to your production of responsive materials to Plaintiff.

Sincerely,

/s/ Sean P. Mulloy

Sean P. Mulloy
Trial Attorney, Antitrust Division
U.S. Department of Justice

EXHIBIT G

Hospital Participating Plans

⌂ Paying for Care

Hospital Participating Plans

Accepted Plans at NewYork-Presbyterian Hospital

Find accepted health plans listed below. While every effort is made to keep this list current, changes to insurance products do occur frequently. Always check with your insurance company to make sure that your care will be covered. If you don't see your insurance company on this list, please contact your insurance representative.

- **1199 National Benefit Fund**
 - 1199 National Benefit Fund, Self-Insured
- **Aetna**
 - Aetna,HMO/POS
 - Aetna,Indemnity
 - Aetna,International Passport
 - Aetna,Medicare
 - Aetna,PPO
 - Aetna,Weill Cornell Employees
 - Aetna,Whole Health
- **Affinity by Molina Healthcare**
 - Affinity by Molina Healthcare, CHP

Hospital Participating Plans

- Affinity by Molina Healthcare, Essential Plan 1 and 2
- Affinity by Molina Healthcare, Essential Plan 3 and 4
- Affinity by Molina Healthcare, Medicaid and HARP
- **Allied Benefit Systems**
 - Allied Benefit Systems (Aetna Signature Administrators), Commercial
- **AmeriBen**
 - AmeriBen (Aetna Signature Administrators), Commercial
- **American Postal Workers Union (Cigna)**
 - American Postal Workers Union (United), Commercial
- **Amerigroup aka Wellpoint**
 - Wellpoint, New Jersey
- **Amida Care**
 - Amida Care, Medicaid and HARP
- **Anthem**
 - Anthem, HMO
 - Anthem, Indemnity
 - Anthem, PPO
- **Assurant Health**
 - Assurant Health (Aetna Signature Administrators), Commercial
- **Beech Street**
 - Beech Street (Medichoice), PPO
- **Blue Cross Blue Shield**
 - Blue Cross Blue Shield, Blue Card Plans

Blue Cross Blue Shield, Blue Card Plans - please confirm if you are covered by the BlueCard program by calling the BlueCard Eligibility line: 800-676-2583

- **Boon-Chapman**
 - Boon-Chapman (Aetna Signature Administrators), Commercial
- **Chesterfield Resources**

Hospital**Participating****Plans**

- Chesterfield Resources (Aetna Signature Administrators), Commercial
- **Christian Brothers**
 - Christian Brothers (Aetna Signature Administrators), Commercial
- **Cigna**
 - Cigna, HMO
 - Cigna, Open Access Plus
 - Cigna, Medicare also known as Healthspring
 - Cigna, PBR
 - Cigna, PPO
- **CMN Global**
 - CMN Global, Commercial
- **Consumer Health Network**
 - Consumer Health Network, PPO
- **Continental Benefits**
 - Continental Benefits (Aetna Signature Administrators), Commercial
- **Coventry Health Care/First Health Network**
 - Coventry Health Care/First Health Network, PPO
- **Devon Health Services**
 - Devon Health Services, Inc., PPO
- **EmblemHealth-GHI**
 - EmblemHealth-GHI, CBP
 - EmblemHealth-GHI, EPO, PPO
 - EmblemHealth-GHI, Medicare
 - EmblemHealth-GHI, Network Access
 - EmblemHealth-GHI (HMO), Brooklyn Healthworks HMO
 - EmblemHealth-GHI (HMO), HMO
- **EmblemHealth-HIP**
 - EmblemHealth-HIP, CHP
 - EmblemHealth-HIP, Essential Plan 1 and 2
 - EmblemHealth-HIP, Essential Plan 3 and 4
 - EmblemHealth-HIP, Exchange

