UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

TIARA YACHTS, INC.,	
Plaintiff,	Civil Action No.: 1:22-cv-603
v.	Judge: Hon. Robert J. Jonker
BLUE CROSS BLUE SHIELD OF MICHIGAN,	Magistrate Judge: Hon. Ray Kent
Defendant.	**ORAL ARGUMENT REQUESTED**

DEFENDANT'S EMERGENCY MOTION FOR PROTECTIVE ORDER PROHIBITING TWO DEPOSITIONS NOTICED BY PLAINTIFF

EXPEDITED CONSIDERATION REQUESTED

Defendant Blue Cross Blue Shield of Michigan ("BCBSM"), through its undersigned counsel, moves under Fed. R. Civ. P. 26(c) for a protective order to prohibit two depositions that Plaintiff Tiara Yachts, Inc. noticed to obtain information related to claims that the parties have agreed have nominal value. BCBSM makes this request for the reasons stated in its accompanying brief, which is fully incorporated here.

BCBSM seeks expedited consideration because the depositions at issue are scheduled for August 25 and 26, 2026. There is thus a significant risk that the relief requested will become moot before the Court reaches a decision on this motion. BCBSM respectfully requests that the Court hold a hearing either by Zoom or in-person by the morning of August 25, 2026 to decide these issues.

Pursuant to W.D. Mich. LCivR 7.1, BCBSM's counsel attempted in good faith to seek concurrence in the relief requested in this motion from Plaintiff Tiara Yachts' counsel via emails on August 20 and 21, 2026. Plaintiff's counsel did not agree to cancel the depositions.

Respectfully submitted,

ALLEN OVERY SHEARMAN STERLING US LLP

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Dated: August 24, 2026

Attorneys for Defendant

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BCBSM Says: Yes

Plaintiff Says: No

I. INTRODUCTION

Events over the last several days have exposed the fact that Plaintiff's Tiara Yachts, Inc,'s counsel is attempting to use the resources of this Court in an improper manner that has nothing to do with prosecuting this case. Rather, Plaintiff's counsel is focused on wasting the Court's resources to unearth evidence that will allow it to seek other business opportunities that are unrelated to this case. Plaintiff's counsel has a history of this type of activity. Indeed, their previous efforts at misusing judicial resources went as far as suing the United States Department of Labor to obtain BCBSM customer information. *Varnum LLP v. United States Dep't of Lab.*, No. 1:18-cv-1156, 2021 WL 1387773 (W.D. Mich. Mar. 15, 2021). Judge Neff appropriately prevented Plaintiff's counsel's business-generating scheme in that case.

In this case, Plaintiff's counsel has been engaged in a blatant fishing expedition from the beginning. The Court recognized this early on when it reduced the number of allowable Requests for Production from the 63 that Plaintiff originally served to a total of 30. Plaintiff also recently filed a motion to compel seeking the immediate production of 1.8 million documents pulled from search terms that are facially overbroad. It then filed *another* motion to compel—which has yet to be fully briefed—that facially misrepresents several of BCBSM's discovery positions.

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II. BACKGROUND

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Plaintiff's counsel responded that he believes a third category makes the total value of Plaintiff's claims worth more than that, but admitted without qualification that the $21,000 amount is accurate for the claims related to "flip logic" and SSP. After further discussion on the record, Judge Kent asked counsel for both parties whether they would recommend settlement of those two claims for $21,000 to their respective clients. It was clear that at least part of Judge Kent's goal was to avoid discovery expenses related to *de minimis* claims. Counsel for both Plaintiff and BCBSM stated that they would make the settlement recommendation. BCBSM is in the process of obtaining the transcript of this hearing.

Consistent with that commitment, BCBSM's counsel made the settlement recommendation to BCBSM immediately after the August 17 hearing, and BCBSM has agreed to settle the flip logic and SSP claims for $21,000. To be clear, as is standard in the context of settling legal claims, this was an economic decision by BCBSM, not an admission of liability. BCBSM immediately communicated its agreement to settle the flip logic and SSP claims to Plaintiff, and it sent a proposed release, which involves standard, neutrally drafted language:

> In consideration of the mutual promises and obligations set forth in this Agreement, Tiara Yachts, Inc. (formerly S2 Yachts, Inc.) ("Plaintiff"), on behalf of itself, its affiliates, and its health benefit plan (the "Plan"), hereby releases and forever discharges Blue Cross Blue Shield of Michigan ("BCBSM") and its officers, directors, employees, agents, affiliates, predecessors, successors, and assigns (collectively, the "Released Parties") from any and all claims, demands, actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, obligations, liabilities, costs, expenses, and losses of every kind and nature whatsoever, whether at law or in equity, whether known or unknown, suspected or unsuspected, asserted or unasserted, fixed or contingent, arising under or by virtue of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. § 1001 et seq. (including but not limited to claims under 29 U.S.C. §§ 1104, 1106, 1109, and 1132), federal common law, Michigan statutory law, Michigan common law, contract, tort, or any other federal, state, or local law, rule, regulation, or principle of law or equity, to the extent such claims arise out of or relate to: (a) BCBSM's use of "flip logic" in its claims-processing system, including all claims that BCBSM reimbursed nonparticipating out-of-state providers at or up to charge rather than at the applicable Host Blue, plan rate, negotiated rate, allowed or other amount, and (b) BCBSM's implementation and operation of its Shared Savings Program ("SSP"), including all claims that BCBSM's charging or retention of a percentage of avoided or recovered payments constituted a breach of fiduciary duty, prohibited transaction, or conflict of interest (collectively, the "Released Claims"). This release does not extend to, and Plaintiff expressly preserves, any and all claims, demands, actions, causes of action, damages, losses, and liabilities of every kind that are not Released Claims and arise out of or relate to BCBSM's alleged overpayment, improper payment, or misprocessing of claims from Plan assets independent of the flip logic or any incentive created by the SSP, including but not limited to claims based on unbundling, upcoding, medically unlikely edits, non-adherence to payment guidelines, missing or deficient claims data, or any other claims-processing errors or deficiencies, whether arising under ERISA, federal common law, Michigan statutory or common law, contract, tort, or otherwise (the "Preserved Claims").

Unlike BCBSM's expeditious and good-faith pursuit of the Court's settlement recommendation, on August 19, Plaintiff's counsel sent an email to BCBSM's counsel that concluded: "Finally, regarding Mark's request to discuss 'partial settlement,' we do not see a path to settling just part of the case." (**Exhibit A,** 08.19.26 Varnum Email). In other words, not only had

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Concurrently with their settlement discussions, the parties were also discussing the propriety of three depositions that Plaintiff noticed for the week of August 24, 2026. Specifically, Plaintiff has noticed the depositions of (1) former BCBSM employee Dianne Malmgren for August 25; (2) BCBSM employee Robert Hopper for August 26; and (3) BCBSM employee Paul Ozdarski for August 27.[1]

While Ozdarski likely has knowledge relevant to Plaintiff's claims other than flip logic and SSP, it is clear that Plaintiff would not have noticed the depositions of Hopper and Malmgren had they not been involved in an internal workgroup related to the flip logic issue (which has been discussed at length in previous filings). There is support for this fact both in filings and discovery documents in this matter.

[1] BCBSM notes that Ms. Malmgren is retired. She has not worked for BCBSM in approximately the last five years.

For instance, Plaintiff's Complaint mentions both Hopper and Malmgren *only* in the context of a flip logic-related workgroup. *See generally* ECF No. 1. Any reference to these individuals in the text of the Complaint is limited to a description of Hopper's and Malmgren's roles in the workgroup. ECF No. 1, PageID.6. There are also two flip logic-related workgroup emails attached to Plaintiff's Complaint. Hopper appears in both, and Malmgren appears in one. ECF Nos. 1-2, 1-4. There are no other references in the Complaint or its exhibits to either individual. In a similar vein, Hopper is mentioned twice in Plaintiff's Requests for Production. (**Exhibit C,** BCBSM RFP Responses, at 18-19). He is again mentioned only in the context of a flip logic-related workgroup. Malmgren is not mentioned at all.

This seems to be consistent with the documents that have been produced in this matter. Based on BCBSM's review of both parties' produced documents, neither Hopper nor Malmgren appears in any relevant documents outside the flip logic-related workgroup context. In short, it is clear that Plaintiff's desire to depose both Hopper and Malmgren stems entirely from flip logic workgroup involvement.

BCBSM's counsel has asked Plaintiff's counsel why Plaintiff would want to depose Hopper and Malmgren despite the *de minimis* value of the only claim as to which they may have significant personal knowledge. Plaintiff's counsel has not identified *any* specific topics for the deposition, instead making only a general statement that the depositions are necessary for Plaintiff's other claims. (**Exhibit D,** 08.20.26 Email Correspondence).

