

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WESCO, INC., and WESCO, INC.
CAFETERIA PLAN AND
EMPLOYEE BENEFIT PLAN, on
behalf of themselves and a class of all
others similarly situated,

Case No. 2:25-cv-11712

Hon. Susan K. DeClercq
Mag. Judge David R. Grand

Plaintiffs,

v.

BLUE CROSS BLUE SHIELD
OF MICHIGAN,

Defendant.

**PLAINTIFFS' RESPONSE TO DEFENDANT'S
MOTION TO EXTEND ANSWER DEADLINE**

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CONCISE STATEMENT OF THE ISSUES PRESENTED

1. Should the Court extend the time for BCBSM to Answer and/or respond to Plaintiffs' putative class-action Complaint, when Plaintiffs' Complaint presents straightforward and non-complex claims arising from BCBSM's alleged misconduct that it has known about for years and BCBSM has failed to show good cause and not complied with this Court's local rules?

BCBSM says: Yes.

Plaintiffs say: No

CONTROLLING OR MOST APPROPRIATE AUTHORITY

- Fed. R. Civ. P. 6(b)(1)(A)
- E.D. Mich. LCrR 7.1(a)
- *Burgess v. Bell*, 555 F. Supp. 2d 855, 857 (E.D. Mich. 2008)
- *Ott v. Fed. Home Loan Mortg. Corp.*, 535 F. App'x 488, 489 (6th Cir. 2013)
- *MRP Props., LLC v. United States*, No. 17-CV-11174, 2017 WL 11518355, at *2 (E.D. Mich. Oct. 5, 2017)

I. INTRODUCTION

Defendant Blue Cross Blue Shield of Michigan’s (“BCBSM”) Motion should be denied. The issues in this case have been extensively litigated and understood by BCBSM for years. Indeed, all legal defenses to Plaintiffs’ allegations about BCBSM’s misconduct concerning its Shared Savings Program are precluded in light of the Sixth Circuit’s recent decision in *Tiara Yachts, Inc. v. Blue Cross Blue Shield of Michigan*, No. 24-1223, 2025 WL 1453273 (6th Cir. May 21, 2025). BCBSM does not need “more time” to understand or investigate Plaintiffs’ straightforward allegations before filing an Answer.

Further, BCBSM has not shown any *good cause* justifying its request to delay these proceedings. BCBSM fails to identify any specific and supportable facts demonstrating the need for an extension. Nor has it adhered to this Court’s Local Rules and Practice Guidelines before seeking relief without defined justifications. (E.D. Mich. LCrR 7.1(a)(1); Judge DeClercq’s Civil Case Practice Guidelines, p. 6, **Exhibit 1**). An unwarranted and unneeded delay would prejudice Plaintiffs’ and be contrary to judicial efficiency. Therefore, for the reasons discussed in further detail below, BCBSM’s Motion should be denied.

II. RELEVANT BACKGROUND

Plaintiffs Wesco, Inc. and Wesco, Inc. Cafeteria Plan and Employee Benefit Plan (collectively, “Plaintiffs”) filed a straightforward putative class-action

complaint against BCBSM on June 9, 2025. (ECF No. 1, PageID. 1-42). BCBSM was served on June 13, 2025. (ECF No.7, PageID.52). BCBSM’s deadline to respond to the Complaint is Monday July 7, 2025. Fed. R. Civ. P. 6(a), 12.

Weeks after being served—with only days to spare—BCBSM filed the present motion on July 2, 2025, asking that its answer deadline be extended on an expedited basis. (ECF No. 15, PageID.69). Notwithstanding the relatively standard and well-understood nature of Plaintiffs’ allegations—many of which concern facts BCBSM has litigated for years (*see Tiara Yachts, Inc. v. Blue Cross Blue Shield of Michigan*, No. 24-1223, 2025 WL 1453273 (6th Cir. May 21, 2025))—BCBSM insists it needs “more time” to respond to Plaintiffs’ Complaint. (ECF No. 15, PageID.70).

