

IN THE SUPREME COURT OF NEVADA

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UNITE HERE HEALTH, a multi-employer health and welfare ERISA Section 3(37); and NEVADA HEALTH SOLUTIONS, LLC, a Nevada limited liability company,

Electronically Filed  
Jun 14 2021 01:43 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Appellants,

vs.

STATE OF NEVADA EX REL. COMMISSIONER OF INSURANCE,  
BARBARA D. RICHARDSON, IN HER OFFICIAL CAPACITY AS  
STATUTORY RECEIVER FOR DELINQUENT DOMESTIC INSURER,  
NEVADA HEALTH CO-OP; and GREENBERG TRAUERIG, LLP,

Respondents.

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District Court Case No. A-15-725244-C, Department XXI

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**APPELLANTS' APPENDIX - VOLUME 11 OF 13**

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SOLUTIONS, LLC

**June 14, 2021**

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**APPELLANTS' APPENDIX - VOLUME 11 OF 13**

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**APPELLANTS' APPENDIX**

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**TAB 47**

**TAB 47**

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Pruitt, Mathew, ESQ

05/03/2018 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment

Stipulation and Order to Continue the Motion to Dismiss Alternatively for More Definite Statement and the Joinder Thereto

05/16/2018 Order Granting Motion ▼

Order Granting Motion - OGM (CIV)

Comment

Order Granting Motion for Approval of Protective Order and Motion for Approval of ESI Protocol

05/16/2018 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment

Notice of Entry of Order Granting Motion for Approval of Protective Order and Motion for Approval of ESI Protocol

05/16/2018 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment

Stipulation and Order to Continue the Hearing Date and Set Briefing Schedule On Plaintiff's Motion for Reconsideration

05/16/2018 Notice of Entry of Stipulation and Order ▼

Notice of Entry of Stipulation and Order - NTSO (CIV)

Comment

Notice of Entry of Stipulation and Order to Continue the Hearing Date and Set Briefing Schedule On Plaintiff's Motion for Reconsideration

05/22/2018 Minute Order ▼

Minutes - Minute Order

Judicial Officer

Delaney, Kathleen E.

Hearing Time

3:00 AM

Result

Minute Order - No Hearing Held

Comment

Minute Order Re-Setting Hearing

05/29/2018 Minute Order ▼

Minute Order

Judicial Officer

Alf, Nancy

Hearing Time

3:00 AM

Result

Minute Order - No Hearing Held

06/01/2018 Supplement to Opposition ▼

Supplement to Opposition - STO (CIV)

Comment

Milliman's Supplemental Brief In Opposition to Plaintiff's Motion for Reconsideration

06/05/2018 Motion for Summary Judgment ▼

Motion for Summary Judgment - MSJD (CIV)

Comment

Motion For Summary Judgment And Declaratory Relief

06/08/2018 Settlement Conference ▼

Settlement Conference

Judicial Officer

Alf, Nancy

Hearing Time

10:00 AM

Result

Not Settled

06/12/2018 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment

Stipulation and Proposed Order to Continue the Motion to Dismiss, Alternative for More Definite State, and the Joinder Thereto

06/22/2018 Opposition ▼

Opposition - OPPS (CIV)

Comment

**Plaintiff's Opposition to Insuremonkey, Inc and Alex Rivlin's Motion for Summary Judgment and Declaratory Relief**

06/29/2018 Reply in Support ▼

Reply in Support - RIS (CIV)

Comment

**Plaintiff's Sur-Reply in Support of Motion for Reconsideration**

07/02/2018 Case Reassigned to Department 16 ▼

Comment

**Reassigned From Judge Delaney - Dept 25**

07/03/2018 Notice of Rescheduling of Hearing ▼

Notice of Rescheduling of Hearing - NORH (CIV)

Comment

**Notice of Rescheduling Hearing**

07/10/2018 Reply to Opposition ▼

Reply to Opposition - ROPP (CIV)

Comment

**Reply to Plaintiff's Opposition to Insuremonkey, Inc. and Alex Rivin's Motion for Summary Judgment and Declaratory Relief**

07/12/2018 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment

**Stipulation and Order to Continue the Motion to Dismiss, Alternatively for more Definite Statement and the Joinder Thereto**

07/12/2018 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment

**Stipulation and Order to Continue Hearing on Defendants Insuremonkey, Inc and Alex Rivlin's Motion for Summary Judgment and Declaratory Relief**

07/17/2018 Motion to Amend Complaint ▼

Motion to Amend Complaint - MAMC (CIV)

<p>Comment <b>Plaintiff's Motion to Amend Complaint</b></p>
<p>07/18/2018 Order ▼</p> <p>Order - ORDR (CIV)</p> <p>Comment <b>Administrative Order</b></p>
<p>07/18/2018 Notice of Department Reassignment ▼</p> <p>Notice of Department Reassignment - NODR (CIV)</p> <p>Comment <b>Notice of Department Reassignment</b></p>
<p>07/18/2018 Notice of Department Reassignment ▼</p> <p>Notice of Department Reassignment - NODR (CIV)</p> <p>Comment <b>Notice of Department Reassignment</b></p>
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<p>07/23/2018 Errata ▼</p> <p>Errata - ERR (CIV)</p> <p>Comment <b>Errata To Defendants' Reply To Plaintiff's Opposition To InsureMonkey, Inc. And Alex Rivlin's Motion For Summary Judgment And Declaratory Relief</b></p>
<p>07/23/2018 Notice of Entry of Order ▼</p> <p>Notice of Entry of Order - NEOJ (CIV)</p> <p>Comment <b>Notice Of Entry Of Order</b></p>
<p>07/24/2018 Motion For Reconsideration ▼</p> <p>Judicial Officer <b>Delaney, Kathleen E.</b></p> <p>Hearing Time <b>11:00 AM</b></p> <p>Cancel Reason</p>

Vacated - On in Error

Comment

Plaintiff's Motion for Reconsideration

07/25/2018 Motion for Summary Judgment ▼

Minutes - Motion for Summary Judgment

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Denied Without Prejudice

Comment

Defendants' Motion for Summary Judgment and Declaratory Relief

Parties Present ▲

Plaintiff

Attorney: Ferrario, Mark E., ESQ

Attorney: Prunty, Donald L.

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Pruitt, Mathew, ESQ

08/08/2018 Order Denying Motion ▼

Order Denying Motion - ODM (CIV)

Comment

Order Denying Plaintiff's Motion for Reconsideration

08/08/2018 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment

Notice of Entry of Order Denying Plaintiff's Motin for Reconsideration

08/08/2018 Notice of Change of Firm Name ▼

Notice of Change of Firm Name - NCFN (CIV)

Comment

Notice Of Change Of Firm Name

08/15/2018 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment

Stipulation and Order to Withdraw Kathleen Silver, Bobbette Bond, Tom Zumtobel, Pam Egan, Basil Dibsie and Linda Mattoon's Motion to Dismiss, Alternatively For More Definite Statement Without Prejudice

08/16/2018 Notice of Entry ▼

Notice of Entry - NEO (CIV)

Comment

Notice of Entry of Order

08/21/2018 Motion to Amend Complaint ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Motion Granted

Comment

Plaintiff's Motion to Amend Complaint

08/21/2018 Status Check ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Matter Heard

Comment

Status Check: 16.1 Case Conference

08/21/2018 All Pending Motions ▼

Minutes - All Pending Motions

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Matter Heard

Parties Present ▲

Plaintiff

Attorney: Ferrario, Mark E., ESQ

Attorney: Prunty, Donald L.

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Pruitt, Mathew, ESQ

08/27/2018 Amended Order Setting Jury Trial ▼

Amended Order Setting Jury Trial - ARJT (CIV)

Comment

Amended Order Setting Jury Trial

09/05/2018 Motion to Dismiss ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Cancel Reason

Vacated - per Attorney or Pro Per

Comment

Kathleen Silver, Bobbette Bond, Tom Zumtobel, Pam Egan, Basil Dibsie and Linda Mattoon's Motion to Dismiss, Alternatively for More Definite Statement

09/05/2018 Joinder ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Cancel Reason

Vacated - per Attorney or Pro Per

<p>Comment</p> <p><b>Defendants Insuremonkey Inc and Alex Rivlin's Limited Joinder to Kathleen Silver, Bobbette Bond, Tom Zumtobel, Pam Egan, Basil Dibsie and Linda Mattoon's Motion to Dismiss, Alternatively for More Definite Statement</b></p>
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<p>09/21/2018 Notice of Entry of Order ▼</p> <p>Notice of Entry of Order - NEOJ (CIV)</p> <p>Comment</p> <p><b>Notice of Entry of Order Granting Motion to Amend Complaint</b></p>
<p>09/24/2018 Summons Electronically Issued - Service Pending ▼</p> <p>Comment</p> <p><b>Summons - Unite Here Health</b></p>
<p>09/24/2018 Amended Complaint ▼</p> <p>Amended Complaint - ACOM (CIV)</p> <p>Comment</p> <p><b>Amended Complaint</b></p>
<p>09/24/2018 Notice of Change of Address ▼</p> <p>Notice of Change of Address - NCOA (CIV)</p> <p>Comment</p> <p><b>Notice of Change of Firm Address</b></p>
<p>10/04/2018 Ex Parte Motion ▼</p> <p>Ex Parte Motion - EXMT (CIV)</p> <p>Comment</p> <p><b>Ex Parte Motion for Removal from Service List</b></p>
<p>10/05/2018 Motion to Dismiss ▼</p> <p>Motion to Dismiss - MDSM (CIV)</p> <p>Comment</p> <p><b>Kathleen Silver, Bobbette Bond, Tom Zumtobel, Pam Egan, Basil Dibsie And Linda Mattoon s Motion To Dismiss, Alternatively For More Definite Statement</b></p>
<p>10/15/2018 Joinder To Motion ▼</p>

Joinder To Motion - JMOT (CIV)

Comment

Defendants InsureMonkey, Inc. And Alex Rivlin's Joinder to Kathleen Silver, Bobbette Bond, Tom Zumtobel, Pam Egan, Basil Dibsie And Linda Mattoon's Motion To Dismiss, Alternatively For More Definite Statement

10/16/2018 Answer to Amended Complaint ▼

Answer - ANS (CIV)

Comment

Millennium Consulting Services, LLC's Answer to Amended Complaint

10/22/2018 Answer to Amended Complaint ▼

Answer - ANS (CIV)

Comment

Unite Here Health's Answer to Amended Complaint

10/22/2018 Initial Appearance Fee Disclosure ▼

Initial Appearance Fee Disclosure - IAFD (CIV)

Comment

Initial Appearance Fee Disclosure

10/22/2018 Opposition to Motion to Dismiss ▼

Opposition - OPPS (CIV)

Comment

Opposition to Kathleen Silver, Bobbette Bond, Tom Zumtobel, Pam Egan, Basil Dibsie, and Linda Mattoon s Motion to Dismiss, Alternatively for More Definite Statement

10/23/2018 Status Check ▼

Minutes - Status Check

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Matter Continued

Comment

Status Check re discovery issues/depositions

Parties Present ▲

Plaintiff

Attorney: Prunty, Donald L.

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Nakamura Ochoa, Angela T.

10/25/2018 Opposition ▼

Opposition - OPPS (CIV)

Comment

Opposition to Defendants Insuremonkey, Inc. and Alex Rivlin's Joinder to Kathleen Silver, Bobbette Bond, Tom Zumtobel, Pam Egan, Basil Dibsie and Linda Mattoon s Motion to Dismiss Alternatively for More Definite Statement

10/30/2018 Reply in Support ▼

Reply in Support - RIS (CIV)

Comment

Kathleen Silver, Bobbette Bond, Tom Zumtobel, Pam Egan, Basil Dibsie And Linda Mattoon s Reply In Support Of Motion To Dismiss First Amended Complaint

10/31/2018 Notice of Hearing ▼

Notice of Hearing - NOH (CIV)

Comment

Notice of Hearing For a Status Check Re: Deposition

11/02/2018 Status Check ▼

Minutes - Status Check

Minutes - Status Check

Judicial Officer

Williams, Timothy C.

Hearing Time

9:30 AM

Result

Matter Heard

Comment

Status Check re Hearing re Depositions

Parties Present ▲

Plaintiff

Attorney: Ferrario, Mark E., ESQ

Attorney: Prunty, Donald L.

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Nakamura Ochoa, Angela T.

11/06/2018 Motion to Dismiss ▼

Judicial Officer  
 Williams, Timothy C.

Hearing Time  
 9:00 AM

Result  
 Motion Denied

Comment  
 Kathleen Silver, Bobbette Bond, Tom Zumtobel, Pam Egan, Basil Dibsie and Linda Mattoon's Motion to Dismiss Alternatively for More Definite Statement

11/06/2018 Joinder ▼

Judicial Officer  
 Williams, Timothy C.

Hearing Time  
 9:00 AM

Result  
 Denied

Comment  
 Defendants Insuremonkey Inc and Alex Rivlin's Joinder to Kathleen Silver Bobbette Bond, Tome Zumtobel, Pamegan, Basil Dibsie and Linda Mattoon's Motion to Dismiss Alternatively for More Definite Statement

11/06/2018 All Pending Motions ▼

Minutes - All Pending Motions

Judicial Officer  
 Williams, Timothy C.

Hearing Time  
 9:00 AM

Result  
 Matter Heard

Parties Present ▲  
 Plaintiff  
     Attorney: Swanis, Eric W.

Defendant  
     Attorney: Pruitt, Mathew, ESQ

Defendant  
     Attorney: Pruitt, Mathew, ESQ

11/06/2018 Answer ▼

Answer - ANS (CIV)

<p>Comment                  Defendants Martha Hayes, Dennis T. Larson, and Larson &amp; Company, PC's Answer to Plaintiff's Amended Complaint</p>
<p>12/26/2018 Notice of Rescheduling of Hearing ▼</p> <p>Notice of Rescheduling of Hearing - NORH (CIV)</p> <p>Comment                  Notice of Rescheduling Date for Calendar Call/Pre-Trial Conference</p>
<p>01/31/2019 Association of Counsel ▼</p> <p>Association of Counsel - ASSC (CIV)</p> <p>Comment                  Motion to Associate Counsel</p>
<p>02/14/2019 Motion for Good Faith Settlement ▼</p> <p>Comment                  Joint Motion for Determination of Good Faith Settlement by Plaintiff and Defendant Millennium Consulting Services, LLC on Order Shortening Time</p>
<p>02/14/2019 Motion for Good Faith Settlement ▼</p> <p>Comment                  Joint Motion for Determination of Good Faith Settlement by Plaintiff and Defendant Millennium Consulting Services, LLC on Order Shortening Time</p>
<p>02/14/2019 Redacted Version ▼</p> <p>Redacted Version</p> <p>Comment                  Redacted version of Motion for Good Faith Settlement per Order 5/20/19</p>
<p>02/14/2019 Filed Under Seal ▼</p> <p>Comment                  Exhibit A</p>
<p>02/14/2019 Redacted Version ▼</p> <p>Redacted Version</p> <p>Comment                  Redacted version of Motion for Good Faith Settlement per Order 5/20/19</p>
<p>02/14/2019 Filed Under Seal ▼</p>

Comment  
Exhibit A

02/15/2019 Motion to Seal/Redact Records ▼

Motion to Seal/Redact Records - MSRC (CIV)

Comment  
Plaintiff's Motion to File Confession of Judgment Under Seal

02/19/2019 Answer ▼

Answer - ANS (CIV)

Comment  
Kathleen Silver, Bobbette Bond, Tom Zumtobel, Pam Egan,  
Basil Dibsie and Linda Mattoon's Answer to the First Amended  
Complaint

03/12/2019 Motion to Associate Counsel ▼

Minutes - Motion to Associate Counsel

Judicial Officer  
Williams, Timothy C.

Hearing Time  
9:00 AM

Result  
Motion Granted

Comment  
Motion to Associate Counsel Emma Mata, Esq.

Parties Present ▲

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Wong, Jonathan K.

**Defendant**

Attorney: Wong, Jonathan K.

03/12/2019 Order Admitting to Practice ▼

Order Admitting to Practice - ORAP (CIV)

Comment

Order Admitting to Practice

03/12/2019 Notice ▼

Notice - NOTC (CIV)

Comment

Notice of Entry of Order Admitting to Practice

03/19/2019 Motion for Determination of Good Faith Settlement ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Motion Granted

Comment

Joint Motion for Determination of Good Faith Settlement by Plaintiff and Defendant Millennium Consulting Services, LLC on Order Shortening Time

03/19/2019 Motion for Determination of Good Faith Settlement ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Motion Granted

Comment

Joint Motion for Determination of Good Faith Settlement by Plaintiff and Defendant Millennium Consulting Services, LLC on Order Shortening Time

03/19/2019 Motion to Seal/Redact Records ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result  
Motion Granted

Comment  
Plaintiff's Motion to File Confession of Judgment Under Seal

03/19/2019 All Pending Motions ▼

Minutes - All Pending Motions

Judicial Officer  
Williams, Timothy C.

Hearing Time  
9:00 AM

Result  
Matter Heard

Parties Present ▲

Plaintiff

Attorney: Prunty, Donald L.

Defendant

Attorney: Bragonje, John E.

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Bonham, Suzanna C.

Defendant

Attorney: Garin, Joseph P

03/20/2019 Motion to Seal/Redact Records ▼

Motion to Seal/Redact Records - MSRC (CIV)

Comment

Motion to Seal Settlement Agreement attached as Exhibit "A" to the Settling Parties' "Joint Motion for Determination of Good Faith Settlement by Plaintiff and Defendant Millennium Consulting Services, LLC on Order Shortening Time"

03/27/2019 Clerk's Notice of Hearing ▼

Clerk's Notice of Hearing - CNOG (CIV)

Comment

Notice of Hearing

03/27/2019 Filed Under Seal ▼

Comment

Sealed Exhibit "A" to: The Settling Parties' "Joint Motion for Determination of Good Faith Settlement by Plaintiff and Defendant Millennium Consulting Services, LLC on Order Shortening Time Filed Under Seal Per 03/20/2019 Motion to Seal Settlement Agreement Attached as Exhibit "A" to the Settling Parties' "Joint Motion for Determination of Good Faith Settlement by Plaintiff and Defendant Millennium Consulting Services, LLC on Order Shortening Time

04/08/2019 Order Granting ▼

Order Granting - ORDG (CIV)

Comment

Order Granting Plaintiff's Motion to File Confession of Judgement Under Seal

04/08/2019 Order ▼

Order - ORDR (CIV)

Comment

Order Approving Joint Motion for Determination of Good Faith Settlement by Plaintiff and Defendant Millennium Consulting Services, LLC on Order Shortening Time

04/10/2019 Motion to Extend Discovery ▼

Motion to Extend Discovery - MTED (CIV)

Comment  
 Motion to Extned Discovery Deadlines on Order Shortening Time  
 (First Request)

04/10/2019 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment  
 Notice of Entry of Order Approving Joint Motion for  
 Determination of Good Faith Settlement by Plaintiff and  
 Defendant Millennium Consulting Services, LLC on Order  
 Shortening Time

04/10/2019 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment  
 Notice of Entry of Order Granting Plaintiff's Motion to File  
 Confession of Judgment Under Seal

04/17/2019 Opposition to Motion ▼

Opposition to Motion - OPPM (CIV)

Comment  
 Kathleen Silver, Bobbette Bond, Tom Zumtobel, Pam Egan,  
 Basil Dibsie And Linda Mattoon s Opposition To The Motion To  
 Extend Discovery Deadlines On Order Shortening Time (First  
 Request)/Counter-motion To Extend Discovery Deadlines

04/17/2019 Opposition to Motion ▼

Opposition to Motion - OPPM (CIV)

Comment  
 Unite Here Health and Nevada Health Solutions, LLC's  
 Opposition to Plaintiff's Motion to Extend Discovery Deadlines on  
 Order Shortening Time (First Request)/Counter-motion to Extend  
 All Remaining Deadlines and Trial

04/19/2019 Joinder ▼

Joinder - JOIN (CIV)

Comment  
 Defendants Insuremonkey s And Alex Rivlin s Joinder To Unite  
 Here Health And Nevada Health Solutions, LLC s Opposition To  
 Plaintiff s Motion To Extend Discovery Deadlines On Order  
 Shortening Time (First Request)/Counter-motion To Extend All  
 Remaining Deadlines And Trial

04/23/2019 Joinder to Opposition to Motion ▼

Joinder to Opposition to Motion - JOPP (CIV)

Comment  
 Defendants, Larson & Company, P.c., Martha Hayes, and  
 Dennis T. Larson's Joinder to Unite Here Health Solutions, LLC's  
 Opposition to Motion to Extend Discovery Deadlines on Order  
 Shortening Time (First Request)/Counter-motion to Extend All  
 Remaining Deadline and Trial

04/25/2019 Motion to Seal/Redact Records ▼

Judicial Officer  
 Williams, Timothy C.

Hearing Time  
 9:00 AM

Result  
 Motion Granted

Comment  
 Motion to Seal Settlement Agreement Attached as Exhibit "A" to the  
 Settling Parties' "Joint Motion for Determination of Good Faith  
 Settlement by Plaintiff and Defendant Millennium Consulting Services,  
 Llc on Order Shortening Time

04/25/2019 Motion to Extend Discovery ▼

Judicial Officer  
 Williams, Timothy C.

Hearing Time  
 9:00 AM

Result  
 Motion Granted

Comment  
 Motion to Extend Discovery Deadlines on Order Shortening Time  
 ( First Request)

04/25/2019 All Pending Motions ▼

Minutes - All Pending Motions

Judicial Officer  
 Williams, Timothy C.

Hearing Time  
 9:00 AM

Result  
 Matter Heard

Parties Present ▲  
 Plaintiff

Attorney: Prunty, Donald L.

