Case Nos. 85525 & 85656

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.	Case No. 85525
UNITED HEALTHCARE INSURANCE COMPANY; UNITED HEALTH CARE SERVICES, INC.; UMR, INC.; SIERRA HEALTH AND LIFE INSURANCE COMPANY, INC.; and 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, *vs.* FREMONT EMERGENCY SERVICES (MANDAVIA), LTD.; TEAM PHYSICIANS OF NEVADA-MANDAVIA, P.C.; and CRUM STEFANKO AND JONES, LTD., Real Parties in Interest.	Case No. 85656

APPELLANTS' APPENDIX
VOLUME 146
PAGES 36,063–36,250

K. LEE BLALACK II
(*pro hac vice*)
JONATHAN D. HACKER (*pro hac vice forthcoming*)
O'MELVENY & MYERS LLP
1625 Eye Street, N.W.
Washington, D.C. 20006

DANIEL F. POLSENBERG (SBN 2376)
JOEL D. HENRIOD (SBN 8492)
ABRAHAM G. SMITH (SBN 13,250)
KORY J. KOERPERICH (SBN 14,559)
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Pkwy., Ste. 600
Las Vegas, Nevada 89169

D. LEE ROBERTS (SBN 8877)
COLBY L. BALKENBUSH (SBN 13,066)
WEINBERG, WHEELER, HUDGINS, GUNN & DIAL, LLC
6385 South Rainbow Blvd., Ste. 400
Las Vegas, Nevada 89118

Attorneys for Appellants/Petitioners

CHRONOLOGICAL TABLE OF CONTENTS TO APPENDIX

Tab	Document	Date	Vol.	Pages
1.	Complaint (Business Court)	04/15/19	1	1–17
2.	Peremptory Challenge of Judge	04/17/19	1	18–19
3.	Summons - UMR, Inc. dba United Medical Resources	04/25/19	1	20–22
4.	Summons – United Health Care Services Inc. dba UnitedHealthcare	04/25/19	1	23–25
5.	Summons – United Healthcare Insurance Company	04/25/19	1	26–28
6.	Summons – Health Plan of Nevada, Inc.	04/30/19	1	29–31
7.	Summons – Sierra Health-Care Options, Inc.	04/30/19	1	32–34
8.	Summons – Sierra Health and Life Insurance Company, Inc.	04/30/19	1	35–37
9.	Summons – Oxford Health Plans, Inc.	05/06/19	1	38–41
10.	Notice of Removal to Federal Court	05/14/19	1	42–100
11.	Motion to Remand	05/24/19	1	101–122
12.	Defendants' Statement of Removal	05/30/19	1	123–126
13.	Freemont Emergency Services (MANDAVIA), Ltd's Response to Statement of Removal	05/31/19	1	127–138
14.	Defendants' Opposition to Fremont Emergency Services (MANDAVIA), Ltd.'s Motion to Remand	06/21/19	1 2	139–250 251–275
15.	Rely in Support of Motion to Remand	06/28/19	2	276–308
16.	Civil Order to Statistically Close Case	12/10/19	2	309
17.	Amended Motion to Remand	01/15/20	2	310–348

Tab	Document	Date	Vol.	Pages
18.	Defendants' Opposition to Plaintiffs' Amended Motion to Remand	01/29/20	2	349–485
19.	Reply in Support of Amended Motion to Remand	02/05/20	2 3	486–500 501–518
20.	Order	02/20/20	3	519–524
21.	Order	02/24/20	3	525–542
22.	Notice of Entry of Order Re: Remand	02/27/20	3	543–552
23.	Defendants' Motion to Dismiss	03/12/20	3	553–698
24.	Notice of Intent to Take Default as to: (1) Defendant UnitedHealth Group, Inc. on All Claims; and (2) All Defendants on the First Amended Complaint's Eighth Claim for Relief	03/13/20	3 4	699–750 751
25.	Plaintiffs' Opposition to Defendants' Motion to Dismiss	03/26/20	4	752–783
26.	Appendix of Exhibits in Support of Plaintiffs' Opposition to Defendants' Motion to Dismiss	03/26/20	4	784–908
27.	Recorder's Transcript of Proceedings Re: Motions	04/03/20	4	909–918
28.	Defendants' Reply in Support of Motion to Dismiss	05/07/20	4	919–948
29.	Recorder's Transcript of Proceedings Re: Pending Motions	05/14/20	4	949-972
30.	First Amended Complaint	05/15/20	4 5	973–1000 1001–1021
31.	Recorder's Transcript of Hearing All Pending Motions	05/15/20	5	1022–1026
32.	Defendants' Motion to Dismiss Plaintiffs' First Amended Complaint	05/26/20	5	1027–1172

Tab	Document	Date	Vol.	Pages
33.	Defendants' Supplemental Brief in Support of Their Motion to Dismiss Plaintiffs' First Amended Complaint Addressing Plaintiffs' Eighth Claim for Relief	05/26/20	5	1173–1187
34.	Plaintiffs' Opposition to Defendants' Motion to Dismiss First Amended Complaint	05/29/20	5 6	1188–1250 1251–1293
35.	Plaintiffs' Opposition to Defendants' Supplemental Brief in Support of Their Motion to Dismiss Plaintiffs' First Amended Complaint Addressing Plaintiffs' Eighth Claim for Relief	05/29/20	6	1294–1309
36.	Defendants' Reply in Support of Motion to Dismiss Plaintiffs' First Amended Complaint	06/03/20	6	1310–1339
37.	Defendants' Reply in Support of Their Supplemental Brief in Support of Their Motions to Dismiss Plaintiff's First Amended Complaint	06/03/20	6	1340–1349
38.	Transcript of Proceedings, All Pending Motions	06/05/20	6	1350–1384
39.	Transcript of Proceedings, All Pending Motions	06/09/20	6	1385–1471
40.	Notice of Entry of Order Denying Defendants' (1) Motion to Dismiss First Amended Complaint; and (2) Supplemental Brief in Support of Their Motion to Dismiss Plaintiffs' First Amended Complaint Addressing Plaintiffs' Eighth Claim for Relief	06/24/20	6 7	1472–1500 1501–1516
41.	Notice of Entry of Stipulated Confidentiality and Protective Order	06/24/20	7	1517–1540
42.	Defendants' Answer to Plaintiffs' First Amended Complaint	07/08/20	7	1541–1590

Tab	Document	Date	Vol.	Pages
43.	Recorder's Transcript of Proceedings Re: Motions (via Blue Jeans)	07/09/20	7	1591–1605
44.	Joint Case Conference Report	07/17/20	7	1606–1627
45.	Recorder's Transcript of Proceedings Re: Motions (via Blue Jeans)	07/23/20	7	1628–1643
46.	Transcript of Proceedings, Plaintiff's Motion to Compel Defendants' Production of Unredacted MultiPlan, Inc. Agreement	07/29/20	7	1644–1663
47.	Amended Transcript of Proceedings, Plaintiff's Motion to Compel Defendants' Production of Unredacted MultiPlan, Inc. Agreement	07/29/20	7	1664–1683
48.	Errata	08/04/20	7	1684
49.	Plaintiffs' Motion to Compel Defendants' Production of Claims File for At-Issue Claims, or, in the Alternative, Motion in Limine on Order Shortening Time	08/28/20	7 8	1685–1700 1701–1845
50.	Defendants' Opposition to Plaintiffs' Motion to Compel Defendants' Production of Claims File for At-Issue Claims, Or, in The Alternative, Motion in Limine on Order Shortening Time	09/04/20	8	1846–1932
51.	Recorder's Transcript of Proceedings Re: Pending Motions	09/09/20	8	1933–1997
52.	Defendants' Motion to Compel Production of Clinical Documents for the At-Issue Claims and Defenses and to Compel Plaintiffs to Supplement Their NRCP 16.1 Initial Disclosures on an Order Shortening Time	09/21/20	8 9	1998–2000 2001–2183
53.	Notice of Entry of Order Granting, in Part Plaintiffs' Motion to Compel Defendants' Production of Claims for At-Issue Claims,	09/28/20	9	2184–2195

Tab	Document	Date	Vol.	Pages
	Or, in The Alternative, Motion in Limine			
54.	Errata to Plaintiffs' Motion to Compel Defendants' List of Witnesses Production of Documents and Answers to Interrogatories	09/28/20	9	2196–2223
55.	Plaintiffs' Opposition to Motion to Compel Production of Clinical Documents for the At-Issue Claims and Defenses and to Compel Plaintiff to Supplement Their NRCP 16.1 Initial Disclosures on an Order Shortening Time	09/29/20	9-10	2224–2292
56.	Defendants' Opposition to Plaintiffs' Motion to Compel Defendants' List of Witnesses, Production of Documents, and Answers to Interrogatories on Order Shortening Time	10/06/20	10	2293–2336
57.	Reply in Support of Defendants' Motion to Compel Production of Clinical Documents for the At-Issue Claims and Defenses and to Compel Plaintiff to Supplement Their NRCP 16.1 Initial Disclosures	10/07/20	10	2337–2362
58.	Recorder's Transcript of Proceedings Re: Motions (via Blue Jeans)	10/08/20	10	2363–2446
59.	Recorder's Transcript of Proceedings Re: Motions (via Blue Jeans)	10/22/20	10	2447–2481
60.	Defendants' Objections to Plaintiffs' Order Granting Plaintiffs' Motion to Compel Defendants' List of Witnesses, Production of Documents and Answers to Interrogatories on Order Shortening Time	10/23/20	10 11	2482–2500 2501–2572
61.	Defendants' Objections to Plaintiffs to Plaintiffs' Order Granting Plaintiffs' Motion to Compel Defendants' List of Witnesses, Production of Documents and Answers to Interrogatories on Order Shortening Time	10/26/20	11	2573–2670

Tab	Document	Date	Vol.	Pages
62.	Notice of Entry of Order Denying Defendants' Motion to Compel Production of Clinical Documents for the At-Issue Claims and Defenses and to Compel Plaintiff to Supplement Their NRCP 16.1 Initial Disclosures on Order Shortening Time	10/27/20	11	2671–2683
63.	Notice of Entry of Order Granting Plaintiffs' Motion to Compel Defendants' List of Witnesses, Production of Documents and Answers to Interrogatories on Order Shortening Time	10/27/20	11	2684–2695
64.	Defendants' Objections to Plaintiffs' Order Denying Defendants' Motion to Compel Production of Clinical Documents for the At-Issue Claims and Defenses and to Compel Plaintiffs' to Supplement Their NRCP 16.1 Initial Disclosures on an Order Shortening Time	11/02/20	11	2696–2744
65.	Recorder's Transcript of Proceedings Re: Motions (via Blue Jeans)	11/04/20	11 12	2745–2750 2751–2774
66.	Notice of Entry of Order Setting Defendants' Production & Response Schedule Re: Order Granting Plaintiffs' Motion to Compel Defendants' List of Witnesses, Production of Documents and Answers to Interrogatories on Order Shortening Time	11/09/20	12	2775–2785
67.	Recorder's Transcript of Proceedings Re: Motions (via Blue Jeans)	12/23/20	12	2786–2838
68.	Recorder's Transcript of Proceedings Re: Motions (via Blue Jeans)	12/30/20	12	2839–2859
69.	Notice of Entry of Stipulated Electronically Stored Information Protocol Order	01/08/21	12	2860–2874

Tab	Document	Date	Vol.	Pages
70.	Appendix to Defendants' Motion to Compel Plaintiffs' Responses to Defendants' First and Second Requests for Production on Order Shortening Time	01/08/21	12 13 14	2875–3000 3001–3250 3251–3397
71.	Defendants' Motion to Compel Plaintiffs' Responses to Defendants' First and Second Requests for Production on Order Shortening Time	01/11/21	14	3398–3419
72.	Plaintiffs' Opposition to Motion to Compel Responses to Defendants' First and Second Requests for Production on Order Shortening Time	01/12/21	14	3420–3438
73.	Recorder's Partial Transcript of Proceedings Re: Motions (Unsealed Portion Only)	01/13/21	14	3439–3448
74.	Defendants' Reply in Support of Motion to Compel Plaintiffs' Responses to Defendants' First and Second Requests for Production on Order Shortening Time	01/19/21	14	3449–3465
75.	Appendix to Defendants' Reply in Support of Motion to Compel Plaintiffs' Responses to Defendants' First and Second Requests for Production on Order Shortening Time	01/19/21	14 15	3466–3500 3501–3658
76.	Recorder's Transcript of Proceedings Re: Motions	01/21/21	15	3659–3692
77.	Notice of Entry of Order Granting Defendants' Motion for Appointment of Special Master	02/02/21	15	3693–3702
78.	Notice of Entry of Order Denying Defendants' Motion to Compel Responses to Defendants' First and Second Requests for Production on Order Shortening Time	02/04/21	15	3703–3713
79.	Motion for Reconsideration of Order Denying Defendants' Motion to Compel	02/18/21	15 16	3714–3750 3751–3756

Tab	Document	Date	Vol.	Pages
	Plaintiffs Responses to Defendants' First and Second Requests for Production			
80.	Recorder's Transcript of Proceedings Re: Motions	02/22/21	16	3757–3769
81.	Recorder's Transcript of Proceedings Re: Motions	02/25/21	16	3770–3823
82.	Recorder's Transcript of Hearing Defendants' Motion to Extend All Case Management Deadlines and Continue Trial Setting on Order Shortening Time (Second Request)	03/03/21	16	3824–3832
83.	Plaintiffs' Opposition to Motion for Reconsideration of Order Denying Defendants' Motion to Compel Plaintiffs Responses to Defendants' First and Second Requests for Production	03/04/21	16	3833–3862
84.	Plaintiffs' Renewed Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt and for Sanctions	03/08/21	16	3863–3883
85.	Errata to Plaintiffs' Renewed Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt and for Sanctions	03/12/21	16	3884–3886
86.	Notice of Entry of Report and Recommendation #1	03/16/21	16	3887–3894
87.	Reply in Support of Motion for Reconsideration of Order Denying Defendants' Motion to Compel Plaintiffs Responses to Defendants' First and Second Requests for Production	03/16/21	16	3895–3909
88.	Recorder's Transcript of Hearing All Pending Motions	03/18/21	16	3910–3915

Tab	Document	Date	Vol.	Pages
89.	Defendants' Opposition to Plaintiffs' Renewed Motion for Order to Show Cause Why Defendants Should Not be Held in Contempt and for Sanctions	03/22/21	16	3916–3966
90.	Recorder's Transcript of Hearing All Pending Motions	03/25/21	16	3967–3970
91.	Notice of Entry of Report and Recommendation #2 Regarding Plaintiffs' Objection to Notice of Intent to Issue Subpoena Duces Tecum to TeamHealth Holdings, Inc. and Collect Rx, Inc. Without Deposition and Motion for Protective Order	03/29/21	16	3971–3980
92.	Recorder's Transcript of Hearing Motion to Associate Counsel on OST	04/01/21	16	3981–3986
93.	Recorder's Transcript of Proceedings Re: Motions	04/09/21	16 17	3987–4000 4001–4058
94.	Defendants' Objection to the Special Master's Report and Recommendation No. 2 Regarding Plaintiffs' Objection to Notice of Intent to Issue Subpoena Duces Tecum to TeamHealth Holdings, Inc. and Collect Rx, Inc. Without Deposition and Motion for Protective Order	04/12/21	17	4059–4079
95.	Notice of Entry of Report and Recommendation #3 Regarding Defendants' Motion to Compel Responses to Defendants' Second Set of Requests for Production on Order Shortening Time	04/15/21	17	4080–4091
96.	Recorder's Transcript of Hearing All Pending Motions	04/21/21	17	4092–4095
97.	Notice of Entry of Order Denying Motion for Reconsideration of Court's Order Denying Defendants' Motion to Compel Responses to	04/26/21	17	4096–4108

Tab	Document	Date	Vol.	Pages
	Defendants' First and Second Requests for Production			
98.	Defendants' Objection to the Special Master's Report and Recommendation No. 3 Regarding Defendants' Motion to Compel Responses to Defendants' Second Set of Request for Production on Order Shortening Time	04/28/21	17	4109–4123
99.	Defendants' Errata to Their Objection to the Special Master's Report and Recommendation No. 3 Regarding Defendants' Motion to Compel Responses to Defendants' Second Set of Requests for Production	05/03/21	17	4124–4127
100.	Defendants' Objections to Plaintiffs' Proposed Order Granting Plaintiffs' Renewed Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt and for Sanctions	05/05/21	17	4128–4154
101.	Recorder's Transcript of Hearing Motion for Leave to File Opposition to Defendants' Motion to Compel Responses to Second Set of Requests for Production on Order Shortening Time in Redacted and Partially Sealed Form	05/12/21	17	4155–4156
102.	Notice of Entry of Order of Report and Recommendation #6 Regarding Defendants' Motion to Compel Further Testimony from Deponents Instructed Not to Answer Question	05/26/21	17	4157–4165
103.	Recorder's Transcript of Proceedings Re: Motions	05/28/21	17	4166–4172
104.	Notice of Entry of Report and Recommendation #7 Regarding Defendants'	06/03/21	17	4173–4184

Tab	Document	Date	Vol.	Pages
	Motion to Compel Plaintiffs' Responses to Defendants' Amended Third Set of Requests for Production of Documents			
105.	Recorder's Transcript of Proceedings Re: Motions Hearing	06/03/21	17	4185–4209
106.	Recorder's Transcript of Proceedings Re: Motions Hearing	06/04/21	17	4210–4223
107.	Recorder's Transcript of Hearing Motion for Leave to File Plaintiffs' Response to Defendants' Objection to the Special Master's Report and Recommendation No. 3 Regarding Defendants' Second Set of Request for Production on Order Shortening Time in Redacted and Partially Sealed Form	06/09/21	17	4224–4226
108.	Defendants' Objections to Special Master Report and Recommendation No. 7 Regarding Defendants' Motion to Compel Responses to Defendants' Amended Third Set of Requests for Production of Documents	06/17/21	17	4227–4239
109.	Recorder's Transcript of Proceedings Re: Motions Hearing	06/23/21	17 18	4240–4250 4251–4280
110.	Plaintiffs' Response to Defendants' Objection to Special Master's Report and Recommendation #7 Regarding Defendants' Motion to Compel Responses to Amended Third Set of Request for Production of Documents	06/24/21	18	4281–4312
111.	Notice of Entry Report and Recommendations #9 Regarding Pending Motions	07/01/21	18	4313–4325
112.	United's Reply in Support of Motion to Compel Plaintiffs' Production of Documents	07/12/21	18	4326–4340

