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May 4, 2026

Via ECF

Honorable Edgardo Ramos
United States District Court for the Southern District of New York
40 Foley Square
New York, NY 10007

Re: Doe v. Carelon Behavioral Health, 25 Civ. 3489 (ER)

Dear Judge Ramos:

We represent Plaintiffs in this putative class action, which alleges that Carelon Behavioral Health lies about the size of its provider network, resulting in what is known as a “ghost network.” We write to submit a proposed Case Management Plan and Scheduling Order (Ex. A), as directed by the Court at last week’s April 28, 2026 conference.

The parties have conferred and agreed on all aspects of the Case Management Plan and Scheduling Order, with one important exception: Carelon has rejected language stating that “Per the Court’s ruling on April 28, 2026, all discovery regarding Plaintiffs and the putative class shall proceed simultaneously” and is insisting that Plaintiffs move for class certification by November 8, 2026, approximately six months before the April 28, 2027 close-of-discovery date ordered by the Court.

Carelon is attempting to achieve the bifurcation of discovery that the Court explicitly rejected at last week’s conference. Indeed, at the conference, Carelon requested that discovery be bifurcated to prevent “full-blown merits discovery before class certification.” Ex. B at 8 (transcript of April 28, 2026 conference). Your Honor denied that request and ordered the parties to “proceed to discovery without bifurcation.” *Id.* at 10. Carelon’s insistence that Plaintiffs move for class certification six months into the one-year discovery period is a transparent effort to circumvent this Court’s order.¹

As we explained last week, courts heavily disfavor bifurcation in part because there is no practical way to separate class discovery from merits discovery. Ex. B at 9–10. Requiring Plaintiffs to move for class certification halfway through discovery will allow Carelon to unilaterally determine which documents are relevant to class certification (and withhold the rest), thus inviting unnecessary discovery disputes and motion practice.

This Court regularly permits plaintiffs to move for class certification at or after the conclusion of discovery. *See, e.g., Brous v. Eligo Energy LLC*, 24 Civ. 1260 (ER), Dkt. 24, 304. Moreover, no other ghost network case has required a plaintiff to move for class certification after only six

¹ This is even more apparent when one considers that, on April 22 (before the conference), Carelon proposed a bifurcated discovery schedule that allowed Plaintiffs to move for class certification in January 2027. It was only *after* the Court denied Carelon’s bifurcation request that Carelon demanded the November 2026 class certification deadline.

months of discovery.²

Plaintiffs therefore respectfully request that the Court endorse Plaintiffs' proposed order, attached as Exhibit A, which allows for their class certification motion to be filed at the close of discovery.³ We thank the Court for its consideration and apologize that the parties could not reach agreement on this issue.

Respectfully submitted.

/s/ Jacob Gardener

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² See, e.g., *Wilson v. Centene Corp.*, 20-cv-484 (W.D. Tex.) (class certification motion filed approximately a year and a half after commencement of discovery); *Duff v. Centene Corp.*, 19-cv-750 (S.D. Ohio) (class certification motion filed approximately one year after commencement of discovery); *Havrilla v. Centene Corp.*, 22-cv-4126 (N.D. Ill.) (discovery began November 2022 and is still ongoing, and the parties have proposed to submit a briefing schedule for class certification upon the close of discovery, see Dkt. 156-1).

³ Plaintiffs' proposed order is identical in all respects to Carelon's proposed order with the exception of paragraphs 14 and 15, which relate to bifurcation.

EXHIBIT A

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

JANE DOE, as mother of MINOR DOE,
HANNAH LANDERER, and STEVEN
MARKS, on behalf of themselves and all
others similarly situated

Plaintiffs,

v.

CARELON BEHAVIORAL HEALTH, INC.,

Defendant.

Case No. 25 Civ. 3489 (ER)

**CIVIL CASE DISCOVERY PLAN AND
SCHEDULING ORDER**

This Civil Case Discovery Plan and Scheduling Order is adopted, after consultation with counsel, pursuant to Fed. R. Civ. P. 16 and 26(f):

1. All parties do not consent to conducting all further proceedings before a Magistrate Judge, including motions and trial, pursuant to 28 U.S.C. § 636(c). The parties are free to withhold consent without adverse substantive consequences. (If all parties consent, the remaining paragraphs of this form need not be completed.)
2. This case is to be tried to a jury.
3. Joinder of additional parties must be accomplished by May 28, 2026.
4. Amended pleadings may be filed until May 28, 2026.
5. First interrogatories shall be served no later than May 28, 2026, and responses thereto shall be served within thirty (30) days thereafter, unless that deadline is extended by mutual agreement of the parties. The provisions of Local Civil Rule 33.3 shall apply to this case.
6. First request for production of documents, if any, shall be served no later than May 28, 2026.
7. Non-expert depositions shall be completed by November 20, 2026.
 - a. Unless counsel agree otherwise or the Court so orders, depositions shall not be held until all parties have responded to any first requests for production of documents.

