

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JANE DOE, on behalf of BABY DOE, a
minor, and PATRICIA CAVALLARO-
KEARINS, on behalf of themselves and all
others similarly situated

Plaintiffs,

v.

ANTHEM HEALTHCHOICE ASSURANCE,
INC., d/b/a ANTHEM BLUE CROSS AND
BLUE SHIELD, and d/b/a ANTHEM BLUE
CROSS

Defendant.

Case No. 24 Civ. 8012 (JPC)

NOTICE OF APPEAL

PLEASE TAKE NOTICE that Plaintiffs Jane Doe, on behalf of Baby Doe, and Patricia Cavallaro-Kearins, on behalf of themselves and all others similarly situated, hereby appeal to the United States Court of Appeals for the Second Circuit from the March 5, 2026 judgment dismissing with prejudice Plaintiffs' Complaint.

Dated: New York, NY
March 31, 2026

Respectfully submitted,

WALDEN MACHT HARAN & WILLIAMS LLP

By: /s/ Jacob Gardener

Jacob Gardener
Samuel Rosh
250 Vesey Street
New York, NY 10281
Tel: (212) 335-2030
jgardener@wmhwlaw.com
srosh@wmhwlaw.com

POLLOCK COHEN LLP

Steve Cohen
Anna Menkova
111 Broadway, Suite 1804
New York, NY 10006
Tel: (646) 517-0542
scohen@pollockcohen.com
anna@pollockcohen.com

Attorneys for Plaintiffs

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:24-cv-08012-JPC**

Doe et al v. Anthem Healthchoice Assurance, Inc. et al
Assigned to: Judge John P. Cronan
Demand: \$100,000
Cause: 05:8902 Contracting Authority of OPM – Group Health Insurance

Date Filed: 10/22/2024
Date Terminated: 03/05/2026
Jury Demand: Plaintiff
Nature of Suit: 110 Insurance
Jurisdiction: Federal Question

Plaintiff

Jane Doe
on behalf of Baby Doe, a minor

represented by **Jacob Samuel Gardener**
Walden Macht Haran & Williams LLP
250 Vesey St
Ste 27th Floor
New York, NY 10281
212-335-2030
Email: jgardener@wmhwlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Anna Menkova
111 Broadway
Suite 1804
New York, NY 10006
917-626-0155
Email: anna@pollockcohen.com
ATTORNEY TO BE NOTICED

Samuel Rosh
Walden Macht Haran & Williams LLP
250 Vesey Street
27th Floor
10281
New York, NY 10281
212-335-2030
Email: srosh@wmhwlaw.com
ATTORNEY TO BE NOTICED

Steve Cohen
Pollock Cohen LLP
Mr.
111 Broadway
Suite 1804
New York
New York, NY 10006
917-364-4197
Email: scohen@pollockcohen.com
ATTORNEY TO BE NOTICED

Plaintiff

Patricia Cavallaro-Kearnis
*on behalf of themselves and all others
similarly situated*

represented by **Jacob Samuel Gardener**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Adam Lewis Pollock
Pollock Cohen LLP
111 Broadway, Suite 1804
New York, NY 10006
212-337-5361
Email: Adam@PollockCohen.com

ATTORNEY TO BE NOTICED

Anna Menkova
 (See above for address)
 ATTORNEY TO BE NOTICED

Samuel Rosh
 (See above for address)
 ATTORNEY TO BE NOTICED

Steve Cohen
 (See above for address)
 ATTORNEY TO BE NOTICED

V.

