

Case No. _____

In the Supreme Court of Nevada

UNITED HEALTHCARE INSURANCE COMPANY,
UNITED HEALTH CARE SERVICES, INC., UMR,
INC., SIERRA HEALTH AND LIFE INSURANCE
COMPANY, INC., HEALTH PLAN OF NEVADA,
INC.,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT of the
State of Nevada, in and for the County of
Clark; and THE HONORABLE NANCY L. ALLF,
District Judge,

Respondents,

and

FREMONT EMERGENCY SERVICES
(MANDAVIA), LTD., TEAM PHYSICIANS OF
NEVADA-MANDAVIA, P.C., CRUM STEFANKO
AND JONES, LTD.,

Real Parties in Interest.

Electronically Filed
Oct 15 2021 09:36 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

MOTION TO FILE PORTIONS OF APPENDIX UNDER SEAL

Petitioners move this Court for an order sealing portions of its
appendix. SRCR 3(1).

Volume 2 of petitioners' appendix contains the sealed version of
"Plaintiffs' Opposition to Defendants' Motion to Quash Out of State
Trial Subpoenas on Order Shortening Time." (1 App. 91; 2 App. 248.)
Plaintiffs have moved the district court for an order sealing Exhibits 6,

7, and 8 (2 App. 336–61) to their opposition, because the documents, which are deposition transcript excerpts, have been designated “Attorneys’ Eyes Only” or “Confidential” under the parties’ stipulated protective order. *See* Ex. 1, motion to seal; Ex. 2, stipulated protective order. The furtherance of this protective order is an appropriate basis to seal the appendix volume that contains the confidential information. *See* SRCR 3(4)(b). Petitioners, therefore, move to keep appendix volume 2 under seal.

Dated this 14th day of October, 2021.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

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Attorneys for Petitioners

CERTIFICATE OF SERVICE

I certify that on October 14, 2021, I submitted the foregoing
“Motion to File Portions of Appendix Under Seal” for filing *via* the
Court’s eFlex electronic filing system. Electronic notification will be
sent to the following:

Pat Lundvall
Kristen T. Gallagher
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Attorneys for Real Parties in Interest

I further certify that I served a copy of this document by mailing a
true and correct copy thereof, postage prepaid, at Las Vegas, Nevada,
addressed as follows:

The Honorable Nancy L. Allf
DISTRICT COURT JUDGE – DEPT. 27
200 Lewis Avenue
Las Vegas, Nevada 89155

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*Attorneys for Real Parties in
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/s/ Jessie M. Helm
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EXHIBIT 1

EXHIBIT 1



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DISTRICT COURT

CLARK COUNTY, NEVADA

FREMONT EMERGENCY SERVICES
(MANDAVIA), LTD., a Nevada professional
corporation; TEAM PHYSICIANS OF
NEVADA-MANDAVIA, P.C., a Nevada
professional corporation; CRUM, STEFANKO
AND JONES, LTD. dba RUBY CREST
EMERGENCY MEDICINE, a Nevada
professional corporation,

Plaintiffs,

vs.

UNITEDHEALTH GROUP, INC., a Delaware
corporation; UNITED HEALTHCARE
INSURANCE COMPANY, a Connecticut
corporation; UNITED HEALTH CARE
SERVICES INC., dba
UNITEDHEALTHCARE, a Minnesota
corporation; UMR, INC., dba UNITED
MEDICAL RESOURCES, a Delaware
corporation; OXFORD HEALTH PLANS,
INC., a Delaware corporation; SIERRA
HEALTH AND LIFE INSURANCE
COMPANY, INC., a Nevada corporation;
SIERRA HEALTH-CARE OPTIONS, INC., a
Nevada corporation; HEALTH PLAN OF

Case No.: A-19-792978-B
Dept. No.: XXVII

**IN CHAMBERS
HEARING REQUESTED**

**MOTION FOR LEAVE TO FILE
EXHIBITS 6, 7 AND 8 TO PLAINTIFFS'
OPPOSITION TO DEFENDANTS'
MOTION TO QUASH OUT OF STATE
TRIAL SUBPOENAS UNDER SEAL**

1 NEVADA, INC., a Nevada corporation; DOES
2 1-10; ROE ENTITIES 11-20,
3 Defendants.

4 In accordance with SRCR 3, Plaintiffs Fremont Emergency Services (Mandavia), Ltd.
5 (“Fremont”); Team Physicians of Nevada-Mandavia, P.C. (“Team Physicians”); Crum, Stefanko
6 and Jones, Ltd. dba Ruby Crest Emergency Medicine (“Ruby Crest” and collectively the “Health
7 Care Providers”) respectfully move this Court for an order permitting them to file Exhibits 6, 7
8 and 8 (“Exhibits”) to Plaintiffs’ Opposition to Defendants’ Motion to Quash Out of State Trial
9 Subpoenas to be filed under seal. The United Defendants (collectively, “United”) designated
10 documents “Attorneys’ Eyes Only” and “Confidential” under the Stipulated Confidentiality and
11 Protective Order (“Protective Order”) entered in this case. United’s designation of “Confidential”
12 and/or “Attorneys’ Eyes Only” material requires the Health Care Providers to file the documents
13 under seal or in redacted form. The Health Care Providers further request that the Exhibits remain
14 sealed from the public record for a reasonable period of time until the Court rules upon this Motion
15 as contemplated by SRCR 3(2).