- b. Depositions shall proceed concurrently.
 - c. Whenever possible, unless counsel agree otherwise or the Court so orders, non-party depositions shall follow party depositions.
8. Any further interrogatories, including expert interrogatories, shall be served no later than January 29, 2027.
 9. Requests to Admit, if any, shall be served no later than January 29, 2027.
 10. Expert reports shall be served no later than January 29, 2027.
 11. Rebuttal expert reports shall be served no later than March 19, 2027.
 12. Expert depositions shall be completed by April 28, 2027.
 13. **ALL DISCOVERY SHALL BE COMPLETED BY** April 28, 2027.
 14. Per the Court's ruling on April 28, 2026, all discovery regarding Plaintiffs and the putative class shall proceed simultaneously.
 15. Plaintiffs shall file any motion for class certification by May 28, 2027. Defendant shall file its opposition to the motion for class certification by June 25, 2027. Plaintiffs shall file any reply in support of their motion for class certification by July 23, 2027.
 16. Any motions shall be filed in accordance with the Court's Individual Practices.
 17. This Civil Case Discovery Plan and Scheduling Order may not be changed without leave of Court (or the assigned Magistrate Judge acting under a specific order of reference).
 18. The Magistrate Judge assigned to this case is the Hon. Sarah L. Cave.
 19. If, after entry of this Order, the parties consent to trial before a Magistrate Judge, the Magistrate Judge will schedule a date certain for trial and will, if necessary, amend this Order consistent therewith.
 20. The next case management conference is scheduled for April 28, 2027 at 11:00 AM.

SO ORDERED.

Dated: New York, New York

Edgardo Ramos, U.S. District Judge

EXHIBIT B

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 JOHN DOE, *et al.*,

4 Plaintiffs,

5 v.

25 Civ. 3489 (ER)

6 CARELON BEHAVIORAL HEALTH, INC.,

Conference

7 Defendant.

8
9 New York, N.Y.
10 April 28, 2026
11 11:30 a.m.

12 Before:

13 HON. EDGARDO RAMOS,

District Judge

14 APPEARANCES

15 WALDEN MACHT HARAN & WILLIAMS LLP

Attorneys for Plaintiffs

16 BY: SAMUEL ROSH

JACOB SAMUEL GARDENER

17 - and -

18 POLLOCK COHEN LLP

19 BY: ANDREA NISHI

EMILY HOCKETT

20 TROUTMAN PEPPER HAMILTON SANDERS

Attorneys for Defendant

21 BY: MATTHEW JOEL AARONSON

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1 (Case called)

2 THE DEPUTY CLERK: Counsel, please state your name for
3 the record.

4 MS. NISHI: Good morning. My name is Andrea Nishi
5 from Pollock Cohen on behalf of the plaintiffs.

6 MS. HOCKETT: Good morning. Emily Hockett from
7 Pollock Cohen, also on behalf of plaintiffs.

8 MR. GARDENER: Good morning, your Honor. Jake
9 Gardener from Walden, Macht, Haran & Williams on behalf of the
10 plaintiffs.

11 MR. ROSH: Good morning, your Honor. Samuel Rosh also
12 from Walden Macht also for the plaintiffs.

13 MR. AARONSON: Good morning, your Honor. Matthew
14 Aaronson from Troutman Pepper Law on behalf of the defendant.

15 THE COURT: Good morning to you all. This matter is
16 on for a conference. As the parties are aware, I issued a
17 ruling last month. Granted, you're both denying, in part, the
18 motion to dismiss. I believe I granted the defendants until
19 today to answer. Will you be answering today?

20 MR. AARONSON: Yes, your Honor. We're filing those
21 this afternoon.

22 THE COURT: You'll file it this afternoon? You can be
23 seated, and everyone can remain seated.

24 Okay. So while we're here, rather than have a
25 subsequent initial pretrial conference, we can just talk about

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1 what we would ordinarily talk about. In a typical case, I
2 grant six months to conduct discovery. Is that going to be a
3 sufficient amount of time in this case? Who's speaking here?

4 MR. GARDENER: I am, your Honor. Mr. Gardener. Jake
5 Gardener.

6 THE COURT: Okay, Mr. Gardener. Is six months going
7 to be enough time for you folks to complete discovery?

8 MR. GARDENER: I think, in this case, given the size
9 of the class and the amount of expert discovery that's going to
10 be required -- I don't know if the six months you mentioned
11 included expert discovery --

12 THE COURT: It does.

13 MR. GARDENER: -- I think we might have to seek -- I
14 don't know how much of an enlargement, but some enlargement of
15 that six-month period.