Defendant

Attorney: Brown, Russell B  
 Defendant  
 Attorney: Brown, Russell B  
 Defendant  
 Attorney: Brown, Russell B  
 Defendant  
 Attorney: Pruitt, Mathew, ESQ  
 Defendant  
 Attorney: Pruitt, Mathew, ESQ  
 Defendant  
 Attorney: Bonham, Suzanna C.  
 Defendant  
 Attorney: Nakamura Ochoa, Angela T.  
 Defendant  
 Attorney: Nakamura Ochoa, Angela T.

05/01/2019 Amended Order Setting Jury Trial ▼

Amended Order Setting Jury Trial - ARJT (CIV)

Comment

Amended Order Setting Jury Trial

05/14/2019 Calendar Call ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

11:00 AM

Cancel Reason

Vacated - per Judge

05/20/2019 Jury Trial ▼

Judicial Officer  
Williams, Timothy C.

Hearing Time  
05:00 PM

Cancel Reason  
Vacated - per Judge

05/20/2019 Order Granting ▼

Order Granting - ORDG (CIV)

Comment

Order Granting Motion to Seal Settlement Agreement Attached as Exhibit "A: to the Settling Parties' Joint Motion for Determination of Good Faith Settlement by Pltf and Dft Millennium Consulting

06/25/2019 Answer to Amended Complaint ▼

Answer to Amended Complaint - ANAC (CIV)

Comment

Defendants InsureMonkey, Inc.'s And Alex Rivlin's Answer to Plaintiff's Amended Complaint

07/18/2019 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment

Stipulation and Order regarding expert disclosure deadline

07/22/2019 Notice of Entry ▼

Notice of Entry - NEO (CIV)

Comment

Notice of Entry of Order

07/30/2019 Answer to Amended Complaint ▼

Answer - ANS (CIV)

Comment

Nevada Health Solutions, LLC's Answer to Amended Complaint

08/16/2019 Substitution of Attorney ▼

Substitution of Attorney - SUBT (CIV)

Comment

Substitution of Counsel for Defendants Unite Here Health and Nevada Health Solutions, LLC

08/21/2019 Motion to Stay ▼

Motion to Stay - MSTY (CIV)

Comment

Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Stay on Order Shortening Time

08/21/2019 Motion to Extend ▼

Motion to Extend - MEX (CIV)

Comment

Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Extend Expert Disclosure Deadline on Order Shortening Time

08/21/2019 Appendix ▼

Appendix - APEN (CIV)

Comment

Appendix of Exhibits to Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Extend Expert Disclosure Deadline on Order Shortening Time

08/21/2019 Errata ▼

Errata - ERR (CIV)

Comment

Defendants Unite Here Health and Nevada Health Solutions, LLC's Errata to their Motion to Extend Expert Disclosure Deadline

08/21/2019 Motion to Seal/Redact Records ▼

Motion to Seal/Redact Records - MSRC (CIV)

Comment

Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Seal Exhibit H, Filed with Defendants' Errata to Their Motion to Extend Expert Disclosure Deadline

08/22/2019 Clerk's Notice of Hearing ▼

Clerk's Notice of Hearing - CNOG (CIV)

Comment

Notice of Hearing

08/22/2019 Filed Under Seal ▼

Comment

Exhibit H to Defendants Unite Here Health and Nevada Health Solutions, LLC's Errata to Their Motion to Extend Expert Disclosure Deadline sealed per 8/21/19 Defendants Unite Here

Health and Nevada Health Solutions, LLC's Motion to Seal Exhibit H, Filed with Defendants' Errata to Their Motion to Extend Expert Disclosure Deadline

08/23/2019 Joinder To Motion ▼

Joinder To Motion - JMOT (CIV)

Comment

Joinder to Unite Here Health and Nevada Health Solutions, LLC's Motion to Extend Expert Disclosures on Order Shortening Time

08/23/2019 Joinder To Motion ▼

Joinder To Motion - JMOT (CIV)

Comment

Joinder to Unite Here Health and Nevada Health Solutions, LLC's Motion to Stay on Order Shortening Time

08/23/2019 Joinder To Motion ▼

Joinder To Motion - JMOT (CIV)

Comment

Joinder to Unite Here Health and Nevada Health Solutions, LLC's Motion to Extend Expert Disclosures on Order Shortening Time

08/26/2019 Joinder To Motion ▼

Joinder To Motion - JMOT (CIV)

Comment

Defendants InsureMonkey, Inc. And Alex Rivlin's Joinder To Defendants Unite Here Health And Nevada Health Solutions, LLC's Motion To Extend Expert Disclosure Deadline

08/26/2019 Joinder To Motion ▼

Joinder To Motion - JMOT (CIV)

Comment

Defendants Insuremonkey, Inc. And Alex Rivlin's Joinder To Defendants Unite Here Health And Nevada Health Solutions, LLC's Motion To Stay

08/26/2019 Opposition to Motion ▼

Opposition to Motion - OPPM (CIV)

Comment

Plaintiff's Opposition to Defendant Unite Here Health And Nevada Health Solutions, LLC's Motion to Stay on Order Shortening Time

08/26/2019 Opposition to Motion ▼

Opposition to Motion - OPPM (CIV)

Comment

Opposition to Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Extend Expert Disclosure Deadline on Order Shortening Time

08/27/2019 Motion to Stay ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Matter Continued

Comment

Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Stay on Order Shortening Time

08/27/2019 Motion ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Decision Made

Comment

Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Extend Expert Disclosure Deadline on Order Shortening Time (First Request)

08/27/2019 Joinder ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Decision Made

Comment

Joinder to Unite Here Health and Nevada Health Solutions, LLC's Motion to Extend Expert Disclosures on Order Shortening Time

08/27/2019 Joinder ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Matter Continued

Comment

Joinder to Unite Here Health and Nevada Health Solutions, LLC's Motion to Stay on Order Shortening Time

08/27/2019 Joinder ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Decision Made

Comment

Joinder to Unite Here Health and Nevada Health Solutions, LLC's Motion to Extend Expert Disclosures on Order Shortening Time

08/27/2019 All Pending Motions ▼

Minutes - All Pending Motions

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Matter Heard

Parties Present ▲

Plaintiff

Attorney: Ferrario, Mark E., ESQ

Attorney: Prunty, Donald L.

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Liebman, Joseph A.

Attorney: Bonham, Suzanna C.

Defendant

Attorney: Nakamura Ochoa, Angela T.

Defendant

Attorney: Liebman, Joseph A.

09/10/2019 Motion for Leave to File ▼

Motion for Leave to File - MLEV (CIV)

Comment

Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion for Leave to File Oversized Supplemental Brief on Motion to Stay

09/10/2019 Supplemental Brief ▼

Supplemental Brief - SB (CIV)

Comment

Defendants Unite Here Health and Nevada Health Solutions, LLC's Supplemental Brief on Motion to Stay

09/10/2019 Appendix ▼

Appendix - APEN (CIV)

Comment

Appendix of Exhibits to Defendants Unite Here Health and Nevada Health Solutions, LLC's Supplemental Brief on Motion to Stay - Volume 1 of 3

09/10/2019 Appendix ▼

Appendix - APEN (CIV)

Comment

Appendix of Exhibits to Defendants Unite Here Health and Nevada Health Solutions, LLC's Supplemental Brief on Motion to Stay - Volume 2 of 3

09/10/2019 Appendix ▼

Appendix - APEN (CIV)

Comment

Appendix of Exhibits to Defendants Unite Here Health and Nevada Health Solutions, LLC's Supplemental Brief on Motion to Stay - Volume 3 of 3

09/19/2019 Order Shortening Time ▼

Order Shortening Time - OST (CIV)

Comment

Order Shortening Time on Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion for Leave to File Oversized Supplemental Brief on Motion to Stay

09/24/2019 Supplemental ▼

Supplemental - SUPP (CIV)

Comment

Supplemental Response to Defendants Unite Here Health and Nevada Health Solutions, LLC's Supplemental Brief on Motion to Stay

09/25/2019 Motion to Seal/Redact Records ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Motion Granted

Comment

Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Seal Exhibit H, Filed with Defendants' Errata to Their Motion to Extend Expert Disclosure Deadline

09/25/2019 Motion for Leave ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

<p>Result Motion Granted</p> <p>Comment Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion for Leave to File Oversized Supplemental Brief on Motion to Stay</p>
<p>09/25/2019 All Pending Motions ▼</p> <p>All Pending Motions</p> <p>Judicial Officer Williams, Timothy C.</p> <p>Hearing Time 9:00 AM</p> <p>Result Matter Heard</p> <p>Parties Present ▲ Defendant Attorney: Liebman, Joseph A. Defendant Attorney: Liebman, Joseph A.</p>
<p>09/30/2019 Reply ▼</p> <p>Reply - RPLY (CIV)</p> <p>Comment Defendants Unite Here Health and Nevada Health Solutions, LLC's Reply in Support of Their Supplemental Brief on Motion to Stay</p>
<p>09/30/2019 Order Granting Motion ▼</p> <p>Order Granting Motion - OGM (CIV)</p> <p>Comment Order Granting Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Extend Expert Disclosure Deadline</p>
<p>09/30/2019 Order ▼</p> <p>Order - ORDR (CIV)</p> <p>Comment Order on Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Stay</p>
<p>09/30/2019 Motion for Summary Judgment ▼</p> <p>Motion for Summary Judgment - MSJD (CIV)</p>

Comment  
 Insuremonkey, Inc.'s And Alex Rivlin's Motion For Summary Judgment And Declaratory Relief

09/30/2019 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment  
 Notice of Entry of Order on Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Stay

09/30/2019 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment  
 Notice of Entry of Order Granting Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Extend Expert Disclosure Deadline

10/01/2019 All Pending Motions ▼

Minutes - All Pending Motions

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Matter Heard

Parties Present ▲

Plaintiff

Attorney: Ferrario, Mark E., ESQ

Attorney: Prunty, Donald L.

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Bailey, John R

Attorney: Bonham, Suzanna C.

Defendant

Attorney: Nakamura Ochoa, Angela T.

Defendant

Attorney: Bailey, John R

10/01/2019 Pretrial/Calendar Call ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

10:30 AM

Cancel Reason

Vacated - per Judge

10/01/2019 Clerk's Notice of Hearing ▼

Clerk's Notice of Hearing - CNOC (CIV)

Comment

Notice of Hearing

10/14/2019 Jury Trial ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:30 AM

Cancel Reason

Vacated - per Judge

10/15/2019 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment

Stipulation and Order to Extend Time for Plaintiff to Respond to InsureMonkey, Inc. and Alex Rivlin's Motion for Summary Judgment and Delcaratory Relief

10/15/2019 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment  
 Notice of Entry of First Stipulation and Order to Extend Time for Plaintiff to Respond to InsureMonkey and Alex Rivlin's Motion for Summary Judgment

10/17/2019 Opposition to Motion ▼

Opposition to Motion - OPPM (CIV)

Comment  
 Plaintiff's Opposition to InsureMonkey, Inc. and Alex Rivlin's Motion for Summary Judgment and Declaratory Relief

10/23/2019 Order Granting ▼

Order Granting - ORDG (CIV)

Comment  
 Order Granting Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Seal Exhibit H, Filed with Defendants' Errata to their Motion to Extend Expert Disclosure Deadline

10/23/2019 Order Granting ▼

Order Granting - ORDG (CIV)

Comment  
 Order Granting Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion for Leave to File Oversized Supplemental Brief on Motion to Stay

10/24/2019 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment  
 Notice of Entry of Order Granting Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Seal Exhibit H, Filed with Defendants' Errata to their Motion to Extend Expert Disclosure Deadline

10/24/2019 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment  
 Notice of Entry of Order Granting Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion for Leave to File Oversized Supplemental Brief on Motion to Stay

10/29/2019 Motion in Limine ▼

Motion in Limine - MLIM (CIV)

Comment  
 (12/3/19 Withdrawn) Management Defendants' Motion in Limine No. 1 Regarding Trial Testimony of the Following:1) Barbara D. Richardson 2) Andrew Brignone 3) Cara Elias (Sterling) 4) Annette James 5) Darryl Landahl 6) Glenn L Goodnough 7) Amy Parks 8) Peter Rao 9) Michael Katgbak 10) Mark Bennett 11) Kristen Johnson

10/29/2019 Clerk's Notice of Hearing ▼

Clerk's Notice of Hearing - CNOC (CIV)

Comment  
 Notice of Hearing

11/01/2019 Status Report ▼

Status Report - SR (CIV)

Comment  
 Management Defendants' Status Report Pursuant to the October 1, 2019 Hearing

11/01/2019 Status Report ▼

Status Report - SR (CIV)

Comment  
 Defendants Unite Here Health and Nevada Health Solutions, LLC's Status Report

11/06/2019 Status Check ▼

Minutes - Status Check

Judicial Officer  
 Williams, Timothy C.

Hearing Time  
 9:00 AM

Result  
 Trial Date Set

Comment  
 Status Check: Supplemental Expert Disclosures/Trial Setting

Parties Present ▲  
 Plaintiff

Attorney: Ferrario, Mark E., ESQ

Attorney: Prunty, Donald L.

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Bailey, John R

Attorney: Liebman, Joseph A.

Attorney: Bonham, Suzanna C.

Defendant

Attorney: Nakamura Ochoa, Angela T.

Defendant

Attorney: Bailey, John R

Attorney: Liebman, Joseph A.

11/08/2019 Opposition to Motion in Limine ▼

Opposition to Motion in Limine - OML (CIV)

Comment

Opposition to Management Defendants' Motion in Limine No. 1 Regarding Trial Testimony of the Following: Barbara D Richardson, Andrew Brignone, Cara Elias (Sterling), Annette James, Darryl Landahl, Glenn L Goodnough, Amy Parks, Peter Roa, Michael Katigbak, Mark Bennett, Kristen Johnson

11/12/2019 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment  
 Stipulation And Order To Continue Hearing On Defendants  
 InsureMonkey, Inc And Alex Rivlin's Motion For Summary  
 Judgment And Declaratory Relief

11/12/2019 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment  
 Notice Of Entry Of Order

11/19/2019 Notice of Rescheduling of Hearing ▼

Notice of Rescheduling of Hearing - NORH (CIV)

Comment  
 Notice of Rescheduling of Motion in Limine Hearing

11/19/2019 Amended Order Setting Jury Trial ▼

Amended Order Setting Jury Trial - ARJT (CIV)

Comment  
 3rd Amended Order Setting Jury Trial, Pre-Trial, Calendar Call,  
 and Deadlines for Motions; Amended Discovery Scheduling  
 Order

11/20/2019 Status Check ▼

Minutes - Status Check

Judicial Officer  
 Williams, Timothy C.

Hearing Time  
 9:00 AM

Result  
 Decision Made

Comment  
 Status Check: Scheduling Order/Agreement by the Parties

Parties Present ▲  
 Plaintiff

Attorney: Ferrario, Mark E., ESQ

Attorney: Prunty, Donald L.

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Bailey, John R

Attorney: Liebman, Joseph A.

Defendant

Attorney: Nakamura Ochoa, Angela T.

Defendant

Attorney: Bailey, John R

Attorney: Liebman, Joseph A.

11/20/2019 Affidavit of Service ▼

[Affidavit of Service - AOS \(CIV\)](#)

[Comment](#)

[Affidavit of Service](#)

12/02/2019 Amended Order ▼

[Amended Order - AMOR \(CIV\)](#)

[Comment](#)

[Amended Discovery Scheduling Order](#)

12/03/2019 Stipulation and Order ▼

[Stipulation and Order - SAO \(CIV\)](#)

[Comment](#)

[Stipulation and Order to Withdraw Without Prejudice Management Defendants' Motion in Limine No. 1](#)

12/03/2019 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment

**Notice of Entry of Order**

12/04/2019 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment

**Stipulation and Order to Allow Certain Individuals Access to Documents Marked "Highly Confidential - Attorneys' Eyes Only"**

12/04/2019 Notice of Entry of Stipulation and Order ▼

Notice of Entry of Stipulation and Order - NTSO (CIV)

Comment

**Notice of Entry of Stipulation and Order to Allow Certain Individuals Access to Documents Marked "Highly Confidential - Attorneys' Eyes Only"**

12/11/2019 Notice of Rescheduling of Hearing ▼

Notice of Rescheduling of Hearing - NORH (CIV)

Comment

**Notice of Rescheduling Hearing**

12/13/2019 Reply to Opposition ▼

Reply to Opposition - ROPP (CIV)

Comment

**Reply To Plaintiff's Opposition To InsureMonkey, Inc and Alex Rivlin's Motion For Summary Judgment And Declaratory Relief**

01/08/2020 Motion in Limine ▼

Judicial Officer

**Williams, Timothy C.**

Hearing Time

**9:00 AM**

Cancel Reason

**Vacated - per Stipulation and Order**

Comment

**Management Defendants' Motion in Limine No. 1 Regarding Trial Testimony of the Following:1) Barbara D. Richardson 2) Andrew Brignone 3) Cara Elias (Sterling) 4) Annette James 5) Darryl Landahl 6) Glenn L Goodnough 7) Amy Parks 8) Peter Rao 9) Michael Katgbak 10) Mark Bennett 11) Kristen Johnson**

<p>01/09/2020 Pretrial/Calendar Call ▼</p> <p>Judicial Officer <b>Williams, Timothy C.</b></p> <p>Hearing Time <b>9:00 AM</b></p> <p>Cancel Reason <b>Vacated</b></p>
<p>01/23/2020 Second Amended Scheduling Order ▼</p> <p>Order - ORDR (CIV)</p> <p>Comment <b>Second Amended Discovery Scheduling Order</b></p>
<p>01/23/2020 Stipulation and Order ▼</p> <p>Stipulation and Order - SAO (CIV)</p> <p>Comment <b>Amended Stipulation and Order to Allow Certain Individuals Access to Documents Marked "Highly Confidential - Attorneys' Eyes Only"</b></p>
<p>01/24/2020 Notice of Entry of Order ▼</p> <p>Notice of Entry of Order - NEOJ (CIV)</p> <p>Comment <b>Notice of Entry of Second Amended Scheduling Order</b></p>
<p>01/24/2020 Notice of Entry of Stipulation and Order ▼</p> <p>Notice of Entry of Stipulation and Order - NTSO (CIV)</p> <p>Comment <b>Notice of Entry of Amended Stipulation and Order to Allow Certain Individuals Access to Documents Marked "Highly Confidential - Attorneys' Eyes Only"</b></p>
<p>01/27/2020 Jury Trial ▼</p> <p>Judicial Officer <b>Williams, Timothy C.</b></p> <p>Hearing Time <b>9:30 AM</b></p> <p>Cancel Reason <b>Vacated</b></p>

01/29/2020 Motion for Summary Judgment ▼

Minutes - Motion for Summary Judgment

Judicial Officer

Williams, Timothy C.

Hearing Time

9:30 AM

Result

Denied Without Prejudice

Comment

Insuremonkey, Inc.'s And Alex Rivlin's Motion For Summary Judgment And Declaratory Relief

Parties Present ▲

Plaintiff

Attorney: Prunty, Donald L.

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Liebman, Joseph A.

Defendant

Attorney: Wong, Jonathan K.

Defendant

Attorney: Liebman, Joseph A.

02/10/2020 Motion ▼

Motion - MOT (CIV)

Comment  
 Defendants Unite Here Health and Nevada Health Solutions,  
 LLC's Motion to Extend Deadline for Defendants' Expert  
 Disclosures on Order Shortening Time (Second Request)

02/10/2020 Appendix ▼

Appendix - APEN (CIV)

Comment  
 Appendix of Exhibits to Defendants Unite Here Health and  
 Nevada Health Solutions, LLC's Motion to Extend Deadline for  
 Defendants' Expert Disclosures on Order Shortening Time

02/24/2020 Opposition to Motion ▼

Opposition to Motion - OPPM (CIV)

Comment  
 Plaintiff's Opposition to Defendants United Here Health and  
 Nevada Health Solutions, LLC's Motion to Extend Deadline for  
 Defendants' Expert Disclosures on OST (Second Request)

03/04/2020 Motion to Extend Discovery ▼

Minutes - Motion to Extend Discovery

Judicial Officer  
 Williams, Timothy C.

Hearing Time  
 9:00 AM

Result  
 Moot

Comment  
 Defendants Unite Here Health and Nevada Health Solutions, LLC's  
 Motion to Extend Deadline for Defendants' Expert Disclosures on  
 Order Shortening Time (Second Request)

Parties Present ▲

Plaintiff

Attorney: Prunty, Donald L.

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Bailey, John R

Attorney: Bonham, Suzanna C.

Attorney: Mata, Emma

Defendant

Attorney: Nakamura Ochoa, Angela T.