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This Motion is based on the Points and Authorities, the Declaration of Louis Liao, the pleadings and papers on file herein, and any oral argument of counsel the Court may entertain at any hearing on this Motion.

DATED this 6th day of October, 2021.

McDONALD CARANO LLP

By: /s/ John Zavitsanos

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Attorneys for Plaintiffs

DECLARATION OF LOUIS LIAO

I, LOUIS LIAO, declare as follows:

1. I am an attorney licensed to practice law in the State of Texas, and am an associate in the law firm of Ahmad, Zavitsanos, Anaipakos, Alavi & Mensing, P.C., counsel for Plaintiffs Fremont Emergency Services (Mandavia), Ltd. (“Fremont”); Team Physicians of Nevada-Mandavia, P.C. (“Team Physicians”); Crum, Stefanko and Jones, Ltd. dba Ruby Crest Emergency Medicine (“Ruby Crest” and collectively the “Health Care Providers”) in the above-captioned case currently pending in the Eighth Judicial District Court, Clark County, Nevada, Case No. A-19-792978-B.

2. I make this declaration in support of Plaintiffs Fremont Emergency Services (Mandavia), Ltd. (“Fremont”); Team Physicians of Nevada-Mandavia, P.C. (“Team Physicians”); Crum, Stefanko and Jones, Ltd. dba Ruby Crest Emergency Medicine’s (“Ruby Crest” and collectively the “Health Care Providers”) Opposition to Defendants’ Motion to Quash Out of State Trial Subpoenas on Order Shortening Time. Exhibits 6, 7, and 8 in the Opposition to Defendants’ Motion to Quash Out of State Trial Subpoenas on Order Shortening Time are largely designated as AEO material under the June 24, 2020 Confidentiality Agreement and Protective Order (“Protective Order”); therefore, the Health Care Providers file this Motion under SRCR 3(4)(e).

3. I declare under penalty of perjury that the foregoing is true and correct.

Executed: October 6, 2021.

/s/ Louis Liao
Louis Liao

POINTS AND AUTHORITIES

I. INTRODUCTION

The Health Care Providers move this Court for an order allowing them to file Exhibits 6, 7, and 8 to their Opposition to Defendants’ Motion to Quash Out of State Trial Subpoenas on Order Shortening Time in redacted format and Exhibits 2 and 3 to the Appendix under seal in accordance with SRCR 3(4)(b). There will be no prejudice to United because it is already apprised of the information redacted because it is United that marked the information “Confidential” and

1 “Attorneys’ Eyes Only.” The Health Care Providers will also promptly serve a copy of this Motion
2 on United.

3 **II. LEGAL ARGUMENT**

4 The Nevada Supreme Court has adopted rules governing the sealing of court records for
5 these types of reasons. Specifically, “[a]ny person may request that the court seal or redact court
6 records from a case that is subject to these rules by filing a written motion....” SRCR 3(1). The
7 Court may “order the court files and records, or any part thereof, in a civil action to be sealed or
8 redacted, provided the court makes and enters written findings that the specific sealing or redaction
9 is justified by identified compelling privacy or safety interests that outweigh the public interest in
10 access to the court record.” SRCR 3(4). “The public interest in privacy or safety interests that
11 outweigh the public interest in open court records include findings that: “(b) The sealing or
12 redaction furthers an order entered under...NRCR 26(c);” or “(h) The sealing or redaction is
13 justified or required by another identified compelling circumstance.” SRCR 3(4)(b), (h). Further,
14 upon filing of a motion to seal or redact, the subject document shall remain under seal for a
15 reasonable period of time until the Court rules on the motion. SRCR 3(2).

16 As set forth herein, Exhibits 6, 7, and 8 in the Opposition to Defendants’ Motion to Quash
17 Out of State Trial Subpoenas on Order Shortening Time are largely designated as AEO material
18 under the June 24, 2020 Confidentiality Agreement and Protective Order (“Protective Order”).
19 Therefore, pursuant to the terms of the Protective Order, SRCR 3(4)(b) and (h), the Health Care
20 Providers are currently obligated to file the material under seal.

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III. CONCLUSION

Based upon the foregoing, the Health Care Providers respectfully request that the Court grant this motion.

DATED this 6th day of October, 2021.

McDONALD CARANO LLP

By: /s/ John Zavitsanos

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP, and that on this 6th day of October, 2021, I caused a true and correct copy of the foregoing **Motion For Leave To File Exhibits 6, 7 And 8 To Plaintiffs' Opposition To Defendants' Motion To Quash Out Of State Trial Subpoenas Under Seal** to be served via this Court's Electronic Filing system in the above-captioned case, upon the following:

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Judge David Wall, Special Master
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/s/ Beau Nelson

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EXHIBIT 2

EXHIBIT 2

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DISTRICT COURT
CLARK COUNTY, NEVADA

FREMONT EMERGENCY SERVICES
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NEVADA-MANDAVIA, P.C., a Nevada
professional corporation; CRUM, STEFANKO
AND JONES, LTD. dba RUBY CREST
EMERGENCY MEDICINE, a Nevada
professional corporation,

Plaintiffs,

vs.

