



O'Melveny & Myers LLP
400 South Hope Street
Suite 1900
Los Angeles, CA 90071-2811

T: +1 213 430 6000
F: +1 213 430 6407
omm.com

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Jim Bowman
D: +1 213 430 6569
jbowman@omm.com

VIA ELECTRONIC DELIVERY AND COURT FILING

The Honorable Katharine H. Parker
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 750
New York, New York 10007

Re: United States of America v. Anthem, Inc., 1:20-cv-02593-ALC-KHP

Dear Judge Parker:

We represent Defendant Anthem, Inc. (“Anthem”). Anthem writes pursuant to the Court’s Orders provisionally sealing confidential materials filed in connection with the parties’ dispute regarding the deposition of Peter Haytaian (Dkts. 491, 498, 508, 518). Anthem respectfully requests that the Court enter an order maintaining the seal on the confidential information contained in: (1) Exhibits A through H attached to the Government’s letter motion dated April 27, 2026 (Dkt. 488); (2) Exhibits I and J attached to the Government’s reply letter motion dated May 12, 2026 (Dkt. 505); (3) the redacted portions of the Declaration of Peter D. Haytaian submitted in support of Anthem’s responsive position statement (Dkt. 496-1); and (4) portions of the parties’ position statements citing or quoting these confidential materials. These materials contain confidential descriptions of Anthem’s competitively sensitive business information, private information involving third parties, and Mr. Haytaian’s involvement in such confidential matters. Plaintiff takes no position on this request.

As the Court has laid out in its past orders regarding the sealing of confidential information (*see* Dkts. 199, 493), when considering whether to seal a judicial document from the public record, the Court must balance the presumption of public access with “higher values” justifying sealing. Dkt. 199 at 2. “The strongest presumption attaches where the documents determine litigants’ substantive rights, and the presumption is weaker where the documents play only a negligible role in the performance of Article III duties.” *Id.* (citations omitted). “The weight accorded to the presumptive right to public access is lower if the document is submitted in connection with a discovery dispute or other non-dispositive motion.” *Id.* (citations omitted). Once the Court has determined the weight of the presumption of public access, it assesses whether sealing is necessary to preserve “higher values” and that the factors counseling against public access outweigh the presumption of public access. *Id.* Such higher values include the protection of competitively sensitive business information, *see Louis Vuitton Malletier S.A. v. Sunny Merch. Corp.*, 97 F. Supp. 3d 485, 511 (S.D.N.Y. 2015); *Standard Inv. Chartered, Inc. v. Fin. Indus. Regul. Auth., Ind.*, 347 F. App’x 615, 617 (2d Cir. 2009), as well as the protection of private non-party information and the avoidance of potential harm to non-parties, *see United States v. Amodeo*, 71 F.3d 1044, 1050



(2d Cir. 1995) (privacy interests of third parties “weigh[s] heavily” in balance against public right of access (citations omitted)).

As the Court is aware, the documents at issue were submitted to the Court in the context of a discovery dispute concerning whether the deposition of Mr. Haytaian was justified under the apex witness doctrine. The common throughline for those documents is that they involve Mr. Haytaian in some way; the documents were not submitted in connection with any issue going to the merits of the parties’ claims. As Anthem detailed in its responsive filing (Dkt. 496), many documents lack any connection to the business practices at issue in the case *at all*, and instead deal with completely separate topics, such as Anthem’s Medicaid business or compliance and employment concerns unrelated to Anthem’s chart review practices. The public’s interest in such documents, which were submitted for the purpose of resolving a discovery dispute not bearing on the parties’ substantive rights, is minimal. *See Brown v. Maxwell*, 929 F.3d 41, 49-50 (2d Cir. 2019) (presumption of public access “is lower if the document is submitted in connection with a discovery dispute or other non-dispositive motion”); *Alexander Interactive, Inc. v. Adorama, Inc.*, 2014 WL 4346174, at *2 (S.D.N.Y. Sept. 2, 2014) (“[T]he weight of the presumption is not particularly great” because “[t]he documents are not to be submitted in connection with a dispositive motion, but merely a motion to compel further discovery from a party.”).