Specifically, BCBSM seeks an additional 30 days—until August 7, 2025—to answer. (*Id.*, PageID.76). Yet BCBSM provided Plaintiffs’ counsel no concrete details why it requires additional time to answer the Complaint, nor has it provided any reasonable justifications as to how such an extension serves the just and efficient resolution of this matter. (ECF No. 15-1, PageID.79-80). Instead, BCBSM claims “there is no need for such specificity” as BCBSM’s request is simply “reasonable under the circumstances.” (ECF No. 15, PageID.76).

Nor did BCBSM make concurrence attempts that satisfy the requirements in this Court’s local rules. (See E.D. Mich. LCrR 7.1(a)). Indeed, despite this Court’s

Local Rules and Practice Guidelines clearly requiring BCBSM’s counsel to engage “in a good faith effort to **meet or to have a real-time conversation** (via in-person, video, or telephone) with opposing counsel to attempt to obtain their agreement with the relief sought”—BCBSM’s lone exhibit evidences the opposite. (E.D. Mich. LCrR 7.1(a)(1); Judge DeClercq’s Civil Case Practice Guidelines, p. 6, **Exhibit 1**) (emphasis in original). This Court’s Practice Guidelines state “Email exchanges fail” to satisfy the requirement of E.D. Mich. LCrR 7.1(a), and even if concurrence is not obtained, BCBSM’s counsel was required to “explicitly state [its] concurrence seeking efforts”—not rush to the courthouse after providing Plaintiffs’ counsel with unspecified justifications for the request. (Judge DeClercq’s Civil Case Practice Guidelines, p. 6, **Exhibit 1**) (emphasis added).

Per the applicable rules, BCBSM’s failure to seek concurrence in good faith or include the details required by this Court before seeking a 30-day extension (without any specific and reasonable justifications) could be grounds for sanctions; at the very least, BCBSM’s motion being denied or stricken. (*Id.*; E.D. Mich. LCrR 7.1(a)(3)).

III. LEGAL STANDARD

Federal Rule of Civil Procedure 6(b)(1)(A) permits this Court to extend a party’s deadline only upon a showing of “good cause.” Fed. R. Civ. P. 6(b)(1)(A). While the Court has discretion in considering whether to grant an extension, that

discretion is not boundless; the moving party bears the burden to establish good cause through specific, substantive reasons—beyond mere preference or convenience—demonstrating that an extension is warranted. *Burgess v. Bell*, 555 F. Supp. 2d 855, 857 (E.D. Mich. 2008) (“Requests for enlargement of time should be supported by a showing of good cause” meaning demonstratable and “reasonable justification[s] for its failure to complete the requested task within the time prescribed.”). General and conclusory statements about purported complexity or overlapping matters do not suffice. *Id.*

IV. ARGUMENT

A. BCBSM HAS NOT ESTABLISHED GOOD CAUSE FOR AN EXTENSION.

Rule 6(b)(1)(A) of the Federal Rules of Civil Procedure permits a court to extend time only for “good cause.” Fed. R. Civ. P. 6(b)(1)(A). BCBSM has not met this standard.

First, BCBSM’s general assertions that its needs “more time” due to “complexity” is meritless. (ECF No. 15, PageID.75-76). For over two years, BCBSM litigated its Shared Savings Program. *See e.g., Tiara Yachts, Inc. v. Blue Cross Blue Shield of Michigan*, No. 24-1223, 2025 WL 1453273 (6th Cir. May 21, 2025). BCBSM is familiar with the subject matter of this case. *Id.* All that is required by July 7, 2025, is for it to admit or deny the straightforward allegations in Plaintiffs Complaint; BCBSM’s legal defenses to Plaintiffs’ allegations are now

precluded. *Id.* BCBSM points to no specific allegations that are “complex” or difficult to answer. *See Burgess*, 555 F. Supp. At 857-58 (denying defendant’s motion to extend answer deadline and finding no good cause when defendant relied upon “generalizations” and “conclusory” statements for its request). Its request should be denied.