UNITEDHEALTH GROUP, INC., a Delaware
corporation; UNITED HEALTHCARE
INSURANCE COMPANY, a Connecticut
corporation; UNITED HEALTH CARE
SERVICES INC., dba
UNITEDHEALTHCARE, a Minnesota
corporation; UMR, INC., dba UNITED
MEDICAL RESOURCES, a Delaware
corporation; OXFORD HEALTH PLANS,
INC., a Delaware corporation; SIERRA
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COMPANY, INC., a Nevada corporation;
SIERRA HEALTH-CARE OPTIONS, INC., a
Nevada corporation; HEALTH PLAN OF
NEVADA, INC., a Nevada corporation; DOES
1-10; ROE ENTITIES 11-20,

Defendants.

Case No.: A-19-792978-B
Dept. No.: XXVII

**STIPULATED CONFIDENTIALITY AND
PROTECTIVE ORDER**

Plaintiffs Fremont Emergency Services (Mandavia), Ltd; Team Physicians of Nevada-
Mandavia, P.C.; Crum, Stefanko and Jones, Ltd. dba Ruby Crest Emergency Medicine
("Plaintiffs") and Defendants UnitedHealth Group, Inc.; United HealthCare Insurance Company;

United HealthCare Services, Inc.; UMR, Inc.; Oxford Health Plans, Inc.; Sierra Health and Life Insurance Company, Inc.; Sierra Health-Care Options, Inc. and Health Plan of Nevada, Inc. (collectively “Defendants”) referred to individually as a “Party” or collectively as the “Parties,” stipulate and agree as follows:

1. Scope and Applicability. Certain documents or electronically stored information discoverable under NRCP 26(b)(1) may contain confidential information, as described herein, the disclosure of which may be prejudicial to the interests of a Party, and non-party individuals’ health information deemed private under state and federal law. Such information is referred to herein as “Confidential Information.” The Parties may, however, produce certain Confidential Information subject to the terms of this agreement. This Stipulated Confidentiality and Protective Order (“Protective Order”) is applicable to the Parties, any additional parties joined in this litigation, and any third parties subject to this Protective Order and/or otherwise agreeing to be bound by this Protective Order.

2. Designation of Information. Any document or electronically stored information produced in discovery may be designated as Confidential Information by marking it as “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY” at the time of production. Such designation shall be made at the time that copies are furnished to a party conducting discovery, or when such documents are otherwise disclosed. Any such designation that is inadvertently omitted during production may be corrected by prompt written notification to all counsel of record.

a. A Party may only designate as “CONFIDENTIAL” any document or any portion of a document, and any other thing, material, testimony, or other information, that it reasonably and in good faith believes contains or reflects: (a) proprietary, business sensitive, or confidential information; (b) information that should otherwise be subject to confidential treatment pursuant to applicable federal and/or state law; or (c) Protected Health Information, Patient Identifying Information, or other HIPAA-governed information.

b. A Party may only designate as “ATTORNEYS’ EYES ONLY” any document or portion of a document, and any other thing, material, testimony, or other

information, that it reasonably and in good faith believes contains trade secrets or is of such highly competitive or commercially sensitive proprietary and non-public information that would significantly harm business advantages of the producing or designating Party or information concerning third-party pricing and/or reimbursement rates (i.e., reimbursement rates that providers other than Plaintiffs have charged or accepted and that insurers and payors other than the Defendants have paid for claims similar to those at issue in this case) and that disclosure of such information could reasonably be expected to be detrimental to the producing or designating Party's interests.

c. "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY" information and/or materials shall not include information that either:

i. is in the public domain at the time of disclosure through no act, or failure to act, by or on behalf of the recipient, its counsel, its expert(s) or other consultant(s), or any other person to whom disclosure was authorized pursuant to this Protective Order, as evidenced by a written document or other competent evidence;

ii. after disclosure, becomes part of the public domain through no act, or failure to act, by or on behalf of the recipient, its counsel, its expert(s) or other consultant(s), or any other person to whom disclosure was authorized pursuant to this Protective Order, as evidenced by a written document or other competent evidence;

iii. the receiving Party can show by written document or other competent evidence was already known or in its rightful and lawful possession at the time of disclosure; or

iv. lawfully comes into the recipient's possession subsequent to the time of disclosure from another source without restriction as to disclosure, provided such third party has the right to make the disclosure to the receiving Party.

3. Designation of Depositions. The Parties may designate information disclosed at a deposition as Confidential Information by indicating on the record at the deposition that a specific portion of testimony, or any exhibit identified during a deposition, is so designated and subject to the terms of this Protective Order or, alternatively, any Party may so designate a

1 portion of the deposition testimony or exhibit within 30 days of receipt of the deposition
2 transcript by so stating in writing to opposing counsel. If designated during the deposition, the
3 court reporter shall stamp the portions of deposition testimony or any exhibit designated as
4 containing Confidential Information as “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY,”
5 and access thereto shall be limited as provided herein. Following any deposition, both Parties
6 agree to treat the entire deposition transcript and exhibits as “ATTORNEYS’ EYES ONLY”
7 until the 30-day window for designation following receipt of the transcript has passed.
8 Confidential Information shall not lose its character because it is used as an exhibit to a
9 deposition, regardless of whether the deposition or deposition transcript itself is later designated,
10 in whole or part, as “CONFIDENTIAL INFORMATION” or “ATTORNEYS’ EYES ONLY.”