Defendant

Anthem Healthchoice Assurance, Inc.
doing business as
 Anthem Blue Cross and Blue Shield
doing business as
 Anthem Blue Cross

represented by **Matthew Joel Aaronson**
 Troutman Pepper Locke LLP
 875 Third Avenue
 New York, NY 10022
 212-704-6006
 Fax: 212-704-5901
 Email: matthew.aaronson@troutman.com
LEAD ATTORNEY
 ATTORNEY TO BE NOTICED

Adam P. Feinberg
 Miller & Chevalier Chartered
 900 16th Street N.W.
 Washington, DC 20006
 202-626-6087
 Fax: 202-626-5801
 Email: afeinberg@milchev.com
 ATTORNEY TO BE NOTICED

Defendant

Anthem HP, LLC
TERMINATED: 01/23/2025
doing business as
 Anthem Blue Cross and Blue Shield HP
TERMINATED: 01/23/2025
doing business as
 Anthem Blue Cross HP
TERMINATED: 01/23/2025

represented by **Matthew Joel Aaronson**
 (See above for address)
LEAD ATTORNEY
 ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/22/2024	<u>1</u>	COMPLAINT against Anthem HP, LLC, Anthem Healthchoice Assurance, Inc.. (Filing Fee \$ 405.00, Receipt Number ANYSDC-30073995) Document filed by JANE (A PSEUDONYM) DOE, Patricia Cavallaro-Kearins..(Cohen, Steve) (Entered: 10/22/2024)
10/23/2024		***NOTICE TO ATTORNEY TO ELECTRONICALLY FILE CIVIL COVER SHEET. Notice to Attorney Steve Cohen. Attorney must electronically file the Civil Cover Sheet. Use the event type Civil Cover Sheet found under the event list Other Documents. (jgo) (Entered: 10/23/2024)
10/23/2024		***NOTICE TO ATTORNEY REGARDING PARTY MODIFICATION. Notice to attorney Steve Cohen. The party information for the following party/parties has been modified: JANE DOE; Patricia Cavallaro-Kearins; Anthem Healthchoice Assurance, Inc.; Anthem HP, LLC. The information for the party/parties has been modified for the following reason/reasons: party name was