III. ANALYSIS

Under Fed. R. Civ. P. 26(c), "[a] party or any person from whom discovery is sought may move for a protective order" when there is good cause for protection "from annoyance, embarrassment, oppression, or undue burden or expense." The Court "has broad discretion to grant or deny protective orders." *Lewis v. St. Luke's Hosp. Ass'n*, 132 F.3d 33, 1997 WL 778410 (6th

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Consistent with these principles, the Sixth Circuit has made clear that courts may consider the relevance of a prospective deponent's testimony in determining whether a protective order is appropriate. *Anwar v. Dow Chemical Co.*, 876 F.3d 841, 854 (2017); *see also McGowan v. United States*, 337 F.R.D. 495 (N.D. Ohio 2021). This aligns with the Federal Rules of Civil Procedure, which limit discovery only to any "nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, . . . the importance of discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit." Fed. R. Civ. P. 26(b)(1).

It is clear from the record that Plaintiff noticed the depositions of Hopper and Malmgren to obtain information related to BCBSM's use of flip logic. The parties now agree that the value of that claim is around $5,000. Despite that fact, Plaintiff has refused to cancel the Hopper and Malmgren depositions, which will result in significant prejudice to BCBSM. It will be forced to incur substantial legal fees and travel expenses; Hopper himself is a current, high-level BCBSM employee who will be forced to divert his attention from important matters; and Malmgren, who retired long ago, will need to travel for an unnecessary deposition. There is simply no need for the parties to expend significant resources on the depositions of Hopper and Malmgren when the parties have agreed on the *de minimis* value of the Plaintiff's flip logic claim. The cost of the depositions will be many multiples more than the value of the claim.

Moreover, to the extent either Hopper or Malmgren has personal knowledge related to other relevant topics, such as general operational information related to BCBSM's claims processing system, that information (if any) will be limited and duplicative. With the parties' agreement on the limited value of the flip logic issues, Ozdarski's deposition reduces the necessity of Hopper's and Malmgren's depositions to virtually zero. Both will be cumulative at best.

Plaintiff's counsel's rationale for proceeding with these depositions can only be understood in the context of the fishing expedition they have conducted both in this case and in prior matters related to BCBSM. Given that the depositions will add no value here, the only conclusion to reach is that Plaintiff's counsel intends to ask questions targeted at uncovering information unrelated to this case that will open the door to additional meritless lawsuits against BCBSM.

Particularly based on the "sliding prejudice scale" employed in the Sixth Circuit, the Federal Rules of Civil Procedure give courts the discretion to prohibit such wasteful resource expenditures. The issues have been rendered unimportant, there is a nominal amount in controversy, the depositions will not help resolve any significant issues in the case, and the burden will substantially outweigh any benefit. Thus, nearly all of Rule 26(b)(1)'s proportionality factors weigh in favor of prohibiting the Hopper and Malmgren depositions.

IV. CONCLUSION

The Court cannot force Plaintiff's counsel to settle the flip logic and SSP aspects of this case. If Plaintiff's counsel wants to continue litigating these issues over $21,000, they are free to do so. But this Court has discretion to limit discovery in a manner that is proportionate to the size and scope of the dispute. This starts with stopping the depositions of Hopper and Malmgren, whose relevance is to flip logic. The cost of conducting the depositions exceeds the entire value of those aspects of the case, and it is clear that Plaintiff's counsel has ulterior motives to take those depositions. All other discovery rulings should be focused on the proportionality issue as well.

Respectfully submitted,

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Dated: August 24, 2026

Attorneys for Defendant

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Consistent with these principles, the Sixth Circuit has made clear that courts may consider the relevance of a prospective deponent's testimony in determining whether a protective order is appropriate. *Anwar v. Dow Chemical Co.*, 876 F.3d 841, 854 (2017); *see also McGowan v. United States*, 337 F.R.D. 495 (N.D. Ohio 2021). This aligns with the Federal Rules of Civil Procedure, which limit discovery only to any "nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, . . . the importance of discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit." Fed. R. Civ. P. 26(b)(1).

It is clear from the record that Plaintiff noticed the depositions of Hopper and Malmgren to obtain information related to BCBSM's use of flip logic. The parties now agree that the value of that claim is around $5,000. Despite that fact, Plaintiff has refused to cancel the Hopper and Malmgren depositions, which will result in significant prejudice to BCBSM. It will be forced to incur substantial legal fees and travel expenses; Hopper himself is a current, high-level BCBSM employee who will be forced to divert his attention from important matters; and Malmgren, who retired long ago, will need to travel for an unnecessary deposition. There is simply no need for the parties to expend significant resources on the depositions of Hopper and Malmgren when the parties have agreed on the *de minimis* value of the Plaintiff's flip logic claim. The cost of the depositions will be many multiples more than the value of the claim.

Moreover, to the extent either Hopper or Malmgren has personal knowledge related to other relevant topics, such as general operational information related to BCBSM's claims processing system, that information (if any) will be limited and duplicative. With the parties' agreement on the limited value of the flip logic issues, Ozdarski's deposition reduces the necessity of Hopper's and Malmgren's depositions to virtually zero. Both will be cumulative at best.

Plaintiff's counsel's rationale for proceeding with these depositions can only be understood in the context of the fishing expedition they have conducted both in this case and in prior matters related to BCBSM. Given that the depositions will add no value here, the only conclusion to reach is that Plaintiff's counsel intends to ask questions targeted at uncovering information unrelated to this case that will open the door to additional meritless lawsuits against BCBSM.

Particularly based on the "sliding prejudice scale" employed in the Sixth Circuit, the Federal Rules of Civil Procedure give courts the discretion to prohibit such wasteful resource expenditures. The issues have been rendered unimportant, there is a nominal amount in controversy, the depositions will not help resolve any significant issues in the case, and the burden will substantially outweigh any benefit. Thus, nearly all of Rule 26(b)(1)'s proportionality factors weigh in favor of prohibiting the Hopper and Malmgren depositions.

IV. CONCLUSION

The Court cannot force Plaintiff's counsel to settle the flip logic and SSP aspects of this case. If Plaintiff's counsel wants to continue litigating these issues over $21,000, they are free to do so. But this Court has discretion to limit discovery in a manner that is proportionate to the size and scope of the dispute. This starts with stopping the depositions of Hopper and Malmgren, whose relevance is to flip logic. The cost of conducting the depositions exceeds the entire value of those aspects of the case, and it is clear that Plaintiff's counsel has ulterior motives to take those depositions. All other discovery rulings should be focused on the proportionality issue as well.

Respectfully submitted,

ALLEN OVERY SHEARMAN STERLING US LLP

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Dated: August 24, 2026

Attorneys for Defendant

EXHIBIT A

Jason M. Schneider

From:	Phelps, Aaron M. <amphelps@varnumlaw.com>
Sent:	Wednesday, August 19, 2026 4:56 PM
To:	Jason M. Schneider; Rynders, Perrin; Mark J. Zausmer
Cc:	Lewis, Daniel; Selvius, Gage M.; Hofman, Herman D.
Subject:	RE: Follow up to meet/confer

[EXTERNAL EMAIL]
Jason-

We appreciate the agreements we have reached so far. Can you confirm a date by which we will receive the agreed fee schedules and relevant provider manuals (we understand these manuals will relate to any type of provider – lab, physician, facility, etc.).

However, we cannot accept BCBSM's refusal to provide EDI files. Your stated basis for objecting relates to the burden of manually producing these records. To be clear, the "E" in EDI stands for "electronic." These are electronic records easily identified by reference to the claim numbers. Our request is not burdensome. Indeed, the whole point of limiting our interim request to 50 claims was to make this a very easy process. We suspect it would take BCBSM less than a day to manually enter 50 claim numbers into its systems and pull the EDI files. Further, you have not agreed that BCBSM will not rely on these files (or their contents), underscoring their relevance.

Similarly, we cannot accept BCBSM's objection to producing the facility agreements. We believe, based on the existing record, that BCBSM paid providers excessive amounts on certain claims. We do not believe these amounts (sometimes many multiples of the Medicare benchmark), were consistent with BCBSM's own facility agreements. In other words, the basis of our claim (in part) is that BCBSM didn't pay according to its agreements and BCBSM's defense is that it did, making the facility agreements themselves unquestionably relevant.

Absent some immediate breakthrough on these two issues, we plan to file a motion to compel this week.

Related to above, we cannot complete our expert reports under the current schedule. We plan to file a motion to amend the scheduling order to move all dates out three months. Please let us know if you concur.

Finally, regarding Mark's request to discuss "partial settlement," we do not see a path to settling just part of the case. Obviously, BCBSM can stipulate to liability as to the flip-logic and SSP claims, rendering further discovery on those matters moot. If BCBSM wishes to discuss settlement of all claims at issue, we are open to that and also open to moving the mediation to earlier date if that would be useful.

Thanks-

VARNUM

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Aaron M. Phelps
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From: Jason M. Schneider <JSchneider@zausmer.com>
Sent: Thursday, August 13, 2026 5:14 PM
To: Rynders, Perrin <prynders@varnumlaw.com>; Mark J. Zausmer <MZausmer@zausmer.com>
Cc: Lewis, Daniel <daniel.lewis@aoshearman.com>; Phelps, Aaron M. <amphelps@varnumlaw.com>; Selvius, Gage M. <gmselvius@varnumlaw.com>
Subject: RE: Follow up to meet/confer

Perrin,

Ahead of our call tomorrow, here is our point-by-point response to Tiara Yachts' proposal on the discovery issues we discussed last week:

1) RFP No. 3: BCBSM can confirm that it is not withholding any documents responsive to this request. The document search it conducted did not result in any relevant results. That said, BCBSM has agreed to search files within its Corporate Fraud Investigation unit for potentially responsive documents. If that expansion of our search results in any responsive documents, we will produce them. Otherwise, we will supplement BCBSM's responses to state that it does not have any responsive documents based on the searches it conducted.