11 Documents or information designated as “CONFIDENTIAL” or “ATTORNEYS’ EYES
12 ONLY” may be used or disclosed in a deposition and marked as deposition exhibits; the Parties
13 agree that, with the exception of the witness and court reporter, the only persons permitted under
14 this Protective Order to be present during the disclosure or use of designated documents or
15 information during a deposition, whether “CONFIDENTIAL” pursuant to paragraph 10 or
16 “ATTORNEYS’ EYES ONLY” pursuant to paragraph 11, as applicable, are those permitted
17 pursuant to the terms of this Protective Order to review the information or material sought to be
18 used. Absent an agreement between the Parties, if all persons present at the deposition are not
19 permitted under this Protective Order to review the information or material sought to be used,
20 any person not so permitted shall be instructed by the designating party to leave the room during
21 the period(s) in which the “CONFIDENTIAL” and/or “ATTORNEYS’ EYES ONLY”
22 documents or information is being used and/or discussed, to the extent reasonably possible.
23 During the course of a deposition, counsel may anticipate such disclosure and designate in
24 advance certain deposition exhibits, deposition testimony and portions of any deposition
25 transcript as “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY.”

26 4. In advance of a hearing in this matter, the Parties also agree to confer in good
27 faith to reach an agreement regarding the appropriate protections in the event one or both parties
28 seek to use “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY” documents or information at

1 the hearing. Nothing in this Order shall limit a Party's ability to use its own documents or
2 information, however designated, at a hearing in this litigation or in any other proceeding,
3 subject to the court's determination of the admissibility of the documents or information.

4 5. Protected Health Information. Additionally, certain Confidential Information may
5 be Protected Health Information ("PHI") as defined by the Health Insurance Portability and
6 Accountability Act of 1996 ("HIPAA") and the regulations promulgated thereunder at 45 CFR §
7 160.103. Without limiting the generality of the foregoing, "PHI" includes, but is not limited to,
8 health information, including demographic information, relating to either, (a) the past, present or
9 future physical or mental condition of an individual, (b) the provision of care to an individual, or
10 (c) the payment for care provided to an individual, which identifies the individual or which
11 reasonably could be expected to identify an individual. All "covered entities" (as defined by 45
12 § CFR 160.103) are hereby authorized to disclose PHI to all attorneys in this litigation. Subject
13 to the rules of procedure governing this litigation, and without prejudice to any Party's objection
14 except as otherwise provided herein, the Parties are authorized to receive, subpoena, transmit, or
15 disclose PHI relevant to the medical claims at issue in this litigation and discoverable under
16 NRC 26(b)(1), subject to all terms of this Protective Order. All PHI disclosed under this
17 Protective Order must be designated as Confidential Information under paragraphs 2 and 3
18 above. To the extent documents or information produced in this litigation have already been
19 exchanged or will again be exchanged between the Parties in the normal course of business,
20 treatment of such documents prior to or after the conclusion of this litigation shall be governed
21 by each Party's legal obligations.

22 6. Specific Provisions Concerning Disclosure of PHI. When PHI is disclosed
23 between the Parties as authorized by this Protective Order, the names, dates of birth and Social
24 Security numbers of any individuals whose medical claims are not at issue in this lawsuit and
25 who are otherwise identified in the PHI may be redacted to protect the identity of the patients, if
26 the disclosing Party believes that is warranted under the particular circumstances. Upon receipt
27 of any PHI disclosed between the Parties during the course of this litigation, the receiving Party
28 shall take all reasonable measures necessary for protecting the PHI from unauthorized disclosure

as required under both state and federal law including, but not limited to, HIPAA. Such measures may include filing PHI under seal and redacting patient names, dates of birth and Social Security numbers from documents containing PHI.

7. Non-Waiver of Privilege. The production of documents and information shall not constitute a waiver in this litigation, or any other litigation, matter or proceeding, of any privilege (including, but not limited to, the attorney-client privilege, attorney work product privilege or common defense privilege) applicable to the produced materials or for any other privileged or protected materials containing the same or similar subject matter. The fact of production of privileged information or documents by any producing Party in this litigation shall not be used as a basis for arguing that a claim of privilege of any kind has been waived in any other proceeding. Without limiting the foregoing, this Protective Order shall not affect the Parties' legal rights to assert privilege claims over documents in any other proceeding.

8. Exercise of Restraint and Care in Designating Material for Protection.

a. Each party or non-party that designates information or items for protection under this Order (the "designating Party") must take care to limit any such designation to specific material that qualifies under the appropriate standards. To the extent it is practical to do so, the designating Party must designate for protection only those parts of material, documents, items, or oral or written communications that qualify – so that other portions of the material, documents, items, or communications for which protection is not warranted are not swept unjustifiably within the ambit of this Protective Order.

b. If it comes to a designating Party's attention that information or items that it designated for protection do not qualify for protection at all or do not qualify for the level of protection initially asserted, that designating Party must promptly notify all other parties that it is withdrawing the mistaken designation.

