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**VIA ELECTRONIC DELIVERY AND COURT FILING**

The Honorable Katharine H. Parker  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 750, New York, New York 10007

Re: **United States of America v. Anthem, Inc., 1:20-cv-02593-ALC-KHP**

Dear Judge Parker:

We represent Defendant Anthem, Inc. (“Anthem”) and write to oppose Plaintiff’s demand to depose Peter Haytaian, who until May 4, 2026, was Executive Vice President and Anthem’s second-most senior executive. *See* Declaration of Peter D. Haytaian ¶¶ 1, 2. Mr. Haytaian is an apex witness who lacks unique knowledge of the issues in this case and for whom a deposition would be an undue burden given his transition at the company and the demands of caring for his father, who was recently diagnosed with cancer. *Id.* ¶¶ 30-31. Mr. Haytaian has provided a declaration that addresses in detail each of the areas Plaintiff identified in demanding his deposition. His declaration demonstrates that Plaintiff misrepresented certain documents, which have no relevance to this case, and that Plaintiff already deposed witnesses with greater knowledge than Mr. Haytaian—but chose not to ask those witnesses about these topics.

**A. The Apex Doctrine Creates a Presumption Against Mr. Haytaian’s Deposition**

Given his position at Anthem, there is no dispute that Mr. Haytaian is an apex witness. Accordingly, it is not enough that Plaintiff show that Mr. Haytaian may have relevant information. Instead, “[u]nder the apex doctrine, unless an executive has *unique evidence*, personal knowledge of the claims at issue, *and other witnesses are incapable of providing testimony* about the conduct alleged, executives are protected from being deposed.” *Harapeti v. CBS Television Stations, Inc.*, 2021 WL 3932424, at \*2 (S.D.N.Y. Sept. 2, 2021) (emphasis added). As this Court has stated, “under the apex doctrine, there is a rebuttable presumption that a high-level officer’s deposition represents an undue burden,” and “the party seeking the deposition must prove that the executive has first-hand knowledge of important facts and/or . . . there are not other less intrusive means to obtain the information.” *GMO Gamecenter USA, Inc. v. Whinstone US, Corp.*, 2025 WL 1488512, at \*1 (S.D.N.Y. May 23, 2025) (Parker, J.).

**B. Plaintiff Has Not Met Its Burden Under the Apex Doctrine**

Plaintiff has not met its burden here. After nearly nine years of discovery and litigation, Plaintiff cannot identify any area where Mr. Haytaian has unique knowledge, much less



information unobtainable from other witnesses. The clearest proof of his lack of connection to this case is Plaintiff's own approach in discovery; until Plaintiff sought his deposition, it had not even included him among more than 60 custodians from whom it sought documents.

Now, in its last-minute demand, Plaintiff stretches facts to justify taking his deposition:

- For example, Plaintiff argues it must depose Mr. Haytaian because of his involvement in terminating employees who “falsif[ied] records.” (Pl. Stmt. at 2 (citing Ex. H.) This could be important, if it were true. But it is not.

[REDACTED]

- Plaintiff's assertion that Mr. Haytaian also “sanctioned providers” fares no better. (Pl. Stmt. at 2.)

[REDACTED]

- Plaintiff claims Mr. Haytaian “communicated with Anthem's Board” about whether Anthem should change its chart review program to a so-called “two-way” review. (Pl. Stmt. at 2.) But the document Plaintiff cites (Ex. F)

[REDACTED]

- Similarly, Plaintiff claims that Mr. Haytaian made decisions regarding “unsupported diagnosis codes” that are “at the center of the case.” (Pl. Stmt. at 2.)

[REDACTED]

Haytaian Decl. ¶ 25).



- Lastly, given Mr. Haytaian's senior position, Plaintiff predictably argues that it must depose him to expose a "revenue-focused culture" for Anthem's Medicare Advantage business. (Pl. Stmt. at 2.) But Plaintiff mischaracterizes this document to advance a false narrative.

[REDACTED]

Plaintiff's inaccurate portrayal of these materials, as well as its decision not to ask prior deponents about them, calls into question its purported need for Mr. Haytaian's deposition.

Plaintiff also seeks to depose Mr. Haytaian about documents that other deponents authored and presented, about operations that other deponents oversaw, that Plaintiff elected not to ask about at numerous prior depositions. Plaintiff's failure to do so is fatal to its attempt to depose an apex witness on such areas. *See Iowa Pub. Employees' Ret. Sys. v. Merrill Lynch, Pierce, Fenner & Smith Inc.*, 2020 WL 6273396, at \*1 (S.D.N.Y. Aug. 28, 2020) (failure to depose other employees about topics precluded finding that apex witness's knowledge was unique).