2) RFP No. 15: BCBSM agrees to produce provider fee schedules from 2016 through the end of Tiara Yachts' contractual relationship with BCBSM. That timeframe aligns with the Tiara Yachts claims data. BCBSM's production will not include negotiated agreements with facilities. We anticipate having the provider fee schedules to you before the depositions that are scheduled to occur the week of August 24.

3) RFP No. 14: The phrase "annual and quarterly settlements" in BCBSM's initial disclosures refers to the Administrative Service Annual Summaries that were included in BCBSM's first production. The terminology in the initial disclosures was based on file extension names rather than the title on the Excel files' cover sheets. BCBSM has produced any documents it has located that fit within the categories identified in its initial disclosures.

4) RFP Nos. 4, 5, 9 (out of order from your email): BCBSM agrees to produce its provider manuals from 2016 through the end of Tiara Yachts' contractual relationship with BCBSM. Technically, this is not stored as a single "manual" and includes documents/information from disparate sources. We are determining the best way to produce the information, and we will follow-up as soon as we have that figured out.

5) RFP Nos. 16, 23: BCBSM agrees with your proposal on the EOBs and PIRs. Once you identify 50 claims (if we need to adjust timing on your list based on the date of this response, we can do that), we will locate the relevant documents and produce them within 30 days. On the EOBs, this should be a straightforward, albeit time-consuming, manual process.

On the PIRs, BCBSM will need to identify sources for relevant documents based on the providers that correspond to your list of 50 claims. We want to make clear that we are not certain without conducting these searches that responsive documents exist. If we identify responsive, non-privileged documents, we will produce them.

6) RFP No. 24: BCBSM does not agree to include EDIs in this process. As we have discussed, gathering EDIs will be prohibitively time-consuming and expensive, particularly in proportion to the scope of Tiara Yachts' claims. BCBSM maintains that the EOBs it has agreed to produce will be sufficient to corroborate Tiara Yachts' claims data.

7) BCBSM's RFPs: Thank you for stating your positions on BCBSM's RFPs. Please let us know as soon as you can confirm your position on Tiara Yachts' bank account information.

Talk to you tomorrow morning.

Best,

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Shareholder
Zausmer
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From: Rynders, Perrin <prynders@varnumlaw.com>
Sent: Tuesday, August 4, 2026 3:04 PM
To: Jason M. Schneider <JSchneider@zausmer.com>; Mark J. Zausmer <MZausmer@zausmer.com>
Cc: Lewis, Daniel <daniel.lewis@aoshearman.com>; Phelps, Aaron M. <amphelps@varnumlaw.com>; Selvius, Gage M. <gmselvius@varnumlaw.com>
Subject: Follow up to meet/confer

[EXTERNAL EMAIL]
Jason, thanks to you and Mark for your time yesterday afternoon. As we discussed, I think it's good for us to memorialize what we discussed/agreed to, to avoid any misunderstandings. Let me know if I missed anything or got anything wrong. And I look forward to your response regarding my suggestions—as mentioned, I'm eager to resolve these issues or tee up another motion to compel.

I'd like to start with the areas of agreement:

- Our RFP #3: you believe that all communications between BCBSM and a provider about a dispute over a claim involving a Tiara Yachts participant/beneficiary were captured by your search terms. BCBSM isn't refusing to produce all responsive documents; rather, BCBSM thinks it has done so already. Nevertheless, you will confer with your client about whether other search terms might yield additional responsive documents, and BCBSM will produce anything else that it finds. Because BCBSM has stated objections to this request, we would like a formal statement that all responsive documents have been produced and nothing has been withheld based on objections or otherwise.

- Our RFP #15: BCBSM will produce the responsive documents. We did not discuss a deadline to produce those documents. I would like that to happen quickly, and before the next set of depositions in a few weeks.
- Our RFP #14: You think BCBSM has produced all annual and quarterly settlements, but you are going to double-check and produce anything that wasn't already produced. This is not an issue of disagreement—if the requested documents exist and have not been produced, BCBSM will do so.
- Your request for all communications between our clients: I confirmed yesterday that our client has produced everything that it has. We have gone back to confirm this. Nevertheless, as with all discovery obligations, if anything else is identified we will produce it. Relatedly, I confirmed that we do not represent the broker, and you are permitted to contact them directly about responding to your subpoena.

We also discussed potential resolutions to avoid discovery motion practice:

- Our RFP ## 16, 23, and 24: There might be some distinctions between different documents (EOBs less complicated than EDIs), but in general my suggestion was that I could identify fewer than the roughly 2,300 claims on the spreadsheet (e.g., 50—although I note that in another matter we discussed 50 per year) for which BCBSM would produce everything it has. These would include Provider Investigation Requests, EOBs, and EDIs. The goal would be to ascertain how those materials corroborate or refute the claims data that has been produced before insisting on that information for all the claims identified by *fin*Health as involving overcharges. Upon further reflection, this would be a process that requires adjustments to the current case management order, such as the following:
  - Tiara identifies 50 claims by August 15.
  - BCBSM produced the requested information by September 15.
  - The parties meet and confer thereafter. We would use this process to narrow or resolve disputes. For example, if the materials supplied prove that the 50 claims were properly processed, then we would not need the same materials for the other 2,300 plus claims. To the extent the materials prove that some of the 50 claims were improperly paid, we could likely narrow the scope of the requests to a subset of necessary documents. Obviously, we could also use this information to inform ADR as well – whether in full or as to certain categories.
  - Expert reports would have to be held open pending final agreement/court order regarding completion of whatever further discovery is necessary from this process.
- Our RFP ## 4, 5, and 9: I suggested proposing additional search terms to capture these documents. With respect to 4 and 5, I think the better approach is to narrow our request to: all BCBSM Provider Manuals, Provider Handbooks, and equivalent provider-facing reference guides, including but not limited to those published or made available through web-DENIS, amendments, bulletins, updates, supplements, throughout the Contractual Period, that describe billing requirements, covered and non-covered services, CPT/HCPCS code requirements, revenue code requirements, claim submission procedures, and/or the criteria, conditions, edits, or codes applied by BCBSM to approve, deny, pend, or reject claims submitted by providers for enrollees of Tiara Yachts' Plan (you may have guessed that these are the literal procedures BCBSM always says it follows per the ASC, so are obviously relevant and readily available). While we believe these materials are within the scope of the existing document requests 4 and 5, to avoid any doubt, we served a more specific request yesterday. If we can't reach agreement on production of these materials, they are what we would seek in a new motion to compel.

Regarding our RFP #14, I didn't specifically talk to you about other documents identified in BCBSM's initial disclosures besides the annual and quarterly settlements, but my hope is that BCBSM would produce those documents too (if it hasn't done so already). I suspect this is not an area of contention, but because I was not specific about documents other than the settlements, I want to note it now.

Lastly, I promised to take another look at your interrogatories 15, 20, and 21 to see if we would be willing to back off our objections on relevance grounds. I do not expect to change my mind on that, but I have not had an opportunity to take another look, and I will do so. Your position is that the requested documents would go to defenses and the counterclaim, revolving around Tiara Yachts' status as a co-fiduciary.

VARNUM

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Partner

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EXHIBIT B

Jason M. Schneider

From:	Rynders, Perrin <prynders@varnumlaw.com>
Sent:	Friday, August 21, 2026 3:35 PM
To:	Mark J. Zausmer
Cc:	Jason M. Schneider; Lewis, Daniel; Phelps, Aaron M.
Subject:	Tiara Yachts/BCBSM--settling flip logic and SSP

[EXTERNAL EMAIL]
Mark,

We have conferred with our client, and Tiara Yachts is willing to resolve its damages claim related to flip logic and SSP for $21,000, provided two things: (1) BCBSM warrants and represents that the number is materially correct (not necessarily exact), because that's where we got that information; and (2) we acknowledge that prevailing plaintiffs in ERISA cases are entitled to recover reasonable attorneys' fees. This case has been litigated since July 2022, and at any time during the past four years BCBSM could have admitted what the Sixth Circuit unanimously decided: that the claims, if true, are ERISA violations. We now have consensus that BCBSM did, in fact, collect SSP fees and impose flip logic on Tiara Yachts. Thus, Tiara Yachts is entitled to recover its reasonable attorneys' fees in getting to this point. I see two ways to handle that: (1) settle and include an additional amount for attorneys' fees; or (2) stipulate to the entry of a judgment in favor of Tiara Yachts, which would allow Tiara Yachts to file a motion seeking an award of attorneys' fees as the prevailing party. (Note that BCBSM filed its own motion for attorneys' fees after it got Judge Jonker's ruling, although that went nowhere because the Sixth Circuit reversed.)