Tab	Document	Date	Vol.	Pages
	About Which Plaintiffs' Witnesses Testified on Order Shortening Time			
113.	Recorder's Transcript of Proceedings Re: Motions Hearing	07/29/21	18	4341–4382
114.	Notice of Entry of Order Granting Plaintiffs' Renewed Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt and for Sanctions	08/03/21	18	4383–4402
115.	Notice of Entry of Order Affirming and Adopting Report and Recommendation No. 2 Regarding Plaintiffs' Objection to Notice of Intent to Issue Subpoena Duces Tecum to TeamHealth Holdings, Inc. and Collect Rx, Inc. Without Deposition and Motion for Protective Order and Overruling Objection	08/09/21	18	4403–4413
116.	Notice of Entry of Order Affirming and Adopting Report and Recommendation No. 3 Regarding Defendants' Motion to Compel Responses to Defendants' Second Set of Requests for Production on Order Shortening Time and Overruling Objection	08/09/21	18	4414–4424
117.	Amended Notice of Entry of Order Affirming and Adopting Report and Recommendation No. 2 Regarding Plaintiffs' Objection to Notice of Intent to Issue Subpoena Duces Tecum to TeamHealth Holdings, Inc. and Collect Rx, Inc. Without Deposition and Motion for Protective Order and Overruling Objection	08/09/21	18	4425–4443
118.	Amended Notice of Entry of Order Affirming and Adopting Report and Recommendation No. 3 Regarding Defendants' Second Set of Requests for Production on Order Shortening Time and	08/09/21	18	4444–4464

Tab	Document	Date	Vol.	Pages
	Overruling Objection			
119.	Motion for Order to Show Cause Why Plaintiffs Should Not Be Held in Contempt and Sanctioned for Violating Protective Order	08/10/21	18	4465–4486
120.	Notice of Entry of Report and Recommendation #11 Regarding Defendants' Motion to Compel Plaintiffs' Production of Documents About Which Plaintiffs' Witnesses Testified	08/11/21	18	4487–4497
121.	Recorder's Transcript of Proceedings Re: Motions Hearing (Unsealed Portion Only)	08/17/21	18 19	4498–4500 4501–4527
122.	Plaintiffs' Opposition to United's Motion for Order to Show Cause Why Plaintiffs Should Not Be Held in Contempt and Sanctioned for Allegedly Violating Protective Order	08/24/21	19	4528–4609
123.	Recorder's Transcript of Proceedings Re: Motions Hearing	09/02/21	19	4610–4633
124.	Reply Brief on "Motion for Order to Show Cause Why Plaintiffs Should Not Be Hold in Contempt and Sanctioned for Violating Protective Order"	09/08/21	19	4634–4666
125.	Recorder's Partial Transcript of Proceedings Re: Motions Hearing	09/09/21	19	4667–4680
126.	Recorder's Partial Transcript of Proceedings Re: Motions Hearing (Via Blue Jeans)	09/15/21	19	4681–4708
127.	Notice of Entry of Order Affirming and Adopting Report and Recommendation No. 6 Regarding Defendants' Motion to Compel Further Testimony from Deponents Instructed Not to Answer Questions and Overruling Objection	09/16/21	19	4709–4726

Tab	Document	Date	Vol.	Pages
128.	Notice of Entry of Order Affirming and Adopting Report and Recommendation No. 7 Regarding Defendants' Motion to Compel Responses to Defendants' Amended Third Set of Request for Production of Documents and Overruling Objection	09/16/21	19	4727–4747
129.	Notice of Entry of Order Affirming and Adopting Report and Recommendation No. 9 Regarding Defendants' Renewed Motion to Compel Further Testimony from Deponents Instructed No to Answer and Overruling Objection	09/16/21	19 20	4748–4750 4751–4769
130.	Defendants' Motion for Partial Summary Judgment	09/21/21	20	4770–4804
131.	Defendants' Motion in Limine No. 1: Motion to Authorize Defendants to Offer Evidence Relating to Plaintiffs' Agreements with other Market Players and Related Negotiations	09/21/21	20	4805–4829
132.	Defendants' Motion in Limine No. 2: Motion Offered in the Alternative to MIL No. 1, to Preclude Plaintiffs from Offering Evidence Relating to Defendants' Agreements with Other Market Players and Related Negotiations	09/21/21	20	4830–4852
133.	Motion in Limine No. 4 to Preclude References to Defendants' Decision Making Process and Reasonableness of billed Charges if Motion in Limine No. 3 is Denied	09/21/21	20	4853–4868
134.	Defendants' Motion in Limine No. 10 to Exclude Reference of Defendants' Corporate Structure (Alternative Moton to be Considered Only if court Denies Defendants' Counterpart Motion in Limine No. 9)	09/21/21	20	4869–4885

Tab	Document	Date	Vol.	Pages
135.	Defendants' Motion in Limine No. 13: Motion to Authorize Defendants to Offer Evidence Relating to Plaintiffs' Collection Practices for Healthcare Claims	09/21/21	20	4886–4918
136.	Defendants' Motion in Limine No. 14: Motion Offered in the Alternative to MIL No. 13 to Preclude Plaintiffs from Contesting Defendants' Defenses Relating to Claims that were Subject to Settlement Agreement Between CollectRX and Data iSight; and Defendants' Adoption of Specific Negotiation Thresholds for Reimbursement Claims Appealed or Contested by Plaintiffs	09/21/21	20	4919–4940
137.	Defendants' Motion in Limine No. 24 to Preclude Plaintiffs from Referring to Themselves as Healthcare Professionals	09/21/21	20	4941–4972
138.	Defendants' Motion in Limine No. 7 to Authorize Defendants to Offer Evidence of the Costs of the Services that Plaintiffs Provided	09/22/21	20 21	4973–5000 5001–5030
139.	Defendants' Motion in Limine No. 8, Offered in the Alternative to MIL No. 7, to Preclude Plaintiffs from Offering Evidence as to the Qualitative Value, Relative Value, Societal Value, or Difficulty of the Services they Provided	09/22/21	21	5031–5054
140.	Defendants' Motion in Limine No. 9 to Authorize Defendants to Offer Evidence of Plaintiffs Organizational, Management, and Ownership Structure, Including Flow of Funds Between Related Entities, Operating Companies, Parent Companies, and Subsidiaries	09/22/21	21	5055–5080
141.	Defendants' Opposition to Plaintiffs' Motion	09/29/21	21	5081–5103

Tab	Document	Date	Vol.	Pages
	in Limine No. 1: to Exclude Evidence, Testimony and/or Argument Relating to (1) Increase in Insurance Premiums (2) Increase in Costs and (3) Decrease in Employee Wages/Benefits Arising from Payment of Billed Charges			
142.	Notice of Entry of Order Regarding Defendants' Objection to Special Master's Report and Recommendation No. 11 Regarding Defendants' Motion to Compel Plaintiffs' Production of Documents about which Plaintiffs' Witnesses Testified on Order Shortening Time	09/29/21	21	5104–5114
143.	Plaintiffs' Opposition to Defendants' Motion in Limine Nos. 3, 4, 5, 6 Regarding Billed Charges	09/29/21	21	5115–5154
144.	Plaintiffs' Opposition to Defendants' Motion in Limine No. 24 to Preclude Plaintiffs from Referring to Themselves as Healthcare Professionals	09/29/21	21	5155–5169
145.	Plaintiffs' Motion for Leave to File Second Amended Complaint on Order Shortening Time	10/04/21	21	5170–5201
146.	Transcript of Proceedings Re: Motions (Via Blue Jeans)	10/06/21	21	5202–5234
147.	Notice of Entry of Order Granting Plaintiffs' Motion for Leave to File Second Amended Complaint on Order Shortening Time	10/07/21	21	5235–5245
148.	Second Amended Complaint	10/07/21	21 22	5246–5250 5251–5264
149.	Plaintiffs' Motion in Limine to Exclude Evidence, Testimony and-or Argument Regarding the Fact that Plaintiffs Have	10/08/21	22	5265–5279

Tab	Document	Date	Vol.	Pages
	Dismissed Certain Claims and Parties on Order Shortening Time			
150.	Defendants' Answer to Plaintiffs' Second Amended Complaint	10/08/21	22	5280–5287
151.	Defendants' Objections to Plaintiffs' NRCP 16.1(a)(3) Pretrial Disclosures	10/08/21	22	5288–5294
152.	Plaintiffs' Objections to Defendants' Pretrial Disclosures	10/08/21	22	5295–5300
153.	Opposition to Plaintiffs' Motion in Limine to Exclude Evidence, Testimony and/or Argument Regarding the Fact that Plaintiffs have Dismissed Certain Claims and Parties on Order Shortening Time	10/12/21	22	5301–5308
154.	Notice of Entry of Order Denying Defendants' Motion for Order to Show Cause Why Plaintiffs Should not be Held in Contempt for Violating Protective Order	10/14/21	22	5309–5322
155.	Defendants' Opposition to Plaintiffs' Motion for Leave to File Supplemental Record in Opposition to Arguments Raised for the First Time in Defendants' Reply in Support of Motion for Partial Summary Judgment	10/18/21	22	5323–5333
156.	Media Request and Order Allowing Camera Access to Court Proceedings (Legal Newsline)	10/18/21	22	5334–5338
157.	Transcript of Proceedings Re: Motions	10/19/21	22 23	5339–5500 5501–5561
158.	Amended Transcript of Proceedings Re: Motions	10/19/21	23 24	5562–5750 5751–5784
159.	Amended Transcript of Proceedings Re: Motions	10/20/21	24	5785–5907
160.	Transcript of Proceedings Re: Motions	10/22/21	24	5908–6000

Tab	Document	Date	Vol.	Pages
			25	6001–6115
161.	Notice of Entry of Order Denying Defendants' Motion for Partial Summary Judgment	10/25/21	25	6116–6126
162.	Recorder's Transcript of Jury Trial – Day 1	10/25/21	25 26	6127–6250 6251–6279
163.	Recorder's Transcript of Jury Trial – Day 2	10/26/21	26	6280–6485
164.	Joint Pretrial Memorandum Pursuant to EDRC 2.67	10/27/21	26 27	6486–6500 6501–6567
165.	Recorder's Transcript of Jury Trial – Day 3	10/27/21	27 28	6568–6750 6751–6774
166.	Recorder's Transcript of Jury Trial – Day 4	10/28/21	28	6775–6991
167.	Media Request and Order Allowing Camera Access to Court Proceedings (Dolcefino Communications, LLC)	10/28/21	28 28	6992–6997
168.	Media Request and Order Allowing Camera Access to Court Proceedings (Dolcefino Communications, LLC)	10/28/21	28 29	6998–7000 7001–7003
169.	Defendants' Objection to Media Requests	10/28/21	29	7004–7018
170.	Supplement to Defendants' Objection to Media Requests	10/31/21	29	7019–7039
171.	Notice of Entry of Order Denying Defendants' Motion in Limine No. 1 Motion to Authorize Defendants to Offer Evidence Relating to Plaintiffs' Agreements with Other Market Players and Related Negotiations	11/01/21	29	7040–7051
172.	Notice of Entry of Order Denying Defendants' Motion in Limine No. 2: Motion Offered in the Alternative to MIL No. 1, to Preclude Plaintiffs from Offering Evidence	11/01/21	29	7052–7063

Tab	Document	Date	Vol.	Pages
	Relating to Defendants' Agreements with Other Market Players and Related Negotiations			
173.	Notice of Entry of Order Denying Defendants' Motion in Limine No. 3 to Allow Reference to Plaintiffs' Decision Making Processes Regarding Setting Billed Charges	11/01/21	29	7064–7075
174.	Notice of Entry of Order Denying Defendants' Motion in Limine No. 4 to Preclude References to Defendants' Decision Making Processes and Reasonableness of Billed Charges if Motion in Limine No. 3 is Denied	11/01/21	29	7076–7087
175.	Notice of Entry of Order Denying Defendants' Motion in Limine No. 12, Paired with Motion in Limine No. 11, to Preclude Plaintiffs from Discussing Defendants' Approach to Reimbursement	11/01/21	29	7088–7099
176.	Notice of Entry of Order Denying Defendants' Motion in Limine No. 5 Regarding Argument or Evidence that Amounts TeamHealth Plaintiffs Billed for Services are Reasonable [An Alternative Motion to Motion in Limine No. 6]	11/01/21	29	7100–7111
177.	Notice of Entry of Order Denying Defendants' Motion in Limine No. 7 to Authorize Defendants to Offer Evidence of the Costs of the Services that Plaintiffs Provided	11/01/21	29	7112–7123
178.	Notice of Entry of Order Denying Defendants' Motion in Limine No. 8, Offered in the Alternative to MIL No. 7, to Preclude Plaintiffs from Offering Evidence as to the	11/01/21	29	7124–7135

Tab	Document	Date	Vol.	Pages
	Qualitative Value, Relative Value, Societal Value, or Difficulty of the Services they Provided			
179.	Notice of Entry of Order Denying Defendants' Motion in Limine No. 10 to Exclude Evidence of Defendants' Corporate Structure (Alternative Motion to be Considered Only if Court Denies Defendants' Counterpart Motion in Limine No. 9)	11/01/21	29	7136–7147
180.	Notice of Entry of Order Denying Defendants' Motion in Limine No. 11, Paired with Motion in Limine No. 12, to Authorize Defendants to Discuss Plaintiffs' Conduct and Deliberations in Negotiating Reimbursement	11/01/21	29	7148–7159
181.	Notice of Entry of Order Denying Defendants' Motion in Limine No. 13 Motion to Authorize Defendants to Offer Evidence Relating to Plaintiffs' Collection Practices for Healthcare Claims	11/01/21	29	7160–7171
182.	Notice of Entry of Order Denying Defendants' Motion in Limine No. 14: Motion Offered in the Alternative MIL No. 13 to Preclude Plaintiffs from Contesting Defendants' Defenses Relating to Claims that were Subject to a Settlement Agreement Between CollectRx and Data iSight; and Defendants' Adoption of Specific Negotiation Thresholds for Reimbursement Claims Appealed or Contested by Plaintiffs	11/01/21	29	7172–7183
183.	Notice of Entry of Order Denying Defendants' Motion in Limine No. 15 to Preclude Reference and Testimony	11/01/21	29	7184–7195

Tab	Document	Date	Vol.	Pages
	Regarding the TeamHealth Plaintiffs Policy not to Balance Bill			
184.	Notice of Entry of Order Denying Defendants' Motion in Limine No. 18 to Preclude Testimony of Plaintiffs' Non-Retained Expert Joseph Crane, M.D.	11/01/21	29	7196–7207
185.	Notice of Entry of Order Denying Defendants' Motion in Limine No. 20 to Exclude Defendants' Lobbying Efforts	11/01/21	29	7208–7219
186.	Notice of Entry of Order Denying Defendants' Motion in Limine No. 24 to Preclude Plaintiffs from Referring to Themselves as Healthcare Professionals	11/01/21	29	7220–7231
187.	Notice of Entry of Order Denying Defendants' Motion in Limine No. 27 to Preclude Evidence of Complaints Regarding Defendants' Out-Of-Network Rates or Payments	11/01/21	29	7232–7243
188.	Notice of Entry of Order Denying Defendants' Motion in Limine No. 29 to Preclude Evidence Only Relating to Defendants' Evaluation and Development of a Company that Would Offer a Service Similar to Multiplan and Data iSight	11/01/21	29 30	7244–7250 7251–7255
189.	Notice of Entry of Order Denying Defendants' Motion in Limine No. 32 to Exclude Evidence or Argument Relating to Materials, Events, or Conduct that Occurred on or After January 1, 2020	11/01/21	30	7256–7267
190.	Notice of Entry of Order Denying Defendants' Motion in Limine to Preclude Certain Expert Testimony and Fact Witness Testimony by Plaintiffs' Non-Retained	11/01/21	30	7268–7279

Tab	Document	Date	Vol.	Pages
	Expert Robert Frantz, M.D.			
191.	Notice of Entry of Order Denying Defendants' Motion in Limine No. 38 to Exclude Evidence or Argument Relating to Defendants' use of MultiPlan and the Data iSight Service, Including Any Alleged Conspiracy or Fraud Relating to the use of Those Services	11/01/21	30	7280–7291
192.	Notice of Entry of Order Granting Plaintiffs' Motion in Limine to Exclude Evidence, Testimony And-Or Argument Regarding the Fact that Plaintiff have Dismissed Certain Claims	11/01/21	30	7292–7354
193.	Notice of Entry of Order Denying Defendants' Motion to Strike Supplement Report of David Leathers	11/01/21	30	7355–7366
194.	Plaintiffs' Notice of Amended Exhibit List	11/01/21	30	7367–7392
195.	Plaintiffs' Response to Defendants' Objection to Media Requests	11/01/21	30	7393–7403
196.	Recorder's Transcript of Jury Trial – Day 5	11/01/21	30 31	7404–7500 7501–7605
197.	Recorder's Transcript of Jury Trial – Day 6	11/02/21	31 32	7606–7750 7751–7777
198.	Defendants' Deposition Designations and Objections to Plaintiffs' Deposition Counter-Designations	11/03/21	32	7778–7829
199.	Defendants' Objections to Plaintiffs' Proposed Order Granting in Part and Denying in Part Plaintiffs' Motion in Limine to Exclude Evidence Subject to the Court's Discovery Orders	11/03/21	32	7830–7852
200.	Notice of Entry of Order Affirming and	11/03/21	32	7853–7874

Tab	Document	Date	Vol.	Pages
	Adopting Report and Recommendation No. 11 Regarding Defendants' Motion to Compel Plaintiffs' Production of Documents About Which Plaintiffs' Witnesses Testified			
201.	Recorder's Transcript of Jury Trial – Day 7	11/03/21	32 33	7875–8000 8001–8091
202.	Notice of Entry of Order Granting Defendants' Motion in Limine No. 17	11/04/21	33	8092–8103
203.	Notice of Entry of Order Granting Defendants' Motion in Limine No. 25	11/04/21	33	8104–8115
204.	Notice of Entry of Order Granting Defendants' Motion in Limine No. 37	11/04/21	33	8116–8127
205.	Notice of Entry of Order Granting in Part and Denying in Part Defendants' Motion in Limine No. 9	11/04/21	33	8128–8140
206.	Notice of Entry of Order Granting in Part and Denying in Part Defendants' Motion in Limine No. 21	11/04/21	33	8141–8153
207.	Notice of Entry of Order Granting in Part and Denying in Part Defendants' Motion in Limine No. 22	11/04/21	33	8154–8165
208.	Plaintiffs' Notice of Deposition Designations	11/04/21	33 34	8166–8250 8251–8342
209.	1st Amended Jury List	11/08/21	34	8343
210.	Recorder's Transcript of Jury Trial – Day 8	11/08/21	34 35	8344–8500 8501–8514
211.	Recorder's Amended Transcript of Jury Trial – Day 9	11/09/21	35	8515–8723
212.	Recorder's Transcript of Jury Trial – Day 9	11/09/21	35 36	8724–8750 8751–8932
213.	Recorder's Transcript of Jury Trial – Day 10	11/10/21	36	8933–9000