16 THE COURT: Okay. Let me also ask, as you folks are
17 aware, I have another similar case involving a ghost network.
18 I assume that these aren't the only two cases in the country
19 involving ghost networks. How many are there? You know, what
20 type of an animal is this?

21 MR. GARDENER: I believe across the country -- this is
22 just my rough estimate -- I think it's probably somewhere
23 around ten, maybe a little less than ten.

24 THE COURT: Okay.

25 MR. GARDENER: So it's definitely an issue that's not

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1 leading to this case, but it's not as if this has been
2 litigated over and over and over again over the last several
3 years. I think I am involved in probably half of those cases.

4 THE COURT: Okay. And what's the one that's advanced
5 the most? Can you give me a little bit of history on that?

6 MR. GARDENER: Sure. You mean the one that I'm
7 involved that's advanced the most or any one that's advanced
8 the most?

9 THE COURT: Let's start with anyone.

10 MR. GARDENER: So any one, there's a case in Texas,
11 it's called *Wilson v. Centene*. I believe that's the most
12 advanced.

13 THE COURT: Is that federal court in Texas?

14 MR. GARDENER: Yes. And it went up to the Fifth
15 Circuit. The Fifth Circuit reversed the trial court decision
16 that had dismissed it for lack of standing. Although it was --
17 there was both a standing issue and a class certification issue
18 so that the case had gone through discovery, the plaintiff's
19 expert, Pat Gelbert. There was a motion for class
20 certification, the trial court denied it. It went up to the
21 Fifth Circuit. The Fifth Circuit reversed, and now it's back
22 in the trial court.

23 THE COURT: Okay. For class issues?

24 MR. GARDENER: Yes. It was remanded to the trial
25 court to consider additional class certification related issues

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1 that the Court never got to.

2 THE COURT: And have any of these cases resolved?

3 MR. GARDENER: I believe there are at least a couple
4 cases that resolved through settlement at various stages, but
5 I'm not aware of any case that actually went -- that has gone
6 to trial.

7 THE COURT: Okay. Mr. Aaronson, anything you want to
8 add on the state of play in this area?

9 MR. AARONSON: No. I think -- you know, from my
10 knowledge, other than the case that Mr. Gardener references,
11 most of these cases are in infancy. I personally handled
12 another case with Mr. Gardener where there's still a motion to
13 dismiss pending.

14 THE COURT: Okay.

15 MR. AARONSON: And there was another case that --
16 again, with Mr. Gardener and myself that was dismissed by Judge
17 Cronan earlier this year that's -- Mr. Gardener's going to
18 appeal that to the Second Circuit.

19 THE COURT: And that case -- I think I saw that case.
20 It involved a particular set of issues that are not relevant
21 here.

22 MR. AARONSON: Yes.

23 MR. GARDENER: Correct, your Honor. It's under the
24 Federal Employees Health Benefits Act, so federal employees.
25 And there's a preemption issue with respect to those plaintiffs

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1 that are not relevant to nonfederal employees.

2 THE COURT: Okay. And so why don't I do this. Why
3 don't I -- assuming we get the answer today, we'll give you
4 folks one year to conduct discovery. And you can use the form
5 that's available on the website, on my website. Give
6 yourselves one year to complete discovery. You should do that
7 on consent. You can agree to all of the internal dates, given
8 that one-year deadline. And if you can get that back to
9 chambers by no later than end of day Monday, that would be
10 helpful so that it would keep us on track. And I will set a
11 subsequent conference date.

12 But before we get to that, is there anything that you
13 folks want to discuss today? Mr. Gardener?

14 MR. GARDENER: Nothing from my perspective. I had a
15 number of conversations with my adversary here but not dates
16 and how discovery would be conducted. I don't think it's
17 necessarily productive to have that conversation here. I don't
18 know if we both agree, but, yes, I have nothing --

19 THE COURT: You can have it here after I leave, but --

20 MR. GARDENER: Yes.

21 THE COURT: -- no need to have it during this
22 conference. Yes. I mean, those things should not be
23 controversial. They typically do not result in a lot of
24 advocacy. Just agree on some dates. And if you need some
25 additional time, you can come back to me. As long as the

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1 request is reasonable, I will almost certainly grant it. But
2 one year should be I think enough to complete discovery in this
3 matter.

4 As you go through discovery, don't come back in a year
5 and say we have 20 discovery issues. Obviously, you should
6 confer as issues come up, but do raise them in a timely
7 fashion. If you're not able to resolve any discovery issues,
8 and to the extent that you engaged in settlement talks over the
9 course of discovery and believe that the Court can be useful to
10 you, you can contact chambers and I can refer you either to the
11 assigned magistrate judge -- in this case, it's Magistrate
12 Judge Sarah Cave -- or I can refer you to our mediation panel
13 if you wish as a pro bono mediation panel. But I can do that
14 as well if you wish. I will not make either referral unless
15 the parties agree on consent, or consent to that referral and
16 specifically request it.