As for the release language that you provided, a couple comments:

- The list of what goes into the Preserved Claims ("claims, demands, actions…") should be identical to the list included in the Released Claims. Right now, the latter is longer than the former.
- To fix that and a later ambiguity, I would re-word the last sentence as follows:
  "This release does not extend to, and Plaintiff expressly preserves, any and all claims, demands, actions, causes of action, suits, debts, expenses, promises, variances, trespasses, damages, judgments, executions, obligations, liabilities, costs, expenses, and losses of every kind and nature whatsoever, whether at law or in equity, whether known or unknown, suspected or unsuspected, asserted or unasserted, fixed or contingent that are not Released Claims (the "Preserved Claims"). The Preserved Claims include anything arising out of or relating to BCBSM's alleged overpayment, improper payment, or misprocessing of claims from Plan assets independent of the flip logic or any incentive created by the SSP, including but not limited to claims based on unbundling, upcoding, medically unlikely edits, non-adherence to payment guidelines, missing or deficient claims data, or any other claims-processing errors or deficiencies, whether arising under ERISA, federal common law, Michigan statutory or common law, contract, tort, or otherwise.

Let me know how your client would like to proceed.

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EXHIBIT C

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

TIARA YACHTS, INC.,

Plaintiff,

v.

BLUE CROSS BLUE SHIELD OF MICHIGAN,

Defendant.

Case No. 1:22-cv-603
Hon. Robert J. Jonker
Mag. Ray Kent

DEFENDANT BCBSM'S RESPONSES TO PLAINTIFF'S AMENDED FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS

Defendant Blue Cross Blue Shield of Michigan ("BCBSM"), through counsel, states for its Responses to Plaintiff's First Set of Requests for Production of Documents:

PRELIMINARY STATEMENT

The responses and objections set forth below are provided without prejudice to BCBSM's right to amend its responses and objections if additional documents or information come to its attention. This reservation is not to be construed as an undertaking by BCBSM of an affirmative duty to alter, supplement, amend, or otherwise modify these responses and objections in any manner or at any time, except as otherwise required by law. BCBSM's responses and objections to any Request are not an admission that BCBSM accepts or admits the existence of any fact set forth in or assumed by such Request, nor are any responses and objections to any Request an indication that BCBSM agrees with or adopts any characterization or statement within such Request. Any responses and objections to the Requests or any production of documents made by BCBSM will be solely for purposes of this Action. BCBSM does not waive or intend to waive, and instead preserves and intends to preserve: (a) the right to object on any grounds, at any time, to other discovery requests relating in any way to the subject of the Request to which BCBSM has responded or objected; and (b) the right to object, on any proper ground (including but not limited to grounds of competency, privilege, relevancy, materiality, confidentiality, authenticity, or admissibility) to the use of the responses, documents, or information provided by BCBSM for any purpose, in whole or in part, in any subsequent proceeding, trial, arbitration, mediation, or other alternative dispute resolution in this or any other action. By making these responses and objections, BCBSM does not concede that the documents sought are relevant or proportional to the needs of the Action.

OBJECTIONS AND RESPONSES

1. Produce a complete set of all electronic Claims Data relating to the Claims submitted, processed, adjudicated, paid, adjusted, or otherwise administered by BCBSM on behalf of Tiara Yachts and its Plan during the Contractual Periods.

RESPONSE: BCBSM objects to this request as vague and overbroad to the extent it seeks "a complete set of all electronic Claims Data" because that phrase does not describe the documents sought with reasonable particularity, as required under FRCP 34(b)(1)(A). BCBSM also objects to the use of the undefined term "complete" on the basis that it is vague and ambiguous. BCBSM has proposed producing a data set that includes more than 70 data fields and contains all the material information Tiara Yachts will need to assess its claims. Tiara Yachts has insisted that BCBSM produce data from all data fields BCBSM maintains in its claims database. But as BCBSM has explained repeatedly, there are thousands of data fields in its database, and the vast majority do not apply to Tiara Yachts' claims.

BCBSM objects further to the timeframe proposed in Tiara Yachts' request because it would impose an undue burden on BCBSM. BCBSM changed many of its data storage practices in 2014 and archived its pre-2014 data. Thus, obtaining data from before 2014 would require not only data retrieval, but also data restoration. Based on its experience in other cases, the cost of such data restoration would be prohibitive. In addition to this undue burden, Tiara Yachts' proposed timeframe is improper because it extends beyond the period of Tiara Yachts' claims. *See, e.g.*, *Arenas v. Unified Sch. Dist.*, 2016 WL 6071802, at *6 (D. Kan. Oct. 17, 2016) (limiting testimony to limitations period "to avoid unnecessary burden and expense"); *see also Greene v. Sears Prot. Co.*, 2017 WL 1134484, at *5 (N.D. Ill. Mar. 27, 2017) ("This Court agrees . . . that plaintiffs have provided no compelling argument that discovery going back" before the statute of limitations period "is warranted"); *Wilson v. MRO Corp.*, 2017 WL 561333, at *2 (S.D. W. Va. Feb. 10, 2017) (limiting discovery "[i]n view of the applicable limitations period for Plaintiffs' claims, and considering that the scope of discovery must be proportional to the needs of the case"). BCBSM further objects to the extent this request encompasses documents that are protected by the attorney-client privilege, work-product doctrine, and/or other privileges and protections.

Subject to and without waiving its objections, and subject to an appropriate protective order, BCBSM agrees to search for and produce electronic claims data in its possession, custody, or control relating to claims processed on behalf of Tiara Yachts and its Plan from July 1, 2014 through April 16, 2021. Production of this claims data will, however, require agreement on what data fields will be included in the production, and BCBSM agrees to continue conferring with Tiara Yachts to determine what data fields are appropriate.

2. Produce a full and complete copy of BCBSM's data field dictionary(ies) necessary to interpret and define each claim identifier or claim detail field that BCBSM uses for all Claims, including but not limited to providing the Field Name, the Descriptive Name, the Cobol Name, the Cobol Format, the Position, the Type, the Source, the Revision History and Comments (including Revision Date), the Definition, the Business Rule(s), the Valid Value(s), the Notes, and any other information BCBSM maintains in any facility, professional, medical, and/or pharmacy dictionary.

RESPONSE: BCBSM objects to the use of the undefined terms "complete" and "data dictionary(ies)" on the basis that they are vague and ambiguous. BCBSM objects further to the extent that Tiara Yachts seeks information regarding data fields within BCBSM's claims database that are unrelated to Tiara Yachts' claims data. BCBSM objects further to the extent this request seeks information that BCBSM does not maintain in its ordinary course of business, as the Federal Rules do not require the creation of information in response to a request for production.

Subject to and without waiving these objections, and subject to an appropriate protective order, BCBSM agrees to produce a document that describes each claim identifier or claim detail field with respect to the data fields that the parties ultimately agree on.

3. For all Claims associated with Tiara Yachts during the Contractual Periods, produce all documents, including communications, between BCBSM and any Provider involving BCBSM disputing the amount being sought by the Provider, Employee, or Enrollee.

RESPONSE: BCBSM objects to this request to the extent it includes an inappropriate time limitation. BCBSM has agreed to produce Tiara Yachts' claims data dating back to 2014, as producing claims data from before 2014 would be an undue burden on BCBSM and would be disproportionate to the needs of this case, for the reasons described in BCBSM's prior responses. Given that this is the relevant and proportionate period for the production of Tiara Yachts' claims data, BCBSM objects to producing related to claims from before 2014.

Moreover, Tiara Yachts' proposed timeframe is inappropriate because it extends beyond the period of Tiara Yachts' claims. *See, e.g.*, *Arenas v. Unified Sch. Dist.*, 2016 WL 6071802, at *6 (D. Kan. Oct. 17, 2016) (limiting testimony to limitations period "to avoid unnecessary burden and expense"); *see also Greene v. Sears Prot. Co.*, 2017 WL 1134484, at *5 (N.D. Ill. Mar. 27, 2017) ("This Court agrees . . . that plaintiffs have provided no compelling argument that discovery going back" before the statute of limitations period "is warranted"); *Wilson v. MRO Corp.*, 2017

WL 561333, at *2 (S.D. W. Va. Feb. 10, 2017) (limiting discovery "[i]n view of the applicable limitations period for Plaintiffs' claims, and considering that the scope of discovery must be proportional to the needs of the case"). BCBSM further objects to the extent this request encompasses documents that are protected by the attorney-client privilege, work-product doctrine, and/or other privileges and protections.

Subject to and without waiving its objections, and subject to an appropriate protective order, BCBSM agrees to search for and produce documents and communications with Providers in its possession, custody, or control from July 1, 2014 through April 16, 2021, in which BCBSM disputed a claimed payment amount associated with Tiara Yachts or its Plan.

4. Produce copies of all of BCBSM's written policies, practices, or systems used to identify excessive, duplicative, or improper claims submitted by Providers, Employees, or Enrollees.

RESPONSE: BCBSM objects to this request to the extent it does not include any time limitations. BCBSM has agreed to produce Tiara Yachts' claims data dating back to 2014, as producing claims data from before 2014 would be an undue burden on BCBSM and would be disproportionate to the needs of this case, for the reasons described in BCBSM's prior responses. Given that this is the relevant and proportionate period for the production of Tiara Yachts' claims data, BCBSM objects to producing policies related to its claims processing systems from before 2014.