Tab	Document	Date	Vol.	Pages
			37	9001–9152
214.	Defendants' Motion for Leave to File Defendants' Preliminary Motion to Seal Attorneys' Eyes Only Documents Used at Trial Under Seal	11/12/21	37	9153–9161
215.	Notice of Entry of Order Granting in Part and Denying in Part Plaintiffs' Motion in Limine to Exclude Evidence Subject to the Court's Discovery Orders	11/12/21	37	9162–9173
216.	Plaintiffs' Trial Brief Regarding Defendants' Prompt Payment Act Jury Instruction Re: Failure to Exhaust Administrative Remedies	11/12/21	37	9174–9184
217.	Recorder's Transcript of Jury Trial – Day 11	11/12/21	37 38	9185–9250 9251–9416
218.	Plaintiffs' Trial Brief Regarding Specific Price Term	11/14/21	38	9417–9425
219.	2nd Amended Jury List	11/15/21	38	9426
220.	Defendants' Proposed Jury Instructions (Contested)	11/15/21	38	9427–9470
221.	Jointly Submitted Jury Instructions	11/15/21	38	9471–9495
222.	Plaintiffs' Proposed Jury Instructions (Contested)	11/15/21	38 39	9496–9500 9501–9513
223.	Plaintiffs' Trial Brief Regarding Punitive Damages for Unjust Enrichment Claim	11/15/21	39	9514–9521
224.	Recorder's Transcript of Jury Trial – Day 12	11/15/21	39 40	9522–9750 9751–9798
225.	Defendants' Response to TeamHealth Plaintiffs' Trial Brief Regarding Defendants' Prompt Pay Act Jury Instruction Re: Failure to Exhaust Administrative	11/16/21	40	9799–9806

Tab	Document	Date	Vol.	Pages
	Remedies			
226.	General Defense Verdict	11/16/21	40	9807–9809
227.	Plaintiffs' Proposed Verdict Form	11/16/21	40	9810–9819
228.	Recorder's Transcript of Jury Trial – Day 13	11/16/21	40 41	9820–10,000 10,001–10,115
229.	Reply in Support of Trial Brief Regarding Evidence and Argument Relating to Out-Of-State Harms to Non-Parties	11/16/21	41	10,116–10,152
230.	Response to Plaintiffs' Trial Brief Regarding Specific Price Term	11/16/21	41	10,153–10,169
231.	Special Verdict Form	11/16/21	41	10,169–10,197
232.	Trial Brief Regarding Jury Instructions on Formation of an Implied-In-Fact Contract	11/16/21	41	10,198–10,231
233.	Trial Brief Regarding Jury Instructions on Unjust Enrichment	11/16/21	41	10,232–10,248
234.	3rd Amended Jury List	11/17/21	41	10,249
235.	Defendants' Motion for Judgment as a Matter of Law	11/17/21	41 42	10,250 10,251–10,307
236.	Plaintiffs' Supplemental Jury Instruction (Contested)	11/17/21	42	10,308–10,313
237.	Recorder's Transcript of Jury Trial – Day 14	11/17/21	42 43	10,314–10,500 10,501–10,617
238.	Errata to Source on Defense Contested Jury Instructions	11/18/21	43	10,618–10,623
239.	Recorder's Transcript of Jury Trial – Day 15	11/18/21	43 44	10,624–10,750 10,751–10,946
240.	Defendants' Supplemental Proposed Jury Instructions (Contested)	11/19/21	44	10,947–10,952

Tab	Document	Date	Vol.	Pages
241.	Errata	11/19/21	44	10,953
242.	Notice of Entry of Order Granting Plaintiffs' Motion for Leave to File Supplemental Record in Opposition to Arguments Raised for the First Time in Defendants' Reply in Support of Motion for Partial Summary Judgment	11/19/21	44	10,954–10,963
243.	Plaintiffs' Proposed Special Verdict Form	11/19/21	44	10,964–10,973
244.	Recorder's Transcript of Jury Trial – Day 16	11/19/21	44 45	10,974–11,000 11,001–11,241
245.	Response to Plaintiffs' Trial Brief Regarding Punitive Damages for Unjust Enrichment Claim	11/19/21	45 46	11,242–11,250 11,251–11,254
246.	Plaintiffs' Second Supplemental Jury Instructions (Contested)	11/20/21	46	11,255–11,261
247.	Defendants' Supplemental Proposed Jury Instruction	11/21/21	46	11,262–11,266
248.	Plaintiffs' Third Supplemental Jury Instructions (Contested)	11/21/21	46	11,267–11,272
249.	Recorder's Transcript of Jury Trial – Day 17	11/22/21	46 47	11,273–11,500 11.501–11,593
250.	Plaintiffs' Motion to Modify Joint Pretrial Memorandum Re: Punitive Damages on Order Shortening Time	11/22/21	47	11,594–11,608
251.	Defendants' Opposition to Plaintiffs' Motion to Modify Joint Pretrial Memorandum Re: Punitive Damages on Order Shortening Time	11/22/21	47	11,609–11,631
252.	4th Amended Jury List	11/23/21	47	11,632
253.	Recorder's Transcript of Jury Trial – Day 18	11/23/21	47 48	11,633–11,750 11,751–11,907

Tab	Document	Date	Vol.	Pages
254.	Recorder's Transcript of Jury Trial – Day 19	11/24/21	48	11,908–11,956
255.	Jury Instructions	11/29/21	48	11,957–11,999
256.	Recorder's Transcript of Jury Trial – Day 20	11/29/21	48 49	12,000 12,001–12,034
257.	Special Verdict Form	11/29/21	49	12,035–12,046
258.	Verdict(s) Submitted to Jury but Returned Unsigned	11/29/21	49	12,047–12,048
259.	Defendants' Proposed Second Phase Jury Instructions	12/05/21	49	12,049–12,063
260.	Plaintiffs' Proposed Second Phase Jury Instructions and Verdict Form	12/06/21	49	12,064–12,072
261.	Plaintiffs' Supplement to Proposed Second Phase Jury Instructions	12/06/21	49	12,072–12,077
262.	Recorder's Transcript of Jury Trial – Day 21	12/06/21	49	12,078–,12,135
263.	Defendants' Proposed Second Phase Jury Instructions-Supplement	12/07/21	49	12,136–12,142
264.	Jury Instructions Phase Two	12/07/21	49	12,143–12,149
265.	Special Verdict Form	12/07/21	49	12,150–12,152
266.	Recorder's Transcript of Jury Trial – Day 22	12/07/21	49 50	12,153–12,250 12,251–12,293
267.	Motion to Seal Defendants' Motion to Seal Certain Confidential Trial Exhibits	12/15/21	50	12,294–12,302
268.	Motion to Seal Defendants' Supplement to Motion to Seal Certain Confidential Trial Exhibits	12/15/21	50	12,303–12,311
269.	Notice of Entry of Order Granting Defendants' Motion for Leave to File Defendants' Preliminary Motion to Seal Attorneys' Eyes Only Documents Used at	12/27/21	50	12,312–12,322

Tab	Document	Date	Vol.	Pages
	Trial Under Seal			
270.	Plaintiffs' Opposition to United's Motion to Seal	12/29/21	50	12,323–12,341
271.	Defendants' Motion to Apply the Statutory Cap on Punitive Damages	12/30/21	50	12,342–12,363
272.	Appendix of Exhibits to Defendants' Motion to Apply the Statutory Cap on Punitive Damage	12/30/21	50 51	12,364–12,500 12,501–12,706
273.	Defendants' Objection to Plaintiffs' Proposed Order Denying Defendants' Motion for Judgment as a Matter of Law	01/04/22	51	12,707–12,717
274.	Notice of Entry of Order Denying Defendants' Motion for Judgement as a Matter of Law	01/06/22	51	12,718–12,738
275.	Motion to Seal Defendants' Reply in Support of Motion to Seal Certain Confidential Trial Exhibits	01/10/22	51	12,739–12,747
276.	Motion to Seal Defendants' Second Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits	01/10/22	51 52	12,748–12,750 12,751–12,756
277.	Defendants' Motion to Seal Courtroom During January 12, 2022 Hearing on Defendants' Motion to Seal Certain Confidential Trial Exhibits on Order Shortening Time	01/11/22	52	12,757–12,768
278.	Plaintiffs' Opposition to Defendants' Motion to Seal Courtroom During January 12, 2022 Hearing	01/12/22	52	12,769–12,772
279.	Plaintiffs' Opposition to Defendants' Motion to Apply Statutory Cap on Punitive Damages and Plaintiffs' Cross Motion for	01/20/22	52	12,773–12,790

Tab	Document	Date	Vol.	Pages
	Entry of Judgment			
280.	Appendix in Support of Plaintiffs' Opposition to Defendants' Motion to Apply Statutory Cap on Punitive Damages and Plaintiffs' Cross Motion for Entry of Judgment	01/20/22	52	12,791–12,968
281.	Notice of Entry of Order Granting Plaintiffs' Proposed Schedule for Submission of Final Redactions	01/31/22	52	12,969–12,979
282.	Notice of Entry of Stipulation and Order Regarding Schedule for Submission of Redactions	02/08/22	52	12,980–12,996
283.	Defendants' Opposition to Plaintiffs' Cross-Motion for Entry of Judgment	02/10/22	52 53	12,997–13,000 13,001–13,004
284.	Defendant' Reply in Support of Their Motion to Apply the Statutory Cap on Punitive Damages	02/10/22	53	13,005–13,028
285.	Notice of Entry of Order Shortening Time for Hearing Re: Plaintiffs' Motion to Unlock Certain Admitted Trial Exhibits	02/14/22	53	13,029–13,046
286.	Defendants' Response to Plaintiffs' Motion to Unlock Certain Admitted Trial Exhibits on Order Shortening Time	02/15/22	53	13,047–13,053
287.	Plaintiffs' Reply in Support of Cross Motion for Entry of Judgment	02/15/22	53	13,054–13,062
288.	Defendants' Index of Trial Exhibit Redactions in Dispute	02/16/22	53	13,063–13,073
289.	Notice of Entry of Stipulation and Order Regarding Certain Admitted Trial Exhibits	02/17/22	53	13,074–13,097
290.	Transcript of Proceedings Re: Motions Hearing	02/17/22	53	13,098–13,160

Tab	Document	Date	Vol.	Pages
291.	Objection to Plaintiffs' Proposed Judgment and Order Denying Motion to Apply Statutory Cap on Punitive Damages	03/04/22	53	13,161–13,167
292.	Notice of Entry of Judgment	03/09/22	53	13,168–13,178
293.	Notice of Entry of Order Denying Defendants' Motion to Apply Statutory Cap on Punitive Damages	03/09/22	53	13,179–13,197
294.	Health Care Providers' Verified Memorandum of Cost	03/14/22	53	13,198–13,208
295.	Appendix of Exhibits in Support of Health Care Providers' Verified Memorandum of Cost Volume 1	03/14/22	53 54	13,209–13,250 13.251–13,464
296.	Appendix of Exhibits in Support of Health Care Providers' Verified Memorandum of Cost Volume 2	03/14/22	54 55	13,465–13,500 13,501–13,719
297.	Appendix of Exhibits in Support of Health Care Providers' Verified Memorandum of Cost Volume 3	03/14/22	55 56	13,720–13,750 13,751–13,976
298.	Appendix of Exhibits in Support of Health Care Providers' Verified Memorandum of Cost Volume 4	03/14/22	56 57	13,977–14,000 14,001–14,186
299.	Appendix of Exhibits in Support of Health Care Providers' Verified Memorandum of Cost Volume 5	03/14/22	57 58	14,187–14,250 14,251–14,421
300.	Appendix of Exhibits in Support of Health Care Providers' Verified Memorandum of Cost Volume 6	03/14/22	58 59	14,422–14,500 14,501–14,673
301.	Appendix of Exhibits in Support of Health Care Providers' Verified Memorandum of Cost Volume 7	03/14/22	59 60	14,674–14,750 14,751–14,920
302.	Appendix of Exhibits in Support of Health Care Providers' Verified Memorandum of	03/14/22	60 61	14,921–15,000 15,001–15,174

Tab	Document	Date	Vol.	Pages
	Cost Volume 8			
303.	Appendix of Exhibits in Support of Health Care Providers' Verified Memorandum of Cost Volume 9	03/14/22	61 62	15,175–15,250 15,251–15,373
304.	Defendants' Motion to Retax Costs	03/21/22	62	15,374–15,388
305.	Health Care Providers' Motion for Attorneys' Fees	03/30/22	62	15,389–15,397
306.	Appendix of Exhibits in Support of Health Care Providers' Motion for Attorneys' Fees Volume 1	03/30/22	62 63	15,398–15,500 15,501–15,619
307.	Appendix of Exhibits in Support of Health Care Providers' Motion for Attorneys' Fees Volume 2	03/30/22	63 64	15,620–15,750 15,751–15,821
308.	Appendix of Exhibits in Support of Health Care Providers' Motion for Attorneys' Fees Volume 3	03/30/22	64 65	15,822–16,000 16,001–16,053
309.	Appendix of Exhibits in Support of Health Care Providers' Motion for Attorneys' Fees Volume 4	03/30/22	65	16,054–16,232
310.	Appendix of Exhibits in Support of Health Care Providers' Motion for Attorneys' Fees Volume 5	03/30/22	65 66	16,233–16,250 16,251–16,361
311.	Defendants Rule 62(b) Motion for Stay Pending Resolution of Post-Trial Motions on Order Shortening Time	04/05/22	66	16,362–16,381
312.	Defendants' Motion for Remittitur and to Alter or Amend the Judgment	04/06/22	66	16,382–16,399
313.	Defendants' Renewed Motion for Judgment as a Matter of Law	04/06/22	66	16,400–16,448
314.	Motion for New Trial	04/06/22	66 67	16,449–16,500 16,501–16,677

Tab	Document	Date	Vol.	Pages
315.	Notice of Appeal	04/06/22	67	16,678–16,694
316.	Case Appeal Statement	04/06/22	67 68	16,695–16,750 16,751–16,825
317.	Plaintiffs' Opposition to Defendants' Rule 62(b) Motion for Stay	04/07/22	68	16,826–16,831
318.	Reply on "Defendants' Rule 62(b) Motion for Stay Pending Resolution of Post-Trial Motions" (*on Order Shortening Time*)	04/07/22	68	16,832–16,836
319.	Transcript of Proceedings Re: Motions Hearing	04/07/22	68	16,837–16,855
320.	Opposition to Defendants' Motion to Retax Costs	04/13/22	68	16,856–16,864
321.	Appendix in Support of Opposition to Defendants' Motion to Retax Costs	04/13/22	68 69	16,865–17,000 17,001–17,035
322.	Defendants' Opposition to Plaintiffs' Motion for Attorneys' Fees	04/20/22	69	17,036–17,101
323.	Transcript of Proceedings Re: Motions Hearing	04/21/22	69	17,102–17,113
324.	Notice of Posting *Supersedeas* Bond	04/29/22	69	17,114–17,121
325.	Defendants' Reply in Support of Motion to Retax Costs	05/04/22	69	17,122–17,150
326.	Health Care Providers' Reply in Support of Motion for Attorneys' Fees	05/04/22	69	17,151–17,164
327.	Plaintiffs' Opposition to Defendants' Motion for Remittitur and to Alter or Amend the Judgment	05/04/22	69	17,165–17,178
328.	Plaintiffs' Opposition to Defendants' Motion for New Trial	05/04/22	69 70	17,179–17,250 17,251–17,335
329.	Plaintiffs' Opposition to Defendants' Renewed Motion for Judgment as a Matter	05/05/22	70	17,336–17,373

Tab	Document	Date	Vol.	Pages
	of Law			
330.	Reply in Support of Defendants' Motion for Remittitur and to Alter or Amend the Judgment	06/22/22	70	17,374–17,385
331.	Reply in Support of Defendants' Renewed Motion for Judgment as a Matter of Law	06/22/22	70	17,386–17,411
332.	Reply in Support of Motion for New Trial	06/22/22	70	17,412–17,469
333.	Notice of Supplemental Attorneys Fees Incurred After Submission of Health Care Providers' Motion for Attorneys Fees	06/24/22	70 71	17,470–17,500 17,501–17,578
334.	Defendants' Response to Improper Supplement Entitled "Notice of Supplemental Attorney Fees Incurred After Submission of Health Care Providers' Motion for Attorneys Fees"	06/28/22	71	17,579–17,593
335.	Notice of Entry of Order Granting Plaintiffs' Motion to Modify Joint Pretrial Memorandum Re: Punitive Damages on Order Shortening Time	06/29/22	71	17,594–17,609
336.	Transcript of Proceedings Re: Motions Hearing	06/29/22	71	17,610–17,681
337.	Order Amending Oral Ruling Granting Defendants' Motion to Retax	07/01/22	71	17,682–17,688
338.	Notice of Entry of Order Denying Defendants' Motion for Remittitur and to Alter or Amend the Judgment	07/19/22	71	17,689–17,699
339.	Defendants' Objection to Plaintiffs' Proposed Order Approving Plaintiffs' Motion for Attorneys' Fees	07/26/22	71	17,700–17,706
340.	Notice of Entry of Order Approving Plaintiffs' Motion for Attorney's Fees	08/02/22	71	17,707–17,725

