

Case No. 85525

In the Supreme Court of Nevada

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

Appellants

vs.

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

Respondents.

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Elizabeth A. Brown
Clerk of Supreme Court

**NRAP 27(e) EMERGENCY MOTION FOR
INTERIM EXTENSION OF DISTRICT COURT'S STAY OF
ORDERS UNSEALING CERTAIN TRIAL EXHIBITS AND TRANSCRIPTS**

(Action Required by November 14, 2022)

This appeal challenges, in part, two district court orders that unseal certain trial exhibits and transcripts following trial between appellants (the defendants, “United”) and respondents (the plaintiffs, “TeamHealth”). *See* 1 App. 161-166 (Order Granting in Part and Denying in Part Defendants’ Motion to Seal Certain Confidential Trial Exhibits); 1 App 151-153 (Order Denying “Motion to Redact Portions of Trial Transcript”). The district temporarily stayed its orders until November 14, 2022 so that United could seek a further stay from this Court pending resolution of the appeal. 2 App. 309.

On October 28, 2022, United asked this Court to extend the district court’s stay of its orders unsealing certain trial exhibits and transcripts. United now moves for an interim stay on an emergency basis to ensure that the district court’s orders do not go into effect pending this Court’s resolution of United’s motion to extend the stay.

Although respondents intend to oppose the extension of a stay pending appeal, respondents do not oppose this request for interim stay for the court to consider full briefing on the motion.

On November 3, 2022, respondents (“TeamHealth”) obtained a 14-day telephonic extension to respond to the motion to extend the stay.

That extended TeamHealth's response deadline from November 4, 2022 to November 18, 2022, which is four days after the district court's temporary stay expires. Thus, if this Court takes no action before TeamHealth's response is filed, then the district court's orders unsealing certain trial exhibits and transcripts will go into effect before the motion to extend the stay is resolved.

The motion to extend the stay, filed on October 28, 2022, and incorporated herein, addresses the NRAP 8(c) factors and why United is entitled to a stay during the appeal.

United recognizes, however, that this Court may want additional time to consider the request to extend the district court's stay through the resolution of the appeal. If so, this Court should at least stay the unsealing orders on an interim basis while the Court considers that stay request.

This interim stay is necessary to maintain the object of the motion to extend the stay and to prevent serious and irreparable harm to United from the release of its confidential information. If this interim stay is denied and the motion to extend is considered only after TeamHealth files its response, then the very object of United's efforts—

to maintain the confidentiality of its protected information—will be defeated through TeamHealth’s release of that information to the public. Further, that release will cause irreparable and serious injury to United by giving its competitors some of its most confidential and commercially sensitive information, thereby putting United at a competitive disadvantage in the marketplace. It will likely also cause serious and irreparable injury to United’s business partners, the markets, and other third parties, as shown when TeamHealth improperly released some of the information during trial. 3 App. 380, 392. Once that information is released, it can have serious consequences and there is no way to claw it back.

Conversely, an interim stay will have no effect on TeamHealth. TeamHealth will not be prejudiced in any way if this Court grants an interim stay while it considers United’s motion to extend the stay.

Finally, United’s motion to extend the stay is likely to be granted because the NRAP 8(c) factors weigh overwhelmingly in favor of a stay. *See Motion to Extend Stay of District Court’s Order Unsealing Certain Trial Exhibits and Transcripts* (filed October 28, 2022).

Accordingly, United’s motion to extend the stay should be

considered on its merits, as should United's appeal from the orders unsealing certain trial exhibits and transcripts. Practically speaking, that cannot happen unless this Court grants this interim stay before November 14, 2022. Alternatively, this Court may convert the October 28, 2022 motion to extend the district court's stay to an emergency request under NRAP 27(e) and grant the stay pending appeal.

Dated this 4th day of November, 2022.

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NRAP 27(e) CERTIFICATE

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B. Nature of Emergency

The stay currently in place that prevents TeamHealth from releasing United's confidential information will expire on November 14, 2022. On November 3, 2022, TeamHealth obtained an extension to respond to United's motion to extend the stay that extends TeamHealth's deadline to respond until four days after the district court's stay expires. Without a stay in place, TeamHealth can publish, or any other person can obtain, United's most sensitive and protected commercial documents, thereby causing serious and irreparable harm to United. It is therefore imperative that, before November 14, 2022, this Court grant at least an interim stay pending resolution of United's motion to extend the stay.

C. Notice and Service

On November 4, I spoke with Sarah Harmon of Bailey Kennedy about the filing of this motion. She indicated that respondents intend to respond to the underlying motion for extension pending appeal before the expiration of the stay on November 14. Regardless, she and I agreed that this emergency motion is necessary to alert this Court to the urgency of entering at least an interim stay by November 14.

I also spoke and e-mailed with Jane Robinson Ahmad, Zavistanos, Anaipakos, Alavi & Mensing, P.C. She indicated that her clients were not opposed to the requested relief of an interim stay pending resolution of the motion to extend the stay. She emphasized that respondents would oppose the alternative request to extend the stay through the resolution of the appeal.

Dated this 4th day of November, 2022.

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CERTIFICATE OF SERVICE

I certify that on November 4, 2022, I submitted the foregoing “NRAP 27(e) Emergency Motion for Interim Extension of District Court’s Stay of Orders Unsealing Certain Trial Exhibits and Transcripts” for filing *via* the Court’s eFlex electronic filing system.

Electronic notification will be sent to the following:

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