9. Burden of Proof and Challenges to Confidential Information. The party designating information as Confidential Information bears the burden of establishing confidentiality. Nothing in this Protective Order shall constitute a waiver of any Party's right to object to the designation or non-designation of a particular document as "CONFIDENTIAL" or

“ATTORNEYS’ EYES ONLY.” If a Party contends that any document has been erroneously or improperly designated or not designated Confidential or Attorneys’ Eyes Only, the document at issue shall be treated as Confidential or Attorneys’ Eyes Only under this Protective Order until (a) the Parties reach a written agreement or (b) the court issues an order ruling on the designation. In the event that a Party disagrees with a Party’s designation of any document or information as Confidential or Attorneys’ Eyes Only, the objecting Party shall advise counsel for the designating Party, in writing, of the objection and identify the document or item with sufficient specificity to permit identification. Within seven (7) days of receiving the objection, the designating Party shall advise whether the designating Party will change the designation of the document or item. If this cannot be resolved between the Parties, after the expiration of seven (7) days following the service of an objection, but within twenty-one (21) days of service of the written objection, the designating Party may make a motion to the court seeking to preserve the confidentiality designation. It shall be the burden of the designating Party to show why such information is entitled to confidential treatment. The protection afforded by this Protective Order shall continue until the court makes a decision on the motion. Failure of the designating Party to file a motion within the 21-day period shall be deemed to constitute a waiver of that Party’s confidentiality designation to material identified in the objecting Party’s written objection.

10. Restrictions on Disclosure. All Confidential Information, including PHI, other than Confidential Information designated as “Attorneys’ Eyes Only,” produced or disclosed by either Party in this litigation shall be subject to the following:

a. such documents, information, and things shall be used only in this litigation and not for any other purpose whatsoever, except to the extent any documents, information, and things are exchanged in the normal course of business between the Parties and such exchange is more appropriately governed by the course of conduct observed between the Parties, the course of conduct shall control;

b. such documents, information, and things shall not be shown or communicated in any way inconsistent with this Protective Order or to anyone other than

1 “Qualified Persons,” defined below, which persons receiving Confidential Information shall not
2 make further disclosure to anyone except as allowed by this Protective Order; and

3 c. no one except Qualified Persons identified in paragraph 12 shall be
4 provided copies of any Confidential Information.

5 11. Restrictions on Disclosure of Confidential Information Designated as “Attorneys’
6 Eyes Only.” All Confidential Information designated as “ATTORNEYS’ EYES ONLY,”
7 produced or disclosed by either Party in this litigation shall be subject to the following
8 restrictions:

9 a. such documents, information and things shall be used only in this
10 litigation;

11 b. such documents, information and things shall not be shown or
12 communicated to anyone other than Qualified Persons identified in paragraphs 12(a), 12(b),
13 12(d), 12(e), 12(f) , 12(g), 12(h) and (12)(i) below, which persons receiving Confidential
14 Information designated as Attorneys’ Eyes Only shall not make further disclosure to anyone
15 except as allowed by this Protective Order;

16 c. such documents, information and things shall be maintained only at the
17 offices of such Qualified Persons identified in paragraphs 12(a), 12(b), 12(d), 12(e), 12(f) ,
18 12(g), 12(h) and (12)(i) and only working copies shall be made of such documents; and

19 d. no one except Qualified Persons identified in paragraphs 12(a), 12(b),
20 12(d), 12(e), 12(f), 12(g), 12(h) and (12)(i) shall be provided copies of any Confidential
21 Information designated as Attorneys’ Eyes Only.

22 12. Qualified Persons. “Qualified Persons” means:

23 a. The court, court officials and authorized court personnel, jurors,
24 stenographic reporters, and videographers at depositions taken in this action;

25 b. counsel of record for the Parties (including partners, associates,
26 paralegals, employees and persons working at the law firms of the Parties’ respective counsel),
27 contract attorneys retained by counsel for the Parties to provide services in connection with this
28 litigation, and two pre-identified in-house counsel (“Designated In-house Counsel”) with no

1 role, involvement in, or responsibility relating to contract negotiations, rate negotiations,
2 negotiation of claim payment amounts, or decision-making concerning claim payment rates or
3 amounts with respect to network contracting with any health plan or payor in the ordinary course
4 of business (collectively “Rate Negotiations”). In the form of Exhibit B herein, each such in-
5 house counsel will certify that he/she has no such role, involvement, or responsibility currently,
6 and does not anticipate having any such role, involvement, or responsibility in Rate Negotiations
7 during this litigation or any other litigation between the parties and/or their respective affiliates
8 commenced during the pendency of this litigation, including appeals. To the extent each such
9 in-house counsel acquires any such role, involvement, or responsibility during the litigation, that
10 in-house counsel will recuse himself or herself from any matters involving or relating to the
11 other party and may be replaced with an in-house counsel who meets the above criteria.
12 Notwithstanding anything to the contrary contained herein, Rate Negotiations shall not include
13 overseeing and/or managing all aspects (e.g., from evaluation, to filing, to discovery, to trial, to
14 appeal and/or to settlement, etc.) of any type of litigation, including, without limitation, out-of-
15 network litigation (“Litigation”), and this Protective Order specifically contemplates and permits
16 in-house counsel who oversee and/or manage all aspects of Litigation to access Attorneys’ Eyes
17 Only information;

- 18 c. if the Party is an entity, current officers or employees of the Party;
19 d. third parties retained by counsel for a Party or by a Party as consulting
20 experts or testifying expert witnesses;
21 e. with respect to a specific document, the document’s author, addressee, or
22 intended or authorized recipient of the Confidential Information and who agrees to keep the
23 information confidential, provided that such persons may see and use the Confidential
24 information but not retain a copy;
25 f. nonparties to whom Confidential information belongs or concerns;
26 g. witnesses who are appearing for deposition or other testimony in this case
27 voluntarily or pursuant to a validly issued subpoena; and;
28

h. a mediator or other settlement judge selected or agreed-upon by the Parties in connection with any attempted resolution of the litigation;

i. Clerical or ministerial service providers, including outside copying services, litigation support personnel, or other independent third parties retained by counsel for the Parties to provide services in connection with this litigation;

j. if the Party is an entity, former officers or employees of the Party; or

k. any other person by order of the court after notice to all Parties and opportunity to be heard, or as agreed between the Parties, except that the PHI shall only be disclosed in accordance with this Protective Order or further order of the court.