		entered in all caps; party text was omitted; alias party name was omitted;. (jgo) (Entered: 10/23/2024)
10/23/2024		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above–entitled action is assigned to Judge John P. Cronan. Please download and review the Individual Practices of the assigned District Judge, located at https://nysd.uscourts.gov/judges/district-judges . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at https://nysd.uscourts.gov/rules/ecf-related-instructions.. (jgo) (Entered: 10/23/2024)
10/23/2024		Magistrate Judge Jennifer Willis is designated to handle matters that may be referred in this case. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: https://nysd.uscourts.gov/sites/default/files/2018-06/AO-3.pdf . (jgo) (Entered: 10/23/2024)
10/23/2024		Case Designated ECF. (jgo) (Entered: 10/23/2024)
10/23/2024	<u>2</u>	CIVIL COVER SHEET filed..(Cohen, Steve) (Entered: 10/23/2024)
10/23/2024	<u>3</u>	FIRST RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Jane Doe, Patricia Cavallaro–Kearins..(Cohen, Steve) (Entered: 10/23/2024)
11/04/2024	<u>4</u>	NOTICE OF APPEARANCE by Jacob Samuel Gardener on behalf of Jane Doe, Patricia Cavallaro–Kearins..(Gardener, Jacob) (Entered: 11/04/2024)
11/04/2024	<u>5</u>	NOTICE OF APPEARANCE by Samuel Rosh on behalf of Jane Doe, Patricia Cavallaro–Kearins..(Rosh, Samuel) (Entered: 11/04/2024)
11/04/2024	<u>6</u>	REQUEST FOR ISSUANCE OF SUMMONS as to ANTHEM HEALTHCHOICE ASSURANCE, INC., d/b/a ANTHEM BLUE CROSS AND BLUE SHIELD, and d/b/a ANTHEM BLUE CROSS, re: <u>1</u> Complaint. Document filed by Jane Doe, Patricia Cavallaro–Kearins..(Gardener, Jacob) (Entered: 11/04/2024)
11/04/2024	<u>7</u>	REQUEST FOR ISSUANCE OF SUMMONS as to ANTHEM HP, LLC, d/b/a ANTHEM BLUE CROSS AND BLUE SHIELD HP, and d/b/a ANTHEM BLUE CROSS HP, re: <u>1</u> Complaint. Document filed by Jane Doe, Patricia Cavallaro–Kearins..(Gardener, Jacob) (Entered: 11/04/2024)
11/06/2024	<u>8</u>	ELECTRONIC SUMMONS ISSUED as to Anthem Healthchoice Assurance, Inc...(jgo) (Entered: 11/06/2024)
11/06/2024	<u>9</u>	ELECTRONIC SUMMONS ISSUED as to Anthem HP, LLC..(jgo) (Entered: 11/06/2024)
11/06/2024	<u>10</u>	WAIVER OF SERVICE RETURNED EXECUTED. Anthem HP, LLC waiver sent on 11/5/2024, answer due 1/6/2025; Anthem Healthchoice Assurance, Inc. waiver sent on 11/5/2024, answer due 1/6/2025. Document filed by Jane Doe; Patricia Cavallaro–Kearins..(Gardener, Jacob) (Entered: 11/06/2024)
11/14/2024	<u>11</u>	NOTICE OF APPEARANCE by Adam Lewis Pollock on behalf of Patricia Cavallaro–Kearins..(Pollock, Adam) (Entered: 11/14/2024)
12/12/2024	<u>12</u>	CONSENT LETTER MOTION for Extension of Time to File Answer re: <u>1</u> Complaint addressed to Judge John P. Cronan from Matthew J. Aaronson dated 12/12/2024. Document filed by Anthem Healthchoice Assurance, Inc., Anthem HP, LLC..(Aaronson, Matthew) (Entered: 12/12/2024)
12/13/2024	<u>13</u>	ORDER granting <u>12</u> Letter Motion for Extension of Time to Answer The request is granted. Defendants' deadline to respond to the Complaint is extended to February 14, 2025. The Clerk of Court is respectfully directed to close Docket Number 12. SO ORDERED. Anthem HP, LLC answer due 2/14/2025; Anthem Healthchoice Assurance, Inc. answer due 2/14/2025. (Signed by Judge John P. Cronan on 12/13/2024) (jca) (Entered: 12/13/2024)