Hospital Participating Plans

- EmblemHealth-HIP, HMO/EPO, POS, PPO
- EmblemHealth-HIP, Medicaid and HARP
- EmblemHealth-HIP, Medicare
- EmblemHealth-HIP, Medicare Essential
- EmblemHealth-HIP, Montefiore CMO (Commercial)
- EmblemHealth-HIP, Montefiore CMO (Medicaid)
- **Empire BCBS also known as Anthem Blue Cross and Blue Shield and Anthem Blue Cross ****
 - Empire BCBS, Blue Access
 - Empire BCBS, Blue Connection
 - Empire BCBS, EPO/PPO/Indemnity POS/NYS and NYC Plans
 - Empire BCBS, HMO/POS
 - Empire BCBS, Hotel Trades
 - Empire BCBS, Indemnity
 - Empire BCBS, Medicare
- **Empire BCBS Healthplus also known as Anthem Blue Cross and Blue Shield HP**
 - Empire BCBS Healthplus, CHP
 - Empire BCBS Healthplus, Medicaid and HARP
 - Empire BCBS Healthplus, Medicare
 - Empire BCBS Healthplus, Essential 1 & 2
 - Empire BCBS Healthplus, Essential 3 & 4
 - Empire BCBS Healthplus, Exchange
- **Equian**
 - Equian (Formerly Health Systems International),PPO
- **Fidelis**
 - Fidelis, CHP
 - Fidelis, Dual Advantage
 - Fidelis, Essential Plan 1 and 2
 - Fidelis, Essential Plan 3 and 4
 - Fidelis, Exchange
 - Fidelis, Medicaid and HARP
 - Fidelis, Medicare

Hospital Participating Plans

- **First Health Network**
 - First Health Network (formerly Community Care Network), PPO
- **GEHA (Aetna Signature Administrators)**
 - GEHA (Aetna Signature Administrators), Commercial
- **Great West Healthcare**
 - Great West Healthcare, PPO
- **Health Alliance Plan**
 - Health Alliance Plan (CIGNA Strategic Alliance), HMO/PPO
- **Health Partners**
 - Health Partners (CIGNA Strategic Alliance), HMO/PPO
- **Healthcare Partners**
 - Healthcare Partners (HIP), Commercial
 - Healthcare Partners (HIP), Medicaid
 - Healthcare Partners (HIP), Medicare
- **Healthfirst NY**
 - Healthfirst NY, CHP
 - Healthfirst NY, Essential Plan 1 and 2
 - Healthfirst NY, Essential Plan 3 and 4
 - Healthfirst NY, Exchange
 - Healthfirst NY, Medicaid and HARP
 - Healthfirst NY, Medicare
- **Healthscope Benefits**
 - HealthScope Benefits (Aetna Signature Administrators), Commercial
- **Horizon NJ**
 - NJ State Health Benefits Program (SHBP)
 - School Employees' Health Benefits Program (SEHBP)

Horizon Blue Card - please confirm if you are covered by the BlueCard program by calling the BlueCard Eligibility line: 800-676-2583

- **Magnacare**

Hospital Mail Handlers (Aetna)

Participating Mail Handlers (Aetna), Commercial Plans

- **Medicaid**
 - Medicaid FFS, Medicaid
- **Medicare**
 - Medicare Part A, Medicare
 - Medicare Part B, Medicare
- **Meritain Health (Aetna)**
 - Meritain Health (Aetna), Commercial
- **Multiplan**
 - Multiplan, Commercial
- **MVP**
 - MVP (CIGNA Strategic Alliance), OAP/PPO
 - MVP Health Care, CHP
 - MVP Health Care, Essential Plan 1 and 2
 - MVP Health Care, Essential Plan 3 and 4
 - MVP Health Care, Medicaid and HARP
- **Nippon**
 - Nippon (Aetna Signature Administrators), Commercial
- **Oxford**
 - Oxford, Freedom/Garden State
 - Oxford, Medicare
 - Oxford, Metro, Liberty
- **Pacificare**
 - Pacificare, PPO
- **Principal**
 - Principal (Aetna Signature Administrators), Commercial
- **Private Healthcare Systems**
 - Private Healthcare Systems (PHCS), PPO
- **Quality Health Management**
 - Quality Health Management (QHM), PPO
- **Senior Whole Health**
 - Medicaid Advantage Plus (MAP), D-SNP