While these documents have minimal interest to the public, they would, if unsealed, reveal Anthem’s sensitive commercial information, as well as the private information of numerous third parties. Given Mr. Haytaian’s senior role at Anthem, the documents submitted to the Court cover a wide range of sensitive subjects, including Anthem’s business strategies, finances, and sensitive compliance issues at the highest level. Several documents also concern sensitive financial, employment and legal concerns of third parties, whose privacy would be violated if these documents became public. These issues are exactly the kind of “higher values” that justify sealing, particularly in balance against the minimal public interest in these documents. *See Louis Vuitton Malletier S.A.*, 97 F. Supp. 3d at 511; *Amodeo*, 71 F.3d at 1050.

As further detailed in the Declaration of James A. Bowman, each of these documents implicate “higher values” warranting protection¹:

- Exhibits A and B contain confidential details of Anthem’s vendor agreements with Verscend, including negotiated pricing terms, volume commitments, service level agreements, and fee structures that have never been publicly disclosed. This is nonpublic commercial information relating to Anthem’s business relationship with Verscend; if made public, it would disclose sensitive details of Verscend’s and Anthem’s business relationship and, necessarily, the particular pricing details and strategies that undergird that relationship. Courts have held that similar contractual details between a party and non-party warrant sealing. *See Alexander Interactive*, 2014 WL 4346174, at *2. The Court also recently considered this same issue

¹ The parties’ briefs and the Declaration of Peter D. Haytaian attached to Anthem’s responsive brief also contain limited redactions where those materials quote, paraphrase, contextualize, or otherwise reveal the substance of the confidential information contained within those documents. Anthem respectfully requests that the Court maintain those redactions for the same reasons as it requests the Court maintain the seal over the underlying documents.



regarding Verscend's business information in the context of sealing material related to the parties' dispute over the deposition of Deborah Bradley, and concluded that the material should remain sealed. *See* Dkt. 493.

- Exhibits C, D, E, F, and I each contain highly sensitive internal financial and strategic information, including revenue forecasting models and targets; competitive bidding strategies and market assessments identifying specific target markets; internal rate negotiations with state Medicaid programs; membership and enrollment projections; detailed operating gain and loss figures by line of business; and strategic acquisition targets. Given Mr. Haytaian's position at Anthem, these represent Anthem's most sensitive strategic documents—some of which were created in preparation for Board of Directors meetings—and outline Anthem's business strategies at the highest level. Public disclosure would provide Anthem's competitors detailed information about its business strategies for nearly every aspect of its business. This is precisely the type of "competitively sensitive business information" that courts recognize as a "higher value" justifying sealing. *See Louis Vuitton Malletier S.A.*, 97 F. Supp. 3d at 511.
- Exhibits G and J concern the testimony (Exhibit G) and produced documents (Exhibit J) of a third party former employee. Exhibit J was produced by that former employee, who designated it as confidential under the operative Protective Order. Further, the deposition testimony of that former employee extensively detailed Anthem's internal compliance practices and decision-making processes. This material relates to a highly sensitive employment dispute which involved the threat of litigation; making that information public would invade the privacy interest of that former employee, who designated the information as confidential under the Protective Order in this case, and would threaten the privacy interests of other individuals involved. Importantly, the dispute with this former employee did not concern Anthem's corporate chart review practices. The public does not have an interest in chilling parties' abilities to raise—and resolve—such disputes in a confidential manner by forcing disclosure of confidential correspondence such as this. The correspondence also involves unproven allegations that, if publicly disclosed, could cause reputational harm to individuals named in the letter that are not relevant to the claims at issue in this case. *See Amodeo*, 71 F.3d at 1050.
- Exhibit H contains Anthem's confidential internal audit and ethics compliance materials. This document contains detailed risk assessments, corrective action plans, information regarding employee terminations for compliance-related reasons, and results of regulatory examinations. Internal audit materials of this nature are among the most sensitive documents maintained by a corporation, as they reflect the company's candid self-assessment of risks, areas of potential vulnerability, and remediation efforts. Public disclosure would undermine Anthem's ability to conduct effective internal audits and self-assessments, chill candid internal reporting, and expose Anthem's specific compliance vulnerabilities to competitors and potential litigants. *See Louis Vuitton Malletier S.A.*, 97 F. Supp. 3d at 511. Disclosure would also enter into the public record sensitive details of the many third parties identified in this document, which have nothing to do with this litigation and which risk having



sensitive information made public simply because they happened to appear on an internal Anthem document that referenced Mr. Haytaian. Protecting such privacy interests is a “weighty” reason to maintain the seal over these documents. *See Amodeo*, 71 F.3d at 1050.