01/21/2025	<u>14</u>	NOTICE OF VOLUNTARY DISMISSAL pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, the plaintiff(s) and or their counsel(s), hereby give notice that the above-captioned action is voluntarily dismissed, without prejudice and without costs against the defendant(s) Anthem HP, LLC. Document filed by Jane Doe, Patricia Cavallaro-Kearins. Proposed document to be reviewed and processed by Clerk's Office staff (No action required by chambers)...(Cohen, Steve) (Entered: 01/21/2025)
01/22/2025		***NOTICE TO COURT REGARDING NOTICE OF VOLUNTARY DISMISSAL Document No. 14 Notice of Voluntary Dismissal was reviewed and referred to Judge John P. Cronan for approval for the following reason(s): the plaintiff(s) filed their voluntary dismissal and it did not dismiss all of the parties or the action in its entirety. (km) (Entered: 01/22/2025)
01/23/2025	<u>15</u>	NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE PLEASE TAKE NOTICE THAT, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), Plaintiffs Patricia Cavallaro-Kearins and Jane Doe on behalf of her child Baby Doe, a minor, hereby voluntarily dismiss Anthem HP, LLC from this action without prejudice. For the avoidance of doubt, Plaintiffs do not dismiss their claims against defendant Anthem Healthchoice Assurance, Inc. The Clerk of Court is directed to terminate Defendant Anthem HP, LLC's participation in this matter. Defendant Anthem Healthchoice Assurance, Inc.'s participation remains unchanged. SO ORDERED. (Signed by Judge John P. Cronan on 1/23/2025) (jca) (Entered: 01/23/2025)
02/13/2025	<u>16</u>	FILING ERROR – PDF ERROR – MOTION for Adam Peter Feinberg to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-30617920. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Anthem Healthchoice Assurance, Inc.. (Attachments: # <u>1</u> Affidavit In Support of Motion for Admission Pro Hac Vice, # <u>2</u> Proposed Order Granting Motion for Admission Pro Hac Vice, # <u>3</u> Exhibit VA Certificate of Good Standing, # <u>4</u> Exhibit DC Certificate of Good Standing, # <u>5</u> Exhibit Supplemental List of Admissions).(Feinberg, Adam) Modified on 2/14/2025 (bc). (Entered: 02/13/2025)
02/14/2025		>>>NOTICE REGARDING DEFICIENT MOTION TO APPEAR PRO HAC VICE. Notice to RE-FILE Document No. 16 MOTION for Adam Peter Feinberg to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-30617920. Motion and supporting papers to be reviewed by Clerk's Office staff... The filing is deficient for the following reason(s): missing Certificate of Good Standing from Supreme Court of Virginia;. Re-file the motion as a Motion to Appear Pro Hac Vice – attach the correct signed PDF – select the correct named filer/filers – attach valid Certificates of Good Standing issued within the past 30 days – attach Proposed Order.. (bc) (Entered: 02/14/2025)
02/14/2025	<u>17</u>	LETTER MOTION for Conference (<i>Pre-Motion Conference</i>) addressed to Judge John P. Cronan from Matthew J. Aaronson dated 2/14/2025. Document filed by Anthem Healthchoice Assurance, Inc...(Aaronson, Matthew) (Entered: 02/14/2025)
02/20/2025	<u>18</u>	LETTER RESPONSE in Opposition to Motion addressed to Judge John P. Cronan from Jacob Gardener dated 02/20/2025 re: <u>17</u> LETTER MOTION for Conference (<i>Pre-Motion Conference</i>) addressed to Judge John P. Cronan from Matthew J. Aaronson dated 2/14/2025. . Document filed by Jane Doe, Patricia Cavallaro-Kearins..(Gardener, Jacob) (Entered: 02/20/2025)
02/21/2025	<u>19</u>	ORDER denying <u>17</u> Letter Motion for Conference The Court is in receipt of Defendant's pre-motion letter in anticipation of its forthcoming motion to dismiss and Plaintiffs' letter in response. Dkts. 17-18. The Court concludes that a pre-motion conference is unnecessary and sets the following briefing schedule for Defendant's motion to dismiss. Defendant's motion is due by March 28, 2025. Plaintiffs' opposition is due by May 2, 2025. Defendant's reply is due by May 30, 2025. The Clerk of Court is respectfully directed to close Docket Number 17. SO ORDERED.. (Signed by Judge John P. Cronan on 2/21/2025) (jca) (Entered: 02/21/2025)
02/21/2025		Set/Reset Deadlines: Motions due by 3/28/2025. Responses due by 5/2/2025 Replies due by 5/30/2025. (jca) (Entered: 02/21/2025)
02/26/2025	<u>20</u>	MOTION for Adam Peter Feinberg to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Anthem