BCBSM further objects to the extent this request seeks documents or information that are unrelated to Tiara Yachts, and because the request is vague and ambiguous with respect to the undefined terms "practices" and "systems," as BCBSM does not understand what Tiara Yachts is asking BCBSM to produce with respect to those items. BCBSM further objects because the terms "excessive, duplicative, [and] improper" are vague and ambiguous.

Subject to and without waiving this objection, BCBSM agrees to search for and produce, subject to an appropriate protective order, documents sufficient to describe its Payment Integrity Systems and other aspects of BCBSM's claims processing systems used to ensure that claims are properly paid, as applied to Tiara Yachts between July 1, 2014 and April 16, 2021.

5. Produce all documents evidencing the internal training, instructions, or directives BCBSM gives or has given to its employees about identifying or responding to excessive claims or improper claims, whether due to fraud, mistake, waste, or abuse, submitted by Providers, Employees, or Enrollees in its claims processing systems.

RESPONSE: BCBSM objects because the internal training and instructions it provides to its employees regarding claims processing are not relevant or proportional to Tiara Yachts' claims. *See, e.g.*, *Roe v. Univ. of Cincinnati*, 2025 WL 1696974, at *4 (S.D. Ohio June 17, 2025) ("Neither UC's methodology for investigating separate claims of sexual misconduct in general nor the Department Education's investigations into UC *over the previous decade* appear to have any proportional bearing on Plaintiffs' theory of liability"). Regardless of how BCBSM trains its employees, it either breached fiduciary duties to Tiara Yachts or it did not (it did not). Internal training will not make either fact more or less likely.

In addition, BCBSM objects to this request as vastly overbroad, unduly burdensome, harassing, and not proportional to the needs of the case because it purports to request virtually unlimited documentation regarding BCBSM's training practices, without reasonable limitations.

BCBSM further objects to the extent this request seeks documents or communications that are protected from disclosure by the attorney-client privilege or work-product doctrine. BCBSM further objects because the terms "Providers, Employees, [and] Enrollees," as used in this request are vague and undefined. BCBSM further objects to the extent the terms "excessive claims" and "improper claims" are vague, ambiguous, and undefined.

BCBSM also objects to this request to the extent it does not include any time limitations. BCBSM has agreed to produce Tiara Yachts' claims data dating back to 2014, as producing claims data from before 2014 would be an undue burden on BCBSM and would be disproportionate to the needs of this case. Given that this is the relevant and proportionate time period for the production of Tiara Yachts' claims data, BCBSM objects to producing information related to its claims processing systems from before 2014. BCBSM further objects to the extent this request seeks documents or information unrelated to Tiara Yachts' claims.

6. Produce all documents, including internal BCBSM communications, that reference, concern, discuss, consist of, summarize, or otherwise embody Dennis Wegner's research or investigation into the excessive payments made by BCBSM to Providers via its claims processing systems, including but not limited to emails from Dennis Wegner to his supervisors evidencing him raising concerns or "alert[ing]" BCBSM regarding its systems claims processing errors. *See* **Exhibit D to Complaint.** *Wegner v. BCBSM*, No 19-001808-CD (Wayne Cnty. Cir. Ct.) (ECF No. 1-5, PageID.45-50).

RESPONSE: BCBSM objects to this request as vastly overbroad, unduly burdensome, harassing, and not proportional to the needs of the case because it purports to request virtually unlimited documentation and information, without any limitation connecting the information sought to the claims and defenses in this case. Courts routinely hold that document requests seeking "all documents relating to" a topic, or other similar formulations like the one here, are inherently overbroad. *See, e.g.*, *Donnelly v. Arringdon Dev., Inc.*, 2005 WL 8167556 (M.D.N.C. Nov. 8, 2025) ("it has been held that documents requests seeking 'any and all' documents 'relating to' are overly broad"); *see also Martin v. Trott Law, P.C.*, 2016 WL 9450599, at *5 (E.D. Mich. Dec. 22, 2016). Among other problems, such requests fail to satisfy the directive in FRCP 34(b)(1)(A) that every document request "must describe with reasonable particularity each item or category of items to be inspected." *Donnelly*, 2005 WL 8167556, at *1.

In addition, BCBSM objects to the use of the undefined terms "research" and "investigation" as vague and ambiguous. BCBSM further objects to the extent this request encompasses documents that are protected by the attorney-client privilege, work-product doctrine, and/or other privileges and protections.

BCBSM objects further because the express language of this request relates entirely to a separate matter that has no connection to Tiara Yachts. There is no non-public information with any probative value regarding whether, as Tiara Yachts claims in this action, BCBSM breached any fiduciary duty to Tiara Yachts. *See Wilson v. Plastic Omnium Auto Exteriors, L.L.C.*, 2014 WL 5460634, at *2 (E.D. Mich. Oct. 27, 2014) (to be discoverable, information must have "some probative value in proving or disproving a claim or defense"). Further, Dennis Wegner had no relationship with Tiara Yachts during the time he was employed at BCBSM. BCBSM also objects because this request assumes facts that have never been established (and cannot be established), as Tiara Yachts' attempts to tie its claims to those made by Dennis Wegner rest on known misunderstandings and misrepresentations related to BCBSM's claims processing systems.

7. Produce all documents, including internal BCBSM communications by, to, or between any of the following individuals—Rod Begosa, Jeffrey Connolly, Robert Hopper, Lori Shannon, Gary Gavin, David Malik, Ken Dallafior, Dianne Malmgren, and/or Kimberly Jones Schneider—evidencing their knowledge or communications with or about the allegations or concerns raised by Dennis Wegner regarding BCBSM's claims processing systems, including any systems causing the payment of excessive or improper claims to Providers. *See e.g.,* **Exhibit A** and **Exhibit C to Complaint**, (ECF No. 1-2, PageID.26-29; 1-4, PageID.41-43).

RESPONSE: BCBSM objects to this request because courts routinely hold that document requests seeking "all documents relating to" a topic, or other similar formulations like the one here, are inherently overbroad. *See, e.g.*, *Donnelly v. Arringdon Dev., Inc.*, 2005 WL 8167556 (M.D.N.C. Nov. 8, 2025) ("it has been held that documents requests seeking 'any and all' documents 'relating to' are overly broad"); *see also Martin v. Trott Law, P.C.*, 2016 WL 9450599, at *5 (E.D. Mich.

Dec. 22, 2016). Among other problems, such requests fail to satisfy the directive in FRCP 34(b)(1)(A) that every document request "must describe with reasonable particularity each item or category of items to be inspected." *Donnelly*, 2005 WL 8167556, at *1.

In addition, BCBSM objects to the use of the undefined term "concerns" as vague and ambiguous. BCBSM further objects to the extent this request encompasses documents that are protected by the attorney-client privilege, work-product doctrine, and/or other privileges and protections.

BCBSM objects further because the express language of this request relates entirely to a separate matter that has no connection to Tiara Yachts. There is no non-public information with any probative value regarding whether, as Tiara Yachts claims in this action, BCBSM breached any fiduciary duty to Tiara Yachts. *See Wilson v. Plastic Omnium Auto Exteriors, L.L.C.*, 2014 WL 5460634, at *2 (E.D. Mich. Oct. 27, 2014) (to be discoverable, information must have "some probative value in proving or disproving a claim or defense"). Further, Dennis Wegner had no relationship with Tiara Yachts during the time he was employed at BCBSM. BCBSM also objects because this request assumes facts that have never been established (and cannot be established), as Tiara Yachts' attempts to tie its claims to those made by Dennis Wegner rest on known misunderstandings and misrepresentations related to BCBSM's claims processing systems.

8. Produce all documents, including internal BCBSM communications, involving BCBSM directing Dennis Wegner to cease inquiring about the number or amounts of claims for which Providers, Employees, or Enrollees were being reimbursed, to "stand down," or to refrain in any way from alerting any BCBSM customers, including Tiara Yachts, of excessive or improper claims submitted by Providers, Employees, or Enrollees.

RESPONSE: BCBSM objects to this request because courts routinely hold that document requests seeking "all documents relating to" a topic, or other similar formulations like the one here, are inherently overbroad. *See, e.g.*, *Donnelly v. Arringdon Dev., Inc.*, 2005 WL 8167556 (M.D.N.C.

Nov. 8, 2025) ("it has been held that documents requests seeking 'any and all' documents 'relating to' are overly broad"); *see also Martin v. Trott Law, P.C.*, 2016 WL 9450599, at *5 (E.D. Mich. Dec. 22, 2016). Among other problems, such requests fail to satisfy the directive in FRCP 34(b)(1)(A) that every document request "must describe with reasonable particularity each item or category of items to be inspected." *Donnelly*, 2005 WL 8167556, at *1.

BCBSM further to the extent this request encompasses documents that are protected by the attorney-client privilege, work-product doctrine, and/or other privileges and protections.