13. Acknowledgment. Any Qualified Person identified in paragraph 12(d)–(k) to whom the opposing Party’s Confidential Information is shown or to whom information contained in such materials is to be revealed shall first be required to execute the attached Acknowledgement and Agreement To Be Bound To Stipulated Confidentiality Agreement And Protective Order (the “Acknowledgement”), the form of which is attached hereto as “Exhibit A” and to be bound by the terms of this Protective Order. As to each person to whom any Confidential Information is disclosed pursuant to the Acknowledgement and this Protective Order, such information may be used only for purposes of this litigation and may not be used for any other purpose.

14. Conclusion of the Litigation. Upon conclusion of this Litigation, whether by judgment, settlement, or otherwise, counsel of record and each Party, person, and entity who obtained Confidential Information or information claimed to be confidential shall assemble and return to the producing Party all materials that reveal or tend to reveal information designated as Confidential Information, except all such materials constituting work product of counsel. In the alternative, all such materials may be destroyed, with written certification of destruction or deletion provided to the producing Party, except that a Party may retain Confidential Information generated by it, unless such Confidential Information incorporates the Confidential Information of another Party in which case all such Confidential Information shall be destroyed or deleted. No originals or copies of any such Confidential Information will be retained by any

1 person or entity to whom disclosure was made. However, counsel of record and Designated In-
2 house Counsel for the Parties are permitted to retain copies of all pleadings, motions,
3 depositions and hearing transcripts (and exhibits thereto), exhibits, and attorney work product
4 that contain Confidential Information (other than PHI) consistent with his or her ordinary file
5 management and/or document retention policies and/or those of his or her firm. In doing so,
6 retaining Party agrees to execute an agreement that all such documents will be quarantined for
7 record retention only and not for use in other matters involving the Parties or with any other
8 client or shared outside of the organization.

9 15. Equal Application. This Protective Order may be applied equally to information
10 obtained by a producer in response to any subpoena, including, in particular, information
11 produced by non-parties. Any non-party that designates any information as "Confidential" or
12 "Attorneys' Eyes Only" pursuant to this Protective Order may agree to submit to the Court's
13 jurisdiction with regard to the determination of disputes involving such designations.

14 16. List of Names. All counsel shall maintain a list of the names of all third parties
15 that are not parties to the underlying litigation to whom disclosure of Confidential Information
16 or Attorneys' Eyes Only information was made.

17 17. Retroactive Designation. Confidential Information previously produced before
18 the entry of this Order, if any, may be retroactively designated as "CONFIDENTIAL" or
19 "ATTORNEYS' EYES ONLY" and subject to this Protective Order by notice in writing of the
20 designated class of each document by Bates number within thirty (30) days of the entry of this
21 Order.

22 18. Inadvertent Production or Disclosure of Confidential Information. In the event
23 that a Party inadvertently produces Confidential Information, without the required
24 "CONFIDENTIAL" legend, or Attorneys' Eyes Only information, without the required or
25 "ATTORNEYS' EYES ONLY" legend, the producing Party shall contact the receiving Party as
26 promptly as reasonably possible after the discovery of the inadvertent production, and inform
27 the receiving Party in writing of the inadvertent production and the specific material at issue.
28 Such inadvertent or unintentional disclosure shall not be deemed a waiver in whole or in part of

1 the producing Party's claim of confidentiality, either as to specific documents and information
2 disclosed or on the same or related subject matter. Upon receipt of such notice, the receiving
3 Party or Parties shall treat the material identified in the notice as Confidential or Attorneys' Eyes
4 Only under this Protective Order, subject to the provisions in paragraph 8 regarding any
5 challenges.

6 19. Use of "ATTORNEYS' EYES ONLY" Material in Trial Preparation. No later
7 than ninety days (90) prior to the first date of any trial setting, the Parties shall meet and confer
8 in good faith for the purpose of developing a protocol for allowing trial witnesses to review
9 documents designated "ATTORNEYS' EYES ONLY" to the extent that counsel believes it to
10 be necessary for the witness to review the materials in connection with preparing the witness for
11 his or her trial testimony which is reasonable and necessary in preserving, prosecuting and/or
12 defending their respective interests in this matter. In the event the Parties cannot agree, either
13 Party may submit an appropriate motion for relief with the Court. This provision shall not be
14 construed as an agreement by either Party that a trial witness who is not qualified to review
15 "ATTORNEYS' EYES ONLY" is entitled to do so prior to trial.