		Healthchoice Assurance, Inc.. (Attachments: # <u>1</u> Affidavit of Adam P. Feinberg, # <u>2</u> Proposed Order Granting Motion for Admission Pro Hac Vice, # <u>3</u> Exhibit VA Certificate of Good Standing, # <u>4</u> Exhibit DC Certificate of Good Standing, # <u>5</u> Exhibit Supplemental List of Admissions).(Feinberg, Adam) (Entered: 02/26/2025)
02/27/2025		>>> NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>20</u> MOTION for Adam Peter Feinberg to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (rju) (Entered: 02/27/2025)
02/28/2025	<u>21</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>20</u> Motion to Appear Pro Hac Vice The motion of Adam P. Feinberg for admission to practice Pro Hac Vice in the above captioned action is granted. The Clerk of Court is respectfully directed to close Docket Number 20. SO ORDERED. (Signed by Judge John P. Cronan on 2/28/2025) (jca) (Entered: 02/28/2025)
03/28/2025	<u>22</u>	ORDER: The Court notes that neither party has moved for a stay of discovery pending the Court's disposition of Defendant's motion to dismiss. Therefore, the parties shall file a proposed civil Case Management Plan and Scheduling Order by April 4, 2025. A model order can be found at https://www.nysd.uscourts.gov/hon-john-p-cronan . (Signed by Judge John P. Cronan on 3/28/2025) (rro) (Entered: 03/28/2025)
03/28/2025	<u>23</u>	NOTICE OF APPEARANCE by Anna Menkova on behalf of Patricia Cavallaro-Kearins, Jane Doe..(Menkova, Anna) (Entered: 03/28/2025)
03/28/2025	<u>24</u>	MOTION to Dismiss . Document filed by Anthem Healthchoice Assurance, Inc...(Aaronson, Matthew) (Entered: 03/28/2025)
03/28/2025	<u>25</u>	MEMORANDUM OF LAW in Support re: <u>24</u> MOTION to Dismiss . . Document filed by Anthem Healthchoice Assurance, Inc...(Aaronson, Matthew) (Entered: 03/28/2025)
03/28/2025	<u>26</u>	DECLARATION of Brendan G. Stuhan in Support re: <u>24</u> MOTION to Dismiss .. Document filed by Anthem Healthchoice Assurance, Inc.. (Attachments: # <u>1</u> Exhibit A – 2013 OPM–BCBSA Contract, # <u>2</u> Exhibit B – 2022 OPM–BCBSA Contract, # <u>3</u> Exhibit C – 2018 Amendment to 2013 Contract, # <u>4</u> Exhibit D – 2019 Amendment to 2013 Contract, # <u>5</u> Exhibit E – 2020 Amendment to 2013 Contract, # <u>6</u> Exhibit F – 2021 Amendment to 2013 Contract, # <u>7</u> Exhibit G – 2023 Amendment to 2022 Contract, # <u>8</u> Exhibit H – 2024 Amendment to 2022 Contract, # <u>9</u> Exhibit I – 2018 Statement of Benefits, # <u>10</u> Exhibit J – 2019 Statement of Benefits, # <u>11</u> Exhibit K – 2020 Statement of Benefits, # <u>12</u> Exhibit L – 2021 Statement of Benefits, # <u>13</u> Exhibit M – 2022 Statement of Benefits, # <u>14</u> Exhibit N – 2023 Statement of Benefits, # <u>15</u> Exhibit O – 2024 Statement of Benefits).(Aaronson, Matthew) (Entered: 03/28/2025)
04/02/2025	<u>27</u>	CONSENT LETTER MOTION to Stay <i>Discovery Pending Decision on Anthem's Motion to Dismiss</i> addressed to Judge John P. Cronan from Matthew J. Aaronson dated 4/2/2025. Document filed by Anthem Healthchoice Assurance, Inc...(Aaronson, Matthew) (Entered: 04/02/2025)
04/03/2025	<u>28</u>	ORDER granting <u>27</u> Letter Motion to Stay "A motion to dismiss does not automatically stay discovery, and discovery should not be routinely stayed simply on the basis that a motion to dismiss has been filed." Khan v. New York City, No. 24 Civ. 2168 (JAM), 2024 WL 4814236, at *4 (E.D.N.Y. Nov. 18, 2024) (internal quotation marks omitted). Rather, "upon a showing of good cause a district court has considerable discretion to stay discovery pursuant to Fed. R. Civ. P. 26(c)." Hong Leong Fin. Ltd. (Singapore) v. Pinnacle Performance Ltd., 297 F.R.D. 69, 72 (S.D.N.Y. 2013) (internal quotation marks omitted). "A court determining whether to grant a stay of discovery pending a motion must look to the particular circumstances and posture of each case," and in evaluating whether to stay discovery pending the disposition of a motion to dismiss, "courts typically consider: (1) whether the [d]efendants ha[ve] made a strong showing that the plaintiff's claim is unmeritorious; (2) the breadth of discovery and the burden of responding to it; and (3) the risk of unfair prejudice to the party opposing the stay. Sharma v. Open Door NY Home Care Servs., Inc., 345 F.R.D. 565, 568 (E.D.N.Y. 2024) (internal quotation marks omitted). After weighing these factors, the Court concludes that good cause exists to stay discovery in this case. Without purporting to pass on the merits of the pending motion to dismiss, Defendant has challenged liability on, inter alia, preemption and exhaustion grounds. See Dkt. 25. Disposition of the issue of whether Plaintiff has successfully

