

LATHAM & WATKINS LLP
David J. Schindler (Bar No. 130490)
david.schindler@lw.com
355 South Grand Avenue, Suite 100
Los Angeles, California 90071-1560
Telephone: +1.213.485.1234
Facsimile: +1.213.891.8763

LATHAM & WATKINS LLP
Daniel Meron (appearing *pro hac vice*)
daniel.meron@lw.com
Abid R. Qureshi (appearing *pro hac vice*)
abid.qureshi@lw.com
555 Eleventh Street, NW, Suite 1000
Telephone: +1.202.637.2200
Facsimile: +1.202.637.2201

Attorneys for United Defendants

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA *ex rel.*
BENJAMIN POEHLING,

Plaintiff,

v.

UNITEDHEALTH GROUP, INC. *et al.*,

Defendants.

CASE NO. 2:16-cv-08697-FMO(SSx)

**NOTICE OF LODGING OF
SPECIAL MASTER'S ORDER
REGARDING RESOLUTION OF
THE PARTIES' DISPUTE OVER
CERTAIN DOCUMENTS ON
UNITED'S PRIVILEGE LOGS**

1 **TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:**

2 PLEASE TAKE NOTICE that on February 15, 2022, Honorable Suzanne
3 Segal (Ret.), Special Master in this Action, issued the attached Order Regarding
4 Resolution of the Parties' Dispute over Certain Documents on United's Privilege
5 Log (the "Order"). Special Master Segal instructed the Parties to file the Order with
6 the Court. A true and correct copy of the Order is attached hereto.

7
8
9 Dated: February 28, 2022

Respectfully submitted,

10
11 By: /s/ David J. Schindler

12 David J. Schindler

13 Daniel Meron

14 Abid R. Qureshi

LATHAM & WATKINS LLP

Attorneys for United Defendants

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA *ex rel.*
BENJAMIN POEHLING,

Plaintiff,

v.

UNITEDHEALTH GROUP, INC. *et al.*,

Defendants.

CASE NO. 2:16-cv-08697-FMO(SSx)

[Discovery Document: Referred to
Special Master Suzanne H. Segal]

**ORDER REGARDING
RESOLUTION OF THE PARTIES'
DISPUTE OVER CERTAIN
DOCUMENTS ON UNITED'S
PRIVILEGE LOGS**

23 The Special Master has reviewed the parties' submissions regarding the
24 privilege dispute and the proposed orders. The Special Master Orders as follows:

25 1. Within 10 business days of the date of this Order, United shall provide
26 a random sample of 50 documents for the Special Master's review from the 930
27 documents over which United is still claiming privilege from the 2,691 documents
28 the government and relator initially identified in August and September 2021 for

1 United to re-review. When the sample is provided, United shall provide a declaration
2 describing the method by which the random documents are selected. United shall
3 file a Notice of Submission of In Camera Documents on the Court's docket on the
4 same date that it submits the documents to the Special Master and shall attach the
5 declaration to the Notice. United shall have 21 days to provide the Special Master
6 with a supplemental brief of 10 pages or less, supporting materials, and/or a privilege
7 log providing necessary context surrounding the 50 sample documents.

8 2. Within 5 business days of the date of this Order, Plaintiffs may identify
9 to United 50 documents on the privilege log that they contend are wrongly withheld.
10 United shall add those 50 documents for in camera review and should address the
11 claim of privilege in its brief. Within 21 days, Plaintiffs may submit a brief of 10
12 pages or less in support of their contentions. Parties should address both privilege
13 and relevance concerns.

14 3. For the remaining population, United shall conduct a limited review of
15 the approximately 54,000 documents that correspond to the 6 categories that United
16 previously identified during its review of the initial sample of 2,691 documents and
17 during a subsequent random 500-document sample of the entirety of its privilege
18 logs. United will produce these approximately 54,000 documents—minus any it
19 determines are privileged during its limited review—within 30 days of this Order.
20 United's production of these documents shall not constitute a waiver of any
21 applicable privilege or protection. The government shall provide at least 3 business
22 days' notice before using any of these documents, including in depositions, briefing,
23 and hearings. The parties' prior agreements set forth in the parties' protective order
24 and clawback agreements shall apply. In addition, all governing law regarding
25 privilege assertions shall apply to United's review of documents for privilege.

26 4. United shall prioritize a review of documents associated with any
27 United employee that the government has noticed to be deposed and shall produce
28

1 such documents at least ten business days prior to the United employee's deposition
2 date.

3 5. For the remaining approximately 95,000 documents on United's
4 privilege logs, United shall review a random sample of 100 documents within the
5 next 14 days. United shall then schedule a meet and confer with Plaintiffs to discuss
6 the results of its review and next steps for resolving this dispute.

7 6. If the parties continue to have disputes about United's withholding of
8 privileged documents, they should cooperate in raising those disputes before the
9 Special Master immediately.

10 7. The Special Master will review the documents in camera and issue a
11 written ruling.

12
13 IT IS SO ORDERED.

14
15
16 Dated: 2/15/2022

DocuSigned by:
Hon. Suzanne Segal (Ret.)
2B739185DE71459...
Special Master Suzanne H. Segal