16 20. Use of Confidential Information at Trial. Nothing in this Order shall preclude a
17 Party from disclosing or offering into evidence at the time of trial or during a hearing any
18 document or information designated as "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY,"
19 subject to the rules of evidence and any other Party's objections as to the admissibility or claims
20 of confidentiality of the document or information. However, if a Party anticipates using or
21 disclosing Confidential Information at a trial or during a hearing (except for purposes of
22 impeachment), it shall give the Designating Party at least three (3) business days' notice prior to
23 its use or disclosure. The Court may take such measures, as it deems appropriate, to protect the
24 claimed confidential nature of the document or information sought to be admitted and to protect
25 the Confidential Information from disclosure to persons other than those identified in paragraph
26 12 and who have signed Exhibit A, where necessary, under this Order. If a Party seeks to file
27 unredacted Confidential Information or Attorneys' Eyes Only information, it shall file a motion
28 with the Court for filing under seal, unless the producing Party otherwise agrees. Any disclosure

of information designated “ATTORNEYS’ EYES ONLY” to the Court under seal shall have limited dissemination to personnel of the Court under such safeguards as the Court may direct.

21. Pre-Existing Confidentiality Obligations. This Protective Order in no way modifies any prior agreement between the Parties that may be applicable.

22. Publicly Available Documents Excluded. The restrictions and terms set forth in this Protective Order shall not apply to documents or information, regardless of their designation, that are publicly available or that are obtained independently and under rightful means by the receiving Party.

23. No Waiver. This Protective Order does not waive or prejudice the right of any Party or non-party to apply to a court of competent jurisdiction for any other or further relief or to object on any appropriate grounds to any discovery requests, move to compel responses to discovery requests, and/or object to the admission of evidence at any hearing on any ground.

24. No Admission. Entering into, agreeing to, and/or complying with the terms of the Protective Order shall not operate as an admission by any Party that any particular document, testimony of information marked “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY” contains or reflects trade secrets, proprietary, confidential or competitively sensitive business, commercial, financial or personal information.

25. Modification. This Protective Order may be modified or amended either by written agreement of the Parties or by order of the court upon good cause shown. No oral waivers of the terms of this Protective Order shall be permitted between the Parties.

26. Prior Protective Order. On May 14, 2019, Defendants removed this action to the United States District Court, District of Nevada (the “Federal Court”), Case No. 2:19-cv-00832-JCM-VCF. On October 22, 2019, the Federal Court entered a Stipulated Confidentiality Protective Order (ECF No. 31), pursuant to which the Parties produced documents. On February 20, 2020, the Federal Court remanded the action (ECF No. 78). The Parties agree that any documents previously produced under the protective order entered by the Federal Court shall continue to be subject to the terms of this Protective Order.

27. Future Orders. Nothing in this Protective Order shall prohibit the Parties from seeking an order from the court regarding the production or protection of documents referenced herein or other materials in the future.

28. Good Cause. The Parties submit that good cause exists for entry of this Protective Order because (1) particularized harm will occur due to public disclosure of the Confidential Information to be protected under this Protective Order given the important privacy and business interests at issue here (2) when balancing the public and private interests, a protective order must issue because the public's interest in disclosure is substantially outweighed by the Parties' important privacy, proprietary and business interests and (3) allowing for the redaction of certain information, as contemplated by this Protective Order properly allows for the disclosure of information while protecting the important interests identified herein.

DATED this 23rd day of June, 2020.

McDONALD CARANO LLP

WEINBERG, WHEELER, HUDGINS,
GUNN & DIAL, LLC

By: /s/ Kristen T. Gallagher

By: /s/ Colby L. Balkenbush

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Kristen T. Gallagher (NSBN 9561)
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cbalkenbush@wwhgd.com
bllewellyn@wwhgd.com

Attorneys for Plaintiffs

Attorneys for Defendants

ORDER

IT IS SO ORDERED.

Dated this 24th day of June, 2020

Nancy L. Alf
DISTRICT COURT JUDGE
308 58E 8271 F977^{JD}

Nancy Alf

Submitted by:

McDONALD CARANO LLP

By: /s/ Kristen T. Gallagher

Pat Lundvall (NSBN 3761)

Kristen T. Gallagher (NSBN 9561)

Amanda M. Perach (NSBN 12399)

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kgallagher@mcdonaldcarano.com

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Attorneys for Plaintiffs

EXHIBIT A

DISTRICT COURT

CLARK COUNTY, NEVADA

FREMONT EMERGENCY SERVICES
(MANDAVIA), LTD., a Nevada professional
corporation, et al.

Plaintiffs,

vs.

UNITEDHEALTH GROUP, INC., et al.,

Defendants.

Case No.: A-19-792978-B

Dept. No.: XXVII

ACKNOWLEDGEMENT AND
AGREEMENT TO BE BOUND TO
STIPULATED CONFIDENTIALITY
AGREEMENT AND PROTECTIVE
ORDER

I, _____, hereby acknowledge receipt of a copy of the
Stipulated Confidentiality Agreement and Protective Order (“Protective Order”) entered in the
above-referenced action, and agree as follows:

1. I acknowledge that I have read the Protective Order and agree to be bound by its
terms and conditions and to hold any “Confidential” or “Attorneys’ Eyes Only” information
and/or materials disclosed to me in accordance with the Protective Order.

2. I will take all steps reasonably necessary to ensure that any secretarial, clerical, or
other personnel who assist me in connection with my participation in this action will likewise
comply with the terms and conditions of the Protective Order.

3. I further understand that I am to retain all copies of all documents or information
marked pursuant to the Protective Order in a secure manner, and that all copies of such materials
are to remain in my personal custody until termination of my participation in the above-
referenced litigation, whereupon the originals or any copies of such materials, and any work
product derived from said information and/or materials, will be returned to counsel who
provided the under with such materials.