Given the above, there is a strong basis to seal these materials, and Anthem respectfully requests that the Court maintain the seal on these confidential exhibits, the portions of the parties’ filings that quote or describe these materials, and the Haytaian Declaration.



Dated: June 12, 2026

Respectfully submitted,

By: /s/ James A. Bowman

JAMES A. BOWMAN, *Pro Hac Vice*
ADAM LEVINE, *Pro Hac Vice*
HANNAH E. DUNHAM, *Pro Hac Vice*
SHELBY A. CUMMINGS, *Pro Hac Vice*
ELIZABETH A. ARIAS, *Pro Hac Vice*
O'MELVENY & MYERS LLP
400 South Hope Street, 18th Floor
Los Angeles, California 90071
Telephone: (213) 430-6000
Facsimile: (213) 430-6407
jbowman@omm.com
alevine@omm.com
hdunham@omm.com
scummings@omm.com
earias@omm.com

K. LEE BLALACK, II, *Pro Hac Vice*
ANWAR GRAVES, *Pro Hac Vice*
WILLIAM BUFFALOE, *Pro Hac Vice*
BRIAN D. BOYLE
BENJAMIN D. SINGER
RAHUL KOHLI, *Pro Hac Vice*
O'MELVENY & MYERS LLP
1625 Eye Street, N.W.
Washington, D.C. 20006
Telephone: (202) 383-5300
Facsimile: (202) 383-5414
lblalack@omm.com
agraves@omm.com
wbuffaloe@omm.com
bboyle@omm.com
bsinger@omm.com
rkohli@omm.com

DAVID DEATON, *Pro Hac Vice*
O'MELVENY & MYERS LLP
Two Embarcadero Center, 28th Floor
San Francisco, California 94111
Telephone: (949) 823-6900
Facsimile: (949) 823-6994
ddeaton@omm.com



CHRISTOPHER P. BURKE, *Pro Hac Vice*
O'MELVENY & MYERS LLP
1301 Avenue of the Americas, Suite 1700
New York, New York 10019
Telephone: (212) 326-2000
Facsimile: (212) 326-2061
cburke@omm.com

JOHN MARTIN, *Pro Hac Vice*
HEYWARD BONYATA, *Pro Hac Vice*
NELSON MULLINS RILEY & SCARBOROUGH LLP
1320 Main Street, 17th Floor
Columbia, South Carolina 29201
Telephone: (803) 255-9655
john.martin@nelsonmullins.com
heyward.bonyata@nelsonmullins.com

Attorneys for Defendant Anthem, Inc.

cc: Assistant United States Attorney Peter Max Aronoff, Esq.
Assistant United States Attorney Charles Salim Jacob, Esq.
Assistant United States Attorney Adam M. Gitlin, Esq.
Assistant United States Attorney Dana Walsh Kumar, Esq.
Assistant United States Attorney Rachael Doud, Esq.
Assistant United States Attorney Pierre Armand, Esq.
Assistant United States Attorney Harry Fidler, Esq.
Trial Attorney Martha Glover, Esq.

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANTHEM, INC.,

Defendant.

Case No. 1:20-cv-02593-ALC-KHP

**DECLARATION OF JAMES A.
BOWMAN IN SUPPORT OF
DEFENDANT ANTHEM, INC.’S
LETTER MOTION TO SEAL
CONFIDENTIAL
INFORMATION**

I, James A. Bowman, declare and state as follows:

1. I am a lawyer at O’Melveny & Myers, LLP and am counsel for Elevance Health, Inc. (“Elevance Health”), formerly known as Anthem, Inc. (“Anthem”), in this matter. For purposes of this declaration, I refer to the company as “Anthem.”

2. I am licensed to practice law in California and have been admitted *pro hac vice* in this District in connection with this matter. I submit this declaration in support of Anthem’s Letter Motion to Seal Confidential Information. I have personal knowledge of the facts set forth herein and, if called to testify, could and would do so competently.

3. Through my representation of Anthem in this case, I have personal knowledge of Anthem’s practices regarding the protection of confidential, proprietary, and competitively sensitive business information.

4. In this case, Anthem, Plaintiff, and third parties have designated certain documents and materials produced in discovery as “Confidential” and “Attorneys’ Eyes Only” pursuant to the applicable Protective Order. Where these documents have been designated by Anthem, these designations reflect Anthem’s determination that the information contained in

these materials is of a commercially sensitive and proprietary nature, the disclosure of which would cause injury to Anthem.