Hospital Participating Plans

- **The Empire Plan**

- The Empire Plan, PPO

Trustmark

Plans

- Trustmark (Aetna Signature Administrators), Commercial
- Trustmark (Cigna), Commercial
- Trustmark/Rockefeller University (Aetna Signature Administrators), Commercial

- **Tufts Health Plan**

- Tufts Health Plan (CIGNA Strategic Alliance), HMO/PPO

- **UMR**

- UMR - Aetna, Aetna
- UMR - United Healthcare, Legacy (Ohio claims address)
- UMR - United Healthcare, Legacy Fiserv (Salt Lake City, UT claims address)
- UMR - United Healthcare, Legacy Midwest (Wisconsin claims address)

- **Unicare**

- Unicare, PPO

- **United Behavioral Health**

- United Behavioral Health, Commercial; Medicaid; Medicare

- **United Healthcare ***

- United Healthcare, Bind Network
- United Healthcare, HMO
- United Healthcare, Indemnity
- United Healthcare, Medicare
- United Healthcare, PPO
- United Healthcare, Student Resources

- **United Healthcare Community Plan**

- United Healthcare Community Plan, CHP
- United Healthcare Community Plan, Essential Plan 1 and 2
- United Healthcare Community Plan, Essential Plan 3 and 4
- United Healthcare Community Plan, Medicaid (NJ)
- United Healthcare Community Plan, Medicaid (NY) and HARP

Hospital Participating Plans

- United Healthcare Community Plan, Medicare
- **United Resource Networks** (United clients only)
 - United Resource Networks (Optum Health), Commercial (Cancer/CHD/Nontransplant)
 - United Resource Networks (Optum Health), Commercial (Transplant)
 - United Resource Networks (Optum Health), Medicaid
 - United Resource Networks (Optum Health), Medicare
- **VNSNY Choice**
 - VNSNY Choice, Medicaid/Medicare Advantage Plus
 - VNSNY Choice, Select Health Medicaid and HARP
- **Vytra Healthcare**
 - Vytra Healthcare, HMO
 - Vytra Healthcare, PPO
- **WebTPA**
 - WebTPA (Aetna Signature Administrators), Commercial
- **Wellcare**
 - WellCare, Medicaid and CHP (NJ)
 - Wellcare, Medicare, American Progressive Life & Health, MLTC, and MLTSS
- **World Trade Center Health Program**
 - World Trade Center Health Program, World Trade Organization
 - World Trade Center Health Program, FDNY
 - World Trade Center Health Program, Williams Street
- **Worldwide**
 - Worldwide, Commercial

*Important Notice for United Exchange Members:

United Healthcare has decided to exclude NewYork-Presbyterian from its NYS State Exchange plan (also known as Marketplace or Individual Family plan).

****Important Notice for 32BJ Health Fund Members:**

Hospital Participating Plans

The administrators of the 32BJ Health Fund have decided that, as of January 1, 2022, NewYork-Presbyterian will no longer be covered as in-network participating providers for 32BJ Members. Members can be identified with Group Identification Numbers 720902, 720903, 720904, 720905 (South Fund) and 720906 (North Fund) and the letters ETRBJ in their policy ID. This means that, beginning January 1, 2022, elective services provided by NewYork-Presbyterian will be covered by 32BJ as out-of-network so members may be responsible for higher out-of-pocket costs. Emergency care received at NewYork-Presbyterian will continue to be covered the same as in-network care. If there are questions about this decision, please contact 32BJ Health Fund representatives.

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Hospital **Participating Plans**

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