Tab	Document	Date	Vol.	Pages
341.	Notice of Entry of Order Granting in Part and Denying in Part Defendants' Motion to Retax Costs	08/02/22	71	17,726–17,739
342.	Amended Case Appeal Statement	08/15/22	71 72	17,740–17,750 17,751–17,803
343.	Amended Notice of Appeal	08/15/22	72	17,804–17,934
344.	Reply in Support of Supplemental Attorney's Fees Request	08/22/22	72	17,935–17,940
345.	Objection to Plaintiffs' Proposed Orders Denying Renewed Motion for Judgment as a Matter of Law and Motion for New Trial	09/13/22	72	17,941–17,950
346.	Recorder's Transcript of Hearing Re: Hearing	09/22/22	72	17,951–17,972
347.	Limited Objection to "Order Unsealing Trial Transcripts and Restoring Public Access to Docket"	10/06/22	72	17,973–17,978
348.	Defendants' Motion to Redact Portions of Trial Transcript	10/06/22	72	17,979–17,989
349.	Plaintiffs' Opposition to Defendants' Motion to Redact Portions of Trial Transcript	10/07/22	72	17,990–17,993
350.	Transcript of Proceedings re Status Check	10/10/22	72 73	17,994–18,000 18,001–18,004
351.	Notice of Entry of Order Approving Supplemental Attorney's Fee Award	10/12/22	73	18,005–18,015
352.	Notice of Entry of Order Denying Defendants' Motion for New Trial	10/12/22	73	18,016–18,086
353.	Notice of Entry of Order Denying Defendants' Renewed Motion for Judgment as a Matter of Law	10/12/22	73	18,087–18,114
354.	Notice of Entry of Order Unsealing Trial Transcripts and Restoring Public Access to	10/12/22	73	18,115–18,125

Tab	Document	Date	Vol.	Pages
	Docket			
355.	Notice of Appeal	10/12/22	73 74	18,126–18,250 18,251–18,467
356.	Case Appeal Statement	10/12/22	74 75	18,468–18,500 18,501–18,598
357.	Notice of Entry of Order Denying "Motion to Redact Portions of Trial Transcript"	10/13/22	75	18,599–18,608
358.	Notice of Entry of Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits	10/18/22	75 76	18,609–18,750 18,751–18,755
359.	Recorder's Transcript of Hearing Status Check	10/20/22	76	18,756–18,758
360.	Notice of Entry of Stipulation and Order Regarding Expiration of Temporary Stay for Sealed Redacted Transcripts	10/25/22	76	18,759–18,769
361.	Notice of Filing of Writ Petition	11/17/22	76	18,770–18855
362.	Trial Exhibit D5502		76 77	18,856–19,000 19,001–19,143
491.	Appendix of Exhibits in Support of Plaintiffs' Renewed Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt and for Sanctions	03/08/21	145 146	35,813–36,062 36,063–36,085
492.	Transcript Re: Proposed Jury Instructions	11/21/21	146	36,086–36,250

Filed Under Seal

Tab	Document	Date	Vol.	Pages
363.	Plaintiffs' Motion to Compel Defendants' List of Witnesses, Production of Documents and Answers to Interrogatories on Order Shortening Time	09/28/20	78	19,144–19,156

364.	Plaintiffs' Reply in Support of Renewed Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt and for Sanctions	04/01/21	78	19,157–19,176
365.	Appendix of Exhibits in Support of Plaintiffs' Renewed Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt and for Sanctions	04/01/21	78	19,177–19,388
366.	Plaintiffs' Response to Defendants Objection to the Special Master's Report and Recommendation No. 2 Regarding Plaintiffs' Objection to Notice of Intent to Issue Subpoena Duces Tecum to TeamHealth Holdings, Inc. and Collect Rx, Inc. Without Deposition and Motion for Protective Order	04/19/21	78 79	19,389–19,393 19,394–19,532
367.	Plaintiffs' Response to Defendants' Objection to the Special Master's Report and Recommendation No. 3 Regarding Defendants' Motion to Compel Responses to Defendants' Second Set of Request for Production on Order Shortening Time	05/05/21	79	19,533–19,581
368.	Appendix to Defendants' Motion to Supplement the Record Supporting Objections to Reports and Recommendations #2 & #3 on Order Shortening Time	05/21/21	79 80 81	19,582–19,643 19,644–19,893 19,894–20,065
369.	Plaintiffs' Opposition to Defendants' Motion to Supplement the Record Supporting Objections to Reports and Recommendations #2 and #3 on Order Shortening Time	06/01/21	81 82	20,066–20,143 20,144–20,151
370.	Defendants' Objection to the Special Master's Report and Recommendation No. 5 Regarding Defendants' Motion for Protective Order Regarding Confidentiality	06/01/21	82	20,152–20,211

	Designations (Filed April 15, 2021)			
371.	Plaintiffs' Response to Defendants' Objection to Report and Recommendation #6 Regarding Defendants' Motion to Compel Further Testimony from Deponents Instructed Not to Answer Questions	06/16/21	82	20,212–20,265
372.	United's Motion to Compel Plaintiffs' Production of Documents About Which Plaintiffs' Witnesses Testified on Order Shortening Time	06/24/21	82	20,266–20,290
373.	Appendix to Defendants' Motion to Compel Plaintiffs' Production of Documents About Which Plaintiffs' Witnesses Testified on Order Shortening Time	06/24/21	82 83 84	20,291–20,393 20,394–20,643 20,644–20,698
374.	Plaintiffs' Opposition to Defendants' Motion to Compel Plaintiffs' Production of Documents About Which Plaintiffs' Witnesses Testified on Order Shortening Time	07/06/21	84	20,699–20,742
375.	Defendants' Motion for Leave to File Defendants' Objection to the Special Master's Report and Recommendation No. 9 Regarding Defendants' Renewed Motion to Compel Further Testimony from Deponents Instructed not to Answer Under Seal	07/15/21	84	20,743–20,750
376.	Plaintiffs' Response to Defendants' Objection to Special Master Report and Recommendation No. 9 Regarding Defendants' Renewed Motion to Compel Further Testimony from Deponents Instructed not to Answer Questions	07/22/21	84	20,751–20,863
377.	Objection to R&R #11 Regarding United's Motion to Compel Documents About Which Plaintiffs' Witnesses Testified	08/25/21	84 85	20,864–20,893 20,894–20,898

378.	Plaintiffs' Motion in Limine to Exclude Evidence Subject to the Court's Discovery Orders	09/21/21	85	20,899–20,916
379.	Appendix of Exhibits in Support of Plaintiffs' Motion in Limine to Exclude Evidence Subject to the Court's Discovery Orders	09/21/21	85	20,917–21,076
380.	Plaintiffs' Motion in Limine to Exclude Evidence, Testimony and/or Argument Relating to (1) Increase in Insurance Premiums (2) Increase in Costs and (3) Decrease in Employee Wages/Benefits Arising from Payment of Billed Charges	09/21/21	85	21,077–21,089
381.	Appendix of Exhibits in Support of Plaintiffs' Motion in Limine to Exclude Evidence, Testimony and/or Argument Relating to (1) Increase in Insurance Premiums (2) Increase in Costs and (3) Decrease in Employee Wages/Benefits Arising from Payment of Billed Charges	09/21/21	85 86	21,090–21,143 21,144–21,259
382.	Motion in Limine No. 3 to Allow References to Plaintiffs' Decision Making Process Regarding Settling Billing Charges	09/21/21	86	21,260–21,313
383.	Defendants' Motion in Limine No. 5 Regarding Arguments or Evidence that Amounts TeamHealth Plaintiffs billed for Serves are Reasonable [an Alternative to Motion in Limine No. 6]	09/21/21	86	21,314–21,343
384.	Defendants' Motion in Limine No. 6 Regarding Argument or Evidence That Amounts Teamhealth Plaintiffs Billed for Services are Reasonable	09/21/21	86	21,344–21,368
385.	Appendix to Defendants' Motion in Limine No. 13 (Volume 1 of 6)	09/21/21	86 87	21,369–21,393 21,394–21,484

386.	Appendix to Defendants' Motion in Limine No. 13 (Volume 2 of 6)	09/21/21	87	21,485–21,614
387.	Appendix to Defendants' Motion in Limine No. 13 (Volume 3 of 6)	09/21/21	87 88	21,615–21,643 21,644–21,744
388.	Appendix to Defendants' Motion in Limine No. 13 (Volume 4 of 6)	09/21/21	88	21,745–21,874
389.	Appendix to Defendants' Motion in Limine No. 13 (Volume 5 of 6)	09/21/21	88 89	21,875–21,893 21,894–22,004
390.	Appendix to Defendants' Motion in Limine No. 13 (Volume 6 of 6)	09/21/21	89	22,005–22,035
391.	Appendix to Defendants' Motion for Partial Summary Judgment Volume 1 of 8	09/21/21	89 90	22,036–22,143 22,144–22,176
392.	Appendix to Defendants' Motion for Partial Summary Judgment Volume 2 of 8	09/21/21	90	22,177–22,309
393.	Appendix to Defendants' Motion for Partial Summary Judgment Volume 3 of 8	09/22/21	90 91	22,310–22,393 22,394–22,442
394.	Appendix to Defendants' Motion for Partial Summary Judgment Volume 4 of 8	09/22/21	91	22,443–22,575
395.	Appendix to Defendants' Motion for Partial Summary Judgment Volume 5 of 8	09/22/21	91	22,576–22,609
396.	Appendix to Defendants' Motion for Partial Summary Judgment Volume 6 of 8	09/22/21	91 92 93	22,610–22,643 22,644–22,893 22,894–23,037
397.	Appendix to Defendants' Motion for Partial Summary Judgment Volume 7a of 8	09/22/21	93 94	23,038–23,143 23,144–23,174
398.	Appendix to Defendants' Motion for Partial Summary Judgment Volume 7b of 8	09/22/21	94	23,175–23,260
399.	Appendix to Defendants' Motion for Partial Summary Judgment Volume 8a of 8	09/22/21	94 95	23,261–23,393 23,394–23,535
400.	Appendix to Defendants' Motion for Partial Summary Judgment Volume 8b of 8	09/22/21	95 96	23,536–23,643 23,634–23,801
401.	Defendants' Motion in Limine No. 11 Paired	09/22/21	96	23,802–23,823

	with Motion in Limine No. 12 to Authorize Defendants to Discuss Plaintiffs' Conduct and deliberations in Negotiating Reimbursement			
402.	Errata to Defendants' Motion in Limine No. 11	09/22/21	96	23,824–23,859
403.	Defendants' Motion in Limine No. 12 Paired with Motion in Limine No. 11 to Preclude Plaintiffs from Discussing Defendants' Approach to Reimbursement	09/22/21	96	23,860–23,879
404.	Errata to Defendants' Motion in Limine No. 12	09/22/21	96 97	23,880–23,893 23,894–23,897
405.	Appendix to Defendants' Exhibits to Motions in Limine: 1, 9, 15, 18, 19, 22, 24, 26, 29, 30, 33, 37 (Volume 1)	09/22/21	97	23,898–24,080
406.	Appendix to Defendants' Exhibits to Motions in Limine: 1, 9, 15, 18, 19, 22, 24, 26, 29, 30, 33, 37 (Volume 2)	09/22/21	97 98	24,081–24,143 24,144–24,310
407.	Appendix to Defendants' Exhibits to Motions in Limine: 1, 9, 15, 18, 19, 22, 24, 26, 29, 30, 33, 37 (Volume 3)	09/22/21	98 99 100	24,311–24,393 24,394–24,643 24,644–24,673
408.	Appendix to Defendants' Exhibits to Motions in Limine: 1, 9, 15, 18, 19, 22, 24, 26, 29, 30, 33, 37 (Volume 4)	09/22/21	100 101 102	24,674–24,893 24,894–25,143 25,144–25,204
409.	Appendix to Defendants' Motion in Limine No. 14 – Volume 1 of 6	09/22/21	102	25,205–25,226
410.	Appendix to Defendants' Motion in Limine No. 14 – Volume 2 of 6	09/22/21	102	25,227–25,364
411.	Appendix to Defendants' Motion in Limine No. 14 – Volume 3 of 6	09/22/21	102 103	25,365–25,393 25,394–25,494
412.	Appendix to Defendants' Motion in Limine No. 14 – Volume 4 of 6	09/22/21	103	25,495–25,624
413.	Appendix to Defendants' Motion in Limine	09/22/21	103	25,625–25,643

	No. 14 – Volume 5 of 6		104	25,644–25,754
414.	Appendix to Defendants' Motion in Limine No. 14 – Volume 6 of 6	09/22/21	104	25,755–25,785
415.	Plaintiffs' Combined Opposition to Defendants Motions in Limine 1, 7, 9, 11 & 13	09/29/21	104	25,786–25,850
416.	Plaintiffs' Combined Opposition to Defendants' Motions in Limine No. 2, 8, 10, 12 & 14	09/29/21	104	25,851–25,868
417.	Defendants' Opposition to Plaintiffs' Motion in Limine No. 3: To Exclude Evidence Subject to the Court's Discovery Orders	09/29/21	104 105	25,869–25,893 25,894–25,901
418.	Appendix to Defendants' Opposition to Plaintiffs' Motion in Limine No. 3: To Exclude Evidence Subject to the Court's Discovery Orders - Volume 1	09/29/21	105 106	25,902–26,143 26,144–26,216
419.	Appendix to Defendants' Opposition to Plaintiffs' Motion in Limine No. 3: To Exclude Evidence Subject to the Court's Discovery Orders - Volume 2	09/29/21	106 107	26,217–26,393 26,394–26,497
420.	Plaintiffs' Opposition to Defendants' Motion for Partial Summary Judgment	10/05/21	107	26,498–26,605
421.	Defendants' Reply in Support of Motion for Partial Summary Judgment	10/11/21	107 108	26,606–26,643 26,644–26,663
422.	Plaintiffs' Motion for Leave to File Supplemental Record in Opposition to Arguments Raised for the First Time in Defendants' Reply in Support of Motion for Partial Summary Judgment	10/17/21	108	26,664–26,673
423.	Appendix of Exhibits in Support of Plaintiffs' Motion for Leave to File Supplemental Record in Opposition to Arguments Raised for the First Time in Defendants' Reply in Support of Motion for	10/17/21	108 109	26,674–26,893 26,894–26,930

	Partial Summary Judgment			
424.	Response to Sur-Reply Arguments in Plaintiffs' Motion for Leave to File Supplemental Record in Opposition to Arguments Raised for the First Time in Defendants' Reply in Support of Motion for Partial Summary Judgment	10/21/21	109	26,931–26,952
425.	Trial Brief Regarding Evidence and Argument Relating to Out-of-State Harms to Non-Parties	10/31/21	109	26,953–26,964
426.	Plaintiffs' Response to Defendants' Trial Brief Regarding Evidence and Argument Relating to Out-of-State Harms to Non-Parties	11/08/21	109	26,965–26,997
427.	Excerpts of Recorder's Transcript of Jury Trial – Day 9	11/09/21	109	26,998–27003
428.	Preliminary Motion to Seal Attorneys' Eyes Documents Used at Trial	11/11/21	109	27,004–27,055
429.	Appendix of Selected Exhibits to Trial Briefs	11/16/21	109	27,056–27,092
430.	Excerpts of Recorder's Transcript of Jury Trial – Day 13	11/16/21	109	27,093–27,099
431.	Defendants' Omnibus Offer of Proof	11/22/21	109 110	27,100–27,143 27,144–27,287
432.	Motion to Seal Certain Confidential Trial Exhibits	12/05/21	110	27,288–27,382
433.	Supplement to Defendants' Motion to Seal Certain Confidential Trial Exhibits	12/08/21	110 111	27,383–27,393 27,394–27,400
434.	Motion to Seal Certain Confidential Trial Exhibits	12/13/21	111	27,401–27,495
435.	Defendant's Omnibus Offer of Proof for Second Phase of Trial	12/14/21	111	27,496–27,505

436.	Appendix of Exhibits to Defendants' Omnibus Offer of Proof for Second Phase of Trial – Volume 1	12/14/21	111 112	27,506–27,643 27,644–27,767
437.	Appendix of Exhibits to Defendants' Omnibus Offer of Proof for Second Phase of Trial – Volume 2	12/14/21	112 113	27,768–27,893 27,894–27,981
438.	Appendix of Exhibits to Defendants' Omnibus Offer of Proof for Second Phase of Trial – Volume 3	12/14/21	113 114	27,982–28,143 28,144–28,188
439.	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 1 of 18	12/24/21	114	28,189–28,290
440.	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 2 of 18	12/24/21	114 115	28,291–28,393 28,394–28,484
441.	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 3 of 18	12/24/21	115 116	28,485–28,643 28,644–28,742
442.	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 4 of 18	12/24/21	116 117	28,743–28,893 28,894–28,938
443.	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 5 of 18	12/24/21	117	28,939–29,084
444.	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 6 of 18	12/24/21	117 118	29,085–29,143 29,144–29,219
445.	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 7 of 18	12/24/21	118	29,220–29,384
446.	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 8 of 18	12/24/21	118 119	29,385–29,393 29,394–29,527

447.	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 9 of 18	12/24/21	119 120	29,528–29,643 29,644–29,727
448.	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 10 of 18	12/24/21	120 121	29,728–29,893 29,894–29,907
449.	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 11 of 18	12/24/21	121	29,908–30,051
450.	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 12 of 18	12/24/21	121 122	30,052–30,143 30,144–30,297
451.	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 13 of 18	12/24/21	122 123	30,298–30,393 30,394–30,516
452.	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 14 of 18	12/24/21	123 124	30,517–30,643 30,644–30,677
453.	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 15 of 18	12/24/21	124	30,678–30,835
454.	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 16 of 18	12/24/21	124 125	30,836–30,893 30,894–30,952
455.	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 17 of 18	12/24/21	125	30,953–31,122
456.	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 18 of 18	12/24/21	125 126	30,123–31,143 31,144–31,258
457.	Defendants' Reply in Support of Motion to Seal Certain Confidential Trial Exhibits	01/05/22	126	31,259–31,308
458.	Second Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial	01/05/22	126	31,309–31,393

	Exhibits		127	31,394–31,500
459.	Transcript of Proceedings Re: Motions	01/12/22	127	31,501–31,596
460.	Transcript of Proceedings Re: Motions	01/20/22	127 128	31,597–31,643 31,644–31,650
461.	Transcript of Proceedings Re: Motions	01/27/22	128	31,651–31,661
462.	Defendants' Index of Trial Exhibit Redactions in Dispute	02/10/22	128	31,662–31,672
463.	Transcript of Proceedings Re: Motions Hearing	02/10/22	128	31,673–31,793
464.	Transcript of Proceedings Re: Motions Hearing	02/16/22	128	31,794–31,887
465.	Joint Status Report and Table Identifying the Redactions to Trial Exhibits That Remain in Dispute	03/04/22	128 129	31,888–31,893 31,894–31,922
466.	Transcript of Proceedings re Hearing Regarding Unsealing Record	10/05/22	129	31,923–31,943
467.	Transcript of Proceedings re Status Check	10/06/22	129	31,944–31,953
468.	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 1)	10/07/22	129 130	31,954–32,143 32,144–32,207
469.	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 2)	10/07/22	130 131	32,208–32,393 32,394–32,476
470.	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 3)	10/07/22	131 132	32,477–32,643 32,644–32,751
471.	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume	10/07/22	132 133	32,752–32,893 32,894–33,016