Defendant

Attorney: Bailey, John R

Attorney: Mata, Emma

03/04/2020 Stipulation and Order to Extend Discovery Deadlines ▼

Stipulation and Order - SAO (CIV)

Comment

Stipulation and Order to Extend Discovery Deadlines [Third Request]

03/05/2020 Notice of Entry of Stipulation and Order ▼

Notice of Entry of Stipulation and Order - NTSO (CIV)

Comment

Notice of Entry of Stipulation and Order to Extend Discovery Deadlines [Third Request]

03/25/2020 Stipulation and Order to Extend Discovery Deadlines ▼

Stipulation and Order to Extend Discovery Deadlines - SOED (CIV)

Comment

Stipulation and Order to Extend Discovery Deadlines (Fourth Request) and Order Setting Status Check

03/25/2020 Notice of Hearing ▼

<p>Notice of Hearing - NOH (CIV)</p> <p>Comment</p> <p><b>Notice of Hearing</b></p>
<p>03/25/2020 Notice of Entry of Stipulation and Order ▼</p> <p>Notice of Entry of Stipulation and Order - NTSO (CIV)</p> <p>Comment</p> <p><b>Notice of Entry of Stipulation and Order to Extend Discovery Deadlines [Fourth Request] and Order Setting Status Check</b></p>
<p>04/13/2020 Motion to Compel ▼</p> <p>Motion to Compel - MCOM (CIV)</p> <p>Comment</p> <p><b>Defendants Pamela Egan, Basil Dibsie, Linda Mattoon, Bobbette Bond, Tom Zumbotel, and Kathleen Silver's Motion to Compel Production of Lynn Fulstone Documents</b></p>
<p>04/14/2020 Clerk's Notice of Hearing ▼</p> <p>Clerk's Notice of Hearing - CNOC (CIV)</p> <p>Comment</p> <p><b>Notice of Hearing</b></p>
<p>04/17/2020 Minute Order ▼</p> <p>Minute Order</p> <p>Judicial Officer</p> <p><b>Williams, Timothy C.</b></p> <p>Hearing Time</p> <p><b>8:00 AM</b></p> <p>Result</p> <p><b>Minute Order - No Hearing Held</b></p> <p>Comment</p> <p><b>re: 4/30/20 Hearing</b></p>
<p>04/22/2020 Joinder To Motion ▼</p> <p>Joinder To Motion - JMOT (CIV)</p> <p>Comment</p> <p><b>Joinder by Defendants Unite Here Health and Nevada Health Solutions, LLC in Defendants Pamela Egan, Basil Dibsie, Linda Mattoon, Bobbette Bond, Tom Zumtobel, and Kathleen Silver's Motion to Compel Production of Lynn Fulstone Documents</b></p>
<p>04/22/2020 Joinder To Motion ▼</p> <p>Joinder - JOIN (CIV)</p>

Comment  
 Defendants Pamela Egan, Basil Dibsie, Linda Mattoon, Bobbette Bond, Tom Zumbotel, and Kathleen Silver's Joinder to Unite Here Health and Nevada Health Solutions, LLC's Joinder to Motion to Compel Production of Lynn Fulstone Documents

04/27/2020 Opposition to Motion to Compel ▼

Opposition to Motion to Compel - OMCM (CIV)

Comment  
 Plaintiff's Opposition to Defendants Pamela Egan, Basil Dibsie, Linda Mattoon, Bobbette Bond, Tom Zumtobel, and Kathleen Silver's Motion to Compel Production of Lynn Fulstone Documents and Response to Joinder of NHS/UHH and Joinder Thereto

04/28/2020 Status Report ▼

Status Report - SR (CIV)

Comment  
 Defendants Unite Here Health and Nevada Health Solutions, LLC's Status Report in Anticipation of Telephonic Status Check Hearing Set for April 30, 2020

04/30/2020 Status Check ▼

Minutes - Status Check

Judicial Officer  
 Williams, Timothy C.

Hearing Time  
 9:00 AM

Result  
 Trial Date Set

Comment  
 Status Check re Trial Rescheduling based on 3/25/20 SAO to Extend Discovery Deadlines

Parties Present ▲

Plaintiff

Attorney: Ferrario, Mark E., ESQ

Attorney: Prunty, Donald L.

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Bailey, John R

Attorney: Liebman, Joseph A.

Attorney: Bonham, Suzanna C.

Defendant

Attorney: Nakamura Ochoa, Angela T.

Defendant

Attorney: Bailey, John R

Attorney: Liebman, Joseph A.

05/13/2020 Stipulation and Order to Extend Discovery Deadlines ▼

Stipulation and Order - SAO (CIV)

Comment

Stipulation and Order to Extend Discovery Deadlines (Fifth Request)

05/13/2020 Amended Order Setting Jury Trial ▼

Amended Order Setting Jury Trial - ARJT (CIV)

Comment

4th Amended Order Setting Jury Trial

05/14/2020 Notice of Rescheduling of Hearing ▼

Notice of Rescheduling of Hearing - NORH (CIV)

Comment

Notice of Rescheduling Hearing

05/18/2020 Notice of Entry of Stipulation and Order ▼

Notice of Entry of Stipulation and Order - NTSO (CIV)

Comment

Notice of Entry of Stipulation and Order to Extend Discovery Deadlines [Fifth Request]

06/08/2020 Minute Order ▼

Minute Order

Judicial Officer

Williams, Timothy C.

Hearing Time

8:00 AM

Result

Minute Order - No Hearing Held

Comment

Minute Order re: Hearing on 6/17/20 at 9:30 a.m.

06/11/2020 Motion to Seal/Redact Records ▼

Motion to Seal/Redact Records - MSRC (CIV)

Comment

Defendant's Pamela Egan, Basil Dibsie, Linda Mattoon, Bobbette Bond, Tom Zumtobel, and Kathleen Silver's Motion to Seal Reply in Support of Motion to Compel Production of Lynn Fulstone Documents on Order Shortening Time

06/15/2020 Minute Order ▼

Minute Order

Judicial Officer

Williams, Timothy C.

Hearing Time

8:00 AM

Result

Minute Order - No Hearing Held

Comment

Minute Order re: Hearing on 6/24/20 at 9:00 a.m.

06/15/2020 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment

Stipulation and Order Regarding Defendant's Motion to Seal The Reply in Support of Motion to Compel Production of Lynn Fulstone Documents on Order Shortening Time

<p>06/15/2020 Notice of Entry of Stipulation and Order ▼</p> <p>Notice of Entry of Stipulation and Order - NTSO (CIV)</p> <p>Comment NOTICE OF ENTRY OF ORDER</p>
<p>06/16/2020 Filed Under Seal ▼</p> <p>Comment SEALED PER ORDER WITHIN (last page) Defendants Pamela Egan, Basil Dibsie, Linda Mattoon, Bobbette Bond, Tom Zumbotel, and Kathleen Silver's Reply in Support of Motion to Compel Production of Lynn Fulstone Documents (Filed Under Seal)</p>
<p>06/16/2020 Joinder ▼</p> <p>Joinder - JOIN (CIV)</p> <p>Comment Joinder by Defendants Unite Here Health and Nevada Health Solutions, LLC in Defendants Pamela Egan, Basil Dibsie, Linda Mattoon, Bobbette Bond, Tom Zumtobel, and Kathleen Silver's Reply in Support of Motion to Compel Productions of Lynn Fulstone Documents</p>
<p>06/17/2020 Motion to Seal/Redact Records ▼</p> <p>Judicial Officer Williams, Timothy C.</p> <p>Hearing Time 9:00 AM</p> <p>Cancel Reason Vacated - per Stipulation and Order</p> <p>Comment Defendants Pamela Egan, Basil Dibsie, Linda Mattoon, Bobbette Bond, Tom Zumtobel, and Kathleen Silver's Motion to Seal Reply in Support of Motion to Compel Production of Lynn Fulstone Documents on OST</p>
<p>06/24/2020 Motion to Compel ▼</p> <p>Judicial Officer Williams, Timothy C.</p> <p>Hearing Time 9:00 AM</p> <p>Result Motion Denied</p>

## Comment

Defendants Pamela Egan, Basil Dibsie, Linda Mattoon, Bobbette Bond, Tom Zumbotel, and Kathleen Silver's Motion to Compel Production of Lynn Fulstone Documents

06/24/2020 Joinder ▼

## Judicial Officer

Williams, Timothy C.

## Hearing Time

9:00 AM

## Result

Denied

## Comment

Defendants Pamela Egan, Basil Dibsie, Linda Mattoon, Bobbette Bond, Tom Zumbotel, and Kathleen Silver's Joinder to Unite Here Health and Nevada Health Solutions, LLC's Joinder to Motion to Compel Production of Lynn Fulstone Documents

06/24/2020 Joinder ▼

## Judicial Officer

Williams, Timothy C.

## Hearing Time

9:00 AM

## Result

Motion Denied

## Comment

Joinder by Defendants Unite Here Health and Nevada Health Solutions, LLC in Defendants Pamela Egan, Basil Dibsie, Linda Mattoon, Bobbette Bond, Tom Zumtobel, and Kathleen Silver's Reply in Support of Motion to Compel Productions of Lynn Fulstone Documents

06/24/2020 All Pending Motions ▼

Minutes - All Pending Motions

## Judicial Officer

Williams, Timothy C.

## Hearing Time

9:00 AM

## Result

Matter Heard

## Parties Present ▲

Plaintiff

Attorney: Ferrario, Mark E., ESQ

Attorney: Prunty, Donald L.

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Bailey, John R

Attorney: Bonham, Suzanna C.

Defendant

Attorney: Nakamura Ochoa, Angela T.

Defendant

Attorney: Bailey, John R

07/10/2020 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment

Stipulation and Order Allowing for Additional Affirmative Defenses for Certain Defendants

07/10/2020 Notice of Entry of Stipulation and Order ▼

Notice of Entry of Stipulation and Order - NTSO (CIV)

Comment  
 Notice of Entry of Stipulation and Order Allowing for Additional  
 Affirmative Defenses for Certain Defendants

07/17/2020 Motion ▼

Motion - MOT (CIV)

Comment  
 Defendants' Joint Motion to Extend Deadline for Defendants'  
 Expert Disclosures (And Other Associated Deadlines) Due to  
 Covid-19 Pandemic on Order Shortening Time

07/29/2020 Minute Order ▼

Minute Order

Judicial Officer

Williams, Timothy C.

Hearing Time

8:00 AM

Result

Minute Order - No Hearing Held

Comment

Minute Order re: Hearing on 8/5/20 at 9:00 a.m.

07/30/2020 Opposition to Motion ▼

Opposition to Motion - OPPM (CIV)

Comment  
 Plaintiff's Opposition to Defendants United Here Health and  
 Nevada Health Solutions LLC's Motion to Extend Deadline for  
 Defendants' Expert Disclosures on Order Shortening Time (Third  
 Request)

08/04/2020 Reply in Support ▼

Reply in Support - RIS (CIV)

Comment  
 Defendants' Reply in Support of their Joint Motion to Extend  
 Deadline for Defendants' Expert Disclosures (and Other  
 Associated Deadlines) Due to COVID-19 Pandemic (Third  
 Request)

08/05/2020 Status Check ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Matter Continued

Comment

Status Check: Status of Discovery/Case Schedule

08/05/2020 Motion ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Motion Granted

Comment

DEFENDANTS JOINT MOTION TO EXTEND DEADLINE FOR DEFENDANTS EXPERT DISCLOSURES (AND OTHER ASSOCIATED DEADLINES) DUE TO COVID-19 PANDEMIC ON ORDER SHORTENING TIME (Third Request)

08/05/2020 All Pending Motions ▼

Minutes - All Pending Motions

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Result

Minute Order - No Hearing Held

Parties Present ▲

Plaintiff

Attorney: Ferrario, Mark E., ESQ

Attorney: Prunty, Donald L.

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Brown, Russell B

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Pruitt, Mathew, ESQ

Defendant

Attorney: Bailey, John R

Attorney: Bonham, Suzanna C.

Defendant

Attorney: Nakamura Ochoa, Angela T.

Defendant

Attorney: Bailey, John R

08/10/2020 Minute Order ▼

Minute Order

Judicial Officer

Williams, Timothy C.

Hearing Time

8:00 AM

Result

Minute Order - No Hearing Held

Comment

Minute Order re: Motion to Compel and Joinders

08/11/2020 Order Granting Motion ▼

Order Granting Motion - OGM (CIV)

Comment

ORDER GRANTING DEFENDANTS JOINT MOTION TO  
EXTEND DEADLINE FOR DEFENDANTS EXPERT  
DISCLOSURES (AND OTHER ASSOCIATED DEADLINES)  
DUE TO COVID-19 PANDEMIC ON ORDER SHORTENING  
TIME

08/13/2020 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment  
 Notice of Entry of Order Granting Defendants' Joint Motion to Extend Deadline for Defendants' Expert Disclosures (and Other Associated Deadlines) Due to Covid-19 Pandemic on Order Shortening Time

09/17/2020 Pretrial/Calendar Call ▼

Judicial Officer  
 Williams, Timothy C.

Hearing Time  
 10:30 AM

Cancel Reason  
 Vacated

10/05/2020 Jury Trial ▼

Judicial Officer  
 Williams, Timothy C.

Hearing Time  
 9:30 AM

Cancel Reason  
 Vacated

10/15/2020 Motion for Leave to File ▼

Motion for Leave to File - MLEV (CIV)

Comment  
 Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion for Leave to File Third-Party Complaint

10/15/2020 Appendix ▼

Appendix - APEN (CIV)

Comment  
 Appendix of Exhibits to Defendants Unite Here Health and Nevada Health Solutions, LLC s Motion for Leave to File Third-Party Complaint, Volume 1 of 2

10/15/2020 Appendix ▼

Appendix - APEN (CIV)

Comment  
 Appendix of Exhibits to Defendants Unite Here Health and Nevada Health Solutions, LLC s Motion for Leave to File Third-Party Complaint, Volume 2 of 2

10/16/2020 Clerk's Notice of Hearing ▼

<p>Clerk's Notice of Hearing - CNOC (CIV)</p> <p>Comment</p> <p><b>Notice of Hearing</b></p>
<p>10/16/2020 Motion for Leave to File ▼</p> <p>Motion for Leave to File - MLEV (CIV)</p> <p>Comment</p> <p><b>Plaintiff's Motion for Leave to File Second Amended Complaint</b></p>
<p>10/16/2020 Joinder To Motion ▼</p> <p>Joinder To Motion - JMOT (CIV)</p> <p>Comment</p> <p><b>Defendants Pamela Egan, Basil Dibsie, Linda Mattoon, Bobbette Bond, Tom Zumtobel, and Kathleen Silver's Joinder to Unite Here Health and Nevada Health Solutions, LLC's Motion for Leave to File Third-Party Complaint</b></p>
<p>10/19/2020 Clerk's Notice of Hearing ▼</p> <p>Clerk's Notice of Hearing - CNOC (CIV)</p> <p>Comment</p> <p><b>Notice of Hearing</b></p>
<p>10/19/2020 Motion to Consolidate ▼</p> <p>Motion to Consolidate - MCSD (CIV)</p> <p>Comment</p> <p><b>Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Consolidate Case No. A-20-816161-C</b></p>
<p>10/19/2020 Appendix ▼</p> <p>Appendix - APEN (CIV)</p> <p>Comment</p> <p><b>Appendix of Exhibits to Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Consolidate Case No. A-20-816161-C</b></p>
<p>10/20/2020 Clerk's Notice of Hearing ▼</p> <p>Clerk's Notice of Hearing - CNOC (CIV)</p> <p>Comment</p> <p><b>Notice of Hearing</b></p>
<p>10/20/2020 Motion to Seal/Redact Records ▼</p> <p>Motion to Seal/Redact Records - MSRC (CIV)</p>

Comment  
 Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to: (1) Redact the Motion to Strike Jury Demand; and (2) Seal Exhibits A, B, C, D, and E to the Appendix to the Motion to Strike Jury Demand

10/20/2020 Motion to Strike ▼

Motion to Strike - MSTR (CIV)

Comment  
 Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Strike Jury Demand

10/20/2020 Appendix ▼

Appendix - APEN (CIV)

Comment  
 Appendix of Exhibits to Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Strike Jury Demand - Volume 4 of 4

10/20/2020 Temporary Seal Pending Court Approval ▼

Comment  
 Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Strike Jury Demand - Filed Under Seal

10/20/2020 Temporary Seal Pending Court Approval ▼

Comment  
 Appendix of Exhibits to Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Strike Jury Demand - Volume 1 of 4 - Filed Under Seal

10/20/2020 Temporary Seal Pending Court Approval ▼

Comment  
 Appendix of Exhibits to Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Strike Jury Demand - Volume 2 of 4 - Filed Under Seal

10/20/2020 Temporary Seal Pending Court Approval ▼

Comment  
 Appendix of Exhibits to Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Strike Jury Demand - Volume 3 of 4 - Filed Under Seal

10/21/2020 Clerk's Notice of Hearing ▼

Clerk's Notice of Hearing - CNOC (CIV)

Comment

Notice of Hearing

10/21/2020 Clerk's Notice of Hearing ▼

Clerk's Notice of Hearing - CNOG (CIV)

Comment

Notice of Hearing

10/21/2020 Motion for Partial Summary Judgment ▼

Motion for Partial Summary Judgment - MPSJ (CIV)

Comment

Defendants Kathleen Silver, Bobbette Bond, Tom Zumtobel, Pam Egan, Basil Dibsie and Linda Mattoon's Motion for Partial Judgment on the Pleadings Pursuant to NRCP12(c)

11/18/2020 Motion for Leave ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Comment

Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion for Leave to File Third-Party Complaint

11/18/2020 Motion for Leave ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Comment

Plaintiff's Motion for Leave to File Second Amended Complaint

11/18/2020 Joinder ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Comment

Defendants Pamela Egan, Basil Dibsie, Linda Mattoon, Bobbette Bond, Tom Zumtobel, and Kathleen Silver's Joinder to Unite Here Health and Nevada Health Solutions, LLC's Motion for Leave to File Third-Party Complaint

11/18/2020 Motion to Consolidate ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Comment

Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Consolidate Case No. A-20-816161-C

12/02/2020 Motion to Strike ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Comment

Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to Strike Jury Demand

12/02/2020 Motion to Seal/Redact Records ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:00 AM

Comment

Defendants Unite Here Health and Nevada Health Solutions, LLC's Motion to: (1) Redact the Motion to Strike Jury Demand; and (2) Seal Exhibits A, B, C, D, and E to the Appendix to the Motion to Strike Jury Demand

04/22/2021 Pretrial/Calendar Call ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

10:30 AM

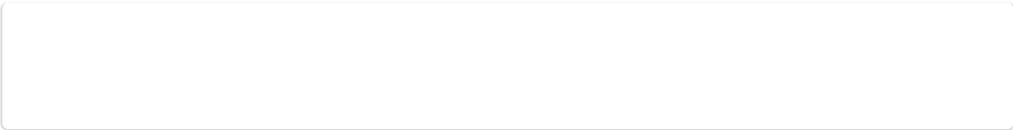
05/03/2021 Jury Trial ▼

Judicial Officer

Williams, Timothy C.

Hearing Time

9:30 AM



**Financial**

Nevada Commissioner of Insurance

Total Financial Assessment	\$450.00
Total Payments and Credits	\$450.00

11/9/2017	Transaction Assessment	\$450.00
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11/9/2017	Efile Payment	Receipt # 2017- 85300- CCCLK	Nevada Commissioner of Insurance	(\$450.00)
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Milliman Inc

Total Financial Assessment	\$1,591.00
Total Payments and Credits	\$1,591.00

9/28/2017	Transaction Assessment	\$283.00
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9/28/2017	Efile Payment	Receipt # 2017- 75157- CCCLK	Milliman Inc	(\$283.00)
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9/28/2017	Transaction Assessment	\$1,260.00
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9/28/2017	Efile Payment	Receipt # 2017- 75210- CCCLK	Milliman Inc	(\$1,260.00)
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10/23/2017	Transaction Assessment	\$48.00
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10/23/2017	Payment (Mail)	Receipt # 2017- 32749- FAM	CAIDAN MANAGEMENT COMPANY	(\$48.00)
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Millennium Consulting Services LLC

Total Financial Assessment	\$1,507.50
Total Payments and Credits	\$1,507.50

10/30/2017	Transaction Assessment			\$1,486.50
10/30/2017	Efile Payment	Receipt # 2017-82377- CCCLK	Millennium Consulting Services LLC	(\$1,486.50)
10/30/2017	Transaction Assessment			\$3.50
10/30/2017	Efile Payment	Receipt # 2017-82379- CCCLK	Millennium Consulting Services LLC	(\$3.50)
1/9/2018	Transaction Assessment			\$3.50
1/9/2018	Efile Payment	Receipt # 2018-02163- CCCLK	Millennium Consulting Services LLC	(\$3.50)
4/13/2018	Transaction Assessment			\$3.50
4/13/2018	Efile Payment	Receipt # 2018-25807- CCCLK	Millennium Consulting Services LLC	(\$3.50)
10/16/2018	Transaction Assessment			\$3.50
10/16/2018	Efile Payment	Receipt # 2018-68904- CCCLK	Millennium Consulting Services LLC	(\$3.50)
3/20/2019	Transaction Assessment			\$3.50
3/20/2019	Efile Payment	Receipt # 2019-17594- CCCLK	Millennium Consulting Services LLC	(\$3.50)
5/20/2019	Transaction Assessment			\$3.50

5/20/2019	Efile Payment	Receipt # 2019- 30731- CCCLK	Millennium Consulting Services LLC	(\$3.50)
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Larson & Company PC

Total Financial Assessment	\$1,483.00
Total Payments and Credits	\$1,483.00

11/2/2017	Transaction Assessment			\$1,483.00
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11/2/2017	Efile Payment	Receipt # 2017- 83378- CCCLK	Larson & Company PC	(\$1,483.00)
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Larson, Dennis T

Total Financial Assessment	\$1,513.00
Total Payments and Credits	\$1,513.00

10/4/2017	Transaction Assessment			\$253.00
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10/4/2017	Efile Payment	Receipt # 2017- 76546- CCCLK	Larson, Dennis T	(\$253.00)
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10/17/2017	Transaction Assessment			\$1,260.00
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10/17/2017	Payment (Mail)	Receipt # 2017- 79458- CCCLK	Meyers McConnell Reisz Siderman	(\$1,260.00)
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InsureMonkey Inc