For example, Plaintiff argues that it must ask Mr. Haytaian about

[REDACTED]

Plaintiff also seeks to ask Mr. Haytaian about

[REDACTED]

Plaintiff's demand to depose Mr. Haytaian, without asking knowledgeable witnesses about these areas, is precisely the situation the apex doctrine prohibits. *See Mark Anthony Int'l SRL v. Prime Hydration*, 2025 WL 2055998, at \*3 (S.D.N.Y. July 23, 2025) (deposition not warranted where deponent attested others were present at relevant meetings); *Morrison v. Scotia Capital (USA) Inc.*, 2024 WL 3316086 (S.D.N.Y. June 7, 2024) (Parker, J.). And it is far different from the case relied on by Plaintiff, *Oakley v. MSG Networks, Inc.*, 2024 WL 4134903, at \*3 (S.D.N.Y. Sept. 10, 2024), where the executive was an eyewitness to the sole event at issue.

Because Plaintiff has failed to meet its burden, Anthem respectfully requests that the Court issue a protective order preventing Mr. Haytaian's deposition.



Dated: May 6, 2026

Respectfully submitted,

By: /s/ James A. Bowman

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANTHEM, INC.,

Defendant.

Case No. 1:20-cv-02593-ALC-KHP

**DECLARATION OF PETER D.  
HAYTAIAN IN SUPPORT OF  
ANTHEM'S POSITION  
STATEMENT IN OPPOSITION  
TO PLAINTIFF'S DEMAND  
FOR TESTIMONY FROM  
PETER D. HAYTAIAN**

I, Peter D. Haytaian, declare and state as follows:

1. I am special advisor to the Chief Executive Officer at Elevance Health, Inc., having transitioned out of my former role as Executive Vice President (“EVP”) on May 4, 2026. While Elevance Health is my employer, I understand that this litigation refers to the company by its former name—Anthem, Inc.—so for purposes of my declaration, I will refer to my employer as “Anthem.” In addition to serving as EVP, up until May 4, 2026, I also served as President of Anthem’s business units Carelon and Carelon Rx (collectively, “Carelon”). I served as EVP from 2014 through 2026, and I served as President of Carelon from 2022 through 2026. I submit this declaration in support of Anthem’s May 6, 2026 position statement opposing Plaintiff’s subpoena for my deposition in this litigation. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, could and would testify competently to them.

2. For the last several years, I have been the second-most senior Anthem executive, reporting directly to Anthem’s Chief Executive Officer, Gail Boudreaux. Anthem is one of the largest companies in the United States, with over 100,000 employees. Anthem

has a total health benefit membership of approximately 45 million lives (people covered by our company). Of that total, just under 2 million are Medicare Advantage beneficiaries.

**Roles and Responsibilities at Anthem**

3. I have held a series of senior roles at Anthem since joining the company in 2012. My career at Anthem has spanned many different business divisions and only a limited portion of my tenure involved oversight of the Medicare Advantage line of business.

4. From the time I joined Anthem in 2012 up through June 2014, I served as President of Anthem's Medicaid business, which is entirely separate from Anthem's Medicare Advantage business. In that role and during that time period, I had no supervisory responsibility over the Medicare Advantage business or its operations (which I understand is the focus of this case).

5. From June 2014 to March 2018, I served as EVP and President of Anthem's Government Business Division, which encompassed several lines of business, including Anthem's Medicaid, Medicare, and Federal Employee Program lines of business. During this period, the Medicare Advantage program was just one of several lines of business (including the larger Medicaid line of business) that were under my general purview.

a. As with the other lines of business in my division, the Medicare Advantage business was led by its own dedicated president (at that time, Marc Russo). In that role, Mr. Russo had direct operational and day-to-day supervisory responsibility over the business. My role was thus one of general executive oversight across multiple government program lines, including Medicare Advantage.

b. To the extent I received information about the Medicare Advantage business during this period, it was through high-level summary reports and briefings from Mr. Russo as part of my oversight over the entire Government Business Division.

c. I moved to a different position at Anthem in March 2018 and Felicia Norwood took over my role in mid-2018 as President of the Government Business Division.

6. From March 2018 to October 2021, I served as EVP and President of Anthem's Commercial and Specialty Business Division, which was responsible for national accounts, individual and local group businesses, and specialty products. This role had no connection to the individual Medicare Advantage line of business or its risk adjustment practices.

7. From October 2021 to 2022, I served as EVP and President of Anthem's Diversified Business Group ("DBG") and IngenioRX, the company's pharmacy benefits business. This role also had no supervisory or reporting relationship to the Medicare Advantage line of business or its risk adjustment practices.