	4)			
472.	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 5)	10/07/22	133 134	33,017–33,143 33,144–33,301
473.	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 6)	10/07/22	134 135	33,302–33,393 33,394–33,529
474.	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 7)	10/07/22	135 136	33,530–33,643 33,644–33,840
475.	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 8)	10/07/22	136 137	33,841–33,893 33,894–34,109
476.	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 9)	10/07/22	137 138	34,110–34,143 34,144–34,377
477.	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 10)	10/07/22	138 139 140	34,378–34,393 34,394–34,643 34,644–34,668
478.	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 11)	10/07/22	140 141	34,669–34,893 34,894–34,907
479.	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 12)	10/07/22	141 142	34,908–35,143 35,144–35,162
480.	Appendix B to Order Granting in Part and	10/07/22	142	35,163–35,242

	Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 13)			
481.	Exhibits P473_NEW, 4002, 4003, 4005, 4006, 4166, 4168, 4455, 4457, 4774, and 5322 to "Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits" (Tabs 98, 106, 107, 108, 109, 111, 112, 113, 114, 118, and 119)	10/07/22	142	35,243–35,247
482.	Transcript of Status Check	10/10/22	142	35,248–35,258
483.	Recorder's Transcript of Hearing re Hearing	10/13/22	142	35,259–35,263
484.	Trial Exhibit D5499		142 143	35,264–35,393 35,394–35,445
485.	Trial Exhibit D5506		143	35,446
486.	Appendix of Exhibits in Support of Motion to Compel Defendants' List of Witnesses, Production of Documents and Answers to Interrogatories on Order Shortening Time	09/28/20	143	35,447–35,634
487.	Defendants' Motion to Supplement Record Supporting Objections to Reports and Recommendations #2 & #3 on Order Shortening Time	05/24/21	143 144	35,635–35,643 35,644–35,648
488.	Motion in Limine No. 3 to Allow References to Plaintiffs; Decision Making Processes Regarding Setting Billed Charges	09/21/21	144	35,649–35,702
489.	Appendix to Defendants' Opposition to Plaintiffs' Motion in Limine No. 3: to Exclude Evidence Subject to the Court's Discovery Orders (Exhibit 43)	09/29/21	144	35,703–35,713
490.	Notice of Filing of Expert Report of Bruce Deal, Revised on November 14, 2021	04/18/23	144	35,714–35,812

ALPHABETICAL TABLE OF CONTENTS TO APPENDIX

Tab	Document	Date	Vol.	Pages
209	1st Amended Jury List	11/08/21	34	8343
219	2nd Amended Jury List	11/15/21	38	9426
234	3rd Amended Jury List	11/17/21	41	10,249
252	4th Amended Jury List	11/23/21	47	11,632
342	Amended Case Appeal Statement	08/15/22	71 72	17,740–17,750 17,751–17,803
17	Amended Motion to Remand	01/15/20	2	310–348
343	Amended Notice of Appeal	08/15/22	72	17,804–17,934
117	Amended Notice of Entry of Order Affirming and Adopting Report and Recommendation No. 2 Regarding Plaintiffs' Objection to Notice of Intent to Issue Subpoena Duces Tecum to TeamHealth Holdings, Inc. and Collect Rx, Inc. Without Deposition and Motion for Protective Order and Overruling Objection	08/09/21	18	4425–4443
118	Amended Notice of Entry of Order Affirming and Adopting Report and Recommendation No. 3 Regarding Defendants' Second Set of Requests for Production on Order Shortening Time and Overruling Objection	08/09/21	18	4444–4464
158	Amended Transcript of Proceedings Re: Motions	10/19/21	23 24	5562–5750 5751–5784
159	Amended Transcript of Proceedings Re: Motions	10/20/21	24	5785–5907
47	Amended Transcript of Proceedings, Plaintiff's Motion to Compel Defendants' Production of Unredacted MultiPlan, Inc. Agreement	07/29/20	7	1664–1683

Tab	Document	Date	Vol.	Pages
468	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 1) (Filed Under Seal)	10/07/22	129 130	31,954–32,143 32,144–32,207
469	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 2) (Filed Under Seal)	10/07/22	130 131	32,208–32,393 32,394–32,476
470	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 3) (Filed Under Seal)	10/07/22	131 132	32,477–32,643 32,644–32,751
471	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 4) (Filed Under Seal)	10/07/22	132 133	32,752–32,893 32,894–33,016
472	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 5) (Filed Under Seal)	10/07/22	133 134	33,017–33,143 33,144–33,301
473	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 6) (Filed Under Seal)	10/07/22	134 135	33,302–33,393 33,394–33,529
474	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 7) (Filed Under Seal)	10/07/22	135 136	33,530–33,643 33,644–33,840
475	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 8) (Filed Under Seal)	10/07/22	136 137	33,841–33,893 33,894–34,109
476	Appendix B to Order Granting in Part and	10/07/22	137	34,110–34,143

Tab	Document	Date	Vol.	Pages
	Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 9) (Filed Under Seal)		138	34,144–34,377
477	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 10) (Filed Under Seal)	10/07/22	138 139 140	34,378–34,393 34,394–34,643 34,644–34,668
478	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 11) (Filed Under Seal)	10/07/22	140 141	34,669–34,893 34,894–34,907
479	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 12) (Filed Under Seal)	10/07/22	141 142	34,908–35,143 35,144–35,162
480	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 13) (Filed Under Seal)	10/07/22	142	35,163–35,242
321	Appendix in Support of Opposition to Defendants' Motion to Retax Costs	04/13/22	68 69	16,865–17,000 17,001–17,035
280	Appendix in Support of Plaintiffs' Opposition to Defendants' Motion to Apply Statutory Cap on Punitive Damages and Plaintiffs' Cross Motion for Entry of Judgment	01/20/22	52	12,791–12,968
306	Appendix of Exhibits in Support of Health Care Providers' Motion for Attorneys' Fees Volume 1	03/30/22	62 63	15,398–15,500 15,501–15,619
307	Appendix of Exhibits in Support of Health Care Providers' Motion for Attorneys' Fees Volume 2	03/30/22	63 64	15,620–15,750 15,751–15,821
308	Appendix of Exhibits in Support of Health Care Providers' Motion for Attorneys' Fees	03/30/22	64 65	15,822–16,000 16,001–16,053

Tab	Document	Date	Vol.	Pages
	Volume 3			
309	Appendix of Exhibits in Support of Health Care Providers' Motion for Attorneys' Fees Volume 4	03/30/22	65	16,054–16,232
310	Appendix of Exhibits in Support of Health Care Providers' Motion for Attorneys' Fees Volume 5	03/30/22	65 66	16,233–16,250 16,251–16,361
295	Appendix of Exhibits in Support of Health Care Providers' Verified Memorandum of Cost Volume 1	03/14/22	53 54	13,209–13,250 13.251–13,464
296	Appendix of Exhibits in Support of Health Care Providers' Verified Memorandum of Cost Volume 2	03/14/22	54 55	13,465–13,500 13,501–13,719
297	Appendix of Exhibits in Support of Health Care Providers' Verified Memorandum of Cost Volume 3	03/14/22	55 56	13,720–13,750 13,751–13,976
298	Appendix of Exhibits in Support of Health Care Providers' Verified Memorandum of Cost Volume 4	03/14/22	56 57	13,977–14,000 14,001–14,186
299	Appendix of Exhibits in Support of Health Care Providers' Verified Memorandum of Cost Volume 5	03/14/22	57 58	14,187–14,250 14,251–14,421
300	Appendix of Exhibits in Support of Health Care Providers' Verified Memorandum of Cost Volume 6	03/14/22	58 59	14,422–14,500 14,501–14,673
301	Appendix of Exhibits in Support of Health Care Providers' Verified Memorandum of Cost Volume 7	03/14/22	59 60	14,674–14,750 14,751–14,920
302	Appendix of Exhibits in Support of Health Care Providers' Verified Memorandum of Cost Volume 8	03/14/22	60 61	14,921–15,000 15,001–15,174
303	Appendix of Exhibits in Support of Health	03/14/22	61	15,175–15,250

Tab	Document	Date	Vol.	Pages
	Care Providers' Verified Memorandum of Cost Volume 9		62	15,251–15,373
486	Appendix of Exhibits in Support of Motion to Compel Defendants' List of Witnesses, Production of Documents and Answers to Interrogatories on Order Shortening Time (Filed Under Seal)	09/28/20	143	35,447–35,634
423	Appendix of Exhibits in Support of Plaintiffs' Motion for Leave to File Supplemental Record in Opposition to Arguments Raised for the First Time in Defendants' Reply in Support of Motion for Partial Summary Judgment (Filed Under Seal)	10/17/21	108 109	26,674–26,893 26,894–26,930
379	Appendix of Exhibits in Support of Plaintiffs' Motion in Limine to Exclude Evidence Subject to the Court's Discovery Orders (Filed Under Seal)	09/21/21	85	20,917–21,076
381	Appendix of Exhibits in Support of Plaintiffs' Motion in Limine to Exclude Evidence, Testimony and/or Argument Relating to (1) Increase in Insurance Premiums (2) Increase in Costs and (3) Decrease in Employee Wages/Benefits Arising from Payment of Billed Charges (Filed Under Seal)	09/21/21	85 86	21,090–21,143 21,144–21,259
26	Appendix of Exhibits in Support of Plaintiffs' Opposition to Defendants' Motion to Dismiss	03/26/20	4	784–908
491	Appendix of Exhibits in Support of Plaintiffs' Renewed Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt and for Sanctions	03/08/21	145 146	35,813–36,062 36,063–36,085
365	Appendix of Exhibits in Support of Plaintiffs' Renewed Motion for Order to	04/01/21	78	19,177–19,388

Tab	Document	Date	Vol.	Pages
	Show Cause Why Defendants Should Not Be Held in Contempt and for Sanctions (Filed Under Seal)			
272	Appendix of Exhibits to Defendants' Motion to Apply the Statutory Cap on Punitive Damage	12/30/21	50 51	12,364–12,500 12,501–12,706
436	Appendix of Exhibits to Defendants' Omnibus Offer of Proof for Second Phase of Trial – Volume 1 (Filed Under Seal)	12/14/21	111 112	27,506–27,643 27,644–27,767
437	Appendix of Exhibits to Defendants' Omnibus Offer of Proof for Second Phase of Trial – Volume 2 (Filed Under Seal)	12/14/21	112 113	27,768–27,893 27,894–27,981
438	Appendix of Exhibits to Defendants' Omnibus Offer of Proof for Second Phase of Trial – Volume 3 (Filed Under Seal)	12/14/21	113 114	27,982–28,143 28,144–28,188
429	Appendix of Selected Exhibits to Trial Briefs (Filed Under Seal)	11/16/21	109	27,056–27,092
405	Appendix to Defendants' Exhibits to Motions in Limine: 1, 9, 15, 18, 19, 22, 24, 26, 29, 30, 33, 37 (Volume 1) (Filed Under Seal)	09/22/21	97	23,898–24,080
406	Appendix to Defendants' Exhibits to Motions in Limine: 1, 9, 15, 18, 19, 22, 24, 26, 29, 30, 33, 37 (Volume 2) (Filed Under Seal)	09/22/21	97 98	24,081–24,143 24,144–24,310
407	Appendix to Defendants' Exhibits to Motions in Limine: 1, 9, 15, 18, 19, 22, 24, 26, 29, 30, 33, 37 (Volume 3) (Filed Under Seal)	09/22/21	98 99 100	24,311–24,393 24,394–24,643 24,644–24,673
408	Appendix to Defendants' Exhibits to Motions in Limine: 1, 9, 15, 18, 19, 22, 24, 26, 29, 30, 33, 37 (Volume 4) (Filed Under Seal)	09/22/21	100 101 102	24,674–24,893 24,894–25,143 25,144–25,204
391	Appendix to Defendants' Motion for Partial Summary Judgment Volume 1 of 8 (Filed Under Seal)	09/21/21	89 90	22,036–22,143 22,144–22,176

Tab	Document	Date	Vol.	Pages
392	Appendix to Defendants' Motion for Partial Summary Judgment Volume 2 of 8 (Filed Under Seal)	09/21/21	90	22,177–22,309
393	Appendix to Defendants' Motion for Partial Summary Judgment Volume 3 of 8 (Filed Under Seal)	09/22/21	90 91	22,310–22,393 22,394–22,442
394	Appendix to Defendants' Motion for Partial Summary Judgment Volume 4 of 8 (Filed Under Seal)	09/22/21	91	22,443–22,575
395	Appendix to Defendants' Motion for Partial Summary Judgment Volume 5 of 8 (Filed Under Seal)	09/22/21	91	22,576–22,609
396	Appendix to Defendants' Motion for Partial Summary Judgment Volume 6 of 8 (Filed Under Seal)	09/22/21	91 92 93	22,610–22,643 22,644–22,893 22,894–23,037
397	Appendix to Defendants' Motion for Partial Summary Judgment Volume 7a of 8 (Filed Under Seal)	09/22/21	93 94	23,038–23,143 23,144–23,174
398	Appendix to Defendants' Motion for Partial Summary Judgment Volume 7b of 8 (Filed Under Seal)	09/22/21	94	23,175–23,260
399	Appendix to Defendants' Motion for Partial Summary Judgment Volume 8a of 8 (Filed Under Seal)	09/22/21	94 95	23,261–23,393 23,394–23,535
400	Appendix to Defendants' Motion for Partial Summary Judgment Volume 8b of 8 (Filed Under Seal)	09/22/21	95 96	23,536–23,643 23,634–23,801
385	Appendix to Defendants' Motion in Limine No. 13 (Volume 1 of 6) (Filed Under Seal)	09/21/21	86 87	21,369–21,393 21,394–21,484
386	Appendix to Defendants' Motion in Limine No. 13 (Volume 2 of 6) (Filed Under Seal)	09/21/21	87	21,485–21,614
387	Appendix to Defendants' Motion in Limine	09/21/21	87	21,615–21,643

Tab	Document	Date	Vol.	Pages
	No. 13 (Volume 3 of 6) (Filed Under Seal)		88	21,644–21,744
388	Appendix to Defendants' Motion in Limine No. 13 (Volume 4 of 6) (Filed Under Seal)	09/21/21	88	21,745–21,874
389	Appendix to Defendants' Motion in Limine No. 13 (Volume 5 of 6) (Filed Under Seal)	09/21/21	88 89	21,875–21,893 21,894–22,004
390	Appendix to Defendants' Motion in Limine No. 13 (Volume 6 of 6) (Filed Under Seal)	09/21/21	89	22,005–22,035
409	Appendix to Defendants' Motion in Limine No. 14 – Volume 1 of 6 (Filed Under Seal)	09/22/21	102	25,205–25,226
410	Appendix to Defendants' Motion in Limine No. 14 – Volume 2 of 6 (Filed Under Seal)	09/22/21	102	25,227–25,364
411	Appendix to Defendants' Motion in Limine No. 14 – Volume 3 of 6 (Filed Under Seal)	09/22/21	102 103	25,365–25,393 25,394–25,494
412	Appendix to Defendants' Motion in Limine No. 14 – Volume 4 of 6 (Filed Under Seal)	09/22/21	103	25,495–25,624
413	Appendix to Defendants' Motion in Limine No. 14 – Volume 5 of 6 (Filed Under Seal)	09/22/21	103 104	25,625–25,643 25,644–25,754
414	Appendix to Defendants' Motion in Limine No. 14 – Volume 6 of 6 (Filed Under Seal)	09/22/21	104	25,755–25,785
373	Appendix to Defendants' Motion to Compel Plaintiffs' Production of Documents About Which Plaintiffs' Witnesses Testified on Order Shortening Time (Filed Under Seal)	06/24/21	82 83 84	20,291–20,393 20,394–20,643 20,644–20,698
70	Appendix to Defendants' Motion to Compel Plaintiffs' Responses to Defendants' First and Second Requests for Production on Order Shortening Time	01/08/21	12 13 14	2875–3000 3001–3250 3251–3397
368	Appendix to Defendants' Motion to Supplement the Record Supporting Objections to Reports and Recommendations #2 & #3 on Order Shortening Time (Filed	05/21/21	79 80 81	19,582–19,643 19,644–19,893 19,894–20,065

Tab	Document	Date	Vol.	Pages
	Under Seal)			
418	Appendix to Defendants' Opposition to Plaintiffs' Motion in Limine No. 3: To Exclude Evidence Subject to the Court's Discovery Orders - Volume 1 (Filed Under Seal)	09/29/21	105 106	25,902–26,143 26,144–26,216
419	Appendix to Defendants' Opposition to Plaintiffs' Motion in Limine No. 3: To Exclude Evidence Subject to the Court's Discovery Orders - Volume 2 (Filed Under Seal)	09/29/21	106 107	26,217–26,393 26,394–26,497
489	Appendix to Defendants' Opposition to Plaintiffs' Motion in Limine No. 3: to Exclude Evidence Subject to the Court's Discovery Orders (Exhibit 43) (Filed Under Seal)	09/29/21	144	35,703–35,713
75	Appendix to Defendants' Reply in Support of Motion to Compel Plaintiffs' Responses to Defendants' First and Second Requests for Production on Order Shortening Time	01/19/21	14 15	3466–3500 3501–3658
316	Case Appeal Statement	04/06/22	67 68	16,695–16,750 16,751–16,825
356	Case Appeal Statement	10/12/22	74 75	18,468–18,500 18,501–18,598
16	Civil Order to Statistically Close Case	12/10/19	2	309
1	Complaint (Business Court)	04/15/19	1	1–17
284	Defendant' Reply in Support of Their Motion to Apply the Statutory Cap on Punitive Damages	02/10/22	53	13,005–13,028
435	Defendant's Omnibus Offer of Proof for Second Phase of Trial (Filed Under Seal)	12/14/21	111	27,496–27,505