4. To assure my compliance with the Protective Order, I submit to the jurisdiction
of the above-referenced Court for the limited purpose of any proceeding related to the
enforcement of, performance under, compliance with or violation of the Protective Order and
understand that the terms of the Protective Order obligate me to use materials designated as
Confidential in accordance with the Protective Order solely for the purposes of the above-
referenced litigation, and not to disclose any such Confidential Information to any other person,
firm or concern.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this ____ day of _____, 20__.

Signature: _____

Name (printed): _____

Title/Position: _____

Employer: _____

Address: _____

EXHIBIT B

DISTRICT COURT

CLARK COUNTY, NEVADA

FREMONT EMERGENCY SERVICES
(MANDAVIA), LTD., a Nevada professional
corporation, et al.

Plaintiffs,

vs.

UNITEDHEALTH GROUP, INC., et al.,

Defendants.

Case No.: A-19-792978-B

Dept. No.: XXVII

**AGREEMENT CONCERNING
ATTORNEYS' EYES ONLY MATERIAL
COVERED BY AGREED PROTECTIVE
ORDER**

1. I have read the Agreed Protective Order entered in this action, and as may amended by the Court (the "Protective Order"). I understand the terms of the Protective Order, and agree to be bound by the terms thereof.

2. In addition, I certify that I have no role, involvement in, or responsibility relating to contract negotiations, rate negotiations, negotiation of claim payment amounts, or decision-making concerning claim payment rates or amounts with respect to network contracting with any health plan or payor in the ordinary course of business (collectively "Rate Negotiations"), currently, and do not anticipate having any such role, involvement, or responsibility in Rate Negotiations during this litigation or any other litigation between the parties and/or their respective affiliates commenced during the pendency of this litigation, including appeals. I further understand that to the extent I acquire any such role, involvement, or responsibility during the litigation, that I will recuse myself from any matters involving or relating to the other party and may be replaced with an in-house counsel who meets the above criteria. Notwithstanding anything to the contrary contained herein, I understand that Rate Negotiations shall not include overseeing and/or managing all aspects (e.g., from evaluation, to filing, to discovery, to trial, to appeal and/or to settlement, etc.) of any type of litigation, including, without limitation, out-of-network litigation ("Litigation"), and the Protective Order specifically contemplates and permits me to oversee and/or manage all aspects of Litigation and to access Attorneys' Eyes Only information.

By: _____

Name: _____
(Please print)

Date: _____

From: Balkenbush, Colby <CBalkenbush@wwhgd.com>
Sent: Tuesday, June 23, 2020 11:32 AM
To: Kristen T. Gallagher
Cc: Pat Lundvall; Amanda Perach; Roberts, Lee; Llewellyn, Brittany M.
Subject: RE: Fremont Emergency Services (Mandavia) Ltd vs. UnitedHealth Group et al. - protective order

Kristy,

This looks good and we have no changes. You may insert my electronic signature and submit to the Court.



Colby Balkenbush, Attorney
Weinberg Wheeler Hudgins Gunn & Dial
6385 South Rainbow Blvd. | Suite 400 | Las Vegas, NV
89118
D: 702.938.3821 | F: 702.938.3864
www.wwhgd.com | vCard

From: Kristen T. Gallagher [mailto:kgallagher@mcdonaldcarano.com]
Sent: Saturday, June 20, 2020 11:27 AM
To: Balkenbush, Colby; Roberts, Lee; Llewellyn, Brittany M.
Cc: Pat Lundvall; Amanda Perach
Subject: Fremont Emergency Services (Mandavia) Ltd vs. UnitedHealth Group et al. - protective order

This Message originated outside your organization.

Colby -

In order to finalize the PO, we will agree to revisit the trial-related provisions as the case progresses. Attached is the PO in Word and PDF format. Please do a final review and then respond to this email to provide authorization for insertion of your electronic signature and submission to the court.

Thanks,
Kristy

Kristen T. Gallagher | Partner

McDONALD CARANO

2300 West Sahara Avenue | Suite 1200
Las Vegas, NV 89102

P: 702.873.4100 | F: 702.873.9966

BIO | WEBSITE | V-CARD | LINKEDIN

MERITAS®

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DISTRICT COURT
CLARK COUNTY, NEVADA

Fremont Emergency Services
(Mandavia) Ltd, Plaintiff(s)

vs.

United Healthcare Insurance
Company, Defendant(s)

CASE NO: A-19-792978-B

DEPT. NO. Department 27

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Stipulated Protective Order was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 6/24/2020

Audra Bonney	abonney@wwhgd.com
Cindy Bowman	cbowman@wwhgd.com
D. Lee Roberts	lroberts@wwhgd.com
Raiza Anne Torrenueva	rtorrenueva@wwhgd.com
Colby Balkenbush	cbalkenbush@wwhgd.com
Brittany Llewellyn	bllewellyn@wwhgd.com
Pat Lundvall	plundvall@mcdonaldcarano.com
Kristen Gallagher	kgallagher@mcdonaldcarano.com
Amanda Perach	aperach@mcdonaldcarano.com
Beau Nelson	bnelson@mcdonaldcarano.com
Marianne Carter	mcarter@mcdonaldcarano.com
Karen Surowiec	ksurowiec@mcdonaldcarano.com

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Flor Gonzalez-Pacheco

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Kelly Gaez

kgaez@wwhgd.com

Kimberly Kirn

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