

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: ZELIS REPRICING ANTITRUST
LITIGATION

This Document Relates To:

All Actions

Lead Action Case No.: 1:25-cv-10734-BEM

Consolidated with Case Nos.:

1:25-CV-11092-BEM

1:25-CV-11167-BEM

1:25-CV-11537-BEM

**ELEVANCE HEALTH, INC.'S ASSENTED TO MOTION FOR LEAVE TO SEAL
CONFIDENTIAL INFORMATION**

Pursuant to Local Rule 7.2, Defendant Elevance Health, Inc (“Elevance Health”) respectfully moves this Court for Leave to File Under Seal four exhibits attached to the Supplemental Declaration of Scott Hicks in support of Elevance Health’s forthcoming Reply in Support of Motion to Compel Arbitration and Stay Action. As set forth in the accompanying Memorandum, which is incorporated herein by reference, the exhibits attached to Mr. Hick’s Declaration include (1) provider services agreements between Plaintiff Danny Bachoua Chiropractic, APC (“DBC”) and third-party American Specialty Health Plans of California (“ASH”), (2) an ASH “Acceptance of Resignation” letter sent to DBC that contains some terms of dealing, and (3) a copy of DBC’s 2013 IRS Form W-9 that Plaintiff’s counsel is currently reviewing for potentially sensitive, confidential information. To safeguard the confidentiality interests of Plaintiff DBC and third-party ASH, Elevance Health respectfully asks that the Court grant this Motion and impound the sealed documents until further order of this Court.

LOCAL RULE 7.1(a)(2) CERTIFICATION

Pursuant to Local Rule 7.1(a)(2), undersigned counsel hereby certifies that counsel for Elevance Health conferred with counsel for DBC via email on October 17, 2025, and attempted in good faith to resolve or narrow the issues presented in this motion, and Counsel for DBC informed undersigned counsel that they do not oppose the filing of this motion.

Dated: October 17, 2025

Respectfully submitted,

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Counsel for Defendant Elevance Health, Inc.

CERTIFICATE OF SERVICE

I, Olga Fleysh, attorney for the Defendant listed below, certify that, on October 17, 2025, I caused a copy of the foregoing motion and memorandum and exhibits in support thereof to be served, via ECF, on all counsel of record.

/s/ Olga Fleysh
Olga Fleysh

Counsel for Defendant Elevance Health, Inc.

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**MEMORANDUM OF LAW IN SUPPORT OF ELEVANCE HEALTH, INC.’S
ASSENTED TO MOTION TO SEAL CONFIDENTIAL INFORMATION**

Defendant Elevance Health, Inc. (“Elevance Health”) hereby moves that this Court to seal eight exhibits attached to the Supplemental Declaration of Scott Hicks in support of Elevance Health’s forthcoming Reply in Support of its Motion to Compel Arbitration and Stay Action on grounds that the exhibits include (1) provider service agreements executed by Plaintiff Danny Bachoua Chiropractic, APC (“DBC”) and third-party American Specialty Health (“ASH”) Plans of California, (2) an ASH “Acceptance of Resignation” letter sent to DBC that contains some terms of dealing, and (3) a copy of DBC’s 2013 IRS Form W-9 that Plaintiff’s counsel is currently reviewing for potentially sensitive, confidential information that it may wish this Court to seal.

INTRODUCTION

On August 11, 2025, Defendant Elevance filed its Motion to Compel Arbitration of Plaintiff DBC (Dkt. No. 108). On September 22, 2025, Plaintiff DBC filed its opposition to that Motion (Dkt. No. 131). Both Elevance Health and DBC requested leave to file exhibits and unredacted versions of their supporting briefs under seal. The Court granted both motions. *See* Dkt. Nos. 115, 126. In support of its reply brief, Elevance Health now seeks to file under seal

additional contracts and related materials that raise the same confidentiality concerns as the exhibits that the Court previously sealed. Plaintiffs have stated that they do not oppose the motion.

LEGAL STANDARDS

While “[t]he common law presumes a right of public access to judicial records[,]” *Siedle v. Putnam Investments, Inc.*, 147 F.3d 7, 9 (1st Cir. 1998), it is widely recognized that this right is “not unfettered,” *id.* at 10; *see Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978) (“It is uncontested, however, that the right to inspect and copy judicial records is not absolute.”); *In re Gitto Glob. Corp.*, 422 F.3d 1, 6 (1st Cir. 2005) (“[T]he right of access is not absolute.”). Significant “countervailing interests” can “overwhelm the usual presumption and defeat access.” *Siedle*, 147 F.3d at 10 (citation omitted).

The party seeking to file a document under seal bears the burden of persuasion. *See Dahl v. Bain Cap. Partners, LLC*, 891 F. Supp. 2d 221, 224 (D. Mass. 2012). When a party moves to seal documents or objects to their unsealing, a court must “carefully balance the competing interests that are at stake in the particular case.” *Siedle*, 147 F.3d at 10 (citing *Nixon*, 435 U.S. at 599); *see Dahl*, 891 F. Supp. 2d at 224. This balance must be struck “in light of the relevant facts and circumstances of the particular case.” *F.T.C. v. Standard Fin. Mgmt. Corp.*, 830 F.2d 404, 410–11 (1st Cir. 1987) (quoting *Nixon*, 435 U.S. at 599) (internal quotation marks omitted). For example, in exercise of their discretion, courts have abrogated the right of public access when needed to prevent the manipulation of judicial records “to gratify private spite or promote public scandal,” or to inhibit their records from becoming “reservoirs of libelous statements for press consumption or . . . sources of business information that might harm a litigant’s competitive standing.” *In re Gitto Global Corp.*, 422 F.3d at 6 (quoting *Nixon*, 435 U.S. at 598) (internal quotation marks omitted) (emphasis added). Courts have long recognized that public access may