Tab	Document	Date	Vol.	Pages
311	Defendants Rule 62(b) Motion for Stay Pending Resolution of Post-Trial Motions on Order Shortening Time	04/05/22	66	16,362–16,381
42	Defendants' Answer to Plaintiffs' First Amended Complaint	07/08/20	7	1541–1590
150	Defendants' Answer to Plaintiffs' Second Amended Complaint	10/08/21	22	5280–5287
198	Defendants' Deposition Designations and Objections to Plaintiffs' Deposition Counter-Designations	11/03/21	32	7778–7829
99	Defendants' Errata to Their Objection to the Special Master's Report and Recommendation No. 3 Regarding Defendants' Motion to Compel Responses to Defendants' Second Set of Requests for Production	05/03/21	17	4124–4127
288	Defendants' Index of Trial Exhibit Redactions in Dispute	02/16/22	53	13,063–13,073
462	Defendants' Index of Trial Exhibit Redactions in Dispute (Filed Under Seal)	02/10/22	128	31,662–31,672
235	Defendants' Motion for Judgment as a Matter of Law	11/17/21	41 42	10,250 10,251–10,307
375	Defendants' Motion for Leave to File Defendants' Objection to the Special Master's Report and Recommendation No. 9 Regarding Defendants' Renewed Motion to Compel Further Testimony from Deponents Instructed not to Answer Under Seal (Filed Under Seal)	07/15/21	84	20,743–20,750
214	Defendants' Motion for Leave to File Defendants' Preliminary Motion to Seal Attorneys' Eyes Only Documents Used at	11/12/21	37	9153–9161

Tab	Document	Date	Vol.	Pages
	Trial Under Seal			
130	Defendants' Motion for Partial Summary Judgment	09/21/21	20	4770–4804
312	Defendants' Motion for Remittitur and to Alter or Amend the Judgment	04/06/22	66	16,382–16,399
131	Defendants' Motion in Limine No. 1: Motion to Authorize Defendants to Offer Evidence Relating to Plaintiffs' Agreements with other Market Players and Related Negotiations	09/21/21	20	4805–4829
134	Defendants' Motion in Limine No. 10 to Exclude Reference of Defendants' Corporate Structure (Alternative Moton to be Considered Only if court Denies Defendants' Counterpart Motion in Limine No. 9)	09/21/21	20	4869–4885
401	Defendants' Motion in Limine No. 11 Paired with Motion in Limine No. 12 to Authorize Defendants to Discuss Plaintiffs' Conduct and deliberations in Negotiating Reimbursement (Filed Under Seal)	09/22/21	96	23,802–23,823
403	Defendants' Motion in Limine No. 12 Paired with Motion in Limine No. 11 to Preclude Plaintiffs from Discussing Defendants' Approach to Reimbursement (Filed Under Seal)	09/22/21	96	23,860–23,879
135	Defendants' Motion in Limine No. 13: Motion to Authorize Defendants to Offer Evidence Relating to Plaintiffs' Collection Practices for Healthcare Claims	09/21/21	20	4886–4918
136	Defendants' Motion in Limine No. 14: Motion Offered in the Alternative to MIL No. 13 to Preclude Plaintiffs from Contesting Defendants' Defenses Relating to Claims that were Subject to Settlement Agreement	09/21/21	20	4919–4940

Tab	Document	Date	Vol.	Pages
	Between CollectRX and Data iSight; and Defendants' Adoption of Specific Negotiation Thresholds for Reimbursement Claims Appealed or Contested by Plaintiffs			
132	Defendants' Motion in Limine No. 2: Motion Offered in the Alternative to MIL No. 1, to Preclude Plaintiffs from Offering Evidence Relating to Defendants' Agreements with Other Market Players and Related Negotiations	09/21/21	20	4830–4852
137	Defendants' Motion in Limine No. 24 to Preclude Plaintiffs from Referring to Themselves as Healthcare Professionals	09/21/21	20	4941–4972
383	Defendants' Motion in Limine No. 5 Regarding Arguments or Evidence that Amounts TeamHealth Plaintiffs billed for Serves are Reasonable [an Alternative to Motion in Limine No. 6] (Filed Under Seal)	09/21/21	86	21,314–21,343
384	Defendants' Motion in Limine No. 6 Regarding Argument or Evidence That Amounts Teamhealth Plaintiffs Billed for Services are Reasonable (Filed Under Seal)	09/21/21	86	21,344–21,368
138	Defendants' Motion in Limine No. 7 to Authorize Defendants to Offer Evidence of the Costs of the Services that Plaintiffs Provided	09/22/21	20 21	4973–5000 5001–5030
139	Defendants' Motion in Limine No. 8, Offered in the Alternative to MIL No. 7, to Preclude Plaintiffs from Offering Evidence as to the Qualitative Value, Relative Value, Societal Value, or Difficulty of the Services they Provided	09/22/21	21	5031–5054
140	Defendants' Motion in Limine No. 9 to Authorize Defendants to Offer Evidence of	09/22/21	21	5055–5080

Tab	Document	Date	Vol.	Pages
	Plaintiffs Organizational, Management, and Ownership Structure, Including Flow of Funds Between Related Entities, Operating Companies, Parent Companies, and Subsidiaries			
271	Defendants' Motion to Apply the Statutory Cap on Punitive Damages	12/30/21	50	12,342–12,363
71	Defendants' Motion to Compel Plaintiffs' Responses to Defendants' First and Second Requests for Production on Order Shortening Time	01/11/21	14	3398–3419
52	Defendants' Motion to Compel Production of Clinical Documents for the At-Issue Claims and Defenses and to Compel Plaintiffs to Supplement Their NRCP 16.1 Initial Disclosures on an Order Shortening Time	09/21/20	8 9	1998–2000 2001–2183
23	Defendants' Motion to Dismiss	03/12/20	3	553–698
32	Defendants' Motion to Dismiss Plaintiffs' First Amended Complaint	05/26/20	5	1027–1172
348	Defendants' Motion to Redact Portions of Trial Transcript	10/06/22	72	17,979–17,989
304	Defendants' Motion to Retax Costs	03/21/22	62	15,374–15,388
277	Defendants' Motion to Seal Courtroom During January 12, 2022 Hearing on Defendants' Motion to Seal Certain Confidential Trial Exhibits on Order Shortening Time	01/11/22	52	12,757–12,768
487	Defendants' Motion to Supplement Record Supporting Objections to Reports and Recommendations #2 & #3 on Order Shortening Time (Filed Under Seal)	05/24/21	143 144	35,635–35,643 35,644–35,648
169	Defendants' Objection to Media Requests	10/28/21	29	7004–7018

Tab	Document	Date	Vol.	Pages
339	Defendants' Objection to Plaintiffs' Proposed Order Approving Plaintiffs' Motion for Attorneys' Fees	07/26/22	71	17,700–17,706
273	Defendants' Objection to Plaintiffs' Proposed Order Denying Defendants' Motion for Judgment as a Matter of Law	01/04/22	51	12,707–12,717
94	Defendants' Objection to the Special Master's Report and Recommendation No. 2 Regarding Plaintiffs' Objection to Notice of Intent to Issue Subpoena Duces Tecum to TeamHealth Holdings, Inc. and Collect Rx, Inc. Without Deposition and Motion for Protective Order	04/12/21	17	4059–4079
98	Defendants' Objection to the Special Master's Report and Recommendation No. 3 Regarding Defendants' Motion to Compel Responses to Defendants' Second Set of Request for Production on Order Shortening Time	04/28/21	17	4109–4123
370	Defendants' Objection to the Special Master's Report and Recommendation No. 5 Regarding Defendants' Motion for Protective Order Regarding Confidentiality Designations (Filed April 15, 2021) (Filed Under Seal)	06/01/21	82	20,152–20,211
61	Defendants' Objections to Plaintiffs to Plaintiffs' Order Granting Plaintiffs' Motion to Compel Defendants' List of Witnesses, Production of Documents and Answers to Interrogatories on Order Shortening Time	10/26/20	11	2573–2670
151	Defendants' Objections to Plaintiffs' NRCP 16.1(a)(3) Pretrial Disclosures	10/08/21	22	5288–5294
64	Defendants' Objections to Plaintiffs' Order Denying Defendants' Motion to Compel	11/02/20	11	2696–2744

Tab	Document	Date	Vol.	Pages
	Production of Clinical Documents for the At-Issue Claims and Defenses and to Compel Plaintiffs' to Supplement Their NRCP 16.1 Initial Disclosures on an Order Shortening Time			
60	Defendants' Objections to Plaintiffs' Order Granting Plaintiffs' Motion to Compel Defendants' List of Witnesses, Production of Documents and Answers to Interrogatories on Order Shortening Time	10/23/20	10 11	2482–2500 2501–2572
199	Defendants' Objections to Plaintiffs' Proposed Order Granting in Part and Denying in Part Plaintiffs' Motion in Limine to Exclude Evidence Subject to the Court's Discovery Orders	11/03/21	32	7830–7852
100	Defendants' Objections to Plaintiffs' Proposed Order Granting Plaintiffs' Renewed Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt and for Sanctions	05/05/21	17	4128–4154
108	Defendants' Objections to Special Master Report and Recommendation No. 7 Regarding Defendants' Motion to Compel Responses to Defendants' Amended Third Set of Requests for Production of Documents	06/17/21	17	4227–4239
431	Defendants' Omnibus Offer of Proof (Filed Under Seal)	11/22/21	109 110	27,100–27,143 27,144–27,287
14	Defendants' Opposition to Fremont Emergency Services (MANDAVIA), Ltd.'s Motion to Remand	06/21/19	1 2	139–250 251–275
18	Defendants' Opposition to Plaintiffs' Amended Motion to Remand	01/29/20	2	349–485
283	Defendants' Opposition to Plaintiffs' Cross-	02/10/22	52	12,997–13,000

Tab	Document	Date	Vol.	Pages
	Motion for Entry of Judgment		53	13,001–13,004
322	Defendants' Opposition to Plaintiffs' Motion for Attorneys' Fees	04/20/22	69	17,036–17,101
155	Defendants' Opposition to Plaintiffs' Motion for Leave to File Supplemental Record in Opposition to Arguments Raised for the First Time in Defendants' Reply in Support of Motion for Partial Summary Judgment	10/18/21	22	5323–5333
141	Defendants' Opposition to Plaintiffs' Motion in Limine No. 1: to Exclude Evidence, Testimony and/or Argument Relating to (1) Increase in Insurance Premiums (2) Increase in Costs and (3) Decrease in Employee Wages/Benefits Arising from Payment of Billed Charges	09/29/21	21	5081–5103
417	Defendants' Opposition to Plaintiffs' Motion in Limine No. 3: To Exclude Evidence Subject to the Court's Discovery Orders (Filed Under Seal)	09/29/21	104 105	25,869–25,893 25,894–25,901
50	Defendants' Opposition to Plaintiffs' Motion to Compel Defendants' Production of Claims File for At-Issue Claims, Or, in The Alternative, Motion in Limine on Order Shortening Time	09/04/20	8	1846–1932
56	Defendants' Opposition to Plaintiffs' Motion to Compel Defendants' List of Witnesses, Production of Documents, and Answers to Interrogatories on Order Shortening Time	10/06/20	10	2293–2336
251	Defendants' Opposition to Plaintiffs' Motion to Modify Joint Pretrial Memorandum Re: Punitive Damages on Order Shortening Time	11/22/21	47	11,609–11,631
89	Defendants' Opposition to Plaintiffs' Renewed Motion for Order to Show Cause	03/22/21	16	3916–3966

Tab	Document	Date	Vol.	Pages
	Why Defendants Should Not be Held in Contempt and for Sanctions			
220	Defendants' Proposed Jury Instructions (Contested)	11/15/21	38	9427–9470
259	Defendants' Proposed Second Phase Jury Instructions	12/05/21	49	12,049–12,063
263	Defendants' Proposed Second Phase Jury Instructions-Supplement	12/07/21	49	12,136–12,142
313	Defendants' Renewed Motion for Judgment as a Matter of Law	04/06/22	66	16,400–16,448
421	Defendants' Reply in Support of Motion for Partial Summary Judgment (Filed Under Seal)	10/11/21	107 108	26,606–26,643 26,644–26,663
74	Defendants' Reply in Support of Motion to Compel Plaintiffs' Responses to Defendants' First and Second Requests for Production on Order Shortening Time	01/19/21	14	3449–3465
28	Defendants' Reply in Support of Motion to Dismiss	05/07/20	4	919–948
36	Defendants' Reply in Support of Motion to Dismiss Plaintiffs' First Amended Complaint	06/03/20	6	1310–1339
325	Defendants' Reply in Support of Motion to Retax Costs	05/04/22	69	17,122–17,150
457	Defendants' Reply in Support of Motion to Seal Certain Confidential Trial Exhibits (Filed Under Seal)	01/05/22	126	31,259–31,308
37	Defendants' Reply in Support of Their Supplemental Brief in Support of Their Motions to Dismiss Plaintiff's First Amended Complaint	06/03/20	6	1340–1349
334	Defendants' Response to Improper Supplement Entitled "Notice of	06/28/22	71	17,579–17,593

Tab	Document	Date	Vol.	Pages
	Supplemental Attorney Fees Incurred After Submission of Health Care Providers' Motion for Attorneys Fees"			
286	Defendants' Response to Plaintiffs' Motion to Unlock Certain Admitted Trial Exhibits on Order Shortening Time	02/15/22	53	13,047–13,053
225	Defendants' Response to TeamHealth Plaintiffs' Trial Brief Regarding Defendants' Prompt Pay Act Jury Instruction Re: Failure to Exhaust Administrative Remedies	11/16/21	40	9799–9806
12	Defendants' Statement of Removal	05/30/19	1	123–126
33	Defendants' Supplemental Brief in Support of Their Motion to Dismiss Plaintiffs' First Amended Complaint Addressing Plaintiffs' Eighth Claim for Relief	05/26/20	5	1173–1187
247	Defendants' Supplemental Proposed Jury Instruction	11/21/21	46	11,262–11,266
240	Defendants' Supplemental Proposed Jury Instructions (Contested)	11/19/21	44	10,947–10,952
48	Errata	08/04/20	7	1684
241	Errata	11/19/21	44	10,953
402	Errata to Defendants' Motion in Limine No. 11 (Filed Under Seal)	09/22/21	96	23,824–23,859
404	Errata to Defendants' Motion in Limine No. 12 (Filed Under Seal)	09/22/21	96 97	23,880–23,893 23,894–23,897
54	Errata to Plaintiffs' Motion to Compel Defendants' List of Witnesses Production of Documents and Answers to Interrogatories	09/28/20	9	2196–2223
85	Errata to Plaintiffs' Renewed Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt and for	03/12/21	16	3884–3886

Tab	Document	Date	Vol.	Pages
	Sanctions			
238	Errata to Source on Defense Contested Jury Instructions	11/18/21	43	10,618–10,623
430	Excerpts of Recorder's Transcript of Jury Trial – Day 13 (Filed Under Seal)	11/16/21	109	27,093–27,099
427	Excerpts of Recorder's Transcript of Jury Trial – Day 9 (Filed Under Seal)	11/09/21	109	26,998–27003
481	Exhibits P473_NEW, 4002, 4003, 4005, 4006, 4166, 4168, 4455, 4457, 4774, and 5322 to "Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits" (Tabs 98, 106, 107, 108, 109, 111, 112, 113, 114, 118, and 119) (Filed Under Seal)	10/07/22	142	35,243–35,247
30	First Amended Complaint	05/15/20	4 5	973–1000 1001–1021
13	Freemont Emergency Services (MANDAVIA), Ltd's Response to Statement of Removal	05/31/19	1	127–138
226	General Defense Verdict	11/16/21	40	9807–9809
305	Health Care Providers' Motion for Attorneys' Fees	03/30/22	62	15,389–15,397
326	Health Care Providers' Reply in Support of Motion for Attorneys' Fees	05/04/22	69	17,151–17,164
294	Health Care Providers' Verified Memorandum of Cost	03/14/22	53	13,198–13,208
44	Joint Case Conference Report	07/17/20	7	1606–1627
164	Joint Pretrial Memorandum Pursuant to EDRC 2.67	10/27/21	26 27	6486–6500 6501–6567
465	Joint Status Report and Table Identifying	03/04/22	128	31,888–31,893

Tab	Document	Date	Vol.	Pages
	the Redactions to Trial Exhibits That Remain in Dispute (Filed Under Seal)		129	31,894–31,922
221	Jointly Submitted Jury Instructions	11/15/21	38	9471–9495
255	Jury Instructions	11/29/21	48	11,957–11,999
264	Jury Instructions Phase Two	12/07/21	49	12,143–12,149
347	Limited Objection to "Order Unsealing Trial Transcripts and Restoring Public Access to Docket"	10/06/22	72	17,973–17,978
156	Media Request and Order Allowing Camera Access to Court Proceedings (Legal Newsline)	10/18/21	22	5334–5338
167	Media Request and Order Allowing Camera Access to Court Proceedings (Dolcefino Communications, LLC)	10/28/21	28 28	6992–6997
168	Media Request and Order Allowing Camera Access to Court Proceedings (Dolcefino Communications, LLC)	10/28/21	28 29	6998–7000 7001–7003
314	Motion for New Trial	04/06/22	66 67	16,449–16,500 16,501–16,677
119	Motion for Order to Show Cause Why Plaintiffs Should Not Be Held in Contempt and Sanctioned for Violating Protective Order	08/10/21	18	4465–4486
79	Motion for Reconsideration of Order Denying Defendants' Motion to Compel Plaintiffs Responses to Defendants' First and Second Requests for Production	02/18/21	15 16	3714–3750 3751–3756
488	Motion in Limine No. 3 to Allow References to Plaintiffs; Decision Making Processes Regarding Setting Billed Charges (Filed Under Seal)	09/21/21	144	35,649–35,702

