

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

United States of America

PLAINTIFF(S)

CASE NUMBER

2:16-cv-08697-FMO-SS

v.

United Health Group, Inc. et al

DEFENDANT(S)

**NOTICE OF CLERICAL ERROR**

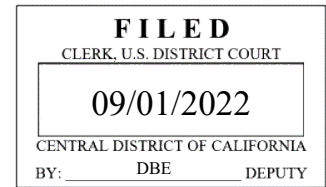
You are hereby notified that due to a clerical error ☐ documents associated with the filing of the new action  
☐ the following scanned document ☒ docket entry have/has been corrected as indicated below.

Title of scanned document: SPECIAL MASTER'S ORDER RE IN CAMERA REVIEW OF HANS DUTT DOCUMENTSFiled date: September 1, 2022 Document Number(s): 518☐ Incorrect case number \_\_\_\_\_ was assigned to this ☐ action ☐ document☐ Case number has been corrected. The correct case number is \_\_\_\_\_☐ Incorrect judge's initials were indicated on this ☐ action ☐ document . The correct judge's initials are: \_\_\_\_\_☐ Incorrect magistrate judge's initials were indicated on this ☐ action ☐ document . The correct magistrate judge's initials are: \_\_\_\_\_ .☐ Case has been reassigned from ☐ Judge ☐ Magistrate Judge \_\_\_\_\_ to  
☐ Judge ☐ Magistrate Judge \_\_\_\_\_. The initials of the new judge(s) are: \_\_\_\_\_☐ Case was assigned to ☐ Western ☐ Southern ☐ Eastern division. Pursuant to General Order 21-01, the case  
has been reassigned to the ☐ Western ☐ Southern ☐ Eastern division. The former case number  
\_\_\_\_\_ has been reassigned to new case number \_\_\_\_\_ .☐ Case title is corrected from \_\_\_\_\_ to \_\_\_\_\_☐ Document has been re-numbered as document number \_\_\_\_\_☐ Incorrect ☐ Filed Date ☐ Date of Document ☐ Date ENTERED on CM/ECF was stamped on the document.  
The correct date is \_\_\_\_\_ .☐ Document is missing page number(s): \_\_\_\_\_☐ To ensure proper routing of documents, all documents filed with the court must reflect the following case number  
and judge's initials: \_\_\_\_\_☒ Other: Document should have been e-filed as a public document, and is attached to this Notice.

CLERK, U.S. DISTRICT COURT

Date: September 6, 2022By: Benjamin\_Moss@cacd.uscourts.gov

Deputy Clerk



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

|                                                                                                                                                               |  |                                                                                                                                                                                                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| UNITED STATES OF AMERICA <i>ex rel.</i><br>BENJAMIN POEHLING,<br><br>Plaintiffs,<br><br>v.<br><br>UNITEDHEALTH GROUP, INC. <i>et al.</i> ,<br><br>Defendants. |  | CASE NO. 2:16-cv-08697-FMO (SSx)<br><br>[Discovery Document: Referred to<br>Special Master Suzanne H. Segal]<br><br>SPECIAL MASTER'S ORDER RE <u>IN</u><br><u>CAMERA</u> REVIEW OF HANS DUTT<br>DOCUMENTS |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

The Special Master has completed her in camera review of the "Hans Dutt documents." The "Hans Dutt Documents" are documents that the United States withheld under the attorney-client privilege. In general, the United States has represented that these documents contain privileged communications between Hans Dutt (who was previously deemed a "functional employee" of the United States) and attorneys for the United States.

Having reviewed the documents and the privilege log, the Special Master concludes that the majority of withheld documents were properly withheld under the attorney-client privilege. The documents reflect confidential attorney-client communications.

However, a small number of documents are "cover communications" or transmittal emails. Such communications, if the communications do not contain actual confidential communications between attorney and client, are generally not considered privileged. Transmittal emails are not privileged, even if they are sent to attorneys, and even if the attachment to the email would otherwise be privileged. Karnoski v. Trump, 2020 WL 2813167, at \*2 (W.D. Wash. May 29, 2020); Sec. Inv'r Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC, 319 F.R.D. 100, 105 (S.D.N.Y. Feb.21,2017); Arfa v. Zionist Org. of Am., 2014 WL 815496, at \*6 (C.D. Cal. Mar. 3, 2014).

As such, these transmittal documents must be produced. The compelled production of these documents does not result in a waiver of the privilege protecting the underlying privileged communications.

The documents ordered produced are identified with the following bates stamp numbers:

SA000000872-1

SA000001732

USBPPRIV00087372-1

USBPPRIV00100824-1

USBPPRIV00100827-1

USBPPRIV00100830-1

USBPPRIV00100835-1

The Special Master directs that the United States may redact confidential substantive communications that are not part of the transmittal communication, i.e., the United States may redact a communication other than the communication transmitting a document to another party or an email containing a non-privileged communication, prior to production. Identities of the parties on an email are generally not confidential or protected information. In addition, duplicates of the transmittal emails need not be produced.

The Special Master directs the United States to produce these documents to Defendants within seven (7) calendar days of the date of this Order. In the event the United States intends to seek review before the District Judge of the Special Master's Order, the United States shall promptly notify the Special Master and all parties.

IT IS SO ORDERED.

Dated: August 30, 2022

DocuSigned by:

Hon. Suzanne Segal (Ret.)

2B739185DE71459...

Hon. Suzanne H. Segal (Ret.).

## **PROOF OF SERVICE**

**RE: United States ex rel. Poehling v. United Health Group, Inc., et al.**  
**Case ID: KEERX**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and am not a party to the within action. My business address is 633 West 5th Street, Suite 1000 Los Angeles, CA 90071

On August 30, 2022 I served the **SPECIAL MASTER'S ORDER RE IN CAMERA REVIEW OF HANS DUTT DOCUMENTS** on the following parties. Placing a true copy to all parties as follows:

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David Coriell, Esq.  
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Gregory A. Mason, Esq.  
Jessica Krieg, Esq.  
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I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☐ FEDERAL:

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on August 30, 2022 at Los Angeles, California.

*Alisa Martinez*

Alisa Martinez  
Signature Resolution