Total Financial Assessment	\$623.00
Total Payments and Credits	\$623.00

6/6/2018	Transaction Assessment			\$200.00
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6/6/2018	Efile Payment	Receipt # 2018- 37799- CCCLK	InsureMonkey Inc	(\$200.00)
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6/25/2019	Transaction Assessment			\$223.00
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6/25/2019	Efile Payment	Receipt # 2019- 38760- CCCLK	InsureMonkey Inc	(\$223.00)
9/30/2019	Transaction Assessment			\$200.00
9/30/2019	Efile Payment	Receipt # 2019- 59632- CCCLK	InsureMonkey Inc	(\$200.00)
Rivlin, Alex				
	Total Financial Assessment			\$1,513.00
	Total Payments and Credits			\$1,513.00
10/10/2017	Transaction Assessment			\$1,513.00
10/10/2017	Efile Payment	Receipt # 2017- 78021- CCCLK	Rivlin, Alex	(\$1,513.00)
Nevada Health Solutions LLC				
	Total Financial Assessment			\$1,483.00
	Total Payments and Credits			\$1,483.00
10/30/2017	Transaction Assessment			\$1,483.00
10/30/2017	Efile Payment	Receipt # 2017- 82467- CCCLK	Nevada Health Solutions LLC	(\$1,483.00)
Silver, Kathleen				
	Total Financial Assessment			\$1,833.00
	Total Payments and Credits			\$1,833.00
1/18/2018	Transaction Assessment			\$1,633.00
1/18/2018	Efile Payment	Receipt # 2018- 04363- CCCLK	Silver, Kathleen	(\$1,633.00)
10/21/2020	Transaction Assessment			\$200.00
10/21/2020	Efile Payment	Receipt # 2020- 59555- CCCLK	Silver, Kathleen	(\$200.00)
Unite Here Health				
	Total Financial Assessment			\$1,260.00

Total Payments and Credits				\$1,260.00
10/22/2018	Transaction Assessment			\$1,260.00
10/22/2018	Efile Payment	Receipt # 2018-70432-CCCLK	Unite Here Health	(\$1,260.00)

**Documents**

- Document Filed - DOC
- Demand for Jury Trial - DMJT
- Notice - NOTC
- Acceptance of Service - ACSR
- Acceptance of Service - ACSR
- Affidavit of Service - AOS
- Motion - MOT
- Notice of Withdrawal - NOW
- Acceptance of Service - ACSR
- Acceptance of Service - ACSR
- Acceptance of Service - ACSR
- Affidavit of Service - AOS
- Notice of Appearance - NOTA
- Initial Appearance Fee Disclosure - IAFD
- Notice of Department Reassignment - NODR
- Notice of Appearance - NOTA
- Initial Appearance Fee Disclosure - IAFD
- Affidavit of Service - AOS

Initial Appearance Fee Disclosure - IAFD  
Joinder - JOIN  
Answer (Business Court) - ANSBU  
Minute Order  
Affidavit of Service - AOS  
Certificate of Service - CSERV  
Opposition to Motion - OPPM  
Initial Appearance Fee Disclosure - IAFD  
Motion to Dismiss - MDSM  
Notice of Appearance - NOTA  
Disclosure Statement - DSST  
Joinder - JOIN  
Initial Appearance Fee Disclosure - IAFD  
Joinder - JOIN  
Acceptance of Service - ACSR  
Joinder to Opposition to Motion - JOPP  
Initial Appearance Fee Disclosure - IAFD  
Answer - ANS  
Joinder to Opposition to Motion - JOPP  
Reply - RPLY  
Motion to Compel - MCOM  
Answer - ANS  
Notice of Department Reassignment - NODR  
Notice of Department Reassignment - NODR  
Business Court Order - BCO (CIV)  
Stipulation and Order - SAO (CIV)  
Stipulation and Order - SAO (CIV)  
Notice of Entry of Stipulation and Order - NTSO (CIV)  
Amended Affidavit of Service - AAOS (CIV)  
Order Denying Motion - ODM (CIV)  
Opposition - OPPS (CIV)  
Notice of Entry of Order - NEOJ (CIV)  
Stipulation and Order - SAO (CIV)  
Notice of Entry of Stipulation and Order - NTSO (CIV)  
Opposition - OPPS (CIV)  
Association of Counsel - ASSC (CIV)  
Motion to Associate Counsel - MASS (CIV)  
Errata - ERR (CIV)  
Minutes - Motion to Associate Counsel  
Reply in Support - RIS (CIV)  
Order Granting Motion - OGM (CIV)  
Notice of Entry of Order - NEOJ (CIV)

Reply - RPLY (CIV)  
Motion to Dismiss - MDSM (CIV)  
Initial Appearance Fee Disclosure - IAFD (CIV)  
Minutes - Motion to Dismiss  
Order - ORDR (CIV)  
Minutes - Motion to Compel  
Joinder - JOIN (CIV)  
Order Setting Civil Jury Trial and Calendar Call - OSCJC (CIV)  
Notice of Entry of Order - NEOJ (CIV)  
Minutes - All Pending Motions  
Stipulation and Order - SAO (CIV)  
Notice of Entry - NEO (CIV)  
Minutes - Status Check  
Substitution of Attorney - SUBT (CIV)  
Stipulation and Order - SAO (CIV)  
Order Granting Motion - OGM (CIV)  
Notice of Entry of Order - NEOJ (CIV)  
Motion - MOT (CIV)  
Motion - MOT (CIV)  
Receipt of Copy - ROC (CIV)  
Order - ORDR (CIV)  
Response - RSPN (CIV)  
Response - RSPN (CIV)  
Motion to Reconsider - MRCN (CIV)  
Minutes - Status Check  
Status Check  
Minutes - All Pending Motions  
Answer - ANS (CIV)  
Opposition to Motion - OPPM (CIV)  
Stipulation and Order - SAO (CIV)  
Reply in Support - RIS (CIV)  
Stipulation and Order - SAO (CIV)  
Minutes - Motion For Reconsideration  
Order Granting Motion - OGM (CIV)  
Notice of Entry of Order - NEOJ (CIV)  
Stipulation and Order - SAO (CIV)  
Notice of Entry of Stipulation and Order - NTSO (CIV)  
Minutes - Minute Order  
Minute Order  
Supplement to Opposition - STO (CIV)  
Motion for Summary Judgment - MSJD (CIV)  
Stipulation and Order - SAO (CIV)

Settlement Conference  
Opposition - OPPS (CIV)  
Notice of Rescheduling of Hearing - NORH (CIV)  
Reply in Support - RIS (CIV)  
Reply to Opposition - ROPP (CIV)  
Stipulation and Order - SAO (CIV)  
Stipulation and Order - SAO (CIV)  
Order - ORDR (CIV)  
Notice of Department Reassignment - NODR (CIV)  
Notice of Department Reassignment - NODR (CIV)  
Motion to Amend Complaint - MAMC (CIV)  
Notice of Change of Hearing - NOCH (CIV)  
Errata - ERR (CIV)  
Notice of Entry of Order - NEOJ (CIV)  
Minutes - Motion For Reconsideration  
Minutes - Motion for Summary Judgment  
Order Denying Motion - ODM (CIV)  
Notice of Entry of Order - NEOJ (CIV)  
Notice of Change of Firm Name - NCFN (CIV)  
Stipulation and Order - SAO (CIV)  
Notice of Entry - NEO (CIV)  
Minutes - All Pending Motions  
Amended Order Setting Jury Trial - ARJT (CIV)  
Order Granting Motion - OGM (CIV)  
Notice of Entry of Order - NEOJ (CIV)  
Amended Complaint - ACOM (CIV)  
Notice of Change of Address - NCOA (CIV)  
Ex Parte Motion - EXMT (CIV)  
Motion to Dismiss - MDSM (CIV)  
Joinder To Motion - JMOT (CIV)  
Answer - ANS (CIV)  
Answer - ANS (CIV)  
Initial Appearance Fee Disclosure - IAFD (CIV)  
Opposition - OPPS (CIV)  
Minutes - Status Check  
Opposition - OPPS (CIV)  
Reply in Support - RIS (CIV)  
Notice of Hearing - NOH (CIV)  
Minutes - Status Check  
Minutes - All Pending Motions  
Answer - ANS (CIV)  
Notice of Rescheduling of Hearing - NORH (CIV)

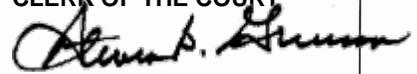
Minutes - Status Check  
Association of Counsel - ASSC (CIV)  
Answer - ANS (CIV)  
Motion to Seal/Redact Records - MSRC (CIV)  
Order Admitting to Practice - ORAP (CIV)  
Notice - NOTC (CIV)  
Minutes - Motion to Associate Counsel  
Minutes - All Pending Motions  
Motion to Seal/Redact Records - MSRC (CIV)  
Clerk's Notice of Hearing - CNOC (CIV)  
Order Granting - ORDG (CIV)  
Order - ORDR (CIV)  
Motion to Extend Discovery - MTED (CIV)  
Notice of Entry of Order - NEOJ (CIV)  
Notice of Entry of Order - NEOJ (CIV)  
Opposition to Motion - OPPM (CIV)  
Opposition to Motion - OPPM (CIV)  
Joinder - JOIN (CIV)  
Joinder to Opposition to Motion - JOPP (CIV)  
Minutes - All Pending Motions  
Amended Order Setting Jury Trial - ARJT (CIV)  
Order Granting - ORDG (CIV)  
Redacted Version  
Redacted Version  
Answer to Amended Complaint - ANAC (CIV)  
Stipulation and Order - SAO (CIV)  
Notice of Entry - NEO (CIV)  
Answer - ANS (CIV)  
Substitution of Attorney - SUBT (CIV)  
Motion to Stay - MSTY (CIV)  
Motion to Extend - MEX (CIV)  
Appendix - APEN (CIV)  
Errata - ERR (CIV)  
Motion to Seal/Redact Records - MSRC (CIV)  
Clerk's Notice of Hearing - CNOC (CIV)  
Joinder To Motion - JMOT (CIV)  
Opposition to Motion - OPPM (CIV)  
Opposition to Motion - OPPM (CIV)

Minutes - All Pending Motions  
Motion for Leave to File - MLEV (CIV)  
Supplemental Brief - SB (CIV)  
Appendix - APEN (CIV)  
Appendix - APEN (CIV)  
Appendix - APEN (CIV)  
Order Shortening Time - OST (CIV)  
Supplemental - SUPP (CIV)  
All Pending Motions  
Reply - RPLY (CIV)  
Order Granting Motion - OGM (CIV)  
Order - ORDR (CIV)  
Motion for Summary Judgment - MSJD (CIV)  
Notice of Entry of Order - NEOJ (CIV)  
Notice of Entry of Order - NEOJ (CIV)  
Clerk's Notice of Hearing - CNOC (CIV)  
Minutes - All Pending Motions  
Stipulation and Order - SAO (CIV)  
Notice of Entry of Order - NEOJ (CIV)  
Opposition to Motion - OPPM (CIV)  
Order Granting - ORDG (CIV)  
Order Granting - ORDG (CIV)  
Notice of Entry of Order - NEOJ (CIV)  
Notice of Entry of Order - NEOJ (CIV)  
Motion in Limine - MLIM (CIV)  
Clerk's Notice of Hearing - CNOC (CIV)  
Status Report - SR (CIV)  
Status Report - SR (CIV)  
Minutes - Status Check  
Opposition to Motion in Limine - OML (CIV)  
Stipulation and Order - SAO (CIV)  
Notice of Entry of Order - NEOJ (CIV)  
Notice of Rescheduling of Hearing - NORH (CIV)  
Amended Order Setting Jury Trial - ARJT (CIV)  
Affidavit of Service - AOS (CIV)  
Minutes - Status Check  
Amended Order - AMOR (CIV)  
Stipulation and Order - SAO (CIV)  
Notice of Entry of Order - NEOJ (CIV)  
Stipulation and Order - SAO (CIV)  
Notice of Entry of Stipulation and Order - NTSO (CIV)  
Notice of Rescheduling of Hearing - NORH (CIV)

Reply to Opposition - ROPP (CIV)  
Order - ORDR (CIV)  
Stipulation and Order - SAO (CIV)  
Notice of Entry of Order - NEOJ (CIV)  
Notice of Entry of Stipulation and Order - NTSO (CIV)  
Minutes - Motion for Summary Judgment  
Motion - MOT (CIV)  
Appendix - APEN (CIV)  
Opposition to Motion - OPPM (CIV)  
Stipulation and Order - SAO (CIV)  
Minutes - Motion to Extend Discovery  
Notice of Entry of Stipulation and Order - NTSO (CIV)  
Stipulation and Order to Extend Discovery Deadlines - SOED (CIV)  
Notice of Hearing - NOH (CIV)  
Notice of Entry of Stipulation and Order - NTSO (CIV)  
Motion to Compel - MCOM (CIV)  
Clerk's Notice of Hearing - CNOH (CIV)  
Minute Order  
Joinder To Motion - JMOT (CIV)  
Joinder - JOIN (CIV)  
Opposition to Motion to Compel - OMCM (CIV)  
Status Report - SR (CIV)  
Minutes - Status Check  
Stipulation and Order - SAO (CIV)  
Amended Order Setting Jury Trial - ARJT (CIV)  
Notice of Rescheduling of Hearing - NORH (CIV)  
Notice of Entry of Stipulation and Order - NTSO (CIV)  
Minute Order  
Motion to Seal/Redact Records - MSRC (CIV)  
Stipulation and Order - SAO (CIV)  
Notice of Entry of Stipulation and Order - NTSO (CIV)  
Minute Order  
Joinder - JOIN (CIV)  
Minutes - All Pending Motions  
Stipulation and Order - SAO (CIV)  
Notice of Entry of Stipulation and Order - NTSO (CIV)  
Motion - MOT (CIV)  
Minute Order  
Opposition to Motion - OPPM (CIV)  
Reply in Support - RIS (CIV)  
Minutes - All Pending Motions  
Minute Order

Order Granting Motion - OGM (CIV)  
Notice of Entry of Order - NEOJ (CIV)  
Motion for Leave to File - MLEV (CIV)  
Appendix - APEN (CIV)  
Appendix - APEN (CIV)  
Clerk's Notice of Hearing - CNOC (CIV)  
Motion for Leave to File - MLEV (CIV)  
Joinder To Motion - JMOT (CIV)  
Clerk's Notice of Hearing - CNOC (CIV)  
Motion to Consolidate - MCSD (CIV)  
Appendix - APEN (CIV)  
Clerk's Notice of Hearing - CNOC (CIV)  
Motion to Seal/Redact Records - MSRC (CIV)  
Motion to Strike - MSTR (CIV)  
Appendix - APEN (CIV)  
Clerk's Notice of Hearing - CNOC (CIV)  
Clerk's Notice of Hearing - CNOC (CIV)  
Motion for Partial Summary Judgment - MPSJ (CIV)

## Exhibit 8



ORIGINAL

1 MEX (CIV)  
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2 Nevada Bar No. 137  
JOSEPH A. LIEBMAN  
3 Nevada Bar No. 10125  
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6 [JBailey@BaileyKennedy.com](mailto:JBailey@BaileyKennedy.com)  
[JLiebman@BaileyKennedy.com](mailto:JLiebman@BaileyKennedy.com)

7  
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EMMA C. MATA  
9 Texas Bar No. 24029470  
**SEYFARTH SHAW LLP**  
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Houston, Texas 77002  
11 Telephone: (713) 225-2300  
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12 [emata@seyfarth.com](mailto:emata@seyfarth.com)

13 *Attorneys for Defendants*  
*UNITE HERE HEALTH AND*  
14 *NEVADA HEALTH SOLUTIONS, LLC*

15  
16 **DISTRICT COURT**  
17 **CLARK COUNTY, NEVADA**

18 STATE OF NEVADA, EX REL.  
COMMISSIONER OF INSURANCE,  
19 BARBARA D. RICHARDSON, IN HER  
OFFICIAL CAPACITY AS RECEIVER FOR  
20 NEVADA HEALTH CO-OP,

21 Plaintiff,  
22 v.

23 MILLIMAN, INC., a Washington Corporation;  
JONATHAN L. SHREVE, an Individual;  
24 MARY VAN DER HEIJDE, an Individual;  
MILLENNIUM CONSULTING SERVICES,  
25 LLC, a North Carolina Corporation; LARSON &  
COMPANY P.C., a Utah Professional  
26 Corporation; DENNIS T. LARSON, an  
Individual; MARTHA HAYES, an Individual;  
INSUREMONKEY, INC., a Nevada  
27 Corporation; ALEX RIVLIN, an Individual;  
NEVADA HEALTH SOLUTIONS, LLC, a  
28 Nevada Limited Liability Company; PAMELA

Case No. A-17-760558-C  
Dept. No. XVI

**DEFENDANTS UNITE HERE HEALTH  
AND NEVADA HEALTH SOLUTIONS,  
LLC'S MOTION TO EXTEND EXPERT  
DISCLOSURE DEADLINE ON ORDER  
SHORTENING TIME**

(First Request)

DEPARTMENT XVI  
NOTICE OF HEARING  
DATE 8-27-19 TIME 9:00 AM  
APPROVED BY 

AUG 20 2019

1 EGAN, an Individual; BASIL C. DIBSIE, an  
2 Individual; LINDA MATTOON, an Individual;  
3 TOM ZUMTOBEL, an Individual; BOBBETTE  
4 BOND, an Individual; KATHLEEN SILVER, an  
5 Individual; UNITE HERE HEALTH, is a multi-  
6 employer health and welfare trust as defined in  
7 ERISA Section 3(37); DOES I through X  
8 inclusive; and ROE CORPORATIONS I-X,  
9 inclusive,

10 Defendants.

11 **DEFENDANTS UNITE HERE HEALTH AND NEVADA HEALTH SOLUTIONS, LLC'S**  
12 **MOTION TO EXTEND EXPERT DISCLOSURE DEADLINE**  
13 **ON ORDER SHORTENING TIME**

14 Defendants Unite Here Health (“UHH”) and Nevada Health Solutions, LLC (“NHS”)  
15 (collectively “Defendants”) respectfully move the Court to extend Defendants’ current deadline for  
16 disclosure of initial and rebuttal expert witnesses (the “Motion”). Defendants were served with  
17 Plaintiff’s Disclosures of Expert Witnesses Pursuant to N.R.C.P. 16.1 at 12:00 am on July 31, 2019.  
18 Plaintiff designated four (4) expert witnesses, each of which relied upon thousands of documents in  
19 preparing extensive expert reports that include multiple conclusory opinions; however, in violation  
20 of Rule 16.1(b), Plaintiff failed to include significant facts and data with its experts’ reports and  
21 failed to provide and/or reasonably identify hundreds of exhibits and documents relied upon by its  
22 experts that had not previously been provided. In fact, there are numerous facts, data and documents  
23 required to be produced by N.R.C.P. 16.1(b) that still remain outstanding.

24 Moreover, on August 5, 2019, a week after Plaintiff’s expert disclosure deadline, Plaintiff  
25 produced a 39 page report titled “Special Deputy Receiver’s Report for Nevada Health CO-OP,  
26 Causation and Damages for Key Vendors Unite Here Health, Nevada Health Solutions, and  
27 InsureMonkey” that is marked “DRAFT” (the “SDR Draft Report”). By virtue of the SDR Draft  
28 Report, Defendants first learned that thousands of claims were re-adjudicated; however, the Special  
29 Deputy Receiver failed to disclose the methodology used for re-adjudication of these claims, the  
30 individuals who re-adjudicated the claims, or the supporting documentation for the re-adjudication.

31 Even worse, the SDR Draft Report was somehow relied upon by at least one of Plaintiff’s  
32 experts, Henry Osowski, despite not being timely produced on July 30, 2019. Further, the “SDR

1 Draft Report contains over 100 footnotes, most with documents that have not been provided to  
2 Defendants and that cannot be identified by Defendants based on the references in the report.  
3 Additionally, the Special Deputy Receiver relied on the review of over 3500 “instances” of alleged  
4 overpayments<sup>1</sup> based on the re-adjudication of claims to formulate opinions related to improper  
5 claims processing by Defendants, but failed to identify what those “instances” are or provide them  
6 to Defendants for review and testing. Notably, the last page of the report is a “List of Documents  
7 Reviewed” that fails to list any documents and instead states “COMPLETE LISTING OF  
8 DOCUMENTS TO BE PROVIDED AT A LATER DATE.” Defendants have yet to receive a  
9 complete listing of documents. Lastly, the Special Deputy Receiver states that he “relie[d] upon  
10 certain work product produced by NHC and receivership staff, with such work product to be  
11 uploaded into the applicable electronic litigation database as necessary to advise the purposes of the  
12 Receiver’s litigation.” Despite this statement, this “work product” has not been produced/uploaded  
13 and/or is not reasonably identifiable.

14 Due to the amount of documentation that Defendants’ experts have been unable to examine  
15 and their inability to review the thousands of claims that Plaintiff’s experts (including the Special  
16 Deputy Receiver) reviewed over the past several years, Defendants’ experts will be unable to  
17 complete their review of Plaintiff’s experts’ opinions and supporting documentation in sufficient  
18 time to provide initial and rebuttal opinions by the current deadline of August 29, 2019.<sup>2</sup> Through a  
19 separate motion, Defendants will seek to compel any and all documents and information reviewed,  
20 vetted, tested and/or relied upon by Plaintiff’s experts, including the Special Deputy Receiver, in  
21 formulating their opinions. In this Motion, Defendants request additional time to obtain this  
22 documentation (which should have been produced months ago) and provide their experts with  
23 sufficient time to review, analyze, and opine regarding these thousands of unidentified claims..

24 This Motion is based upon EDCR 2.35, the accompanying Memorandum of Points and  
25 Authorities, the Declaration of Suzanna C. Bonham and the supporting evidence attached hereto, and  
26

27 <sup>1</sup> See SDR Report at page 7, to be filed under seal with an errata due to Plaintiff’s “Attorney Eyes Only” designation.  
Defendants dispute the designation but will comply at this time.

28 <sup>2</sup> See Declaration of Christina Melnykovych, attached hereto as **Exhibit A**.

