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Attorneys for UnitedHealth Defendants

**UNITED STATES DISTRICT COURT
FOR THE 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

**UNITED'S NOTICE OF LODGING
OF DOCUMENTS FOR IN CAMERA
REVIEW PURSUANT TO THE
SPECIAL MASTER'S FEBRUARY 15,
2022 ORDER**

1 Defendants UnitedHealth Group Incorporated, United HealthCare Services,
 2 Inc., UnitedHealthcare, Inc., UnitedHealthcare Insurance Company, Ovations, Inc.,
 3 Optum, Inc., OptumInsight, Inc., AmeriChoice of New Jersey, Inc., AmeriChoice of
 4 New York, Inc., Arizona Physicians IPA, Inc., Care Improvement Plus of Maryland,
 5 Inc., Care Improvement Plus of Texas Insurance Company, Care Improvement Plus
 6 South Central Insurance Company, Care Improvement Plus Wisconsin Insurance
 7 Company, Optum Insurance Co., Citrus Health Care, Inc., Health Plan of Nevada,
 8 Inc., Medica HealthCare Plans, Inc., Oxford Health Plans (CT), Inc., Oxford Health
 9 Plans (NJ), Inc., Oxford Health Plans (NY), Inc., PacifiCare Life and Health
 10 Insurance Company, PacifiCare of Arizona, Inc., PacifiCare of Colorado, Inc.,
 11 PacifiCare of Nevada, Inc., Physicians Health Choice of Texas, LLC, Preferred Care
 12 Partners, Inc., Rocky Mountain Health Maintenance Organization, Incorporated,
 13 Sierra Health and Life Insurance Company, Inc., Symphonix Health Insurance, Inc.,
 14 UHC of California (f.k.a. PacifiCare of California), United Health Care Ins. Co. and
 15 United New York, Unison Health Plan of Tennessee, Inc., UnitedHealthcare
 16 Benefits of Texas, Inc. (f.k.a. PacifiCare of Texas, Inc.), UnitedHealthcare
 17 Community Plan of Ohio, Inc. (f.k.a. Unison Health Plan of Ohio, Inc.),
 18 UnitedHealthcare Community Plan of Texas, L.L.C. (f.k.a. Evercare of Texas,
 19 L.L.C.), UnitedHealthcare Community Plan, Inc. (f.k.a. UnitedHealthcare of the
 20 Great Lakes Health Plan, Inc.), UnitedHealthcare Insurance Company of New York,
 21 UnitedHealthcare of Alabama, Inc., UnitedHealthcare of Arizona, Inc.,
 22 UnitedHealthcare of Arkansas, Inc., UnitedHealthcare of Florida, Inc.,
 23 UnitedHealthcare of Georgia, Inc., UnitedHealthcare of New England, Inc.,
 24 UnitedHealthcare of New York, Inc., UnitedHealthcare of North Carolina, Inc.,
 25 UnitedHealthcare of Ohio, Inc., UnitedHealthcare of Oklahoma, Inc. (f.k.a.
 26 PacifiCare of Oklahoma, Inc.), UnitedHealthcare of Oregon, Inc. (f.k.a. PacifiCare
 27 of Oregon, Inc.), UnitedHealthcare of Pennsylvania, Inc. (f.k.a. Unison Health Plan
 28 of Pennsylvania, Inc.), UnitedHealthcare of Tennessee, Inc., UnitedHealthcare of the

1 Midlands, Inc., UnitedHealthcare of the Midwest, Inc., UnitedHealthcare of Utah,
 2 Inc., UnitedHealthcare of Washington, Inc. (f.k.a. PacifiCare of Washington, Inc.),
 3 UnitedHealthcare of Wisconsin, Inc., and UnitedHealthcare Plan of the River
 4 Valley, Inc. (collectively, “United”) hereby submit this Notice of Lodging pursuant
 5 to the Special Master’s February 15, 2022 Order Regarding Resolution of the
 6 Parties’ Dispute Over Certain Documents on United’s Privilege Logs (“Order”). In
 7 paragraphs 1–2 of the Order, the Special Master required United to submit 100
 8 documents for in camera review. This sample included a random 50 document
 9 sample selected by United and a sample of 50 documents selected by Plaintiffs. The
 10 Order also required United to file a notice of lodging of documents for in camera
 11 review on the docket on the same date that it submitted the documents to the Special
 12 Master.