		stated a claim in the first instance would avoid any prejudice from subjecting Defendant to broad discovery in the interim. As Plaintiff has joined the motion to stay discovery, the Court sees no resulting prejudice to Plaintiff. Accordingly, discovery in this matter is stayed pursuant to Federal Rule of Civil Procedure 26(c) pending the Court's ruling on Defendant's motion to dismiss. The parties' April 4, 2025 deadline to submit a case management plan is adjourned sine die. The Clerk of Court is respectfully directed to close Docket Number 27. SO ORDERED. (Signed by Judge John P. Cronan on 4/3/2025) (jca) (Entered: 04/03/2025)
05/02/2025	<u>29</u>	MEMORANDUM OF LAW in Opposition re: <u>24</u> MOTION to Dismiss . . Document filed by Patricia Cavallaro–Kearins, Jane Doe..(Gardener, Jacob) (Entered: 05/02/2025)
05/30/2025	<u>30</u>	REPLY MEMORANDUM OF LAW in Support re: <u>24</u> MOTION to Dismiss . . Document filed by Anthem Healthchoice Assurance, Inc...(Aaronson, Matthew) (Entered: 05/30/2025)
03/02/2026	<u>31</u>	OPINION AND ORDER re: <u>24</u> MOTION to Dismiss . filed by Anthem Healthchoice Assurance, Inc. For the above reasons, the Court grants Anthem's motion to dismiss Plaintiffs' claims with prejudice. The Clerk of Court is respectfully directed to enter judgment in Anthem's favor and to close this case. SO ORDERED. (Signed by Judge John P. Cronan on 3/2/2026) (ar) Transmission to Orders and Judgments Clerk for processing. (Entered: 03/02/2026)
03/05/2026	<u>32</u>	CLERK'S JUDGMENT re: <u>31</u> Memorandum & Opinion in favor of Anthem Healthchoice Assurance, Inc. against Jane Doe, Patricia Cavallaro–Kearins. It is hereby ORDERED, ADJUDGED AND DECREED: That for the reasons stated in the Court's Opinion and Order dated March 2, 2026, the Court has granted Anthem's motion to dismiss Plaintiffs' claims with prejudice; accordingly, the case is closed. (Signed by Clerk of Court Tammi M Hellwig on 3/5/2026) (Attachments: # <u>1</u> Appeal Package) (km) (Entered: 03/05/2026)
03/31/2026	<u>33</u>	NOTICE OF APPEAL from <u>32</u> Clerk's Judgment,,. Document filed by Patricia Cavallaro–Kearins, Jane Doe. Filing fee \$ 605.00, receipt number ANYSDC–32628970. Form C and Form D are due within 14 days to the Court of Appeals, Second Circuit..(Gardener, Jacob) Modified on 3/31/2026 (nd). (Entered: 03/31/2026)
03/31/2026		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>33</u> Notice of Appeal,..(nd) (Entered: 03/31/2026)
03/31/2026		Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files for <u>33</u> Notice of Appeal, filed by Patricia Cavallaro–Kearins, Jane Doe were transmitted to the U.S. Court of Appeals..(nd) (Entered: 03/31/2026)