8. From 2022 through May 4, 2026, I served as EVP and President of Carelon (formerly DBG), where I was responsible for the strategic direction, performance, and growth of Anthem's Carelon healthcare services business, including pharmacy benefits, behavioral healthcare, complex and chronic care services, and advanced analytics. As with my prior roles described in paragraphs 6 and 7 above, this role has had no supervisory or reporting relationship with the Medicare Advantage business or oversight over its operations.

9. In sum, for more than eight years (from March 2018 through May 4, 2026), I have had no supervisory, operational, or reporting relationship with the Medicare Advantage business, which has instead been under the leadership of other executives throughout this period.

**Lack of First-Hand Knowledge of Business Practices at Issue**

10. Because my involvement with the Medicare Advantage business was limited to high-level oversight, I was not personally involved in designing, implementing, or approving how Anthem's retrospective chart review program was configured or operated during the time

period that I understand is at issue in this case (from 2012 up through 2016). [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Recollection Regarding Specific Documents and Individuals**

11. I have reviewed certain documents that Plaintiff attached as Exhibits to its Position Statement seeking my deposition. [REDACTED]

[REDACTED]

[REDACTED] To assist the Court in resolving this matter, I have provided what I understand or recall (or do not recall) about each of those items below.

**Plaintiff Exhibit A – Verscend Contract**

12. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13. I have reviewed a [REDACTED]

[REDACTED]

**Plaintiff Exhibit B – Verscend Contract Renewal**

14. Similarly, I have reviewed a [REDACTED] (Exhibit B to Plaintiff’s Position Statement) relating to [REDACTED]

[REDACTED]

**Plaintiff Exhibit C – Revenue Strategy Presentation**

15. I have reviewed a [REDACTED]

[REDACTED] (Exhibit C to Plaintiff's  
Position Statement). [REDACTED]

[REDACTED]

[REDACTED]

16. At that time, I was new in my position as President of Anthem's Government  
Business Division—potentially even in my first or second week in that role. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Plaintiff Exhibit D – January 2017 Email from Mr. Russo**

17. I have reviewed [REDACTED]

[REDACTED] (Exhibit D to Plaintiff's Position Statement). [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

**Plaintiff Exhibit E – Preparation for April 2017 Business Operating Review Meeting**

18. I have reviewed an [REDACTED]

[REDACTED] (Exhibit E to Plaintiff's Position Statement). [REDACTED]

[REDACTED]

19. I do not recall this [REDACTED]

[REDACTED]

[REDACTED]

20. I understand that Plaintiff has focused on a reference [REDACTED] as evidence that I pushed an aggressive culture at the company regarding revenue, and specifically, profits for Medicare Advantage. Plaintiff's assertion is based on a simple misunderstanding of my email. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Plaintiff Exhibit F – April 2017 BOR Presentation Materials**

21. I have reviewed an email that was [REDACTED]  
[REDACTED] (Exhibit F to Plaintiff's Position  
Statement). [REDACTED]

22. As I wrote in my April 23, 2017 email (Exhibit E) and described above, [REDACTED]  
[REDACTED]  
[REDACTED]

23. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

24. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

**[REDACTED] Allegations**

25. I understand that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Plaintiff Exhibit H – Q4 2016 Ethics and Compliance Update**

26. Lastly, I reviewed an [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

27. I understand that Plaintiff has asserted that this document demonstrates that [REDACTED]

[REDACTED]

[REDACTED] This is based on a fundamental misreading of this document. [REDACTED]

[REDACTED]

28. [REDACTED]

[REDACTED]

29. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Burden Posed by Plaintiff’s Demand for Deposition**

30. Plaintiff’s demand for my deposition comes at a sensitive time professionally and personally. On February 26, 2026, I announced that I would be transitioning out of my EVP role at Anthem starting on May 4, 2026. I will continue to serve as special advisor to the CEO through December 31, 2026 to assist Anthem leadership and my successor with the transition and provide ongoing support and advice to Anthem and Carelon.

31. Having been in a senior, high pressure position at the company for more than two decades, I have decided that now is the right time to make a change. This is a deeply personal matter—a critical factor in this decision was learning that my 83-year old father has been diagnosed with cancer and needs to undergo treatment. I want to be able to spend time with him and make sure that I can be there for him as he goes through his treatment.

32. Properly preparing for a deposition that covers my tenure at the company (which spans over 20 years) would require an extensive review of materials and a substantial amount of time, which necessarily would divert significant time away from my responsibilities for the transition, as well as time away from my father.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

EXECUTED on May 5, 2026 in Miami, Florida.

By:  \_\_\_\_\_  
Peter D. Haytaian

# EXHIBIT 1

**UNDER SEAL**