13 This Notice of Lodging confirms that United has followed the Order’s
 14 instructions, and that earlier today caused these 100 documents to be electronically
 15 delivered directly to the Special Master for in camera review using secure transfer.
 16 United will also provide hard copies of these documents to the Special Master.

17 United additionally submits, concurrent with this Notice, the Declaration of
 18 David J. Schindler in Relation to United’s Notice of Lodging of Documents for In
 19 Camera Review Pursuant to the Special Master’s February 15, 2022 Order (the
 20 “Declaration”), which describes the methods by which United selected and
 21 presented documents for in camera review. As directed by the February 15, 2022
 22 Order, UnitedHealth is filing the Declaration herewith.

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1 Dated: March 2, 2022

LATHAM & WATKINS LLP
DAVID J. SCHINDLER
MANUEL A. ABASCAL
DANIEL MERON
ABID R. QURESHI

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6 By 
7 David J. Schindler
8 Attorneys for UnitedHealth Defendants
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1 **PROOF OF SERVICE**

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3 I am employed in the County of Los Angeles, State of California. I am over
4 the age of 18 years and not a party to this action. My business address is Latham &
Watkins LLP, 355 South Grand Avenue, Suite 100, Los Angeles, CA 90071-1560.

5 On **March 2, 2022**, I caused the service of a true copy of the following
6 document described as:

7 **UNITED'S NOTICE OF LODGING OF DOCUMENTS FOR IN CAMERA
8 REVIEW PURSUANT TO THE SPECIAL MASTER'S FEBRUARY 15, 2022
9 ORDER**

10 to be served in the following manner:

11 **BY ELECTRONIC MAIL**

12 The above-described document was transmitted via electronic mail to the
13 following party pursuant to written consent under Federal Rule of Civil Procedure
14 5(b)(2)(E) on **March 2, 2022**:

15 **SEE ATTACHED SERVICE LIST**

16 I declare that I am employed in the office of a member of the Bar of, or
17 permitted to practice before, this Court at whose direction the service was made and
18 declare under penalty of perjury under the laws of the State of California that the
19 foregoing is true and correct.

20 Executed on **March 2, 2022**, at Los Angeles, California.

21 

22 _____
23 David J. Schindler
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SERVICE LISTUnited States District Court
CASE NO. CV 16-08697 FMO (SSx)

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Attorneys for UnitedHealth Defendants

**UNITED STATES DISTRICT COURT
FOR THE 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

**DECLARATION OF DAVID J.
SCHINDLER IN RELATION TO
UNITED'S NOTICE OF LODGING
OF DOCUMENTS FOR IN CAMERA
REVIEW PURSUANT TO THE
SPECIAL MASTER'S FEBRUARY 15,
2022 ORDER¹**

¹ Pursuant to paragraphs 1 and 2 of the Special Master's February 15, 2022 Order (Dkt. 465), United has lodged a random sample of 50 documents and the Plaintiffs' selection of 50 documents for the Special Master's in camera review. (Dkt. 466, United's Notice of Lodging).

DECLARATION OF DAVID J. SCHINDLER

I, David Schindler, hereby declare as follows:

1. I am a partner at Latham & Watkins LLP and a member of the Bar of California and the United States District Court for the Central District of California. Latham & Watkins LLP represents Defendant UnitedHealth Group Incorporated and its affiliated entities named as Defendants in this action (collectively, “United”).