BCBSM objects further because the express language of this request relates entirely to a separate matter that has no connection to Tiara Yachts. There is no non-public information with any probative value regarding whether, as Tiara Yachts claims in this action, BCBSM breached any fiduciary duty to Tiara Yachts. *See Wilson v. Plastic Omnium Auto Exteriors, L.L.C.*, 2014 WL 5460634, at *2 (E.D. Mich. Oct. 27, 2014) (to be discoverable, information must have "some probative value in proving or disproving a claim or defense"). Further, Dennis Wegner had no relationship with Tiara Yachts during the time he was employed at BCBSM. BCBSM also objects because this request assumes facts that have never been established (and cannot be established), as Tiara Yachts' attempts to tie its claims to those made by Dennis Wegner rest on known misunderstandings and misrepresentations related to BCBSM's claims processing systems.

9. Produce all documents, including internal BCBSM communications, about the design and operation of BCBSM's claims processing system(s)—including but not limited to training manuals, explanations for customers, and software guides for its NASCO flip logic system for out-of-state or non-participating provider ("non-par") claims—that BCBSM used to process Tiara Yachts' and the Plan's Claims.

RESPONSE: BCBSM objects to this request to the extent it includes an improper time limitation. BCBSM has agreed to produce Tiara Yachts' claims data dating back to 2014, as producing claims data from before 2014 would be an undue burden on BCBSM and would be disproportionate to the needs of this case. Given that this is the relevant and proportionate time period for the production of Tiara Yachts' claims data, BCBSM objects to producing information related to its claims processing systems from before 2014.

BCBSM objects to this request as vastly overbroad, unduly burdensome, harassing, and not proportional to the needs of the case because it purports to request virtually unlimited documentation and information regarding BCBSM's proprietary technology, without any limitation connecting the information sought to the claims and defenses in this case. Courts routinely hold that document requests seeking "all documents relating to" a topic, or other similar formulations like the one here, are inherently overbroad. *See, e.g.*, *Donnelly v. Arringdon Dev., Inc.*, 2005 WL 8167556 (M.D.N.C. Nov. 8, 2025) ("it has been held that documents requests seeking 'any and all' documents 'relating to' are overly broad"); *see also Martin v. Trott Law, P.C.*, 2016 WL 9450599, at *5 (E.D. Mich. Dec. 22, 2016). Among other problems, such requests fail to satisfy the directive in FRCP 34(b)(1)(A) that every document request "must describe with reasonable particularity each item or category of items to be inspected." *Donnelly*, 2005 WL 8167556, at *1.

Subject to and without waiving this objection, BCBSM agrees to search for and produce, subject to an appropriate protective order, documents and communications from July 1, 2014 through April 16, 2021 that describe the design or operation of BCBSM's claims processing systems, as they applied to Tiara Yachts.

10. Produce all documents, including internal BCBSM communications, involving BCBSM's internal investigation into its claims processing system(s) that BCBSM used to process Tiara Yachts' and the Plan's Claims, including the communications and documents shared or generated by the BCBSM "workgroup" (or any other established BCBSM committees, action teams, or groups of individuals) who identified at least 201 BCBSM customers impacted by the NASCO flip logic system and/or the "Non Par Pay Sub Blue Card Claims" issues as discussed in **Exhibit A** and **Exhibit C to Complaint**, (ECF No. 1-2, PageID.26-29; 1-4, PageID.41-43).

RESPONSE: BCBSM objects to this request because courts routinely hold that document requests seeking "all documents relating to" a topic, or other similar formulations like the one here, are inherently overbroad. *See, e.g.*, *Donnelly v. Arringdon Dev., Inc.*, 2005 WL 8167556 (M.D.N.C. Nov. 8, 2025) ("it has been held that documents requests seeking 'any and all' documents 'relating to' are overly broad"); *see also Martin v. Trott Law, P.C.*, 2016 WL 9450599, at *5 (E.D. Mich. Dec. 22, 2016). Among other problems, such requests fail to satisfy the directive in FRCP 34(b)(1)(A) that every document request "must describe with reasonable particularity each item or category of items to be inspected." *Donnelly*, 2005 WL 8167556, at *1.

BCBSM also objects because the investigations described in this request are not relevant to Tiara Yachts' claims to the extent they did not apply directly to Tiara Yachts. *See, e.g.*, *Roe v. Univ. of Cincinnati*, 2025 WL 1696974, at *4 (S.D. Ohio June 17, 2025) ("Neither UC's methodology for investigating separate claims of sexual misconduct in general nor the Department Education's investigations into UC *over the previous decade* appear to have any proportional bearing on Plaintiffs' theory of liability"). BCBSM further objects because this request encompasses documents that are protected by the attorney-client privilege, work-product doctrine, and/or other privileges and protections.

Subject to and without waiving this objection, BCBSM agrees to search for and produce, subject to an appropriate protective order, documents and communications that are responsive to this request to the extent they relate directly to Tiara Yachts.

11. Produce all documents, including internal BCBSM communications and cost/benefit analysis, about the implementation of the NASCO flip logic system for out-of-state or non-participating provider ("non-par") claims, that BCBSM used to process Tiara Yachts' and/or the Plan's Claims.

RESPONSE: BCBSM objects to this request because courts routinely hold that document requests seeking "all documents relating to" a topic, or other similar formulations like the one here, are inherently overbroad. *See, e.g.*, *Donnelly v. Arringdon Dev., Inc.*, 2005 WL 8167556 (M.D.N.C. Nov. 8, 2025) ("it has been held that documents requests seeking 'any and all' documents 'relating to' are overly broad"); *see also Martin v. Trott Law, P.C.*, 2016 WL 9450599, at *5 (E.D. Mich. Dec. 22, 2016). Among other problems, such requests fail to satisfy the directive in FRCP 34(b)(1)(A) that every document request "must describe with reasonable particularity each item or category of items to be inspected." *Donnelly*, 2005 WL 8167556, at *1.

BCBSM further objects because this request seeks "all documents" related to an event from 30 years ago. Given the stated timeframe, a significant portion of the documents requested, to the extent they still exist, would not be stored electronically and would require BCBSM to search through numerous boxes of paper files that may or may not contain responsive information. Likewise, a significant portion of potentially responsive documents from the relevant timeframe that are stored electronically, to the extent they have not been deleted pursuant to ordinary data-storage practices, are likely to be archived or stored in other formats that would require complete data restoration, particularly with respect to documents dated before 2014.

BCBSM objects further because the undefined phrase "cost/benefit analysis" is vague and ambiguous. BCBSM objects further because the "implementation" of any aspect of its claims processing system would be irrelevant to the extent it does not apply to Tiara Yachts. BCBSM objects further to the extent this request seeks documents or information that are protected from disclosure by the attorney-client privilege or work-product doctrine.

12. Produce all documents, including internal BCBSM communications and cost/benefit analysis, about any changes BCBSM made between 1997 and present to the design or operation of its claims processing system(s), including its NASCO flip logic system for out of-state or non-

participating provider ("non-par") claims, that BCBSM used to process Tiara Yachts' and/or the Plan's Claims.

RESPONSE: BCBSM objects to this request because courts routinely hold that document requests seeking "all documents relating to" a topic, or other similar formulations like the one here, are inherently overbroad. *See, e.g.*, *Donnelly v. Arringdon Dev., Inc.*, 2005 WL 8167556 (M.D.N.C. Nov. 8, 2025) ("it has been held that documents requests seeking 'any and all' documents 'relating to' are overly broad"); *see also Martin v. Trott Law, P.C.*, 2016 WL 9450599, at *5 (E.D. Mich. Dec. 22, 2016). Among other problems, such requests fail to satisfy the directive in FRCP 34(b)(1)(A) that every document request "must describe with reasonable particularity each item or category of items to be inspected." *Donnelly*, 2005 WL 8167556, at *1. BCBSM also objects to the use of the undefined phrase "cost/benefit analysis" on the basis that it is vague and ambiguous.

BCBSM objects further to this request as vastly overbroad, unduly burdensome, harassing, and not proportional to the needs of the case because it seeks "all documents" from the last 30 years regarding changes to BCBSM's claims processing systems, without any limitation connecting the information sought to the claims and defenses in this case. Given the stated timeframe, a significant portion of the documents requested, to the extent any still exist, are not stored electronically and would require BCBSM to search through numerous boxes of paper files that may or may not contain responsive information. Likewise, a significant portion of potentially responsive documents stored electronically from this timeframe, to the extent they have not been deleted pursuant to ordinary data-storage practices, are likely to be archived or stored in other formats that would require complete data restoration, particularly with respect to documents dated before 2014. BCBSM also objects to the extent this request seeks documents and information related to "any changes" over the past 30 years to BCBSM's extremely complex claims processing systems, regardless of whether those changes would have applied to Tiara Yachts, as such documents and information are not relevant under FRCP 26(b).

Subject to and without waiving its objections, BCBSM agrees to produce documents sufficient to describe the aspects of its claims processing system that applied to Tiara Yachts from July 1, 2014 through April 16, 2021, as well as any communications discussing the application of its claims processing systems to Tiara Yachts during the same timeframe.

13. Produce all documents and communications reflecting BCBSM's disclosure of the implications of its NASCO flip logic system or "Non Par Pay Sub Blue Card Claims" issues as discussed in **Exhibit C** to Tiara Yachts' Complaint (ECF No. 1-4, PageID.41-43), to BCBSM's self-funded ASC customers, including Tiara Yachts.