1 any oral arguments that the Court may hear.

2 DATED this 19th day of August, 2019.

3 SEYFARTH SHAW LLP

4  
5 By: /s/ Suzanna C. Bonham  
6 SUZANNA C. BONHAM  
EMMA C. MATA

7 BAILEY ♦ KENNEDY

8  
9 By:  *NV Bar No. 11576*  
10 JOHN BAILEY  
Joseph A. Liebman

11 *Attorneys for Defendants Unite Here Health  
and Nevada Health Solutions, LLC*

12 **APPLICATION FOR ORDER SHORTENING TIME**

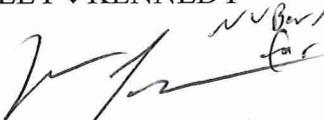
13 Pursuant to EDCR 2.26, Defendants hereby apply for an Order Shortening Time for their  
14 Motion to Extend Deadline for Expert Disclosures to be heard, which is based on the following  
15 Declaration of Suzanna C. Bonham.  
16

17 DATED this 19th day of August, 2019.

18 SEYFARTH SHAW LLP

19  
20 By: /s/ Suzanna C. Bonham  
21 SUZANNA C. BONHAM  
EMMA C. MATA

22 BAILEY ♦ KENNEDY

23  
24 By:  *NV Bar No. 11576*  
25 JOHN BAILEY  
Joseph A. Liebman

26 *Attorneys for Defendants Unite Here Health  
and Nevada Health Solutions, LLC*

**DECLARATION OF SUZANNA C. BONHAM**

1  
2 I, Suzanna C. Bonham, counsel for Defendants in the above-captioned matter, declare as  
3 follows:

4 1. Defendants were served with Plaintiff’s Disclosures of Expert Witnesses Pursuant to  
5 N.R.C.P. 16.1 at 12:01 a.m. on July 31, 2019.

6 2. Plaintiff designated four (4) expert witnesses, each of which provided extensive  
7 expert reports with multiple opinions and relied upon thousands of documents, including hundreds  
8 of documents which were not produced and/or reasonably identified to Defendants with Plaintiff’s  
9 expert reports or before Plaintiff’s expert disclosures.

10 3. On August 5, 2019, a week after Plaintiff’s expert disclosure deadline, Plaintiff  
11 produced a 39 page report titled “Special Deputy Receiver’s Report for Nevada Health CO-OP,  
12 Causation and Damages for Key Vendors Unite Here Health, Nevada Health Solutions, and  
13 InsureMonkey” that is marked “DRAFT” and was heavily relied upon by at least one of Plaintiff’s  
14 experts, Henry Osowski.

15 4. The Special Deputy Receiver’s Report contains over 100 footnotes, most with  
16 documents that have not been provided to Defendants and that cannot be identified by Defendants  
17 based on the references in the report.

18 5. Additionally, the Special Deputy Receiver relied on the review of over 3500  
19 “instances” of alleged overpayments to formulate opinions related to alleged improper claims  
20 processing by Defendants, but failed to identify what those “instances” are or provide documentation  
21 to Defendants for review and testing.

22 6. The last page of the report is a “List of Documents Reviewed” that fails to list any  
23 documents and instead states “COMPLETE LISTING OF DOCUMENTS TO BE PROVIDED AT  
24 A LATER DATE.”

25 7. Defendants have yet to receive a complete listing of documents relied upon by the  
26 Special Deputy Receiver.

27 8. The Special Deputy Receiver states that he “relie[d] upon certain work product  
28 produced by NHC and receivership staff, with such work product to be uploaded into the applicable

1 electronic litigation database as necessary to advise the purposes of the Receiver’s litigation.”  
2 Despite this statement, this “work product” has not been produced/uploaded and/or is not reasonably  
3 identifiable.

4 9. Due to the amount of documentation that Defendants’ experts have been unable to  
5 examine and their inability to review the thousands of claims Plaintiff’s experts (including the  
6 Special Deputy Receiver) have reviewed, Defendants’ experts will be unable to complete their  
7 review of Plaintiff’s experts’ opinions and supporting documentation in sufficient time to provide  
8 initial and rebuttal opinions by the current deadline of August 29, 2019.

9 10. An Order Shortening Time scheduling a hearing before August 29, 2019 is necessary  
10 because if this Motion is heard in the ordinary course, it will be decided after the current deadline  
11 for Defendants’ Expert Disclosures. Defendants have submitted a Motion to Stay on Order  
12 Shortening Time, and request that this Motion be heard at the same hearing.

13 11. Defendants have conferred with Plaintiff regarding this Motion and Plaintiff is  
14 opposed. All other defendants agree with this Motion.

15 I declare under penalty of perjury under the law of the State of Nevada that the foregoing is  
16 true and correct.

17  
18  
19  
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21  
22  
23  
24  
25  
26  
27  
28

EXECUTED this 19th day of August, 2019.

  
\_\_\_\_\_  
SUZANNA C. BONHAM

ORDER SHORTENING TIME

THE COURT, having considered Defendants' Application for Order Shortening Time, and the Declaration of Suzanna C. Bonham in support thereof, and good cause appearing,

HEREBY ORDERS that the time for hearing DEFENDANTS' MOTION TO EXTEND EXPERT DISCLOSURE DEADLINE be shortened, and the same shall now be heard on the 27 day of August, 2019, at 9:00 a.m., in Department XVI, or as soon thereafter as counsel can be heard.

DATED this 20 day of August, 2019.

  
DISTRICT COURT JUDGE  
CT

BAILEY ♦ KENNEDY

By:  *Bar No. 11576*  
JOHN BAILEY  
JOSEPH A. LIEBMAN

*Attorneys for Defendants Unite Here Health and Nevada Health Solutions, LLC*

BAILEY ♦ KENNEDY  
8984 SPANISH RIDGE AVENUE  
LAS VEGAS, NEVADA 89148-1302  
702.562.8820

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION

3 On July 31, 2019, Defendants were served with Plaintiff’s Disclosures of Expert Witnesses  
4 Pursuant to N.R.C.P. 16.1. Plaintiff designated four (4) expert witnesses (Henry Osowski, Mark A.  
5 Fish, Suzanne Schlernitzauer, and Joseph J. DeVito) and provided expert reports for each witness  
6 that contained multiple conclusory opinions. However, as described above, and in violation of  
7 N.R.C.P. 16.1(a)(2)(B), Plaintiff failed to include significant facts and data within its experts’ reports  
8 and failed to provide and/or reasonably identify hundreds of exhibits and documents relied upon by  
9 its experts. N.R.C.P. 16.1(a)(2)(B) specifically states:

10 (2) Disclosure of Expert Testimony.

11 ...

12 (B) Witnesses Who Must Provide a Written Report.

13 Unless otherwise stipulated or ordered by the court, this disclosure  
14 must be accompanied by a written report — prepared and signed by  
15 the witness — if the witness is one retained or specially employed  
16 to provide expert testimony in the case or one whose duties as the  
17 party’s employee regularly involve giving expert testimony. The  
18 report must contain:

- 19 (i) a complete statement of all opinions the witness will  
20 express, and the basis and reasons for them;
- 21 (ii) *the facts or data considered by the witness in forming*  
22 *them;*
- 23 (iii) *any exhibits that will be used to summarize or support*  
24 *them;*
- 25 (iv) the witness’s qualifications, including a list of all  
26 publications authored in the previous ten years;
- 27 (v) a list of all other cases in which, during the previous four  
28 years, the witness testified as an expert at trial or by  
deposition; and
- (vi) a statement of the compensation to be paid for the study  
and testimony in the case.<sup>3</sup>

29 To date, Plaintiff still has not provided all the facts and data considered by each of its experts  
30 in formulating their opinions or any exhibits that will be used to summarize or support them.  
31 Plaintiff’s failure to disclose is especially concerning since UHH specifically requested this  
32 information in its First Set of Requests for Production to Plaintiff, served on February 22, 2019, and  
33

34 \_\_\_\_\_  
35 <sup>3</sup> Nev. R. Civ. P. 16.1(a)(2)(B) (emphasis added).

1 in its First Set of Interrogatories to Plaintiff, served on March 5, 2019.<sup>4</sup>

2 Moreover, the Special Deputy Receiver’s report described above (that was produced by  
3 Plaintiff a week after Plaintiff’s expert disclosure deadline) contains over 100 footnotes, most with  
4 references to documents that have not been provided to Defendants and that cannot be identified by  
5 Defendants based on the references in the report.<sup>5</sup> Additionally, the Special Deputy Receiver  
6 references over 3500 “instances” of alleged overpayments relied upon to formulate opinions related  
7 to improper claims processing by Defendants,<sup>6</sup> but fails to identify what those “instances” are or  
8 provide them to Defendants for review and testing. Notably, the last page of the report is a “List of  
9 Documents Reviewed” that fails to list any documents and instead states “COMPLETE LISTING  
10 OF DOCUMENTS TO BE PROVIDED AT A LATER DATE.” Defendants have yet to receive a  
11 complete listing of documents. Lastly, the Special Deputy Receiver states that he “relie[d] upon  
12 certain work product produced by NHC and receivership staff, with such work product to be  
13 uploaded into the applicable electronic litigation database as necessary to advise the purposes of the  
14 Receiver’s litigation.”<sup>7</sup> Despite this statement, this “work product” has not been produced/uploaded  
15 and/or is not reasonably identifiable from the approximately 2.5 million documents produced by  
16 Plaintiff.

17 Good cause exists to extend Defendants’ deadline for expert disclosures, as it is necessary  
18 for Defendants’ experts to review all of the supporting documents and claims information Plaintiff’s  
19 experts, including the Special Deputy Receiver, relied upon in formulating their opinions.  
20 Accordingly, Defendants request that the Court extend Defendants’ deadline to disclose experts and  
21 provide reports until twelve (12) months after Defendants have received all of the supporting

22 \_\_\_\_\_  
23 <sup>4</sup> See Defendant Unite Here Health’s First Set of Requests for Production of Documents to Plaintiff at Requests Nos. 1  
24 (Please produce all documents that support your contention that NHC did not timely pay all medical claims as a result of  
25 any act or omission by UHH), 2, 65, 66, 109, 134, 172, 183 (All documents in support of your contention that NHC and/or  
26 Plaintiff was damaged as a result of any act (or omission) of UHH), 184, 185, 186, attached hereto as **Exhibit B**; see  
27 Defendant Unite Here Health’s First Set of Interrogatories to Plaintiff at Nos. 1, 2, 3, 4, 7, 8, 20 (Please identify and  
28 describe in detail the facts and circumstances regarding UHH’s alleged failure “to timely and accurately process and pay  
claims,” including identification of the specific claims with respect to this interrogatory), attached hereto as **Exhibit C**;  
see Plaintiff’s Responses to UHH’s First Set of Interrogatories, attached hereto as **Exhibit D**.

<sup>5</sup> See generally SDR Report, submitted under seal with an errata.

<sup>6</sup> See SDR Report, at page 7 submitted under seal with an errata.

<sup>7</sup> See SDR Report, at page 3 submitted under seal with an errata.

1 documents and claims information they should have already produced. As stated above, a separate  
2 Motion to Compel will be filed to address Plaintiff's production deficiencies.

3 **II. INFORMATION REQUIRED BY EDCR 2.35(b)**

4 **A. Discovery Completed**

5 The volume of documents produced in this case is massive. Indeed, well in excess of 3  
6 million pages of documents have been produced to date by the parties, and there is still a significant  
7 amount of written discovery and production outstanding.

8 Defendant UHH served Interrogatories and Requests for Production on Plaintiff specifically  
9 requesting information regarding experts, damages and the specific claims Plaintiff alleges were  
10 improperly processed by Defendants.<sup>8</sup> Despite assurances that responses would be provided,  
11 Plaintiff still has not provided Defendants with the requested information. In fact, Plaintiff has never  
12 provided Defendants with a calculation of damages as required by N.R.C.P. 16.1(a)(1)(A)(iv).<sup>9</sup>

13 Only seven depositions have taken place to date, which includes only 5 of the 18 named  
14 parties. Plaintiff's counsel has indicated its desire to take at least 17 more depositions of witnesses  
15 (many of whom reside out of state).

16 To date, in addition to discovery by other defendants in the case, the following written  
17 discovery has taken place between Plaintiff, UHH and NHS:

- 18 • NHS responded to Plaintiff's First Request for Production on July 18, 2018.
- 19 • UHH responded to Plaintiff's First Request for Production on December 5, 2018 and  
20 Plaintiff's First Set of Interrogatories on March 4, 2019.
- 21 • UHH has produced about 372,000 pages of documents to date with additional  
22 documents to be produced.
- 23 • NHS has produced about 1300 pages of documents to date.
- 24 • UHH propounded its First Set of Request for Production of Documents on February  
25 22, 2019 and First Set of Interrogatories on March 5, 2019. Plaintiff served its  
26 Responses on April 12, 2019 after UHH provided NHC an extension.
- 27 • Plaintiff has produced about 2.5 million pages of documents to date.

28 <sup>8</sup> See Defendant Unite Here Health's First Set of Requests for Production of Documents and First Set of Interrogatories to Plaintiff, attached hereto as **Exhibits B and C**.

<sup>9</sup> See Plaintiff's 13th Supplemental Disclosures dated August 9, 2019 in which they state that they still cannot complete a total calculation of damages, attached hereto as **Exhibit E**.

- 1 • Plaintiff has served 13 supplemental disclosures with Plaintiff's 13th Supplemental  
2 Disclosure being served on August 9, 2019.

3 **B. Discovery to be Completed**

4 The following discovery remains:

- 5 • Further written discovery (interrogatories, requests for production, and requests for  
6 admission).
- 7 • Supplement of pending discovery requests with additional documents by Plaintiff,  
8 UHH and NHS in addition to third parties.
- 9 • Depositions of the pertinent witnesses related to Plaintiff and third parties.
- 10 • Expert discovery, including production of all documents and information relied upon  
11 by Plaintiff's experts.

12 **C. Reasons That Discovery Has Not Yet Been Completed**

13 As described above, there are an inordinate amount of documents at issue in this case, as it is  
14 a particularly complex matter involving thousands of claims and tens of millions of dollars in alleged  
15 damages. Moreover, Plaintiff has just now disclosed the SDR Draft Report, which indicated *for the*  
16 *first time* that claims were re-adjudicated throughout 2017, yet Plaintiff still has not produced the  
17 requisite underlying information regarding these thousands of claims, which Defendants' experts  
18 will need to review and evaluate.<sup>10</sup> The complexity of this case, the large volume amount of  
19 documents and information that remains to be exchanged, and the fact that a number of defendants  
20 and witnesses in the case are located in different cities and states has complicated matters and slowed  
21 down the discovery process considerably.

22 **D. Proposed Expert Disclosure Deadline for Defendants**

23 Defendants propose an extension of their expert disclosure deadline until twelve (12) months  
24 after Defendants have received all of the documents relied upon by Plaintiff's experts in order to  
25 have the opportunity to review the thousands of claims that were re-adjudicated by Plaintiff's experts  
26 or consultants.<sup>11</sup> The remaining discovery deadlines will also need to be extended accordingly.

27 <sup>10</sup> See Declaration of Christina Melnykovich, attached hereto as Exhibit A.

28 <sup>11</sup> See Declaration of Christina Melnykovich, attached hereto as Exhibit A.

1 **E. Current Trial Date**

2 This case is set to be tried on a 6-8 week trial setting on a 5 week stack beginning January  
3 27, 2020. Under the proposed extension of deadlines, the trial date will need to be continued to a  
4 later date.<sup>12</sup>

5 **III. LEGAL ARGUMENT**

6 Pursuant to EDCR 2.35, “[s]tipulations or motions to extend any date set by the discovery  
7 scheduling order must be in writing and supported by a showing of good cause for the extension and  
8 be received by the discovery commissioner within 20 days before the discovery cut-off date or any  
9 extension thereof.” EDCR 2.35. In this case, the discovery cut-off date is October 28, 2019 and  
10 good cause exists to extend the current expert disclosure deadlines of Defendants’ initial and rebuttal  
11 experts, as it is necessary for Defendants’ experts to review and examine all of the supporting  
12 documents and claims information Plaintiff’s experts relied upon in formulating their opinions.  
13 Specifically, in addition to the significant facts and data within its experts’ reports and the hundreds  
14 of exhibits and documents relied upon by its experts that have not yet been provided in violation of  
15 N.R.C.P. 16.1(a)(2)(B), as described above, Defendants require the opportunity to review, fully vet,  
16 and test the following categories of information relied upon by Plaintiff’s experts:

17 **A. Henry Osowski<sup>13</sup>**

- 18 • Emails and other correspondence cited throughout Mr. Osowski’s report that have not  
19 been produced or have not been identified with sufficient detail to allow Defendants  
20 to locate the documents.
- 21 • Documents relied upon to formulate his opinions regarding Javelina, including but  
22 not limited to, documentation pertaining to its selection, system design and testing.  
23 This information is especially necessary since Mr. Osowski asserts intentions and  
24 motives by UHH in association with system selection.<sup>14</sup>
- 25 • The documents and information he relied upon to opine that the damages computed  
26 by the Special Deputy Receiver were reasonable, including but not limited to, any and  
27 all documents relied upon and examined by the Special Deputy Receiver.

28 <sup>12</sup> Defendants have also filed a Motion to Stay in this case for issues unrelated to Defendants’ deadline to disclose experts;  
however, Defendants’ Motion to Stay, if granted, will impact a trial setting in this case and could likely impact and/or limit  
the type and amount of discovery that will need to be conducted in this case before trial.

<sup>13</sup> Report of Henry Osowski, attached hereto as **Exhibit F**.

<sup>14</sup> Exhibit F at 9, 17.

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Specifically, Mr. Osowski states without any support or references that:

Damage amounts were computed by the Special Deputy Receiver and appear reasonable based on the work I have performed.<sup>15</sup>

**B. Suzanne Schlernitzauer**

- Documents and information reflecting the methodology employed by an unnamed “consulting firm” to identify and draw samples that she reviewed and used to form the basis of her opinions.
- Documents and information reflecting the samples she selected of the “routine diagnostic services that would normally require prior authorizations” and the statistical methodology she used for selection of the group of records.

**C. Mark Fish<sup>16</sup>**

- Documents and information reflecting the sampling processes and methodology he used in formulating his opinions.
- Documentation and information reviewed and relied upon in evaluating the calculations performed by Indegene were reasonable.

Specifically, Dr. Fish states without any support or references that:

FTI has reviewed and found to be reasonable the Indegene revised calculations of risk adjustment for year 2014.<sup>17</sup>

FTI has reviewed and found to be reasonable the revised calculations of transitional reinsurance and risk corridor for year 2014.

- Any and all information used by Indegene and the Special Deputy Receiver to perform the calculations referenced by Mr. Fish.

Specially, Mr. Fish states without any support or references that:

Table 7 below shows each of the 3R categories as filed for 2014, based on incomplete claims data, and corresponding figures recalculated using complete claims data as compiled by Indegene, a data management vendor for the risk adjustment calculation, and under the [Special Deputy Receiver’s] direction for transitional reinsurance and risk corridor calculations for year 2014.<sup>18</sup>

<sup>15</sup> Exhibit F at 44.

<sup>16</sup> Report of Mark Fish, attached hereto at **Exhibit G**.

<sup>17</sup> Exhibit G at FN60.

<sup>18</sup> Exhibit G at 22.

1           **D. Special Deputy Receiver (“SDR”)**

- 2           • The information, including but not limited to, claims, documentation (emails,  
3           correspondence, contracts, etc.) and notes and/or reports, used, tested and relied upon  
4           by the SDR or at his direction (or on his behalf) in the re-adjudication of claims  
5           performed.

6           Specifically the Special Deputy Receiver states the following despite not providing a  
7           list of the document citations, not identifying documents in footnotes and not  
8           producing/uploading to any database:

9                       The **List of Documents Reviewed**, located at the end of this report, provides  
10                      citation to the particular documents relied upon. This report also relies upon  
11                      certain work product produced by NHC and receivership staff, with such work  
12                      product to be uploaded into the applicable electronic litigation database as  
13                      necessary to advise the purposes of the Receiver’s litigation. Footnotes to  
14                      documents relied upon are also provided where necessary.<sup>19</sup>

- 15           • Documents and information reflecting any parallel claims system that was set up or  
16           developed for loading and evaluating eligibility, plan information and/or claims  
17           adjudication retrospectively, including all documents relied upon to set up same.  
18           • Documentation and information that demonstrate all of the steps that were taken by  
19           the SDR in ascertaining that the allegations in this case are substantiated.  
20           • Access to the re-adjudicated claims in the claim system, including the 3,549  
21           “instances” of alleged overpayments the SDR references in the SDR Draft Report.<sup>20</sup>  
22           • Access to Javelina and the claims adjudicated in Javelina by UHH and NHC.

23           It is evident from Plaintiff’s disclosures and expert reports that it had at least three (3) years  
24           to gather information and perform various activities in support of its experts’ opinions in this case.  
25           Specifically, the Receiver assumed responsibility of the CO-OP on October 15, 2015 and at least two  
26           of its experts (Fish and DeVito) were retained in 2016. Based on the amount of information  
27           reviewed, vetted, and tested by Plaintiff’s experts before providing its opinions, it would be  
28           unreasonable and prejudicial to require Defendants to review, evaluate, and rebut Plaintiff’s experts’  
29           opinions within 30 days, especially in light of the fact that they are missing a significant portion of  
30           the information reviewed and relied upon by Plaintiff’s experts.

31           Defendants’ expert - Christina Melnykovich - has already been diligent in reviewing  
32           thousands of documents in this case, in addition to Plaintiff’s claims in its Amended Complaint and

33           \_\_\_\_\_  
34           <sup>19</sup> SDR Report at 3.

35           <sup>20</sup> SDR Report at 7.