2. I submit this declaration in relation to Defendants’ Notice of Lodging filed pursuant to the Special Master’s February 15, 2022 Order Regarding Resolution of the Parties’ Dispute Over Certain Documents on United’s Privilege Logs (the “Order”), which required Defendants to submit certain documents to the Special Master for in camera review. Specifically, the Order required Defendants to submit two samples of 50 documents each—one randomly selected by Defendants and one selected by Plaintiffs—for in camera review. The Order further required United to submit a declaration explaining the methodology by which it randomly selected its 50 document sample.

3. As directed by paragraph 1 of the Order, United has submitted a random sample of 50 documents over which it still claims privilege from the 2,691 total documents that Plaintiffs previously identified. To select this random sample, United’s document review vendor utilized Relativity’s sampling tool. The sampling tool uses an algorithm to identify a randomized, unbiased selection of documents from a larger population of documents. During this process, United identified a document in the random sample that was coded as not privileged prior to selecting the random sample but inadvertently had not yet been reproduced; therefore, United replaced this document with another randomly selected privileged document using Relativity’s sampling tool.

4. To ensure no overlap between United’s random sample and the additional documents Plaintiff selected, United further directed its vendor to exclude from its random sample the 50 documents already selected by Plaintiffs.

1 5. Pursuant to paragraph 2 of the Order, United has also submitted 50
2 additional documents selected by Plaintiffs and sent to United on February 23, 2022,
3 for inclusion with United's submission for in camera review.

4 6. The documents included as part of United's random 50 document
5 sample are identified on slipsheets by exhibit prefix numbers 1 through 50, which
6 precede the privilege identifier numbers—e.g., “Ex. 1_PRIVILEGE
7 IDENTIFIER”—while Plaintiffs' selected documents are identified on slipsheets by
8 exhibit prefix numbers 51 through 100, which also precede the privilege identifier
9 numbers. These slipsheets also provide information regarding the privilege treatment
10 of each document.

11 7. Certain of the 100 documents United is submitting have previously
12 been produced to Plaintiffs with privileged content redacted. United is submitting
13 these documents in their unproduced, non-redacted form for in camera review. To
14 enable the Special Master to evaluate the redactions, United has highlighted the text
15 that is redacted in the produced versions of these documents.

16 8. United has caused these 100 documents to be electronically delivered
17 directly to the Special Master for in camera review using secure transfer. United will
18 also provide hard copies of these documents to the Special Master.

19 I declare under penalty of perjury under the laws of the United States that the
20 foregoing is true and correct.

21
22 Executed on March 2, 2022, at Los Angeles, California.

23
24
25 By  _____

26 David J. Schindler
27 Attorney for United Defendants
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1 **PROOF OF SERVICE**

2
3 I am employed in the County of Los Angeles, State of California. I am over
4 the age of 18 years and not a party to this action. My business address is Latham &
Watkins LLP, 355 South Grand Avenue, Suite 100, Los Angeles, CA 90071-1560.

5 On **March 2, 2022**, I caused the service of a true copy of the following
document described as:

6 **DECLARATION OF DAVID J. SCHINDLER IN RELATION TO UNITED'S**
7 **NOTICE OF LODGING OF DOCUMENTS FOR IN CAMERA REVIEW**
8 **PURSUANT TO THE SPECIAL MASTER'S FEBRUARY 15, 2022 ORDER**

9 to be served in the following manner:

10 **BY ELECTRONIC MAIL**

11 The above-described document was transmitted via electronic mail to the
12 following party pursuant to written consent under Federal Rule of Civil Procedure
13 5(b)(2)(E) on **March 2, 2022**:

14 **SEE ATTACHED SERVICE LIST**

15 I declare that I am employed in the office of a member of the Bar of, or
16 permitted to practice before, this Court at whose direction the service was made and
17 declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct.

18 Executed on **March 2, 2022**, at Los Angeles, California.

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21 David J. Schindler

SERVICE LISTUnited States District Court
CASE NO. CV 16-08697 FMO (SSx)

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