RESPONSE: BCBSM objects to this request to the extent it seeks communications between BCBSM and any customer other than Tiara Yachts, as none of those communications are relevant to any of the claims or defenses in this case.

Subject to and without waiving this objection, BCBSM agrees to search for and produce any communications between BCBSM and Tiara Yachts with respect to the issues described in this document request.

14. Produce all documents in your possession that you have identified in your Rule 26(a)(1) initial disclosures, including but not limited to the following records (which are repeated here for purposes of ease of reference): all of Tiara Yachts' electronic Claims Data; the full and final settlement and release of claims that Tiara Yachts executed; all documents that comprise of the ASC, including all schedules, renewals, and any amendments; all ASC Billing Reports for Tiara Yachts; all monthly invoices sent to Tiara Yachts; all annual and quarterly settlements concerning Tiara Yachts and its Plan; all documents describing BCBSM's policies and practices for claims processing and payment; all documents describing BCBSM's Payment Integrity Services, including its Shared Savings Program; all disclosures of the Shared Savings Program; and any documents produced by any party or non-party that BCBSM has in its possession related to this matter.

RESPONSE: BCBSM objects to this request to the extent it misrepresents the document categories described in BCBSM's initial disclosures, particularly those that request "all documents describing . . . ;" "all disclosures . . . ;" and similar language. BCBSM's initial disclosures do not use this description.

BCBSM agrees to produce any documents identified in its initial disclosures that are within its possession, custody, or control. See the documents produced with these responses as BCBSM-Tiara 000001 to BCBSM-Tiara 000268.

15. Produce a copy of the fee schedule or negotiated agreement (or similar document) that BCBSM had with each Provider that submitted Claims related to Tiara Yachts and its Plan, for the Contractual Periods.

RESPONSE: BCBSM objects to this request to the extent it includes an improper time limitation. BCBSM has agreed to produce Tiara Yachts' claims data dating back to 2014, as producing claims data from before 2014 would be an undue burden on BCBSM and would be disproportionate to the needs of this case. Given that this is the relevant and proportionate time period for the production of Tiara Yachts' claims data, BCBSM objects to producing information related to claims processing from before 2014. BCBSM also objects to this request to the extent it seeks documents or information from outside the time limitations applicable to Tiara Yachts' claims. *See, e.g.*, *Arenas v. Unified Sch. Dist.*, 2016 WL 6071802, at *6 (D. Kan. Oct. 17, 2016) (limiting testimony to limitations period "to avoid unnecessary burden and expense"); *see also Greene v. Sears Prot. Co.*, 2017 WL 1134484, at *5 (N.D. Ill. Mar. 27, 2017) ("This Court agrees . . . that plaintiffs have provided no compelling argument that discovery going back" before the statute of limitations period "is warranted"); *Wilson v. MRO Corp.*, 2017 WL 561333, at *2 (S.D. W. Va. Feb. 10, 2017) (limiting discovery "[i]n view of the applicable limitations period for Plaintiffs' claims, and considering that the scope of discovery must be proportional to the needs of the case").

Subject to and without waiving this objection, and subject to an appropriate protective order, BCBSM agrees to search for and produce the fee schedules described in this request from

July 1, 2014 through December 31, 2018. This production, however, will require BCBSM first to compile mutually agreeable claims data, subject to the objections and limitations described in response to RFP No. 1.

16. Produce all documents and communications evidencing any Provider Investigation Request, as that term may be used by the Blue Cross Blue Shield Association ("BCBSA") Inter-Plan Programs Manual, that BCBSM sent to any Par/Host Plan, as that term is commonly used by entities apart of the BCBSA, for any Provider that provided services to an Enrollee of Tiara Yachts' Plan.

RESPONSE: BCBSM objects to this request because any internal investigations it conducted with respect to any specific providers are not relevant to Tiara Yachts' claims that BCBSM breached fiduciary obligations to Tiara Yachts. *See, e.g.*, *Roe v. Univ. of Cincinnati*, 2025 WL 1696974, at *4 (S.D. Ohio June 17, 2025) ("Neither UC's methodology for investigating separate claims of sexual misconduct in general nor the Department Education's investigations into UC *over the previous decade* appear to have any proportional bearing on Plaintiffs' theory of liability"). BCBSM also objects to this request to the extent it seeks information protected from disclosure by the attorney-client privilege, the work product doctrine, and/or any other privilege or protection.

BCBSM further objects to this request to the extent it does not include any time limitations. BCBSM has agreed to produce Tiara Yachts' claims data dating back to 2014, as producing claims data from before 2014 would be an undue burden on BCBSM and would be disproportionate to the needs of this case. Given that this is the relevant and proportionate time period for the production of Tiara Yachts' claims data, BCBSM objects to producing claims-processing information from before 2014. BCBSM also objects to this request to the extent it seeks documents or information from outside the time limitations applicable to Tiara Yachts' claims. *See, e.g.*, *Arenas v. Unified Sch. Dist.*, 2016 WL 6071802, at *6 (D. Kan. Oct. 17, 2016) (limiting testimony to limitations period "to avoid unnecessary burden and expense"); *see also Greene v. Sears Prot. Co.*, 2017 WL 1134484, at *5 (N.D. Ill. Mar. 27, 2017) ("This Court agrees . . . that plaintiffs have provided no compelling argument that discovery going back" before the statute of limitations period "is warranted"); *Wilson v. MRO Corp.*, 2017 WL 561333, at *2 (S.D. W. Va. Feb. 10, 2017) (limiting discovery "[i]n view of the applicable limitations period for Plaintiffs' claims, and considering that the scope of discovery must be proportional to the needs of the case").

17. Produce all documents and communications from January 1, 2017 to present between every member and employee, current and former, of the account management team or "cross functional stakeholders" who discussed or communicated about the concerns or investigation into the BCBSM system issues outlined in Robert Hopper's Sept. 12, 2017, email bates stamped BCBSM-Comau 00029292 and attached as **Exhibit A** to Tiara Yachts' Complaint (ECF No. 1-2, PageID.26-28).

RESPONSE: BCBSM objects to this request to the extent it seeks documents and information as to internal investigations involving ASC customers other than Tiara Yachts, as such documents and information would not be relevant to any claims or defenses at issue in this case. *See, e.g.*, *Roe v. Univ. of Cincinnati*, 2025 WL 1696974, at *4 (S.D. Ohio June 17, 2025) ("Neither UC's methodology for investigating separate claims of sexual misconduct in general nor the Department Education's investigations into UC *over the previous decade* appear to have any proportional bearing on Plaintiffs' theory of liability"). BCBSM also objects to this request to the extent it seeks information protected from disclosure by the attorney-client privilege, the work product doctrine, and/or any other privilege or protection.

BCBSM objects further to the use of the undefined term "concerns" as vague and ambiguous.

Subject to and without waiving its objections, and subject to an appropriate protective order, BCBSM agrees to search for and produce documents and communications from the group described in this request that discuss or involve claims made in connection with Tiara Yachts, the ASC, or the Plan.

18. Produce all documents and communications from January 1, 2017 to present regarding the "scrip for account management team to follow in their conversation with groups" as referenced in the Sept. 12, 2017, E-mail from Robert Hopper, bates stamped BCBSM Comau 00029292, **Exhibit A** to Tiara Yachts' Complaint (ECF No. 1-2, PageID.26-28).

RESPONSE: BCBSM objects because the internal training and instructions it provides to its employees regarding BCBSM's claims processing systems are neither relevant nor proportionate to Tiara Yachts' claims. *See, e.g.*, *Roe v. Univ. of Cincinnati*, 2025 WL 1696974, at *4 (S.D. Ohio June 17, 2025) ("Neither UC's methodology for investigating separate claims of sexual misconduct in general nor the Department Education's investigations into UC *over the previous decade* appear to have any proportional bearing on Plaintiffs' theory of liability"). Regardless of how BCBSM trains its employees, it either breached fiduciary duties to Tiara Yachts or it did not (it did not). Internal training will not make either fact more or less likely. BCBSM further objects to the extent this request seeks documents or communications that are protected from disclosure by the attorney-client privilege or work-product doctrine.

Subject to and without waiving these objections, and subject to an appropriate protective order, BCBSM agrees to search for and produce communications to Tiara Yachts regarding the issues discussed in Exhibit A to Tiara Yachts' Complaint.

19. Produce all documents and communications evidencing the design and operation of BCBSM's Payment Integrity Services (including but not limited to those services identified in the Payment Integrity: Ensuring the Accuracy of Claims Presentation attached as **Exhibit F** to Complaint, ECF No. 1-7, PageID.62-72) which BCBSM employed on behalf of Tiara Yachts and its Plan.