be denied to prevent competitive harm that could result from the disclosure of confidential business information. *See, e.g., Nixon*, 435 U.S. at 598 (“[C]ourts have refused to permit their files to serve as sources of business information that might harm a litigant's competitive standing.” (cleaned up)); *Glass Dimensions, Inc. v. State St. Corp.*, No. 10-10588, 2013 WL 6280085, at *1 (D. Mass. Dec. 2, 2013) (“Defendants . . . have a legitimate and significant interest in protecting the sensitive business information in the spreadsheet and in protecting the redacted information in the various documents. Maintaining the spreadsheet under seal and continuing the redaction of the foregoing information will avoid the serious competitive injury that dissemination would more than likely entail.” (citation omitted)).

ARGUMENT

The documents cited in Elevance Health’s Reply in Support of its Motion to Compel Arbitration contain sensitive information of nonparties, who, as nonparties, deserve even higher protection. *See United States v. Kravetz*, 706 F.3d 47, 62 (1st Cir. 2013). The Court therefore should seal Exhibits A–H¹.

I. In this Instance, the Weight of the Public’s Right to Access to These Documents Is Low.

The main subject of Elevance’s Motion to Compel Arbitration (“MTCA”) of DBC’s claims are the arbitration provisions in the provider services and vendor agreements, as well as a few other auxiliary provisions of those agreements that further shed light on the interpretation of the arbitration provisions. *See Reply ISO MTCA* at 1–8. These provisions are spelled out in the Reply in Support of its Memorandum to the Motion to Compel Arbitration. The remaining terms and

¹ The signature pages have no independent basis for sealing, but rather are part-and-parcel of the provider services agreements. To the extent the provider services agreements are sealed in full, the signature pages should receive the same treatment.

conditions of the agreements are not central to the motion and are therefore irrelevant. When, as here, irrelevant information is attached as an exhibit, the public's right to access judicial documents is low. *See Alto v. Sun Pharm. Indus., Inc.*, No. 19-cv-9758, 2021 WL 4480952, at *1 (S.D.N.Y. Sep. 30, 2021); *New York v. Egon Zehnder Int'l, Inc.*, No. 21-cv-6883, 2022 WL 4072853, at *1 (S.D.N.Y. Sep. 2, 2022); *see also Standard Fin. Mgmt. Corp.*, 830 F.2d at 408; *Cullem v. Ziev*, No. 16-12324, 2021 WL 517202, at *2 (D. Mass. Feb. 10, 2021). This is particularly true where the motion contains a statement of the same facts that are otherwise contained in a commercially sensitive document. *See Egon Zehnder*, 2022 WL 4072853, at *1.

II. Elevance Health's Countervailing Interests in Protecting Third Party Commercially Sensitive Information Outweigh the Public's Right of Access.

Elevance Health seeks protection of third party information contained in its Reply in Support of its Motion to Compel Arbitration. ASH is a third-party that contracts with providers and payors and are not before this court to protect their confidential and proprietary information that may be contained in the provider services agreements with DBC. Supp. Hicks Decl. Exs. A–D, G, H. “Privacy rights of participants and third parties are among those interests which, in appropriate cases, can limit the presumptive right of access to judicial records.” *Kravetz*, 706 F.3d at 62 (quoting *Standard Fin. Mgmt. Corp.*, 830 F.2d at 411); *see U.S. ex rel. Wenzel v. Pfizer, Inc.*, 881 F. Supp. 2d 217, 221 (D. Mass. 2012) (articulating this standard in a *qui tam* action). “Third-party privacy interests, in particular, have been referred to as ‘a venerable common law exception to the presumption of access,’ and ‘weigh heavily in a court’s balancing equation.’” *Kravetz*, 706 F.3d at 62 (quoting *United States v. Amodeo*, 71 F.3d 1044, 1050–51 (2d Cir. 1995)). ASH’s contracts with providers are marked “Confidential” and reflect negotiated arrangements with the providers in their network, which could put it at a competitive disadvantage if revealed to other providers or competitors. Given this heightened sense of protection, Elevance Health asks the

Court both to seal confidential information relevant to third-party ASH in its vendor contract with Anthem Blue Cross as well as potential confidential information in ASH's provider services agreements with DBC that DBC's counsel may wish to keep sealed. There are similarly terms related to ASH's course of dealing in the ASH "Acceptance of Resignation" letter sent to DBC. *See Supp. Hicks Decl. Ex. E.* Moreover, DBC's 2013 IRS Form W-9 contains Plaintiff's Tax Identification Number, which is considered private and sensitive information and has been redacted.

CONCLUSION

For the foregoing reasons, Elevance Health respectfully asks the Court to seal Exhibits A-H to the Supplemental Declaration of Scott Hicks filed in support of its Reply in Support of its Motion to Compel Arbitration of Danny Bachoua Chiropractic, APC's claims.

CERTIFICATE OF SERVICE

I, Olga Fleysh attorney for the Defendants listed below, certify that, on October 17, 2025, I caused a copy of the foregoing motion and memorandum and exhibits in support thereof to be served, via ECF, on all counsel of record.

/s/ Olga Fleysh
Olga Fleysh

Counsel for Defendant Elevance Health, Inc.