17 Mr. Aaronson, anything you wanted to raise?

18 MR. AARONSON: Yes. I do want to raise an issue. And
19 I'll talk to Mr. Gardener on dates. One issue that I've raised
20 with Mr. Gardener, I think we have a disagreement that I'd like
21 the Court's guidance, if possible. We had proposed to
22 bifurcate discovery in this case. There are three class
23 representatives. The class, as drafted, could be hundreds of
24 thousands of members. And it was our proposal that discovery
25 be bifurcated and the initial phase be limited to class

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1 certification issues and some discovery on the plaintiffs. I
2 think Mr. Gardener disagrees with that approach. So in the
3 interest of avoiding us having to come back fairly soon, I
4 thought I would tee up that issue. I think, you know, we're
5 concerned about the burden of sort of full-blown merits
6 discovery before class certification. And it's our view -- I
7 think, you know, your Honor, you've read the complaint.
8 Obviously you've issued the ruling. These are really
9 individualized claims. And it's our belief that this is not a
10 case that is ever really going to be appropriate for class
11 certification. So --

12 THE COURT: Why? Are they going to be so
13 individualized?

14 MR. AARONSON: Well, because every person in this
15 scenario goes out, looks for a doctor. They put in different
16 search patterns, they look for different things, they look for
17 different types of providers. You know, the question is really
18 did this particular person, one of the plaintiffs -- there's
19 three of them obviously that are alleged -- but what was their
20 parameters? What did they search for? What were they looking
21 for? Some people choose to go out of network because they
22 don't want to drive a little bit further away. Other people
23 only want to see female providers. Other people want to see
24 people, you know, who they feel more comfortable with. It's a
25 very -- behavioral healthcare is somewhat different than your

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1 traditional medicine where you go to see a radiologist, you go
2 to see a gastroenterologist. It's a very personal type thing.
3 And people have different reasons why they choose behavioral
4 specialists.

5 So we think it's a much more individualized analysis
6 as to whether or not these individuals were able to find a
7 provider that they were comfortable with, that was within a --
8 from their perspective -- reasonable location from their home.
9 So it's just -- this is not the same type of situation where
10 there is -- everybody was overcharged by a certain amount based
11 on, you know, their membership in some organization or at
12 the -- you know, at the ATM fee there was an additional two
13 dollars instead of -- that wasn't disclosed. This is an
14 individualized class, every single person. And we think
15 there's real issues about, you know, predominance in particular
16 in this case. So we would like to have discovery early on,
17 have an early class certification, and see whether or not this
18 case is a class action or it's three named plaintiffs.

19 THE COURT: Mr. Gardener.

20 MR. GARDENER: Your Honor, I'm happy to talk the law
21 on this. The law in this circuit is that bifurcation is
22 heavily disfavored. I can cite you a couple of cases that are
23 directly on point. One is *Melville v. HOP Energy* with Judge
24 Karas' decision from 2023. Another is a case from S.D.N.Y.,
25 *Chen-Ostner v. Goldman Sachs*. It explains why it is that

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1 bifurcation is the exception, not the rule. And I think this
2 case is a great example of that. It is just impossible to
3 disentangle merits issues from class issues in this case.

4 Here, our discovery is going to be focused on a number
5 of things -- one, about Carelon's representations about the
6 provider network. The other is about what that actual provider
7 network looked like in reality. We're going to be interested
8 in how Carelon creates and updates its directory and how it
9 creates and maintains its network. Internal communications
10 about network inadequacy and directory inaccuracy, the pricing
11 of Carelon services, all of these are going to go to both class
12 certification and the merits. And one of the reasons why
13 courts disfavor bifurcation is because what ends up happening
14 is, because there's an impossible line-drawn problem, you're
15 just inviting unnecessary motion practice through discovery.
16 And that -- I mean, so I'm happy, if you want, we could submit
17 a letter, a one-page letter.

18 THE COURT: No need. I also disfavor bifurcation, so
19 we'll proceed to discovery without bifurcation.

20 Anything else, Mr. Aaronson?

21 MR. AARONSON: No, your Honor.

22 THE COURT: Okay. In that event, we'll look forward
23 to receiving the answer later today and the proposed discovery
24 schedule by Monday. Actually, we need a date for the
25 subsequent conference.

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THE DEPUTY CLERK: Yes. April 28, 2027 at 11:00 a.m.
THE COURT: Okay. We're adjourned.
MR. GARDENER: Thank you.
(Adjourned)