1 Plaintiff's expert reports and materials specifically referenced in the expert reports that have been  
2 produced. What remains to be done, however, is the review of all documents and data reviewed  
3 and/or relied upon by Plaintiff's experts as well as the documents specifically reviewed and relied  
4 upon in preparation of the SDR Draft Report to evaluate the opinions and conclusions of Plaintiff's  
5 experts and the work performed by and/or for the experts and Special Deputy Receiver, including  
6 the methodology used and individuals performing such work.<sup>21</sup> She cannot because it has not been  
7 produced. Accordingly, Defendants request (and all of the other defendants agree) that the Court  
8 should extend Defendants' current expert disclosure deadline until twelve (12) months after  
9 Defendants have received all of the supporting documents and claims information Plaintiff's experts  
10 relied upon in forming their opinions.

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28 <sup>21</sup> See Declaration of Christina Melnykovich, attached hereto as Exhibit A.

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IV. CONCLUSION

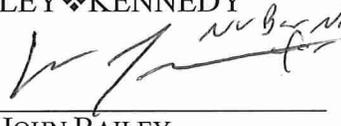
For the foregoing reasons, the Motion should be granted, and the deadline for Defendant's initial and rebuttal expert disclosures should be extended twelve (12) months after Defendants have received all of the supporting documents and claims information Plaintiff's experts relied upon in formulating their opinions (which will be addressed through a separate motion to compel).

DATED this 19th day of August, 2019.

SEYFARTH SHAW LLP

By: /s/ Suzanna C. Bonham  
SUZANNA C. BONHAM  
EMMA C. MATA

BAILEY ♦ KENNEDY

By:  *nu Bar No. 11576*  
JOHN BAILEY  
Joseph A. Liebman

*Attorneys for Defendants Unite Here Health  
and Nevada Health Solutions, LLC*

BAILEY ❖ KENNEDY  
8984 SPANISH RIDGE AVENUE  
LAS VEGAS, NEVADA 89148-1302  
702.562.8820

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ❖ KENNEDY and that on the 21<sup>st</sup> day of August, 2019, service of the foregoing was made by mandatory electronic service through the Eighth Judicial District Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

<p>Mark E. Ferrario, Esq. Eric W. Swanis, Esq. Donald L. Prunty, Esq. GREENBERG TRAURIG LLP 3773 Howard Hughes Pkwy., Suite 400 N Las Vegas, NV 89169 <a href="mailto:ferrariom@gtlaw.com">ferrariom@gtlaw.com</a> <a href="mailto:swanise@gtlaw.com">swanise@gtlaw.com</a> <a href="mailto:pruntyd@gtlaw.com">pruntyd@gtlaw.com</a></p> <p><i>Attorneys for Plaintiff</i></p>	<p>John E. Bragonie, Esq. Jennifer K. Hostetler, Esq. LEWIS ROCA ROTHGERBER CHRISTIE LLP 3993 Howard Hughes Pkwy., Suite 600 Las Vegas, NV 89169 <a href="mailto:jbragonie@lrrc.com">jbragonie@lrrc.com</a> <a href="mailto:jhostetler@lrrc.com">jhostetler@lrrc.com</a></p> <p><i>Attorneys for Defendant Millennium Consulting Services LLC</i></p>
<p>Patrick G. Byrne Esq. Ale L. Fugazzi, Esq. Aleem A. Dhalla, Esq. SNELL &amp; WILMER LLP 3883 Howard Hughes Parkway, Suite 1100 Las Vegas, NV 89189 <a href="mailto:pbyrne@swlaw.com">pbyrne@swlaw.com</a> <a href="mailto:afugazzi@swlaw.com">afugazzi@swlaw.com</a> <a href="mailto:adhalla@swlaw.com">adhalla@swlaw.com</a></p> <p><i>Attorneys for Defendants Milliman, Inc. Jonathan L. Shreve and Mary van der Heijde</i></p>	<p>Joseph P. Garin, Esq. Angela T. Nakamura Ochoa, Esq. LIPSON NEILSON, P.C. 9900 Covington Cross Dr., Suite 120 Las Vegas, NV 89144 <a href="mailto:jgarin@lipsonneilson.com">jgarin@lipsonneilson.com</a> <a href="mailto:aocchoa@lipsonneilson.com">aocchoa@lipsonneilson.com</a></p> <p><i>Attorneys for Defendants Kathleen Silver, Bobbette Bond, Tom Zumtobel, Pam Egan, Basil Dibsie and Linda Mattoon</i></p>
<p>Kurt R. Bonds Matthew Pruitt ALVERSON TAYLOR &amp; SANDERS 6605 Grand Montecito Parkway, Suite 200 Last Vegas, NV 89149 <a href="mailto:kbonds@alversontaylor.com">kbonds@alversontaylor.com</a></p> <p><i>Attorneys for Defendants InsureMonkey, Inc. and Alex Rivlin</i></p>	<p>Lori E. Siderman, Esq. Russell B. Brown, Esq. MEYERS McCONNELL REISZ SIDERMAN 1745 Village Center Circle Las Vegas, NV 89134 <a href="mailto:siderman@mmrs-law.com">siderman@mmrs-law.com</a> <a href="mailto:brown@mmrs-law.com">brown@mmrs-law.com</a></p> <p><i>Attorneys for Defendants Martha Hayes and Dennis T. Larson</i></p>

  
/s/ Sharon L. Murnane  
Employee of BAILEY ❖ KENNEDY

## Exhibit 9

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TRAN

IN THE EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA

NEVADA COMMISSIONER OF	)	
INSURANCE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO.
	)	
MILLIMAN, INC., et al.,	)	A-17-760558-B
	)	
Defendants.	)	DEPT. NO. 16
_____	)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE TIMOTHY C. WILLIAMS  
TUESDAY, OCTOBER 1, 2019

APPEARANCES:

For the Plaintiff:

MARK FERRARIO, ESQ.  
DONALD L. PRUNTY, ESQ.

For the Defendants:

JOHN R. BAILEY, ESQ.  
SUZANNA C. BONHAM, ESQ.  
  
ANGELA CHUNG, ESQ.  
  
MATTHEW PRUITT, ESQ.

REPORTED BY: DANA J. TAVAGLIONE, RPR, CCR No. 841

1 LAS VEGAS, NEVADA, TUESDAY, OCTOBER 1, 2019

2 \* \* \* \* \*

3  
4 THE COURT: Okay. We're going to move on.  
5 Next up, page 10, Nevada Commissioner of  
6 Insurance vs. Milliman, Inc., et al.

7 THE REPORTER: Counsel, would you like your  
8 matter reported?

9 MS. BONHAM: Yes, please.

10 MS. CHUNG: Good morning, Your Honor.  
11 Angela Chung, on behalf of the management  
12 defendants.

13 MR. PRUITT: Good morning, Your Honor.  
14 Matthew Pruitt, on behalf of Insure Monkey  
15 and Alex Rivlin.

16 MR. BAILEY: Good morning, Your Honor.  
17 John Bailey and Suzanna Bonham, on behalf of  
18 Unite Here Health and Nevada Health Solutions.

19 MR. FERRARIO: Good morning, Your Honor.  
20 Mark Ferrario and Don Prunty for the plaintiffs.

21 THE COURT: All right. Once again, good  
22 morning, everyone. And I guess this would be a  
23 continuation of a prior hearing in this matter; is  
24 that correct?

25 MR. FERRARIO: That is correct.

1 THE COURT: With a little bit more  
2 supplementation as far as briefing is concerned.

3 MS. BONHAM: Yes, Your Honor.

4 THE COURT: All right. And, ma'am, you  
5 have the floor.

6 MS. BONHAM: Thank you, Your Honor.

7 Your Honor, as you can tell from the  
8 substantial briefing that has been filed in this  
9 case, with respect to Defendants' Motion to Stay,  
10 this is not your typical case. It's rare to have a  
11 case in state court that will directly be impacted  
12 by a U.S. Supreme Court decision. The original  
13 right to even be formed for the Nevada Health Co-Op  
14 originates from federal law, the Affordable Care  
15 Act. And the right to receive federal receivables  
16 is based on federal statute.

17 Your Honor, plaintiff is seeking significant  
18 damages against defendants, a substantial amount of  
19 which are based on federal regulations and statutes.  
20 In particular, as we talked about on August 27th, at  
21 the last hearing, Table 8 in Plaintiff's Expert  
22 Report for Mark Fish identifies three different  
23 assumptions, based on a different ruling in "Moda."  
24 Either 100 percent of the risk corridor payment be  
25 made and recovered by plaintiff; 12.6 percent of the

1 risk corridor payment having been paid to the  
2 plaintiff; or, in fact, no additional federal  
3 receivable funds being paid to plaintiff. Each of  
4 those three scenarios are going to be decided by  
5 "Moda" and the following CFC, Court of Federal  
6 Claims case.

7 "Moda" and the CFC case are absolutely  
8 outcome determinative for the issue of causation and  
9 thus liability and any resulting damages related to  
10 these federal receivables. Only one of these  
11 alternatives though is, in fact, plaintiff's alleged  
12 damages. Fish had to make assumptions, which he  
13 stated expressly in his report, only one. Plaintiff  
14 cannot currently argue that each of these alternative  
15 scenarios were allegedly caused by defendants.  
16 Again, it's only one. There's only one damage  
17 amount.

18 THE COURT: Tell me, is liability discovery  
19 completed?

20 MS. BONHAM: No, Your Honor. Liability  
21 discovery is still absolutely -- is still absolutely  
22 going on currently.

23 THE COURT: Okay. And so my question is  
24 this: We're requesting a stay.

25 why would we stay the entire case?

1 MS. BONHAM: Your Honor, we would absolutely  
2 be amenable to proceeding forward with discovery  
3 while we wait for the "Moda" decision.

4 THE COURT: Let me see this case.

5 MS. BONHAM: But, ultimately, expert  
6 opinions are going to be impacted by the "Moda"  
7 decision. So as to fact-witness depositions to  
8 plaintiff's point that memories fail, you know, over  
9 time, we can certainly move forward and continue  
10 fact-witness depositions in order to maintain  
11 memories of witnesses during this period of time.

12 Additionally, Your Honor, the U.S. Supreme  
13 Court has already set for oral argument the "Moda"  
14 decision. It's set for December 10th. It's  
15 approximately two months away, and a decision will  
16 be rendered in this term by June. So our request  
17 for a stay of the ultimate trial is not indefinite.  
18 And, in fact, to plaintiff's credit, they have  
19 already filed, in the CFC case, a Motion for Summary  
20 Judgment on all other matters, all of their other  
21 issues because they're legal issues, once the "Moda"  
22 decision is made.

23 Additionally, Your Honor, plaintiffs have  
24 argued that there's a proposed sale of the risk  
25 corridor receivables. Your Honor, it's immaterial

1 to the issue before the Court today. The fact is is  
2 that, again, we're not talking about plaintiff's  
3 mitigation of damages, which is how they're  
4 positioning themselves with respect to this sale in  
5 which they're going to receive, initially, an  
6 upfront amount of \$10 million. But, again, the  
7 ultimate decision as to what was their alleged  
8 damage is ultimately going to be decided by "Moda,"  
9 not by their sale of these risk corridor receivables.

10 Further, Your Honor, and actually it proves  
11 our point is that they claim that now they're going  
12 to be seeking, you know, a credit, mitigation of  
13 \$10 million. Well in, fact, the sale does not fix  
14 that amount at \$10 million.

15 In fact, plaintiff, depending upon the  
16 "Moda" decision and the recoverable, the recoveries  
17 from that "Moda" decision, they're going to be  
18 entitled to a waterfall scale of additional amounts  
19 over and beyond the 10 million. And so even with  
20 that sale, the amount of damages is still not fixed.

21 Your Honor, they also -- plaintiff also  
22 raises that we have not identified hardship and  
23 inequities. By staying this matter, the Court will  
24 reduce and will simplify certain evidentiary  
25 hearings related to causation and the amount of

1 damages plaintiff can rightfully stand before this  
2 Court and the jury, stating that it has incurred as  
3 an alleged damage.

4 Inequities exist because defendants are  
5 having to defend against these issues that are  
6 speculative in nature at this point, that will be  
7 decided on or before June of 2020. In less than six  
8 to eight months, we're going to have a decision on  
9 this very issue.

10 This is already a complex case. By waiting  
11 for a decision in "Moda," we are simplifying at  
12 least one of the many issues that's going to be  
13 tried. A stay will promote judicial economy, reduce  
14 confusion and prejudice and prevent inconsistent  
15 resolutions. If we proceed forward with trial  
16 before the "Moda" decision, there will likely be  
17 reversible error, and then we're going to have to go  
18 back before the Court.

19 THE COURT: Depends if we're lucky or not.

20 MS. BONHAM: You're right.

21 THE COURT: One-in-three shot; right?

22 MS. BONHAM: I have to say I don't have  
23 that sort of luck, and so I have to consider the  
24 possibility that it's not going to be in our favor.

25 But, Your Honor, if "Moda" is decided and

1 the U.S. Supreme Court rules that, in fact, the  
2 government is not required to pay any additional  
3 amounts of money, then plaintiff -- any amount of  
4 money that plaintiff claims right now as a damage  
5 could not have been caused by defendants because  
6 they would never have ultimately recovered that  
7 amount, that money from the government.

8           You know, we stated within our reply a  
9 proposed stipulation that, to the extent that  
10 plaintiff can stipulate that it will not seek to  
11 recover any amount of recovered federal receivables  
12 as part of its damages, then defendants agree a stay  
13 is not necessary. But by their supplemental  
14 response, it is clear that they absolutely are  
15 seeking these federal receivables in their damage  
16 calculation. They're proving our point.

17           And to be clear, Your Honor, the federal  
18 receivables, their recoverable -- unrecoverable  
19 federal receivables are those amounts of federal  
20 receivables that are included within Fish's  
21 calculations in his Table 8 and Table 7, as well as  
22 Wazowski's calculations of the federal receivables  
23 damages that they're seeking against -- that he's  
24 claiming should be sought against defendants.

25           Your Honor, do you have any questions with

1 respect to --

2 THE COURT: No, not yet.

3 MS. BONHAM: -- all of our supplemental  
4 briefing?

5 THE COURT: Not yet, but I will have some.  
6 I have some questions.

7 Are you done, ma'am?

8 MS. BONHAM: I am.

9 MR. FERRARIO: Your Honor, I'd prefer to go  
10 right to your thoughts because, quite frankly, I'm  
11 sitting here just biting my tongue listening to  
12 false premise, upon false premise, upon false  
13 premise to justify this request for a stay, which is  
14 really driven by the fact that the defendants have  
15 really done nothing in this case up to this point.  
16 And all of a sudden it's: Oh, my God, we're on the  
17 virge of trial and now we've got to come in and ask  
18 for a stay."

19 False premise No. 1: That "Moda" is going  
20 to directly impact this case. False.

21 False premise No. 2: That the "Moda" is  
22 going to decide -- "Moda" case is going to be decide  
23 damages. False. We're suing these folks, as I said  
24 the last time and as I'm saying here today again,  
25 for damages directly caused by them.

1           Now, I would suspect -- and I haven't seen  
2           it yet because they asked for delay in producing  
3           their expert's opinion -- but I'm willing to bet you  
4           right now that they will not proffer an expert that  
5           will say that, as a result of "Moda" or "Moda" is  
6           going to be case dependent here in terms of damages  
7           or case determinative in terms of damages. That  
8           will not happen because that's not what we're suing  
9           them for.

10           We're not suing them because the government  
11           didn't pay us. And, in fact --

12           THE COURT: This my recollection -- and you  
13           could tell me if I'm incorrect on this,  
14           Mr. Ferrario -- part of it dealt with specific claims  
15           that were never filed and mismanagement and all  
16           those types of things; right?

17           MR. FERRARIO: Yes. Absolutely.

18           What we said is because of their failure,  
19           okay, and in particular --

20           THE COURT: Administratively and in  
21           management roles; right?

22           MR. FERRARIO: Absolutely. That this  
23           company, the insurance, you know, the Co-Op, went  
24           under, and our expert said -- he gives different  
25           dates, okay, depending on the what the jury -- you

1 know, the jury may say, "Hey, you know, we'll give  
2 you a pass. As of 2014, you were okay. But you  
3 know what, as of 2015, you folks over here should  
4 have pulled the plug on this company or raised the  
5 red flag," and then we get alternative damage  
6 calculation.

7           And, Judge, I guess probably the easiest  
8 thing to do, as I was going through this this  
9 morning, in the financial statements, okay, which  
10 some of the defendants were responsible for  
11 creating, we gave them full credit, they got full  
12 credit for the receivable, and even with full  
13 credit, the company was insolvent.

14           So and I think what we're really talking  
15 about here are legal issues. They're going to come  
16 in, I would say on the verge of trial when we're  
17 doing motions in limine or we're hashing out what  
18 damages can be recovered, and I suspect the  
19 defendants will come in with a motion, and they're  
20 going to say: "Your Honor, we're not responsible  
21 for the government's failure to pay NHC, that we are  
22 not the proximate cause of those damages; it's the  
23 government on that risk corridor amount."

24           And Your Honor is going to have that  
25 briefing and Your Honor is going to look at it and

1 you're going to decide whether or not their  
2 arguments meet the legal standard for proximate  
3 cause. That's what this is all about. And to come  
4 in and ask for a stay, which isn't supported by any  
5 case that they cite which, by its nature, is going  
6 to be indefinite because we don't know when the  
7 Supreme Court is going to render its decision.

8 Not only that, we don't know, when the  
9 decision is rendered, whether or not congress then  
10 is going to act or whether they're going -- whether  
11 the government is going to adopt some other strategy  
12 not to pay. Okay. So by definition, the stay is  
13 indefinite. So what we have here is really nothing  
14 more than you see in many other cases where someone  
15 is going to come in and say, "You know what, you're  
16 trying to ding me with this pot of damages. It's  
17 really not my fault, okay, I didn't cause that.  
18 Someone else did."

19 But here we're not even seeking those  
20 damages from the defendants. So at the end of the  
21 day, you can't cure a deficient position with  
22 volumes of material. It's a fascinating read about  
23 "Moda" and it's a fascinating read about the  
24 Supreme Court case. But as we pointed out in our  
25 brief, there are solvent -- there's a solvent

1 insurer that's going after their funds. We would be  
2 going after the government whether we were insolvent  
3 or solvent because they didn't pay us.

4 So what should happen here, Judge, is we  
5 should continue on with the case. Let them get  
6 their experts tuned up. I think that date -- we  
7 just agreed to extend it a few days because of the  
8 holidays. Let them put their expert reports out  
9 here, and let's see how this damage thing hashes  
10 out. Let's not stay this case based on their  
11 speculation, false premises, and supposition as to  
12 what might happen.

13 THE COURT: So I want to make sure I'm  
14 clear, from the plaintiff's perspective, you will  
15 not be seeking damages caused by or proximately  
16 caused by the government's failure to pay  
17 reimbursements.

18 MR. FERRARIO: You're right. Your Honor,  
19 to say it another way, I'm only seeking damages  
20 caused by these folks. Okay? I can't be any  
21 clearer. That's what we've said. That's what our  
22 experts said. That's it.

23 If the government didn't pay us, okay, and  
24 it was not because it was their fault, right, I  
25 mean, if they had nothing to do with it, how could I

1 get the damages from them? How could I get those  
2 damages from them?

3 THE COURT: I understand.

4 MR. FERRARIO: I mean, I suspect you'll  
5 probably tell me I couldn't anyhow if we filed the  
6 type of motions that we were filed -- or that I  
7 suspect will be filed.

8 THE COURT: I guess, in a very basic  
9 fundamental way, that would be akin to an  
10 independent alternative causation.

11 MR. FERRARIO: Exactly. And on top of it,  
12 Judge, what they're going to argue, they're going to  
13 come in, and maybe their expert will say, "Hey,  
14 wait, you wouldn't have failed if you'd have got  
15 your payments." I expect we're probably going to  
16 have to deal with that. And they're going to  
17 challenge the compromise that we're trying to  
18 achieve in front of Judge Cory, where we're  
19 compromising that receivable. I suspect we're going  
20 to have to hash all that out.

21 But that is something that will play itself  
22 out once their experts come forward, once we see  
23 what their response is going to be to our expert  
24 reports. Now is not the time to jump into that and  
25 stay this case. Certainly not time to stay the

1 expert deadlines and not time to stay liability  
2 discovery.

3 And so I think, in our opposition, we did  
4 about as good a job we could of deconstructing all  
5 of their arguments. I'll be happy to answer any  
6 questions that you have. But at the end of the day,  
7 this was, from our perspective, kind of a Hail Mary  
8 pass to avoid a day of reckoning on a case that they  
9 know they can't defend.

10 MR. BAILEY: Your Honor, two points. The  
11 first point is you asked the question of  
12 Mr. Ferrario, of the plaintiffs. You said: "well,  
13 you've got these claims against the defendants about  
14 how they handled the claims and how they -- whether  
15 or not they timely submitted claims which relate to  
16 risk corridor payments and relate to the 3R's.  
17 Absolutely the correct question to ask.

18 And Mr. Ferrario couldn't answer the  
19 question of: If the "Moda" decision says that the  
20 government does not have to pay anything, then  
21 whether or not we filed claims timely or untimely or  
22 completely or incompletely doesn't matter because,  
23 as a matter of causation, Nevada Health Co-Op could  
24 not recover those funds. The issue is when will we  
25 know that? Because the Supreme Court could say:

1 "Yes, you can recover those funds"; "No, you cannot  
2 recover those funds"; or something in between. All  
3 of us sitting here today will never know that until  
4 the "Moda" decision is rendered.

5 what we do know is that the decision is set  
6 for oral argument in two months. We do know,  
7 despite their arguments to the contrary, that the  
8 U.S. Supreme Court renders decisions in the same  
9 term that it hears the oral argument.