RESPONSE: BCBSM objects to this request to the extent it does not include any time limitations. BCBSM has agreed to produce Tiara Yachts' claims data dating back to 2014, as producing claims data from before 2014 would be an undue burden on BCBSM and would be disproportionate to the needs of this case. Given that this is the relevant and proportionate time period for the production of Tiara Yachts' claims data, BCBSM objects to producing information related to its claims processing systems from before 2014. BCBSM also objects to this request to the extent it seeks documents or information from outside the time limitations applicable to Tiara Yachts' claims. *See, e.g.*, *Arenas v. Unified Sch. Dist.*, 2016 WL 6071802, at *6 (D. Kan. Oct. 17, 2016) (limiting testimony to limitations period "to avoid unnecessary burden and expense"); *see also Greene v. Sears Prot. Co.*, 2017 WL 1134484, at *5 (N.D. Ill. Mar. 27, 2017) ("This Court agrees . . . that plaintiffs have provided no compelling argument that discovery going back" before the statute of limitations period "is warranted"); *Wilson v. MRO Corp.*, 2017 WL 561333, at *2 (S.D. W. Va. Feb. 10, 2017) (limiting discovery "[i]n view of the applicable limitations period for Plaintiffs' claims, and considering that the scope of discovery must be proportional to the needs of the case").

BCBSM objects to this request as vastly overbroad, unduly burdensome, harassing, and not proportional to the needs of the case because it purports to request virtually unlimited documentation and information regarding BCBSM's proprietary technology, without any limitation connecting the information sought to the claims and defenses in this case.

Subject to and without waiving its objections, and subject to an appropriate protective order, BCBSM agrees to search for and produce documents in its possession, custody, or control that are sufficient to describe BCBSM's Payment Integrity Services applicable to Tiara Yachts from July 1, 2014 through April 16, 2021.

20. Produce all documents and communications, including internal communications, regarding BCBSM's decision to implement its Shared Savings Program ("SSP") with respect to its self-funded customers.

RESPONSE: BCBSM objects to this request as vastly overbroad, unduly burdensome, harassing, and not proportional to the needs of the case because it purports to request virtually unlimited documentation and information regarding the SSP, without any limitation connecting the information sought to the claims and defenses in this case. Courts routinely hold that document requests seeking "all documents relating to," a topic, or similar formulations like the one here, are inherently overbroad. *See, e.g.*, *Donnelly v. Arringdon Dev., Inc.*, 2005 WL 8167556 (M.D.N.C. Nov. 8, 2025) ("it has been held that documents requests seeking 'any and all' documents 'relating to' are overly broad"); *see also Martin v. Trott Law, P.C.*, 2016 WL 9450599, at *5 (E.D. Mich. Dec. 22, 2016). Among other problems, such requests fail to satisfy the directive in FRCP 34(b)(1)(A) that every document request "must describe with reasonable particularity each item or category of items to be inspected." *Donnelly*, 2005 WL 8167556, at *1. It would not be proportional to the needs of this case to require BCBSM to search through countless databases to locate every document in its possession related to the categories of documents described in this request.

BCBSM objects further because BCBSM's decision to implement the Shared Savings Program is not relevant here. While the functionality of the portions of the Shared Savings Program that applied to Tiara Yachts may be relevant, the general decision-making process that resulted in the Program being implemented at BCBSM is not probative as to whether BCBSM breached any fiduciary duty to Tiara Yachts. *See Wilson v. Plastic Omnium Auto Exteriors, L.L.C.*, 2014 WL 5460634, at *2 (E.D. Mich. Oct. 27, 2014) (noting that to be discoverable, information must have "some probative value in proving or disproving a claim or defense"). Regardless of how or why

BCBSM implemented the Shared Savings Program, it either breached fiduciary duties to Tiara Yachts or it did not (it did not).

BCBSM further objects to this request because Tiara Yachts' SSP claim is limited, and extensive discovery on the SSP is not proportionate to the needs of this case. BCBSM further objects to the extent this request encompasses documents that are protected by the attorney-client privilege, work-product doctrine, and/or other privileges and protections.

Subject to and without waiving its objections, and subject to an appropriate protective order, BCBSM agrees to search for and produce documents sufficient to describe any aspects of the Shared Savings Program that applied to Tiara Yachts or its Plan through April 16, 2021.

21. Produce all documents and communications during the Contractual Period among BCBSM employees with account responsibility for Tiara Yachts and its Plan concerning the SSP as applied to Tiara Yachts, including but not limited to the scope of services, fee retention, disclosures to Tiara Yachts.

RESPONSE: BCBSM objects to this request. Courts routinely hold that document requests seeking "all documents relating to," a topic, or similar formulations like the one here, are inherently overbroad. *See, e.g.*, *Donnelly v. Arringdon Dev., Inc.*, 2005 WL 8167556 (M.D.N.C. Nov. 8, 2025) ("it has been held that documents requests seeking 'any and all' documents 'relating to' are overly broad"); *see also Martin v. Trott Law, P.C.*, 2016 WL 9450599, at *5 (E.D. Mich. Dec. 22, 2016). Among other problems, such requests fail to satisfy the directive in FRCP 34(b)(1)(A) that every document request "must describe with reasonable particularity each item or category of items to be inspected." *Donnelly*, 2005 WL 8167556, at *1.

BCBSM objects further to the extent this request is overbroad and would impose an undue burden on BCBSM. If, for example, any subrogation related to Tiara Yachts or its plan involved a lawsuit, the production of every document related to the lawsuit would be overbroad and disproportionate to the needs of this case.

Subject to and without waiving these objections, and subject to an appropriate protective order, BCBSM agrees to search for and produce communications by BCBSM employees with account responsibilities for Tiara Yachts and its Plan concerning the SSP as applied to Tiara Yachts.

22. Produce all documents and communications from the inception of BCBSM's SSP showing BCBSM's calculation of any alleged cost savings or "avoided costs" attributed to its Payment Integrity Services or SSP activity for Tiara Yachts, including the methodology used, the claim populations included, and the portion retained by BCBSM.

RESPONSE: BCBSM objects to this request. Courts routinely hold that document requests seeking "all documents relating to," a topic, or similar formulations like the one here, are inherently overbroad. *See, e.g.*, *Donnelly v. Arringdon Dev., Inc.*, 2005 WL 8167556 (M.D.N.C. Nov. 8, 2025) ("it has been held that documents requests seeking 'any and all' documents 'relating to' are overly broad"); *see also Martin v. Trott Law, P.C.*, 2016 WL 9450599, at *5 (E.D. Mich. Dec. 22, 2016). Among other problems, such requests fail to satisfy the directive in FRCP 34(b)(1)(A) that every document request "must describe with reasonable particularity each item or category of items to be inspected." *Donnelly*, 2005 WL 8167556, at *1.

Subject to and without waiving this objection, and subject to an appropriate protective order, BCBSM agrees to search for and produce documents sufficient to show any SSP calculations related to Tiara Yachts.

Dated: November 24, 2025

Respectfully submitted,

ALLEN OVERY SHEARMAN STERLING US LLP

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Attorneys for Defendant

EXHIBIT D

Jason M. Schneider

From: Jason M. Schneider
Sent: Sunday, August 23, 2026 9:56 AM
To: Jason M. Schneider
Subject: FW: Tiara (Settlement Communication - Subject to FRE 408)

Jason M. Schneider
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From: Rynders, Perrin <prynders@varnumlaw.com>
Sent: Wednesday, August 19, 2026 10:54 PM
To: Mark J. Zausmer <MZausmer@zausmer.com>; Phelps, Aaron M. <amphelps@varnumlaw.com>
Subject: RE: Tiara (Settlement Communication - Subject to FRE 408)

[EXTERNAL EMAIL]
I was clear in my e-mail this morning that the upcoming depositions are not limited to flip logic, even if that claim were settled (which at this point there has been no indication by BCBSM that is interested in settling). The witnesses are expected to have relevant information about BCBSM's tendency to overpay claims using the plan assets of its customers. Flip logic is an example of that happening, but not the only example, so there's much to explore with the witnesses next week. Of course, I don't need to share my examination outlines with you.

From: Mark J. Zausmer <MZausmer@zausmer.com>
Sent: Wednesday, August 19, 2026 8:54 PM
To: Phelps, Aaron M. <amphelps@varnumlaw.com>; Rynders, Perrin <prynders@varnumlaw.com>
Subject: Tiara (Settlement Communication - Subject to FRE 408)

Aaron, I was surprised to get your email and it is mistaken on the settlement issue. I did not initiate the discussion regarding settlement. This was an issue that was raised by the judge, not me. While you were not there, Perrin clearly stated on the record that the SSP and Flip Logic claims were limited in totality to $21,000. At the judge's urging Perrin and I agreed to recommend to our respective clients a settlement of these aspects of the case for $21,000. The upcoming depositions of at least 2 of the 3 witnesses (Diane Malmgren and Robert Hopper) appear to be limited Flip Logic issues. Therefore, until we have a hearing on an anticipated motion for protective order and/or a discussion with the judge on the settlement issue, we do not believe those two depositions can take place. It is our plan to have a call with the magistrate as soon as possible to address these issues. I believe the judge was clear that he expected that the SSP and Flip Logic portions of the case would be settled. The recommendation I made on the record to Blue Cross has been accepted. I am surprised and disappointed that the recommendation by Perrin (assuming he made this recommendation) was not accepted. I believe this will disappoint the magistrate and affect his view of discovery going forward.

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