Second, BCBSM’s lack of detail is fatal. It provides no “specificity” as to why it cannot meet the July 7, 2025, answer deadline. There is nothing keeping BCBSM from filing a timely answer, and having no real difficulty is why BCBSM asserts “there is no need for such specificity.” (ECF No. 15, PageID. 76). That says it all. Obviously, BCBSM’s argument contradicts the law, including this Court’s Local rules and Practice Guidelines. *See Burgess*, 555 F. Supp. At 857-58 (denying defendant’s motion to extend an answer deadline when defendant failed to provide “specific facts . . . and circumstances which would prevent a reasonable person from performing within the time allowed by a statute or court rule.”); E.D. Mich. LCrR 7.1(a)(1); Judge DeClercq’s Civil Case Practice Guidelines, p. 6, **Exhibit 1** (requiring a “good faith effort to **meet or to have a real-time conservation**” on the specific “relief sought”). BCBSM’s bare bones request for an extension via e-mail, and its failure to give this Court and Plaintiffs’ counsel any details to support the nature and legal basis of such a request, means BCBSM’s motion should be outright denied. *Id.*

Third, BCBSM cites no legal authority to support its request, which too is fatal. *Ott v. Fed. Home Loan Mortg. Corp.*, 535 F. App'x 488, 489 (6th Cir. 2013) (affirming the denial of plaintiff's request for more time when plaintiff failed to "cite any authority in support of her position."). In *Ott*, the plaintiff filed a motion under Fed. R. Civ. P. 6 asking for more time to respond asserting that "the Fourth of July holiday caused" plaintiff an inability to timely file. *Id.* However, plaintiff failed to "explain why this amounts to good cause" and otherwise failed to "cite any authority in support of her position." *Id.* Therefore, the court denied her motion and the Sixth Circuit Court of Appeals affirmed for the same reasons. *Id.* 488-89.

The same is true here. BCBSM simply asserts, without support, that this case is "inherently complex" and that an extension would generally be granted "as a matter of professional courtesy." (ECF No. 15, PageID. 75-76). However, BCBSM provides no authority or developed argument why generalized and conclusory assertions are enough to support a motion for more time to answer Plaintiffs' Complaint. BCBSM's motion should be denied. *Ott*, 535 F. App'x at 489.¹

¹ Had counsel for BCBSM asked for a modest extension, with specific and justifiable reasons, a "professional courtesy" would have been granted immediately; but professional courtesy is a two-way street, and requests for unneeded extensions are inconsistent with professional expectations. *See* United States District Court Eastern District of Michigan, *Civility Principles*, 08-AO-009, #13 p. 3 (January 23, 2008) ("We will not request an extension of time solely for the purpose of unjustified delay or to obtain tactical advantage.").

B. ANY FURTHER DELAY IS PREJUDICIAL TO PLAINTIFFS AND CONTRARY TO JUDICIAL EFFICIENCY.

Contrary to BCBSM's claim that "Plaintiffs cannot articulate any form of prejudice from a brief delay in this nascent case" (PageID.76), a 30-day extension, unsupported by any articulable and reasonable justification, is prejudicial and contrary to the interests of judicial economy and efficiency. *See e.g., MRP Props., LLC v. United States*, No. 17-CV-11174, 2017 WL 11518355, at *2 (E.D. Mich. Oct. 5, 2017) ("A thirty day extension does nothing to advance the interests of judicial economy, efficient use of resources, maintaining an orderly docket, or streamlining a resolution of the case."). Additionally, the Federal Rules of Civil Procedure clearly instruct that they "should be construed and administered to secure the just, speedy, and inexpensive determination of every action and proceeding." Fed. R. Civ. P. 1.