5. The exhibits at issue in this motion contain competitively sensitive information and information concerning third parties that Anthem has consistently maintained as confidential and never publicly disclosed. The materials fall into the following categories: (a) information concerning confidential vendor agreements containing pricing and service terms; (b) internal financial and strategic documents reflecting revenue forecasts, competitive bidding strategies, and operating performance; (c) confidential deposition testimony and related correspondence relating to settlement discussions regarding a sensitive employment dispute; and (d) internal audit and ethics materials reflecting risk assessments and corrective actions.

6. **Exhibits A and B (Verscend Vendor Agreements).** Exhibit A (ANTHEM_DOJ_00002746) is a Statement of Work for Medicare Advantage Re-Coding between Anthem and Verisk Health, Inc. (also known as “Verscend”). Exhibit B (ANTHEM_DOJ_00007645) is a Medicare Risk Adjustment Verscend Renewal Agreement Memorandum. These documents contain confidential commercial terms, including proprietary pricing arrangements, volume commitments, service-level requirements, performance benchmarks, and payment structures negotiated between Anthem and its vendor. This pricing and contractual information reflects Anthem and Verscend’s commercially sensitive negotiations and competitive positioning in the Medicare Advantage risk adjustment market. Disclosure of these terms would provide competitors and potential vendors with insight into Anthem and Verscend’s respective negotiating positions and cost structure, causing direct competitive harm and disclosure of the details of Verscend’s relationship with Anthem.

7. **Exhibits C, D, E, F, and I (Internal Financial and Strategic Documents).**

Exhibit C (ANTHEM_DOJ_00039708) contains internal revenue strategy presentation materials. Exhibit D (ANTHEM_SDNY_00174060) consists of internal communications regarding revenue forecasting. Exhibit E (ANTHEM_DOJ_00026411) is an internal strategic email discussing preparation for a Business Operating Review meeting, including references to competitive bidding strategies for potential new business. Exhibit F (ANTHEM_DOJ_00032352) contains Board meeting financial performance materials discussing rate negotiations, regulatory compliance strategies, and strategic initiatives.¹ Collectively, these documents reflect highly sensitive financial information, including revenue forecasts, competitive bidding strategies for Medicaid and Medicare programs, rate negotiation positions, operating gains and losses, and strategic market positioning analyses. This information was created solely for internal decision-making purposes at the highest level at Anthem, has never been disclosed publicly, and would not be disclosed in the ordinary course of business. Disclosure would provide competitors with a detailed roadmap of Anthem's strategic financial planning and competitive approach.

8. **Exhibits G and J (Employee Materials).** Exhibit J (KING000001) consists of correspondence from counsel for a former Anthem employee and contains allegations and settlement demands related to an employment dispute between Anthem and that former employee. Exhibit G consists of excerpts from the confidential deposition testimony of that employee relating to the subject matter in Exhibit J. These documents implicate significant privacy interests of the former employee, as well as other current and former employees, and contain the substance of confidential settlement discussions between the parties. Additionally, the correspondence contains unproven allegations concerning specific individuals that, if


¹ Exhibit I is a near copy of Exhibit F, with one portion of Exhibit F excised but which is otherwise identical.

publicly disclosed, could cause reputational harm to those individuals. Such confidential settlement discussions would never be disclosed by Anthem in the normal course of business, and if it were unable to engage in these discussions without risk of public disclosure, it would impair Anthem's ability to resolve these issues privately to the satisfaction of all parties.

9. **Exhibit H (Internal Compliance Materials).** Exhibit H (ANTHEM_SDNY_00144685) is an Internal Audit and Ethics & Compliance Update. This document contains detailed risk assessments, corrective action plans, information regarding employee terminations for compliance-related reasons, and results of regulatory examinations. Internal audit materials of this nature are among the most sensitive documents maintained by Anthem, and reflect Anthem's self-assessment of risks, areas of potential vulnerability, and remediation efforts. Anthem treats these materials with the highest level of internal confidentiality, and their disclosure is limited even within Anthem. Disclosure to the public would expose a great deal of Anthem's most sensitive information to the public; further, if the confidentiality of documents of this type could not be maintained, it would undermine Anthem's ability to conduct effective internal audits and self-assessments, chill candid internal reporting, and expose Anthem's specific compliance vulnerabilities to competitors and potential litigants.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on June 12, 2026 in Goleta, California

By: 
James A. Bowman