10 So we will know by June of next year  
11 whether or not the Supreme Court is going to allow  
12 Nevada Health Co-Op to recover some amount of funds  
13 or not. If not, then from a causation standpoint,  
14 those claims that you asked about -- whether we  
15 filed them timely, untimely, or whatever --  
16 completely forecloses their ability to get damages  
17 on those. That's my first point. They did not  
18 answer that question.

19 THE COURT: So I want to make sure: Are we  
20 like two ships in the night? Is the sole source of  
21 reimbursement under the facts of this case vis-a-vis  
22 the Nevada Co-Op limited to risk corridor government  
23 payments?

24 MR. BAILEY: Well, if you look at their  
25 expert report, that's where all of those assumptions

1 come from. Okay. So we're talking plus or minus  
2 \$60 million, and they are making their assumptions  
3 from their expert based directly on whether or not  
4 the U.S. Supreme Court allows for a recovery or not,  
5 and then they have the 12.6 percent pro rata. So  
6 they can stand here and say, "Geez, it really  
7 doesn't matter what the U.S. Supreme Court does. It  
8 doesn't affect this case."

9 THE COURT: Because I mean, from a damage  
10 perspective, assuming I have the correct handle on  
11 it, it's a fairly easy analysis when it comes to  
12 proximate causation. And the reason why I say that  
13 is this: Either all of the funds, from a  
14 reimbursement perspective, that the Co-Op could  
15 acquire, based upon claims being filed, is that  
16 limited solely to risk corridor?

17 MS. BONHAM: No, Your Honor. Separately,  
18 from these damages --

19 THE COURT: You see what I'm saying?

20 MS. BONHAM: -- that we're talking about  
21 today, Your Honor, plaintiffs have additional  
22 experts who have also calculated very specific,  
23 identified specific claims where an overpayment was  
24 allegedly made or a payment made outside of  
25 eligibility, and they have calculated a separate

1 amount of damages as result of that conduct.

2 what we're talking about today is not those  
3 damages.

4 THE COURT: I understand.

5 MS. BONHAM: It is regarding federal  
6 receivables.

7 THE COURT: And but my point is this,  
8 because there's some claims, it's my understanding,  
9 being made as it relates to the failure to file the  
10 claims. And so is it a two-tier process?

11 For example, and I haven't done this yet,  
12 but it's my understanding you have like Medicare,  
13 Part A and B, and "A" might pay some stuff; "B"  
14 might pay other stuff. And so my question is this:  
15 what is the source of reimbursement? What is the  
16 universe of reimbursement? And I need to know that.

17 MR. FERRARIO: Your Honor --

18 THE COURT: You see where I'm going?  
19 Because it's really --

20 MR. FERRARIO: No, you're actually right.  
21 Here's what we're suing them for. We paid claims we  
22 shouldn't have because they screwed up. Okay?  
23 That's something you can address right now. It has  
24 nothing to do with "Moda." Let's get it on.

25 The next thing is you failed to process

1 claims, and our receivable would have been higher at  
2 the government, but we missed the deadlines to do  
3 it. So we were damaged there as well because they  
4 screwed that up.

5 These are the claims. It has nothing to do  
6 with what the Supreme Court is going to do. Zero.

7 THE COURT: And I guess the next way to  
8 look at that, we're talking about prospective, I  
9 guess, in this respect, for a lot of these claims,  
10 the payments have been made, right, or should have  
11 been made? Is that true or not?

12 MR. FERRARIO: Some claims were made  
13 that -- we paid claims we shouldn't have because  
14 they didn't process them correctly, which  
15 contributed to the demise of the company.

16 MS. BONHAM: Your Honor, there are certain  
17 amounts of money that they're seeking against  
18 defendants that would never -- that depending upon  
19 the ruling in "Moda," will never -- plaintiff would  
20 never be able to recover or be rightfully entitled  
21 to because there is no additional funds available  
22 from the government.

23 THE COURT: So were there two buckets of  
24 funds?

25 MS. BONHAM: Yes.

1 THE COURT: That's what I'm trying to get  
2 to.

3 MS. BONHAM: Yes, Your Honor.

4 THE COURT: There is two buckets.

5 MS. BONHAM: Yes, there are. And so with  
6 respect to the buckets of funds that are from the  
7 federal government, those damages we have to wait  
8 for a decision from "Moda."

9 MR. FERRARIO: Your Honor, I'll tell you  
10 the fallacy in that: If "Moda" comes down -- are  
11 they saying that if "Moda" goes against us, that  
12 they're liable for those funds? I'll flip it on  
13 them.

14 MS. BONHAM: No. In fact --

15 MR. FERRARIO: Is that what they're saying?

16 MR. BAILEY: The answer is no, Your Honor.

17 MR. FERRARIO: Yeah, because they're going  
18 to argue no matter what.

19 MR. BAILEY: well, the answer is no,  
20 because we don't believe we're liable in the first  
21 instance.

22 MR. FERRARIO: Then let's get that on.

23 MR. BAILEY: We're happy to get that on at  
24 the proper time. Let me -- let me address --

25 MR. FERRARIO: Now is the proper time to

1 address --

2 THE MARSHAL: One at a time, Counsel.

3 MR. FERRARIO: I'm sorry. You're right.  
4 Well, I'm getting double-teamed. So I get to talk  
5 twice as much.

6 MR. BAILEY: I'm used to Mr. Ferrario  
7 interrupting me.

8 THE COURT: So we got two buckets. Tell me  
9 about the first bucket, the nonfederal bucket.

10 what does that involve? Because actually,  
11 I mean, we have all this briefing, but the concepts  
12 are very straightforward. As far as damages, it  
13 doesn't matter what type of court case it is. But  
14 it has to be a proximate cause. I mean, for  
15 example, even malpractice is a great example. If  
16 you don't have your tort within the tort, there's no  
17 recovery. I get that.

18 And so my point is this, and it's really  
19 this simple: when it comes to proximate cause in  
20 this case, I just want to make sure I understand  
21 potentially what would be the avenues of recovery;  
22 right? It's like that in every case.

23 MS. BONHAM: Your Honor, currently there is  
24 nothing preventing the case moving forward with  
25 respect to plaintiff's claims that I identify being

1 their allegation, which we wholly disagree with and  
2 dispute, that UHH made overpayments on claims or  
3 that UHH paid claims outside of eligibility simply  
4 because the plaintiff was the sole one in control of  
5 identifying, identifying who was eligible, an  
6 eligible member. Those types of claims absolutely  
7 can proceed forward.

8           It is the claims related to federal  
9 receivables, which amount to a significant amount of  
10 the damages that they're seeking in this case, that  
11 is impacted by "Moda." The breach of contract claim  
12 itself, with respect to whether in fact UHH  
13 overpaid, whether in fact paid outside of  
14 eligibility, those types of items are paid in  
15 duplicate claims. Those are much straightforward,  
16 are very straightforward and can move forward with.

17           THE COURT: How much time do we anticipate  
18 it will take to try this case?

19           MS. BONHAM: I believe, Your Honor, that  
20 one of the last hearings, it was six to eight weeks.

21           THE COURT: That's probably low.

22           MR. FERRARIO: I think that's probably  
23 right.

24           THE COURT: You think so? I'm thinking  
25 more three months.

1 MS. BONHAM: I actually believe,  
2 Your Honor, that it's going to take longer.

3 MR. FERRARIO: Well, you know, how do  
4 you -- how much of the days do we get? I mean, I  
5 was in front of Judge Jones the other day, and a  
6 week is really like two days or three days or  
7 something.

8 THE COURT: I mean, I try to have full days  
9 on Mondays and Fridays; and Tuesdays and Wednesdays  
10 and Thursdays, a minimum of half a day sometimes.  
11 It depends on how the calendars go.

12 But here's my point. I'm sitting here  
13 looking at it, and I do believe in efficiency. The  
14 first thing I asked my court clerk to do is  
15 determine when was the Complaint filed in this case.  
16 The Complaint was filed on August 25th, 2017. For  
17 this type of case, I think this case is moving  
18 quicker than most. I will say that. It is.

19 And so unless the plaintiff -- I mean, the  
20 plaintiff, and Mr. Ferrario, you have to answer this  
21 question for me because this is my concern: No. 1,  
22 I don't want to stay anything; right? I don't. I  
23 don't mind telling you that because I think it's  
24 important to conduct discovery. Because when you  
25 stop conducting discovery, the slowdown is

1 multiplied. That's probably the best way I can say it  
2 because if you're taking depositions, you're moving  
3 and moving; things are being accomplished.

4 But I would anticipate the plaintiff is not  
5 willing to stipulate -- I probably wouldn't do this  
6 either -- that you're not going to seek any damages  
7 that would be proximately caused by or related, in  
8 some manner, to federal reimbursements; right?  
9 You're not going to give that up. I wouldn't.

10 But --

11 MR. BAILEY: well, hold on a second, Judge.  
12 He may.

13 MR. FERRARIO: Like I said before, okay,  
14 and I think that what --

15 THE COURT: Because I'm looking at  
16 efficiency. But go ahead.

17 MR. FERRARIO: You know, I'll tell you what  
18 the efficient way to do this is, and I suspect that  
19 and I've been in front of you enough to know you're  
20 going to give them the chance to do discovery.  
21 Here's what we should do. Okay. Let's let the  
22 expert reports come forward. Okay? I'm willing to  
23 bet you, all right, what I said that their experts  
24 are not going to say that they have no damages  
25 because of what's at stake in the "Moda" case.

1           Okay. If their experts say that we're  
2 going to have a legal issue you're going to have to  
3 decide and it's a proximate cause issue -- maybe I'm  
4 answering your question in a different way. If the  
5 reason we're not getting money, okay, or arrear  
6 damage is the government is not paying us, okay,  
7 then I'm not going after them for that. I'll state  
8 that right here.

9           Okay. I'm going after them for what I just  
10 said.

11           THE COURT: Now, here's my question though.  
12 What do you do in this regard, and I kind of get  
13 that. You're saying "Look" -- you're saying, as a  
14 matter of law, you can't seek that. I get that.

15           But don't we have somewhat of potentially a  
16 moving target because what happens if the government  
17 says: You know what, the risk corridor is funded at  
18 100 percent.

19           MR. FERRARIO: We're still damaged, and  
20 we've accounted for that.

21           THE COURT: Oh, no, no. I think you would  
22 be damaged, but I think the damage figure would  
23 potentially go up.

24           MR. FERRARIO: No. We've given them credit  
25 for that in our damage calculation. That's the

1 point. We're giving them credit for what the  
2 government should have paid us.

3 MR. BAILEY: Judge, let me --

4 MR. FERRARIO: Just like we did when we  
5 analyzed --

6 THE COURT: I'm trying to figure that out.  
7 If they were dilatory in filing a claim that would  
8 have been covered by the risk corridor --

9 MR. FERRARIO: That's a different issue  
10 there. That's --

11 THE COURT: That's what I'm talking about.

12 MR. FERRARIO: But time out, no. And I'll  
13 tell you why that's different. We've lost the  
14 ability to recoup that. We lost the ability to  
15 recoup that. So that's not coming back to us from  
16 the government.

17 THE COURT: Okay. But here's my question  
18 though, Mr. Ferrario, and I think -- I get that, and  
19 I would not -- I mean, I would think you wouldn't  
20 give that up either.

21 MR. FERRARIO: I'm not giving that up.

22 THE COURT: But, hypothetically, the amount  
23 of reimbursement has to be firmed up; right? It  
24 could be --

25 MR. FERRARIO: No. We know what the amount

1 is. It's fixed. The government has agreed to it.  
2 It's fixed.

3 THE COURT: Is that true or not?

4 MR. FERRARIO: Absolutely true.

5 MS. BONHAM: No, Your Honor. It's not  
6 fixed. "Moda" is going to decide that.

7 MR. PRUNTY: If I may, Your Honor.

8 MR. FERRARIO: Judge, let me --

9 MR. PRUNTY: The amount of money that the  
10 government owes us, they're not disputing they owe  
11 us the money. They're just saying -- you see  
12 messages saying "I don't have the allocation of  
13 funds to pay you."

14 And as counsel over here said, in the  
15 Federal Court of Claims case, we've agreed on it,  
16 there are no material facts at issue. We've agreed  
17 on the amount of money that should have been paid to  
18 us, and that number is fixed because it impacts  
19 every other insured that's out there because it's a  
20 percentage of the total population.

21 And so the amount of money that the  
22 government owes to NHC is a fixed number that both  
23 the government and NHC has agreed on, and there is a  
24 Motion to Dismiss and a Countermotion for Summary  
25 Judgment in which both sides agree to the number.

1 MR. FERRARIO: Exactly.

2 MR. BAILEY: Judge, can I offer --

3 THE COURT: Of course you can.

4 But what's the impact? Are you saying that  
5 we'll have a finite figure as far as what the total  
6 reimbursements would be as a result of that case  
7 there?

8 MR. FERRARIO: We know that. We know what  
9 our total potential recovery could be, and as we've  
10 said in our pleading -- and we filed it; it's a  
11 matter of public record -- we're seeking to now  
12 compromise that unknown, that receivable, down to  
13 \$10 million, and that's proceeding in front of  
14 Judge Cory and I think will be heard 6/16.

15 So all of -- and, again, their experts --  
16 presuming Judge Cory approves that, let's just play  
17 that out -- he approves it, compromise 10 million  
18 bucks. Their experts will now figure that into  
19 their calculation.

20 And they may come in and maybe their  
21 experts are going to say, "Hey, you know, what we  
22 didn't cause you any damage. The reason you failed  
23 was because the government didn't pay you, because  
24 the government wouldn't fund the risk corridor.  
25 That's it. That's why you failed." That's a fight

1 we're going to have because, you know what, I can't  
2 dispute that the government didn't fund it.

3 Now, they're going to say that the cause of  
4 your failure is the government's failure to fund.  
5 I'm going to say the cause of our failure was you  
6 failed to fulfill your contractual obligations and  
7 do your job. That's how this plays out, Judge.  
8 what's happening in the "Moda" case has no impact on  
9 what we're doing here. None.

10 MR. BAILEY: Judge, may I be heard?

11 THE COURT: Of course, Mr. Bailey.

12 MR. BAILEY: Let me talk about two things.  
13 One, cutting to the chase, I'm talking about  
14 practically what happens if we go to trial prior to  
15 the "Moda" decision, and then let me offer a  
16 solution that I think will meet your objective of  
17 efficiency and, at the same time, be efficient for  
18 the parties.

19 So let me start with, let's assume we go to  
20 trial before the "Moda" decision comes down. What  
21 will happen, we will go to trial, and one party will  
22 lose, and that party -- doesn't matter which party  
23 it is; that party will lose -- and that party will  
24 appeal to the Nevada Supreme Court. In fact, both  
25 sides may be aggrieved by the decision and there may

1 be a cross-appeal to the Nevada Supreme Court.

2 As this matter is before the Nevada Supreme  
3 Court, then the "Moda" decision will come down, and  
4 that decision will answer whatever happens in the  
5 Court of Federal Claims, and the Nevada Supreme  
6 Court will be looking at this case saying: "You  
7 guys knew this decision had an impact on your  
8 decision, yet you went to trial anyway. Why would  
9 you do that?"

10 And they will do that, "they" being the  
11 Nevada Supreme Court, by looking at the jury  
12 instructions and saying: "These jury instructions  
13 are inconsistent with what the United States Supreme  
14 Court said in 'Moda.'" And one or both parties,  
15 whether there's an appeal and/or a cross-appeal,  
16 will be making similar types of arguments.

17 And ultimately -- and I say "ultimately,"  
18 Judge -- and I put this to you because I've been  
19 practicing for 35 years; I know you've been  
20 practicing before you ascended to the bench for  
21 35 years as a practitioner, and Mr. Ferrario has  
22 been practicing for over 30 years. We've been to  
23 this rodeo. And the Nevada Supreme Court will say:  
24 "Well, given what the United States Supreme Court  
25 said in 'Moda,' these jury instructions do not

1 represent what the law is, and there are issues  
2 regarding damages; there's issues regarding  
3 causation. We're going to send the case back down  
4 to you, Judge Williams, so that you can retry this  
5 case based on the decision that was rendered in  
6 'Moda'."

7 And so where does that leave us? We're  
8 going to end up trying this case twice, assuming  
9 that we try this case before the "Moda" decision  
10 comes down.

11 THE COURT: I don't think I've had to do  
12 that yet. But go ahead.

13 MR. BAILEY: Well, this could be your first  
14 time. Okay. So we're going to try this case twice,  
15 and where does that leave us?

16 Well, it leaves us with parties who are not  
17 happy because they're spending twice as much on  
18 attorneys' fees. And, of course, there's some  
19 attorneys that would say "what's wrong with that?"  
20 I'm not one of those attorneys. I don't think that  
21 your client should be spending twice when we're  
22 sitting here today knowing that the U.S. Supreme  
23 Court has granted Cert.

24 We know that there is a oral argument on  
25 December 10th. We know that we'll have a decision

1 by the middle of next year in "Moda," and we'll know  
2 what we're all doing. We don't know what the  
3 Supreme Court will do, but it could do many things.  
4 And trust me, us, the counsel for the parties, will  
5 look at that decision and tell you what the impact  
6 of that decision has on the claims that have been  
7 filed against us.

8           So is it really smart, does it make sense  
9 for us to try this case before we know what the  
10 U.S. Supreme Court says in "Moda"? The answer is  
11 obviously no.

12           But let me cut to what you're trying to  
13 accomplish, appropriately, which is how do we  
14 continue to move this case forward and, at the same  
15 time, not try this case before we know what the  
16 U.S. Supreme Court says, and the answer to that, I  
17 think -- and I offer this as a suggestion to the  
18 Court -- is fact witnesses are fact witnesses. The  
19 U.S. Supreme Court's decision in "Moda" is not going  
20 to change fact witnesses or their testimony. Let's  
21 move forward with the fact witnesses, get all of the  
22 information we can through their depositions,  
23 testimony and so forth, which solves whatever issue  
24 the plaintiffs have asserted regarding memories and  
25 so forth.

1           Once we get that information, we will  
2 probably be, you know, halfway or a quarter of the  
3 way through next year. We wait until we hear what  
4 the U.S. Supreme Court has to say, and then we take  
5 that information -- because it will impact what  
6 we're doing -- and that will provide us the basis  
7 for making sure that we can proffer our expert  
8 reports consistent with what the U.S. Supreme Court  
9 says.

10           That way, this case continues to move  
11 along, and as you've indicated, we've only -- this  
12 case was filed in 2017. I think we were brought in  
13 last year, in 2018. The case continues down an  
14 appropriate track of depositions and discovery as it  
15 relates to fact witnesses. We will get the decision  
16 in "Moda," by latest, June of next year, and then we  
17 can take that decision, analyze it, see how it  
18 impacts the causes, causes of actions that have been  
19 asserted, how it impacts our affirmative defenses,  
20 then offer our expert reports and go to trial.  
21 We're happy to go to trial.

22           But that is the logical, least expensive  
23 judicial-resource-saving way to approach this, and I  
24 understand it's a compromise, but it seems to me --

25           THE COURT: well, for me, you know --

1 MR. BAILEY: -- it makes perfect sense.

2 THE COURT: I just want to tell everybody  
3 this, I don't necessarily see it as a compromise in  
4 this regard; I see it more as a pragmatic approach  
5 as to how to handle this matter.

6 MR. BAILEY: Of course.

7 THE COURT: And here's the reason why I  
8 bring that up, Mr. Ferrario, I looked at the trial  
9 date. I don't want to stay this matter, but if  
10 "Moda" potentially can have an impact --

11 MR. FERRARIO: It can't, Judge. That's the  
12 point. And Mr. -- at the point very end of his  
13 ten-minute dissertation, he said, "Let's see what  
14 the decision says and see how it impacts."

15 MR. BAILEY: Well, I'm sorry. I misspoke.  
16 The decision will impact.

17 MR. FERRARIO: It will not, and he can't  
18 articulate how it will. They haven't done it in  
19 their pleadings, and this is what should happen,  
20 okay. I know you're going to give us relief from  
21 the trial date because I think it's coming up like  
22 January 20th.

23 THE COURT: Exactly. It's right around the  
24 corner.

25 MR. FERRARIO: So here's what we should do,

1 keep their feet to the -- I want to see what their  
2 expert say about "Moda." Let's see what their  
3 experts say, how it weaves into it. Let's see how  
4 they respond to us. We gave them credit for the  
5 "Moda" payments. This is nothing more than a  
6 smokescreen to avoid a trial. With all due respect  
7 to Mr. Bailey, who I respect tremendously, that's  
8 all this is. Okay.

9 THE COURT: We can't avoid a trial  
10 ultimately. It's kind of like this --

11 MR. FERRARIO: Let's get through -- no,  
12 and I think we should keep the same schedule because  
13 Judge Cory is going to hear something on the 16th  
14 that's going to probably result in another round of  
15 motion practice here.

16 Okay. As I indicated to the Court, this is  
17 really about causation and proximate causation. All  
18 that is going to get played out once we know what  
19 their experts are going to say. So let's continue  
20 on with expert discovery. Okay. They've already  
21 had -- we've had to listen to them the other day ask  
22 for a year's continuance for their experts to even  
23 look at the underlying data, which was absurd.

24 so if you look at their pattern of behavior  
25 here, it's all about delay-delay-delay. Okay.

1 "Moda" is not going to change one thing. We will  
2 have a trial regardless of how "Moda" comes down,  
3 and we've already taken into account the what-ifs of  
4 "Moda" in our damage scenario.

5 AS I said before, if they want to argue to  
6 the jury: "This thing wouldn't have failed but for  
7 the government not paying," they have that argument.  
8 Okay. The "Moda" decision isn't going to change  
9 what we're claiming against them, one way or the  
10 other.