Tab	Document	Date	Vol.	Pages
382	Motion in Limine No. 3 to Allow References to Plaintiffs' Decision Making Process Regarding Settling Billing Charges (Filed Under Seal)	09/21/21	86	21,260–21,313
133	Motion in Limine No. 4 to Preclude References to Defendants' Decision Making Process and Reasonableness of billed Charges if Motion in Limine No. 3 is Denied	09/21/21	20	4853–4868
11	Motion to Remand	05/24/19	1	101–122
432	Motion to Seal Certain Confidential Trial Exhibits (Filed Under Seal)	12/05/21	110	27,288–27,382
434	Motion to Seal Certain Confidential Trial Exhibits (Filed Under Seal)	12/13/21	111	27,401–27,495
267	Motion to Seal Defendants' Motion to Seal Certain Confidential Trial Exhibits	12/15/21	50	12,294–12,302
275	Motion to Seal Defendants' Reply in Support of Motion to Seal Certain Confidential Trial Exhibits	01/10/22	51	12,739–12,747
276	Motion to Seal Defendants' Second Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits	01/10/22	51 52	12,748–12,750 12,751–12,756
268	Motion to Seal Defendants' Supplement to Motion to Seal Certain Confidential Trial Exhibits	12/15/21	50	12,303–12,311
315	Notice of Appeal	04/06/22	67	16,678–16,694
355	Notice of Appeal	10/12/22	73 74	18,126–18,250 18,251–18,467
292	Notice of Entry of Judgment	03/09/22	53	13,168–13,178
115	Notice of Entry of Order Affirming and Adopting Report and Recommendation No. 2	08/09/21	18	4403–4413

Tab	Document	Date	Vol.	Pages
	Regarding Plaintiffs' Objection to Notice of Intent to Issue Subpoena Duces Tecum to TeamHealth Holdings, Inc. and Collect Rx, Inc. Without Deposition and Motion for Protective Order and Overruling Objection			
116	Notice of Entry of Order Affirming and Adopting Report and Recommendation No. 3 Regarding Defendants' Motion to Compel Responses to Defendants' Second Set of Requests for Production on Order Shortening Time and Overruling Objection	08/09/21	18	4414–4424
127	Notice of Entry of Order Affirming and Adopting Report and Recommendation No. 6 Regarding Defendants' Motion to Compel Further Testimony from Deponents Instructed Not to Answer Questions and Overruling Objection	09/16/21	19	4709–4726
128	Notice of Entry of Order Affirming and Adopting Report and Recommendation No. 7 Regarding Defendants' Motion to Compel Responses to Defendants' Amended Third Set of Request for Production of Documents and Overruling Objection	09/16/21	19	4727–4747
129	Notice of Entry of Order Affirming and Adopting Report and Recommendation No. 9 Regarding Defendants' Renewed Motion to Compel Further Testimony from Deponents Instructed No to Answer and Overruling Objection	09/16/21	19 20	4748–4750 4751–4769
200	Notice of Entry of Order Affirming and Adopting Report and Recommendation No. 11 Regarding Defendants' Motion to Compel Plaintiffs' Production of Documents About Which Plaintiffs' Witnesses Testified	11/03/21	32	7853–7874

Tab	Document	Date	Vol.	Pages
340	Notice of Entry of Order Approving Plaintiffs' Motion for Attorney's Fees	08/02/22	71	17,707–17,725
351	Notice of Entry of Order Approving Supplemental Attorney's Fee Award	10/12/22	73	18,005–18,015
357	Notice of Entry of Order Denying "Motion to Redact Portions of Trial Transcript"	10/13/22	75	18,599–18,608
40	Notice of Entry of Order Denying Defendants' (1) Motion to Dismiss First Amended Complaint; and (2) Supplemental Brief in Support of Their Motion to Dismiss Plaintiffs' First Amended Complaint Addressing Plaintiffs' Eighth Claim for Relief	06/24/20	6 7	1472–1500 1501–1516
274	Notice of Entry of Order Denying Defendants' Motion for Judgement as a Matter of Law	01/06/22	51	12,718–12,738
352	Notice of Entry of Order Denying Defendants' Motion for New Trial	10/12/22	73	18,016–18,086
154	Notice of Entry of Order Denying Defendants' Motion for Order to Show Cause Why Plaintiffs Should not be Held in Contempt for Violating Protective Order	10/14/21	22	5309–5322
161	Notice of Entry of Order Denying Defendants' Motion for Partial Summary Judgment	10/25/21	25	6116–6126
338	Notice of Entry of Order Denying Defendants' Motion for Remittitur and to Alter or Amend the Judgment	07/19/22	71	17,689–17,699
171	Notice of Entry of Order Denying Defendants' Motion in Limine No. 1 Motion to Authorize Defendants to Offer Evidence Relating to Plaintiffs' Agreements with Other Market Players and Related Negotiations	11/01/21	29	7040–7051

Tab	Document	Date	Vol.	Pages
172	Notice of Entry of Order Denying Defendants' Motion in Limine No. 2: Motion Offered in the Alternative to MIL No. 1, to Preclude Plaintiffs from Offering Evidence Relating to Defendants' Agreements with Other Market Players and Related Negotiations	11/01/21	29	7052–7063
173	Notice of Entry of Order Denying Defendants' Motion in Limine No. 3 to Allow Reference to Plaintiffs' Decision Making Processes Regarding Setting Billed Charges	11/01/21	29	7064–7075
174	Notice of Entry of Order Denying Defendants' Motion in Limine No. 4 to Preclude References to Defendants' Decision Making Processes and Reasonableness of Billed Charges if Motion in Limine No. 3 is Denied	11/01/21	29	7076–7087
175	Notice of Entry of Order Denying Defendants' Motion in Limine No. 12, Paired with Motion in Limine No. 11, to Preclude Plaintiffs from Discussing Defendants' Approach to Reimbursement	11/01/21	29	7088–7099
176	Notice of Entry of Order Denying Defendants' Motion in Limine No. 5 Regarding Argument or Evidence that Amounts TeamHealth Plaintiffs Billed for Services are Reasonable [An Alternative Motion to Motion in Limine No. 6]	11/01/21	29	7100–7111
177	Notice of Entry of Order Denying Defendants' Motion in Limine No. 7 to Authorize Defendants to Offer Evidence of the Costs of the Services that Plaintiffs Provided	11/01/21	29	7112–7123
178	Notice of Entry of Order Denying	11/01/21	29	7124–7135

Tab	Document	Date	Vol.	Pages
	Defendants' Motion in Limine No. 8, Offered in the Alternative to MIL No. 7, to Preclude Plaintiffs from Offering Evidence as to the Qualitative Value, Relative Value, Societal Value, or Difficulty of the Services they Provided			
179	Notice of Entry of Order Denying Defendants' Motion in Limine No. 10 to Exclude Evidence of Defendants' Corporate Structure (Alternative Motion to be Considered Only if Court Denies Defendants' Counterpart Motion in Limine No. 9)	11/01/21	29	7136–7147
180	Notice of Entry of Order Denying Defendants' Motion in Limine No. 11, Paired with Motion in Limine No. 12, to Authorize Defendants to Discuss Plaintiffs' Conduct and Deliberations in Negotiating Reimbursement	11/01/21	29	7148–7159
181	Notice of Entry of Order Denying Defendants' Motion in Limine No. 13 Motion to Authorize Defendants to Offer Evidence Relating to Plaintiffs' Collection Practices for Healthcare Claims	11/01/21	29	7160–7171
182	Notice of Entry of Order Denying Defendants' Motion in Limine No. 14: Motion Offered in the Alternative MIL No. 13 to Preclude Plaintiffs from Contesting Defendants' Defenses Relating to Claims that were Subject to a Settlement Agreement Between CollectRx and Data iSight; and Defendants' Adoption of Specific Negotiation Thresholds for Reimbursement Claims Appealed or Contested by Plaintiffs	11/01/21	29	7172–7183
183	Notice of Entry of Order Denying	11/01/21	29	7184–7195

Tab	Document	Date	Vol.	Pages
	Defendants' Motion in Limine No. 15 to Preclude Reference and Testimony Regarding the TeamHealth Plaintiffs Policy not to Balance Bill			
184	Notice of Entry of Order Denying Defendants' Motion in Limine No. 18 to Preclude Testimony of Plaintiffs' Non-Retained Expert Joseph Crane, M.D.	11/01/21	29	7196–7207
185	Notice of Entry of Order Denying Defendants' Motion in Limine No. 20 to Exclude Defendants' Lobbying Efforts	11/01/21	29	7208–7219
186	Notice of Entry of Order Denying Defendants' Motion in Limine No. 24 to Preclude Plaintiffs from Referring to Themselves as Healthcare Professionals	11/01/21	29	7220–7231
187	Notice of Entry of Order Denying Defendants' Motion in Limine No. 27 to Preclude Evidence of Complaints Regarding Defendants' Out-Of-Network Rates or Payments	11/01/21	29	7232–7243
188	Notice of Entry of Order Denying Defendants' Motion in Limine No. 29 to Preclude Evidence Only Relating to Defendants' Evaluation and Development of a Company that Would Offer a Service Similar to Multiplan and Data iSight	11/01/21	29 30	7244–7250 7251–7255
189	Notice of Entry of Order Denying Defendants' Motion in Limine No. 32 to Exclude Evidence or Argument Relating to Materials, Events, or Conduct that Occurred on or After January 1, 2020	11/01/21	30	7256–7267
191	Notice of Entry of Order Denying Defendants' Motion in Limine No. 38 to Exclude Evidence or Argument Relating to	11/01/21	30	7280–7291

Tab	Document	Date	Vol.	Pages
	Defendants' use of MultiPlan and the Data iSight Service, Including Any Alleged Conspiracy or Fraud Relating to the use of Those Services			
190	Notice of Entry of Order Denying Defendants' Motion in Limine to Preclude Certain Expert Testimony and Fact Witness Testimony by Plaintiffs' Non-Retained Expert Robert Frantz, M.D.	11/01/21	30	7268–7279
293	Notice of Entry of Order Denying Defendants' Motion to Apply Statutory Cap on Punitive Damages	03/09/22	53	13,179–13,197
62	Notice of Entry of Order Denying Defendants' Motion to Compel Production of Clinical Documents for the At-Issue Claims and Defenses and to Compel Plaintiff to Supplement Their NRCP 16.1 Initial Disclosures on Order Shortening Time	10/27/20	11	2671–2683
78	Notice of Entry of Order Denying Defendants' Motion to Compel Responses to Defendants' First and Second Requests for Production on Order Shortening Time	02/04/21	15	3703–3713
193	Notice of Entry of Order Denying Defendants' Motion to Strike Supplement Report of David Leathers	11/01/21	30	7355–7366
353	Notice of Entry of Order Denying Defendants' Renewed Motion for Judgment as a Matter of Law	10/12/22	73	18,087–18,114
97	Notice of Entry of Order Denying Motion for Reconsideration of Court's Order Denying Defendants' Motion to Compel Responses to Defendants' First and Second Requests for Production	04/26/21	17	4096–4108

Tab	Document	Date	Vol.	Pages
77	Notice of Entry of Order Granting Defendants' Motion for Appointment of Special Master	02/02/21	15	3693–3702
269	Notice of Entry of Order Granting Defendants' Motion for Leave to File Defendants' Preliminary Motion to Seal Attorneys' Eyes Only Documents Used at Trial Under Seal	12/27/21	50	12,312–12,322
202	Notice of Entry of Order Granting Defendants' Motion in Limine No. 17	11/04/21	33	8092–8103
203	Notice of Entry of Order Granting Defendants' Motion in Limine No. 25	11/04/21	33	8104–8115
204	Notice of Entry of Order Granting Defendants' Motion in Limine No. 37	11/04/21	33	8116–8127
205	Notice of Entry of Order Granting in Part and Denying in Part Defendants' Motion in Limine No. 9	11/04/21	33	8128–8140
206	Notice of Entry of Order Granting in Part and Denying in Part Defendants' Motion in Limine No. 21	11/04/21	33	8141–8153
207	Notice of Entry of Order Granting in Part and Denying in Part Defendants' Motion in Limine No. 22	11/04/21	33	8154–8165
341	Notice of Entry of Order Granting in Part and Denying in Part Defendants' Motion to Retax Costs	08/02/22	71	17,726–17,739
358	Notice of Entry of Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits	10/18/22	75 76	18,609–18,750 18,751–18,755
215	Notice of Entry of Order Granting in Part and Denying in Part Plaintiffs' Motion in Limine to Exclude Evidence Subject to the	11/12/21	37	9162–9173

Tab	Document	Date	Vol.	Pages
	Court's Discovery Orders			
147	Notice of Entry of Order Granting Plaintiffs' Motion for Leave to File Second Amended Complaint on Order Shortening Time	10/07/21	21	5235–5245
242	Notice of Entry of Order Granting Plaintiffs' Motion for Leave to File Supplemental Record in Opposition to Arguments Raised for the First Time in Defendants' Reply in Support of Motion for Partial Summary Judgment	11/19/21	44	10,954–10,963
192	Notice of Entry of Order Granting Plaintiffs' Motion in Limine to Exclude Evidence, Testimony And-Or Argument Regarding the Fact that Plaintiff have Dismissed Certain Claims	11/01/21	30	7292–7354
63	Notice of Entry of Order Granting Plaintiffs' Motion to Compel Defendants' List of Witnesses, Production of Documents and Answers to Interrogatories on Order Shortening Time	10/27/20	11	2684–2695
335	Notice of Entry of Order Granting Plaintiffs' Motion to Modify Joint Pretrial Memorandum Re: Punitive Damages on Order Shortening Time	06/29/22	71	17,594–17,609
281	Notice of Entry of Order Granting Plaintiffs' Proposed Schedule for Submission of Final Redactions	01/31/22	52	12,969–12,979
114	Notice of Entry of Order Granting Plaintiffs' Renewed Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt and for Sanctions	08/03/21	18	4383–4402
53	Notice of Entry of Order Granting, in Part Plaintiffs' Motion to Compel Defendants'	09/28/20	9	2184–2195

Tab	Document	Date	Vol.	Pages
	Production of Claims for At-Issue Claims, Or, in The Alternative, Motion in Limine			
102	Notice of Entry of Order of Report and Recommendation #6 Regarding Defendants' Motion to Compel Further Testimony from Deponents Instructed Not to Answer Question	05/26/21	17	4157–4165
22	Notice of Entry of Order Re: Remand	02/27/20	3	543–552
142	Notice of Entry of Order Regarding Defendants' Objection to Special Master's Report and Recommendation No. 11 Regarding Defendants' Motion to Compel Plaintiffs' Production of Documents about which Plaintiffs' Witnesses Testified on Order Shortening Time	09/29/21	21	5104–5114
66	Notice of Entry of Order Setting Defendants' Production & Response Schedule Re: Order Granting Plaintiffs' Motion to Compel Defendants' List of Witnesses, Production of Documents and Answers to Interrogatories on Order Shortening Time	11/09/20	12	2775–2785
285	Notice of Entry of Order Shortening Time for Hearing Re: Plaintiffs' Motion to Unlock Certain Admitted Trial Exhibits	02/14/22	53	13,029–13,046
354	Notice of Entry of Order Unsealing Trial Transcripts and Restoring Public Access to Docket	10/12/22	73	18,115–18,125
86	Notice of Entry of Report and Recommendation #1	03/16/21	16	3887–3894
120	Notice of Entry of Report and Recommendation #11 Regarding Defendants' Motion to Compel Plaintiffs' Production of Documents About Which Plaintiffs'	08/11/21	18	4487–4497

Tab	Document	Date	Vol.	Pages
	Witnesses Testified			
91	Notice of Entry of Report and Recommendation #2 Regarding Plaintiffs' Objection to Notice of Intent to Issue Subpoena Duces Tecum to TeamHealth Holdings, Inc. and Collect Rx, Inc. Without Deposition and Motion for Protective Order	03/29/21	16	3971–3980
95	Notice of Entry of Report and Recommendation #3 Regarding Defendants' Motion to Compel Responses to Defendants' Second Set of Requests for Production on Order Shortening Time	04/15/21	17	4080–4091
104	Notice of Entry of Report and Recommendation #7 Regarding Defendants' Motion to Compel Plaintiffs' Responses to Defendants' Amended Third Set of Requests for Production of Documents	06/03/21	17	4173–4184
41	Notice of Entry of Stipulated Confidentiality and Protective Order	06/24/20	7	1517–1540
69	Notice of Entry of Stipulated Electronically Stored Information Protocol Order	01/08/21	12	2860–2874
289	Notice of Entry of Stipulation and Order Regarding Certain Admitted Trial Exhibits	02/17/22	53	13,074–13,097
360	Notice of Entry of Stipulation and Order Regarding Expiration of Temporary Stay for Sealed Redacted Transcripts	10/25/22	76	18,759–18,769
282	Notice of Entry of Stipulation and Order Regarding Schedule for Submission of Redactions	02/08/22	52	12,980–12,996
111	Notice of Entry Report and Recommendations #9 Regarding Pending Motions	07/01/21	18	4313–4325

Tab	Document	Date	Vol.	Pages
490	Notice of Filing of Expert Report of Bruce Deal, Revised on November 14, 2021 (Filed Under Seal)	04/18/23	144	35,714–35,812
361	Notice of Filing of Writ Petition	11/17/22	76	18,770–18855
24	Notice of Intent to Take Default as to: (1) Defendant UnitedHealth Group, Inc. on All Claims; and (2) All Defendants on the First Amended Complaint's Eighth Claim for Relief	03/13/20	3 4	699–750 751
324	Notice of Posting *Supersedeas* Bond	04/29/22	69	17,114–17,121
10	Notice of Removal to Federal Court	05/14/19	1	42–100
333	Notice of Supplemental Attorneys Fees Incurred After Submission of Health Care Providers' Motion for Attorneys Fees	06/24/22	70 71	17,470–17,500 17,501–17,578
291	Objection to Plaintiffs' Proposed Judgment and Order Denying Motion to Apply Statutory Cap on Punitive Damages	03/04/22	53	13,161–13,167
345	Objection to Plaintiffs' Proposed Orders Denying Renewed Motion for Judgment as a Matter of Law and Motion for New Trial	09/13/22	72	17,941–17,950
377	Objection to R&R #11 Regarding United's (Filed Under Seal)Motion to Compel Documents About Which Plaintiffs' Witnesses Testified (Filed Under Seal)	08/25/21	84 85	20,864–20,893 20,894–20,898
320	Opposition to Defendants' Motion to Retax Costs	04/13/22	68	16,856–16,864
153	Opposition to Plaintiffs' Motion in Limine to Exclude Evidence, Testimony and/or Argument Regarding the Fact that Plaintiffs have Dismissed Certain Claims and Parties on Order Shortening Time	10/12/21	22	5301–5308