As explained above, BCBSM offers no articulable or legitimate basis for delaying this litigation. In fact, BCBSM is well-versed in the facts and issues present in this case as it has previously and extensively litigated many of the same issues in a related (albeit not identical case): *Tiara Yachts, Inc. v. Blue Cross Blue Shield of Michigan*, No. 24-1223, 2025 WL 1453273, (6th Cir. May 21, 2025). And, of course, the so-called Shared Savings Program is a creature of its own making. BCBSM literally knows everything about it. In *Tiara Yachts*, BCBSM filed a motion under Fed. R. Civ. P. 12(b)(6) concerning the legal merits of self-funded employers, like Plaintiffs, challenging the misconduct occurring in BCBSM's

Shared Savings Program, and the Sixth Circuit Court of Appeals rejected BCBSM's arguments. *Id.* BCBSM did not seek reconsideration or appeal the Sixth Circuit's decision. Its insinuation that the issues in this case are "complex" and/or require BCBSM more time to investigate is meritless.

BCBSM has presented no acute circumstances that impede or materially compromise its ability to answer the Complaint in this case—i.e., admit or deny Plaintiffs' straightforward allegations concerning its Shared Savings Program. It knows everything there is to know about the Shared Savings Program. Nothing about this case is more burdensome than standard litigation practice. BCBSM's request is tantamount to saying every large company may delay every class action by simply claiming it needs an extension without any justification.

V. CONCLUSION

Based on the foregoing, Plaintiffs respectfully request that the Court deny BCBSM's Motion to Extend Answer Deadline and require BCBSM to answer or otherwise respond within the time prescribed by the Federal Rules.


Alternatively, even if this Court decides to give BCBSM a modest extension (what would have been granted had it been requested), it should be conditioned on BCBSM filing an *Answer*. Any further attempts by BCBSM to relitigate the issues already decided by the Sixth Circuit in *Tiara Yachts, Inc. v. Blue Cross Blue Shield*

of Michigan, No. 24-1223, 2025 WL 1453273, (6th Cir. May 21, 2025), particularly pursuant to a 12(b)(6) motion, would be frivolous.

Respectfully submitted,

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Dated: July 3, 2025

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CERTIFICATE OF SERVICE

I certify that on July 3, 2025, I electronically filed this document with the Clerk of the Court using the ECF system, which will send notification of the filing to all ECF filing participants.

By: /s/ Perrin Rynders
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EXHIBIT 1

The Judge’s courtesy copy must be sent through first-class mail the same day that the document is e-filed—unless it relates to a court proceeding scheduled within the next five days or otherwise requires the Court’s immediate attention, in which case the chambers copy must be hand delivered to chambers on or before the morning of the business day after the document is e-filed

F. Prohibition on Embedded Motions

Motions may not be included within or appended to a response or a reply, and under no circumstances may a motion be included within the text or footnotes of another motion. See [E.D. Mich. Local Rule 7.1\(d\)\(1\)](#).

G. Concurrence.

Before filing a motion or submitting a stipulation, the movant must seek concurrence under [E.D. Mich. Local Rule 7.1\(a\)](#), engaging in a good faith effort to **meet or to have a real-time conversation** (via in-person, video, or telephone) with opposing counsel to attempt to obtain their agreement with the relief sought. Email exchanges fail this requirement, and the effort must be timely and prompt; conversations on the day of filing are typically inadequate. Should a concurrence seeking conference not occur, then the movant must explicitly detail the attempts made to initiate such dialogue. In addition, all motions must explicitly state that these concurrence seeking efforts were made and were unsuccessful. Failure to include this statement may result in costs and attorney’s fees being taxed or the motion being denied or stricken. See [E.D. Mich. LR 7.1\(a\)\(3\)](#).

H. Requirements for Specific Types of Motions

1. TROs and Emergency Motions

The Court strictly follows Fed. R. Civ. P. 65 and [E.D. Mich Local Rule 65.1](#). The Court rarely grants a temporary restraining order without notice to the opposing party. The parties should notify the Case Manager by telephone (313-234-5135) upon filing a motion for a temporary restraining order or for a preliminary injunction. The Court will typically hold a status conference soon after receiving notice of such a motion to arrange a briefing schedule and hearing date.