11 THE COURT: So I guess, back to my earlier  
12 question, your client is not seeking receivable  
13 damages proximately caused by the government's  
14 failure to pay in this matter.

15 MR. FERRARIO: Exactly. But there's a  
16 thing in there that --

17 MR. BAILEY: "But."

18 MR. FERRARIO: No, listen. The "but" is  
19 really simple. If they deprived us the opportunity  
20 to claim that from the government, we are seeking  
21 that. Okay. Now, what will happen is when we  
22 compromise our claim, if Judge Cory approves it,  
23 they're going to argue that --

24 what was that, 6 million bucks?

25 MR. PRUNTY: (Inaudible response.)

1 MR. FERRARIO: They're going to say that  
2 that shouldn't be 6 million; it should be a reduced  
3 amount. That will be another fight.

4 THE COURT: But here's my question. Now,  
5 I'm following the legal logic on this. Now we're  
6 talking about, well, I'm not giving that up as it  
7 relates to a deprived opportunity.

8 MR. FERRARIO: That's all.

9 THE COURT: Okay. How do we calculate the  
10 deprived opportunity?

11 MR. FERRARIO: I'll tell you how it's going  
12 to -- I'll tell you exactly what they're going to  
13 say. They're going to say, "You compromised  
14 this, let's see, our claim" -- let's make the math  
15 easy so I don't have to --

16 THE COURT: Let me --

17 MR. FERRARIO: No. Our claim is  
18 \$30 million. Let's say we're settling it for ten.  
19 Okay. So we're settling it for what? One third.

20 MR. BAILEY: well, you're not settling that  
21 for ten because there's a waterfall provision in it  
22 that there is additional funds to be had depending  
23 upon what happens in "Moda."

24 MR. FERRARIO: That's de minimus on that.

25 MR. BAILEY: Money is money.

1 MR. FERRARIO: What they're going to  
2 argue --

3 THE MARSHAL: One at a time, Gentlemen.

4 MR. FERRARIO: What they're going to argue,  
5 Your Honor, is you settled for one third. So your  
6 \$6 million claim is really what? Do the math.  
7 \$2 million. That's what they're going to say.

8 Is that right?

9 MR. BAILEY: Yes.

10 MR. FERRARIO: Did I get it right?

11 MR. BAILEY: You're in the ballpark.

12 MR. FERRARIO: All right. I'm in the  
13 ballpark. That's all I'm trying to do.

14 Okay. So that's what they're going to say,  
15 but that's another argument we'll have. You're not  
16 going to hold up a multimillion-dollar case where  
17 we're seeking damages in excess of \$20 million,  
18 okay, based upon this one element of our claim.

19 THE COURT: But tell me this though, and I  
20 don't know the answer to this. But, I mean,  
21 hypothetically, if they're attacking one element of  
22 the claim, do they have the right to do so? And I  
23 can't make the determination that --

24 MR. FERRARIO: Absolutely. Let their  
25 expert come out and let them pack it. Let us have

1 motion practice in front of you.

2 THE COURT: But here's the thing though, I  
3 mean, but at the end of the day, damages can't be  
4 speculative.

5 MR. FERRARIO: You're right. That's what  
6 they're going to argue. You're going to decide  
7 that.

8 THE COURT: well, then isn't the proper  
9 vehicle to decide this vis-a-vis Motion in Limine or  
10 motions for --

11 MR. FERRARIO: Absolutely. Let's get the  
12 expert. Let it all hash out. You're going to  
13 decide this. You're not going to let speculative  
14 theories go to the jury. I agree with you. That's  
15 what I said at the beginning. They just want to  
16 stop this now -- and let me make this clear. We  
17 represent a failed company. We represent a  
18 receiver.

19 Okay. I think, personally, the folks on  
20 the other side are trying to drag this out because  
21 they know, from our other filing, that to keep this  
22 thing going, it has cost a tremendous amount of  
23 money. The estate is hemorrhaging. Okay. So it's  
24 like drag it out, drag it out, and maybe they'll  
25 just go away. well, that's not going to happen,

1 Judge.

2 THE COURT: Well, I never anticipate that  
3 happening.

4 MR. BAILEY: Of course not.

5 MR. FERRARIO: But that's what -- and so we  
6 have to keep in mind what's going on, who we  
7 represent. There's another judge here that's  
8 monitoring how we spend money and what we do. So  
9 I'm not here trying to do something inefficient.

10 But the one thing I do know is delay is  
11 against what's in the best interest of this estate,  
12 the best interest of the creditors and the claims,  
13 and the best interest of the people that Judge Cory  
14 is to protect.

15 So I think this Court has to strike a  
16 balance, and you've already struck one balance by  
17 giving them until the beginning of December to do  
18 their expert reports. Let's see what their experts  
19 have to say. You're going to continue the trial  
20 date. Let's pick a new date. Okay? I'm okay with  
21 that.

22 THE COURT: Balance.

23 MR. BAILEY: Here's the fallacy in that  
24 argument. The question is if "Moda" has no  
25 relevance to this case, why is it that their expert

1 did three different damage calculations based on --

2 THE COURT: "Moda."

3 MR. BAILEY: -- "Moda"?

4 MR. FERRARIO: He didn't.

5 MR. BAILEY: And the other point,  
6 Your Honor, he tends to suggest to you that we're  
7 trying to just use up funds or inappropriately cause  
8 the expenditure of funds. We're asking for a stay,  
9 in part, because of the efficiency that's involved  
10 in waiting for that decision.

11 Remember, Your Honor, we represent a  
12 nonprofit. Nobody is interested in spending money  
13 if we don't have to.

14 MR. FERRARIO: Your Honor, I haven't heard  
15 how they -- they have not articulated, in one way,  
16 how they will be efficient -- how "Moda" will impact  
17 and make this -- the decision will make it more  
18 efficient. Not once have they done that.

19 THE COURT: Well, here's my question  
20 though, as far as Mark Fish is concerned, is it true  
21 that he has one of three scenarios: "Assuming CMS  
22 funded the risk corridor payments at 100 percent;  
23 two, assuming CMS funded the risk corridor payments,  
24 pro rata, at 12.6 percent; or assuming no 2015 3Rs  
25 credits." Is that what he says?

1 MR. FERRARIO: You're right. What he is  
2 saying is he's giving them credit for that. Okay?  
3 They're not getting --

4 THE COURT: Didn't he have to pick one?

5 MR. FERRARIO: Well, no. The reason the  
6 12.6 is in there is because that was what the  
7 government was reimbursing. Okay. That was the  
8 normal -- that was what they were doing up to that  
9 point in time. They're going to argue --

10 THE COURT: Okay. Then but if it's  
11 12.6 percent, wouldn't that be the figure he would  
12 rely upon, if that was reasonable and customary?

13 MR. PRUNTY: The 12.6 percent, I believe,  
14 was already paid. It's the balance of it that's at  
15 issue in "Moda."

16 MR. BAILEY: Your Honor, you're hitting the  
17 nail on the head. They have to pick one. They  
18 can't pick one, understandably, because they don't  
19 know what "Moda" is going to say.

20 So in other words, you're going to find  
21 yourself, if we go to trial before the "Moda,"  
22 they're going to be in front of the jury saying  
23 "It's one of these three. We don't know which one  
24 it is because the Supreme Court hasn't ruled."

25 And we're going to be up yelling and

1 screaming saying, "You can't do that. You're  
2 prejudicing us with the jury." Of course, that's  
3 going to be an issue on appeal, depending upon how  
4 things work out.

5 Exactly the reason, you've honed in on the  
6 question: why is it that your expert is providing  
7 three different alternative damage theories assuming  
8 what "Moda" does? Well, the answer to that, even  
9 though Mr. Ferrario respectfully is speaking out of  
10 both sides of his mouth: "Moda" doesn't mean  
11 anything to us, but our expert says, "Oh, yes, it  
12 does because our assumptions are based upon what  
13 comes down in "Moda."

14 MR. FERRARIO: Our expert is giving him  
15 credit for that. He's taking away an argument they  
16 would make. He's anticipating their argument and  
17 saying "I'm giving you credit for it." How are they  
18 ever going to be hurt for that? They will never do  
19 better.

20 THE COURT: But here's my -- but where does  
21 he say that?

22 MR. BAILEY: He doesn't.

23 MR. FERRARIO: By the bottom line number.  
24 Giving them credit for 100 percent of the risk  
25 corridor payment, our damages are 115 million, if

1 the jury believes that we should have shut this down  
2 12/31/2014.

3 If the jury says: "No, you know what,  
4 these guys hadn't screwed up enough, but they  
5 definitely should have shut it down 4/30/2015," our  
6 damages are 69.7 million.

7 The next one is our damages --

8 THE COURT: How does that impact the  
9 reimbursement rate? That's what I'm really trying  
10 to figure out.

11 MR. FERRARIO: It doesn't. That's the  
12 point. We're giving them full credit for that.  
13 They're going to stand up -- that's what I've been  
14 saying. I can't ding them for the government not  
15 paying us. I can't be any clearer.

16 THE COURT: Do you think the issue is how  
17 he's presenting this --

18 MR. FERRARIO: It is. It's confusing. I'm  
19 going to tell you right now it's confusing as hell.

20 THE COURT: Okay.

21 MR. FERRARIO: I'm putting that on the  
22 record, and you know what --

23 MR. BAILEY: And we will stipulate to that,  
24 Your Honor.

25 MR. FERRARIO: It is confusing. I mean,

1 I've yelled at Mr. Prunty here for the last week  
2 about how he could let this go out this confusing.

3 THE COURT: That's my point. I'm trying to  
4 figure out, because for me, it's --

5 MR. FERRARIO: You know what, Judge, here,  
6 I've got a solution. You gave them a chance to  
7 throw a bunch of volume at you. So here's what I'm  
8 going to propose: I'm going to go back, and I'm  
9 going to make Mr. Fish make this clear. Okay? And  
10 I'm going to submit a supplemental report, and I  
11 need --

12 Two weeks? Where is this guy at?

13 Don is an accountant, which is part of the  
14 reason this is so screwed up. But I'll go -- I will  
15 submit a supplemental report -- and let's do this,  
16 Judge. Let's even make it one better. Let's put  
17 this over to the end of the month because, by then,  
18 Judge Cory will have heard our motion on the 16th  
19 and we'll have more color on this.

20 But what I don't want to do is move any  
21 dates at this point. You gave them a chance to come  
22 in and give you lots of volume. I'm going to come  
23 in and give you clarity. That's all I'm asking for  
24 because I agree it's a confusing chart.

25 THE COURT: Because I mean, potentially,

1 it's a moving target.

2 MR. FERRARIO: It isn't going to be --

3 MR. BAILEY: It is because if you look at  
4 their schedule, at the very bottom, it says  
5 "Damages," and they've got, what, 3, 6, 12 different  
6 sets and amounts of damages. It is a moving target.  
7 It's not our responsibility that it's a moving  
8 target.

9 MR. FERRARIO: It's not a moving target,  
10 Judge. It's anticipating, it's going into the jury,  
11 we're going to say -- I'll tell you what I'm going  
12 to argue. I'm going to argue that, on 12/31/2014,  
13 we should have pulled the plug on this so my damages  
14 are 115 million bucks. That's what I'm going to  
15 start with. Now --

16 MR. PRUNTY: And there is no effect.

17 MR. FERRARIO: And there is no effect.  
18 They're going to say, "Oh, no. We didn't have  
19 enough." Okay. So our expert anticipated other  
20 possible dates and came up with alternate damage  
21 theories, which is perfectly acceptable,  
22 anticipating arguments they might make.

23 I'm only asking -- I'll clarify this chart.  
24 Okay? I'll clarify this report because it is  
25 confusing. I'm asking to the end of the month. By

1 then, we'll have Judge Cory's decision. Let's not  
2 tamper with any dates at this point. I can't make  
3 it any clearer. I'm not going after them for what  
4 the government didn't pay us.

5 MR. BAILEY: The only two things I'm asking  
6 for, Your Honor, is this: One, that we not try the  
7 case before we know what the U.S. Supreme Court  
8 says. And at the rate things are going, probably  
9 won't happen in any case because the Supreme Court  
10 will render its decision, at the latest, in June of  
11 next year. So, you know, I'm asking for that. As a  
12 practical matter, it doesn't sound like that would  
13 happen anyway. But that's what we're asking for.

14 The second thing we're asking for is we  
15 want specificity and clarity on what our expert has  
16 to do in response to their expert, and we would like  
17 to know what the U.S. Supreme Court and the  
18 Court of Federal Claims has to say on this because  
19 it will impact on what our expert opines on, and the  
20 only way we can do that is to hear those decisions.

21 The point is we should not be spending  
22 money, resources over and over with our expert.  
23 This is, you know, expensive because what they've  
24 provided is not clear. They're going to go back and  
25 redo it again; and we would like to know, with

1 clarity, and it will be with clarity from the  
2 U.S. Supreme Court. You know, you can't appeal from  
3 there. They will tell us what the law is, what's  
4 recoverable, what isn't, why, and they'll probably  
5 say a lot of other things that will be meaningful to  
6 both sides. That's really what we're asking for.

7 MR. FERRARIO: Your Honor --

8 MR. BAILEY: Call it a Motion to Stay or  
9 something else, but that's what we're asking for.  
10 That's efficiency at its finest.

11 MR. FERRARIO: Your Honor, the false  
12 premise there, and with all due respect, the  
13 Supreme Court's decision is going to have zero  
14 impact on this case. And you know what, if their  
15 experts think it does, then you know what they're  
16 going to say? They're going to come in and they're  
17 going to say:

18 "Okay. The government didn't pay. They  
19 didn't pay \$35 million," or whatever the number is,  
20 okay. "We're not responsible for that and, oh, by  
21 the way, that's what caused the demise of this  
22 company." That's what they're going to argue. That  
23 event has already occurred. Okay. The failure to  
24 pay, the causation that resulted from that, as it  
25 relates to the government, has already occurred.

1 Nothing will change.

2 THE COURT: When do you think your expert  
3 is going to have this report done, Mr. Ferrario, the  
4 supplemental?

5 MR. FERRARIO: The report is done. I just  
6 need -- I'm just going to have him clarify that  
7 chart.

8 And I can't be any clearer, Judge. We're  
9 giving them credit. They're not being hurt by this.  
10 We're already assuming that "Moda" -- no. We're  
11 already assuming we get that money from "Moda" in  
12 these damage calculations.

13 THE COURT: Well, I'd like to see the new  
14 supplemental report so I --

15 MR. FERRARIO: I will get you something  
16 supplemental.

17 THE COURT: -- so I can have some clarity.

18 Just as important too, where are we at,  
19 from a defense perspective, as relates to expert  
20 disclosures?

21 And was this one of those cases where we  
22 staggered experts?

23 MS. BONHAM: Your Honor, recently,  
24 Your Honor signed an order, based on the last  
25 hearing, which allows for defendants to designate

1 experts on December 5th. We have a status  
2 conference on November 6th --

3 THE COURT: That's what I'm looking at.

4 MS. BONHAM: -- in order to talk about  
5 because there is significant amounts of production,  
6 despite plaintiff's representations, that has not  
7 been produced that absolutely goes to the very heart  
8 of their claims that we need in order for our  
9 experts to arrive at even the calculations for the  
10 overpayments.

11 MR. FERRARIO: Your Honor, I'm not going to  
12 deal with that now. We'll deal with that then. I  
13 think we just continued that 5th date, if memory  
14 serves me correctly.

15 THE COURT: This is what I'm going to do,  
16 and I think this is probably a practical way to  
17 handle this: No. 1, and from my perspective, the  
18 judge doesn't have positions, but I think it's  
19 important to point out that due process has a  
20 significant impact and overriding importance in  
21 every case; right? It does.

22 And so I'm looking at it in this regard,  
23 and I can't say this is a case where somebody has  
24 been sitting on their hands. It's not that case.  
25 And I want to efficiently handle this matter. I

1 think, in all likelihood, what we want to do is this  
2 because I think we'll probably end up moving the  
3 January trial date. How far we're going to move it,  
4 I don't know.

5 But I'll have a much better barometer as to  
6 what has to be done as of November 6, 2019. I think  
7 you can assume right now we're not going to trial in  
8 January. This case isn't ready for trial.

9 MR. BAILEY: Yes.

10 THE COURT: I'm just telling you that. So  
11 that's not the concern.

12 And maybe what we should do, at that point,  
13 and Mr. Ferrario, would your report have been  
14 submitted by then?

15 MR. FERRARIO: I'll get it supplemented by  
16 then and sooner, well in advance.

17 THE COURT: And so what we're going to do  
18 with the status check, it just has issues. One of  
19 the issues of paramount significance would be this:  
20 what's a realistic scheduling order at that point.

21 And I don't know for sure what's going to  
22 happen, but maybe "Moda" will still be an issue on  
23 the table I have to grapple with, maybe not.

24 So but what I want to do is we have to  
25 still move this case along. And we all agree on one

1 point, I think we can, and I don't think this is  
2 that case necessarily because it probably has to be  
3 tried. I don't even know if a settlement even is  
4 feasible, but trial dates do help things get done  
5 and accomplished, and so that's what I want to do.

6 So for the record, I will say this: The  
7 January 27th, 2020, trial date will be off the  
8 table.

9 One of the things I'm going to look at too,  
10 and understand this, and this is -- like, for  
11 example, today we have a calendar call at 10:30, and  
12 some of the cases aren't going to go to trial.  
13 Because we have trials, right, I want to try to --  
14 wherever I put this, I'm going to try to  
15 strategically put it in a place where it's going to  
16 go to trial.

17 Interestingly, it would have been nice if  
18 it would have been a business court case. It's not.  
19 I looked at that. It's a "C." It's not a "B,"  
20 believe it or not. If it was a "B," I could give it  
21 some priority. I don't know how --

22 MR. FERRARIO: Maybe we should file a  
23 motion and make it a "B."

24 THE COURT: I don't know how you do that.  
25 But I'm quite sure you could figure that out. But

1 this is business court, and if it's a "B," we give  
2 it more priority; right? Everybody understands  
3 that.

4 And so that's what we'll do, and we'll  
5 change the status check. For the record, it's going  
6 to be more than issues; it's going to be the  
7 supplemental disclosures as relates to experts.

8 And, No. 2, based upon the current status  
9 of the case, you're going to update me what would be  
10 a realistic and achievable trial date.

11 MR. FERRARIO: Thank you, Your Honor.

12 MS. BONHAM: Your Honor, for which hearing  
13 date? I want to make sure I --

14 THE COURT: This is November 6th.

15 MS. BONHAM: The November 6.

16 I just wanted to make sure and confirm that  
17 it was on the November 6th hearing date.

18 THE COURT: It's November 6 we have status  
19 check issues. We're going to expand issues. We're  
20 going to talk about the supplemental expert report  
21 by Mr. Ferrario.

22 And make sure I get a copy of that.

23 MR. FERRARIO: I will, Your Honor.

24 THE COURT: And so I can be educated on it.  
25 And just as important too, and we don't need any

1 briefing on it. We can talk about it.

2 MR. FERRARIO: Okay.

3 THE COURT: We don't. And then if there's  
4 some discovery issues outstanding -- there appear to  
5 be -- and I would hope you could work it out without  
6 court intervention.

7 And just as important too, this still is a  
8 "C" case. So, ideally, you would go to the  
9 Discovery Commissioner for all those problems;  
10 right? But I guess I'll handle it in such a manner  
11 where it's akin to a "B" case and discovery issues  
12 come up, I'll take care of those. That way it will  
13 be a quicker resolution. There won't be a delay.

14 So anyone else want to add anything?

15 MR. BAILEY: Perfect, Your Honor.

16 MR. PRUITT: Your Honor, I thought it was a  
17 "B" case because it moved over from --

18 MS. BONHAM: Judge Delaney.

19 MR. PRUITT: -- Judge Delaney.

20 MR. PRUNTY: I thought so too.

21 MS. BONHAM: I really believe, Your Honor,  
22 that it is a business court case.

23 MR. PRUNTY: I think it is, Judge.

24 THE COURT: I thought I had saw some  
25 C-stuff. Maybe it is a "B" case.

1           Is a it a "B" case?

2           THE CLERK: Yeah.

3           THE COURT: Okay. All right. Good. It's  
4 a "B" case.

5           MR. BAILEY: Your Honor, just for the  
6 record, on our Motion to Stay, you are staying your  
7 ruling on that motion, subject to further rulings in  
8 the future; correct?

9           THE COURT: Well, yeah. And I don't mind  
10 telling you this, I don't think a stay would be  
11 appropriate. It would be more akin to continuing  
12 the matter and put it at a proper trial date.

13          MR. BAILEY: Perfect.

14          THE COURT: That's kind of how I see that  
15 because we want to keep things moving forward, from  
16 a discovery perspective. And because I think the  
17 problem with the stay is essentially this, and  
18 sometimes you have to do it, but everything stops  
19 and the case isn't moving forward.

20                Even if you have a trial date further down  
21 the road, you continue with your expert disclosures  
22 and move the case along; you come in front of me  
23 with potential discovery disputes as relates to  
24 document productions and all those other things.

25          MR. BAILEY: And as you heard, we clearly

1 have no issue with moving forward with a lot of the  
2 discovery that needs to take place.

3 MR. FERRARIO: Thank you, Your Honor.

4 MR. BAILEY: Thank you, Your Honor.

5 MS. BONHAM: Thank you, Your Honor.

6 THE COURT: We're going to vacate the trial  
7 date. I'm going to give you a new trial date.

8 MR. FERRARIO: That's what I thought.  
9 Thank you, Your Honor.

10 THE COURT: All right. Everyone enjoy your  
11 day.

12 MR. BAILEY: Thank you, sir.

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14 (The proceedings concluded at 10:19 a.m.)

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