Tab	Document	Date	Vol.	Pages
20	Order	02/20/20	3	519–524
21	Order	02/24/20	3	525–542
337	Order Amending Oral Ruling Granting Defendants' Motion to Retax	07/01/22	71	17,682–17,688
2	Peremptory Challenge of Judge	04/17/19	1	18–19
415	Plaintiffs' Combined Opposition to Defendants Motions in Limine 1, 7, 9, 11 & 13 (Filed Under Seal)	09/29/21	104	25,786–25,850
416	Plaintiffs' Combined Opposition to Defendants' Motions in Limine No. 2, 8, 10, 12 & 14 (Filed Under Seal)	09/29/21	104	25,851–25,868
145	Plaintiffs' Motion for Leave to File Second Amended Complaint on Order Shortening Time	10/04/21	21	5170–5201
422	Plaintiffs' Motion for Leave to File Supplemental Record in Opposition to Arguments Raised for the First Time in Defendants' Reply in Support of Motion for Partial Summary Judgment (Filed Under Seal)	10/17/21	108	26,664–26,673
378	Plaintiffs' Motion in Limine to Exclude Evidence Subject to the Court's Discovery Orders (Filed Under Seal)	09/21/21	85	20,899–20,916
380	Plaintiffs' Motion in Limine to Exclude Evidence, Testimony and/or Argument Relating to (1) Increase in Insurance Premiums (2) Increase in Costs and (3) Decrease in Employee Wages/Benefits Arising from Payment of Billed Charges (Filed Under Seal)	09/21/21	85	21,077–21,089
149	Plaintiffs' Motion in Limine to Exclude Evidence, Testimony and-or Argument	10/08/21	22	5265–5279

Tab	Document	Date	Vol.	Pages
	Regarding the Fact that Plaintiffs Have Dismissed Certain Claims and Parties on Order Shortening Time			
363	Plaintiffs' Motion to Compel Defendants' List of Witnesses, Production of Documents and Answers to Interrogatories on Order Shortening Time (Filed Under Seal)	09/28/20	78	19,144–19,156
49	Plaintiffs' Motion to Compel Defendants' Production of Claims File for At-Issue Claims, or, in the Alternative, Motion in Limine on Order Shortening Time	08/28/20	7 8	1685–1700 1701–1845
250	Plaintiffs' Motion to Modify Joint Pretrial Memorandum Re: Punitive Damages on Order Shortening Time	11/22/21	47	11,594–11,608
194	Plaintiffs' Notice of Amended Exhibit List	11/01/21	30	7367–7392
208	Plaintiffs' Notice of Deposition Designations	11/04/21	33 34	8166–8250 8251–8342
152	Plaintiffs' Objections to Defendants' Pretrial Disclosures	10/08/21	22	5295–5300
328	Plaintiffs' Opposition to Defendants' Motion for New Trial	05/04/22	69 70	17,179–17,250 17,251–17,335
420	Plaintiffs' Opposition to Defendants' Motion for Partial Summary Judgment (Filed Under Seal)	10/05/21	107	26,498–26,605
327	Plaintiffs' Opposition to Defendants' Motion for Remittitur and to Alter or Amend the Judgment	05/04/22	69	17,165–17,178
144	Plaintiffs' Opposition to Defendants' Motion in Limine No. 24 to Preclude Plaintiffs from Referring to Themselves as Healthcare Professionals	09/29/21	21	5155–5169
143	Plaintiffs' Opposition to Defendants' Motion	09/29/21	21	5115–5154

Tab	Document	Date	Vol.	Pages
	in Limine Nos. 3, 4, 5, 6 Regarding Billed Charges			
279	Plaintiffs' Opposition to Defendants' Motion to Apply Statutory Cap on Punitive Damages and Plaintiffs' Cross Motion for Entry of Judgment	01/20/22	52	12,773–12,790
374	Plaintiffs' Opposition to Defendants' Motion to Compel Plaintiffs' Production of Documents About Which Plaintiffs' Witnesses Testified on Order Shortening Time (Filed Under Seal)	07/06/21	84	20,699–20,742
25	Plaintiffs' Opposition to Defendants' Motion to Dismiss	03/26/20	4	752–783
34	Plaintiffs' Opposition to Defendants' Motion to Dismiss First Amended Complaint	05/29/20	5 6	1188–1250 1251–1293
349	Plaintiffs' Opposition to Defendants' Motion to Redact Portions of Trial Transcript	10/07/22	72	17,990–17,993
278	Plaintiffs' Opposition to Defendants' Motion to Seal Courtroom During January 12, 2022 Hearing	01/12/22	52	12,769–12,772
369	Plaintiffs' Opposition to Defendants' Motion to Supplement the Record Supporting Objections to Reports and Recommendations #2 and #3 on Order Shortening Time (Filed Under Seal)	06/01/21	81 82	20,066–20,143 20,144–20,151
329	Plaintiffs' Opposition to Defendants' Renewed Motion for Judgment as a Matter of Law	05/05/22	70	17,336–17,373
317	Plaintiffs' Opposition to Defendants' Rule 62(b) Motion for Stay	04/07/22	68	16,826–16,831
35	Plaintiffs' Opposition to Defendants' Supplemental Brief in Support of Their Motion to Dismiss Plaintiffs' First Amended	05/29/20	6	1294–1309

Tab	Document	Date	Vol.	Pages
	Complaint Addressing Plaintiffs' Eighth Claim for Relief			
83	Plaintiffs' Opposition to Motion for Reconsideration of Order Denying Defendants' Motion to Compel Plaintiffs Responses to Defendants' First and Second Requests for Production	03/04/21	16	3833–3862
55	Plaintiffs' Opposition to Motion to Compel Production of Clinical Documents for the At-Issue Claims and Defenses and to Compel Plaintiff to Supplement Their NRCP 16.1 Initial Disclosures on an Order Shortening Time	09/29/20	9-10	2224–2292
72	Plaintiffs' Opposition to Motion to Compel Responses to Defendants' First and Second Requests for Production on Order Shortening Time	01/12/21	14	3420–3438
122	Plaintiffs' Opposition to United's Motion for Order to Show Cause Why Plaintiffs Should Not Be Held in Contempt and Sanctioned for Allegedly Violating Protective Order	08/24/21	19	4528–4609
270	Plaintiffs' Opposition to United's Motion to Seal	12/29/21	50	12,323–12,341
222	Plaintiffs' Proposed Jury Instructions (Contested)	11/15/21	38 39	9496–9500 9501–9513
260	Plaintiffs' Proposed Second Phase Jury Instructions and Verdict Form	12/06/21	49	12,064–12,072
243	Plaintiffs' Proposed Special Verdict Form	11/19/21	44	10,964–10,973
227	Plaintiffs' Proposed Verdict Form	11/16/21	40	9810–9819
84	Plaintiffs' Renewed Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt and for Sanctions	03/08/21	16	3863–3883

Tab	Document	Date	Vol.	Pages
287	Plaintiffs' Reply in Support of Cross Motion for Entry of Judgment	02/15/22	53	13,054–13,062
364	Plaintiffs' Reply in Support of Renewed Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt and for Sanctions (Filed Under Seal)	04/01/21	78	19,157–19,176
366	Plaintiffs' Response to Defendants Objection to the Special Master's Report and Recommendation No. 2 Regarding Plaintiffs' Objection to Notice of Intent to Issue Subpoena Duces Tecum to TeamHealth Holdings, Inc. and Collect Rx, Inc. Without Deposition and Motion for Protective Order (Filed Under Seal)	04/19/21	78 79	19,389–19,393 19,394–19,532
195	Plaintiffs' Response to Defendants' Objection to Media Requests	11/01/21	30	7393–7403
371	Plaintiffs' Response to Defendants' Objection to Report and Recommendation #6 Regarding Defendants' Motion to Compel Further Testimony from Deponents Instructed Not to Answer Questions (Filed Under Seal)	06/16/21	82	20,212–20,265
376	Plaintiffs' Response to Defendants' Objection to Special Master Report and Recommendation No. 9 Regarding Defendants' Renewed Motion to Compel Further Testimony from Deponents Instructed not to Answer Questions (Filed Under Seal)	07/22/21	84	20,751–20,863
110	Plaintiffs' Response to Defendants' Objection to Special Master's Report and Recommendation #7 Regarding Defendants' Motion to Compel Responses to Amended	06/24/21	18	4281–4312

Tab	Document	Date	Vol.	Pages
	Third Set of Request for Production of Documents			
367	Plaintiffs' Response to Defendants' Objection to the Special Master's Report and Recommendation No. 3 Regarding Defendants' Motion to Compel Responses to Defendants' Second Set of Request for Production on Order Shortening Time (Filed Under Seal)	05/05/21	79	19,533–19,581
426	Plaintiffs' Response to Defendants' Trial Brief Regarding Evidence and Argument Relating to Out-of-State Harms to Non-Parties (Filed Under Seal)	11/08/21	109	26,965–26,997
246	Plaintiffs' Second Supplemental Jury Instructions (Contested)	11/20/21	46	11,255–11,261
261	Plaintiffs' Supplement to Proposed Second Phase Jury Instructions	12/06/21	49	12,072–12,077
236	Plaintiffs' Supplemental Jury Instruction (Contested)	11/17/21	42	10,308–10,313
248	Plaintiffs' Third Supplemental Jury Instructions (Contested)	11/21/21	46	11,267–11,272
216	Plaintiffs' Trial Brief Regarding Defendants' Prompt Payment Act Jury Instruction Re: Failure to Exhaust Administrative Remedies	11/12/21	37	9174–9184
223	Plaintiffs' Trial Brief Regarding Punitive Damages for Unjust Enrichment Claim	11/15/21	39	9514–9521
218	Plaintiffs' Trial Brief Regarding Specific Price Term	11/14/21	38	9417–9425
428	Preliminary Motion to Seal Attorneys' Eyes Documents Used at Trial (Filed Under Seal)	11/11/21	109	27,004–27,055
211	Recorder's Amended Transcript of Jury Trial – Day 9	11/09/21	35	8515–8723

Tab	Document	Date	Vol.	Pages
73	Recorder's Partial Transcript of Proceedings Re: Motions (Unsealed Portion Only)	01/13/21	14	3439–3448
125	Recorder's Partial Transcript of Proceedings Re: Motions Hearing	09/09/21	19	4667–4680
126	Recorder's Partial Transcript of Proceedings Re: Motions Hearing (Via Blue Jeans)	09/15/21	19	4681–4708
31	Recorder's Transcript of Hearing All Pending Motions	05/15/20	5	1022–1026
88	Recorder's Transcript of Hearing All Pending Motions	03/18/21	16	3910–3915
90	Recorder's Transcript of Hearing All Pending Motions	03/25/21	16	3967–3970
96	Recorder's Transcript of Hearing All Pending Motions	04/21/21	17	4092–4095
82	Recorder's Transcript of Hearing Defendants' Motion to Extend All Case Management Deadlines and Continue Trial Setting on Order Shortening Time (Second Request)	03/03/21	16	3824–3832
101	Recorder's Transcript of Hearing Motion for Leave to File Opposition to Defendants' Motion to Compel Responses to Second Set of Requests for Production on Order Shortening Time in Redacted and Partially Sealed Form	05/12/21	17	4155–4156
107	Recorder's Transcript of Hearing Motion for Leave to File Plaintiffs' Response to Defendants' Objection to the Special Master's Report and Recommendation No. 3 Regarding Defendants' Second Set of Request for Production on Order Shortening Time in Redacted and Partially Sealed Form	06/09/21	17	4224–4226
92	Recorder's Transcript of Hearing Motion to Associate Counsel on OST	04/01/21	16	3981–3986

Tab	Document	Date	Vol.	Pages
483	Recorder's Transcript of Hearing re Hearing (Filed Under Seal)	10/13/22	142	35,259–35,263
346	Recorder's Transcript of Hearing Re: Hearing	09/22/22	72	17,951–17,972
359	Recorder's Transcript of Hearing Status Check	10/20/22	76	18,756–18,758
162	Recorder's Transcript of Jury Trial – Day 1	10/25/21	25 26	6127–6250 6251–6279
213	Recorder's Transcript of Jury Trial – Day 10	11/10/21	36 37	8933–9000 9001–9152
217	Recorder's Transcript of Jury Trial – Day 11	11/12/21	37 38	9185–9250 9251–9416
224	Recorder's Transcript of Jury Trial – Day 12	11/15/21	39 40	9522–9750 9751–9798
228	Recorder's Transcript of Jury Trial – Day 13	11/16/21	40 41	9820–10,000 10,001–10,115
237	Recorder's Transcript of Jury Trial – Day 14	11/17/21	42 43	10,314–10,500 10,501–10,617
239	Recorder's Transcript of Jury Trial – Day 15	11/18/21	43 44	10,624–10,750 10,751–10,946
244	Recorder's Transcript of Jury Trial – Day 16	11/19/21	44 45	10,974–11,000 11,001–11,241
249	Recorder's Transcript of Jury Trial – Day 17	11/22/21	46 47	11,273–11,500 11.501–11,593
253	Recorder's Transcript of Jury Trial – Day 18	11/23/21	47 48	11,633–11,750 11,751–11,907
254	Recorder's Transcript of Jury Trial – Day 19	11/24/21	48	11,908–11,956
163	Recorder's Transcript of Jury Trial – Day 2	10/26/21	26	6280–6485
256	Recorder's Transcript of Jury Trial – Day 20	11/29/21	48 49	12,000 12,001–12,034

Tab	Document	Date	Vol.	Pages
262	Recorder's Transcript of Jury Trial – Day 21	12/06/21	49	12,078–,12,135
266	Recorder's Transcript of Jury Trial – Day 22	12/07/21	49 50	12,153–12,250 12,251–12,293
165	Recorder's Transcript of Jury Trial – Day 3	10/27/21	27 28	6568–6750 6751–6774
166	Recorder's Transcript of Jury Trial – Day 4	10/28/21	28	6775–6991
196	Recorder's Transcript of Jury Trial – Day 5	11/01/21	30 31	7404–7500 7501–7605
197	Recorder's Transcript of Jury Trial – Day 6	11/02/21	31 32	7606–7750 7751–7777
201	Recorder's Transcript of Jury Trial – Day 7	11/03/21	32 33	7875–8000 8001–8091
210	Recorder's Transcript of Jury Trial – Day 8	11/08/21	34 35	8344–8500 8501–8514
212	Recorder's Transcript of Jury Trial – Day 9	11/09/21	35 36	8724–8750 8751–8932
27	Recorder's Transcript of Proceedings Re: Motions	04/03/20	4	909–918
76	Recorder's Transcript of Proceedings Re: Motions	01/21/21	15	3659–3692
80	Recorder's Transcript of Proceedings Re: Motions	02/22/21	16	3757–3769
81	Recorder's Transcript of Proceedings Re: Motions	02/25/21	16	3770–3823
93	Recorder's Transcript of Proceedings Re: Motions	04/09/21	16 17	3987–4000 4001–4058
103	Recorder's Transcript of Proceedings Re: Motions	05/28/21	17	4166–4172
43	Recorder's Transcript of Proceedings Re: Motions (via Blue Jeans)	07/09/20	7	1591–1605

Tab	Document	Date	Vol.	Pages
45	Recorder's Transcript of Proceedings Re: Motions (via Blue Jeans)	07/23/20	7	1628–1643
58	Recorder's Transcript of Proceedings Re: Motions (via Blue Jeans)	10/08/20	10	2363–2446
59	Recorder's Transcript of Proceedings Re: Motions (via Blue Jeans)	10/22/20	10	2447–2481
65	Recorder's Transcript of Proceedings Re: Motions (via Blue Jeans)	11/04/20	11 12	2745–2750 2751–2774
67	Recorder's Transcript of Proceedings Re: Motions (via Blue Jeans)	12/23/20	12	2786–2838
68	Recorder's Transcript of Proceedings Re: Motions (via Blue Jeans)	12/30/20	12	2839–2859
105	Recorder's Transcript of Proceedings Re: Motions Hearing	06/03/21	17	4185–4209
106	Recorder's Transcript of Proceedings Re: Motions Hearing	06/04/21	17	4210–4223
109	Recorder's Transcript of Proceedings Re: Motions Hearing	06/23/21	17 18	4240–4250 4251–4280
113	Recorder's Transcript of Proceedings Re: Motions Hearing	07/29/21	18	4341–4382
123	Recorder's Transcript of Proceedings Re: Motions Hearing	09/02/21	19	4610–4633
121	Recorder's Transcript of Proceedings Re: Motions Hearing (Unsealed Portion Only)	08/17/21	18 19	4498–4500 4501–4527
29	Recorder's Transcript of Proceedings Re: Pending Motions	05/14/20	4	949-972
51	Recorder's Transcript of Proceedings Re: Pending Motions	09/09/20	8	1933–1997
15	Rely in Support of Motion to Remand	06/28/19	2	276–308
124	Reply Brief on "Motion for Order to Show	09/08/21	19	4634–4666

Tab	Document	Date	Vol.	Pages
	Cause Why Plaintiffs Should Not Be Hold in Contempt and Sanctioned for Violating Protective Order"			
19	Reply in Support of Amended Motion to Remand	02/05/20	2 3	486–500 501–518
330	Reply in Support of Defendants' Motion for Remittitur and to Alter or Amend the Judgment	06/22/22	70	17,374–17,385
57	Reply in Support of Defendants' Motion to Compel Production of Clinical Documents for the At-Issue Claims and Defenses and to Compel Plaintiff to Supplement Their NRCP 16.1 Initial Disclosures	10/07/20	10	2337–2362
331	Reply in Support of Defendants' Renewed Motion for Judgment as a Matter of Law	06/22/22	70	17,386–17,411
332	Reply in Support of Motion for New Trial	06/22/22	70	17,412–17,469
87	Reply in Support of Motion for Reconsideration of Order Denying Defendants' Motion to Compel Plaintiffs Responses to Defendants' First and Second Requests for Production	03/16/21	16	3895–3909
344	Reply in Support of Supplemental Attorney's Fees Request	08/22/22	72	17,935–17,940
229	Reply in Support of Trial Brief Regarding Evidence and Argument Relating to Out-Of-State Harms to Non-Parties	11/16/21	41	10,116–10,152
318	Reply on "Defendants' Rule 62(b) Motion for Stay Pending Resolution of Post-Trial Motions" (*on Order Shortening Time*)	04/07/22	68	16,832–16,836
245	Response to Plaintiffs' Trial Brief Regarding Punitive Damages for Unjust Enrichment Claim	11/19/21	45 46	11,242–11,250 11,251–11,254

Tab	Document	Date	Vol.	Pages
230	Response to Plaintiffs' Trial Brief Regarding Specific Price Term	11/16/21	41	10,153–10,169
424	Response to Sur-Reply Arguments in Plaintiffs' Motion for Leave to File Supplemental Record in Opposition to Arguments Raised for the First Time in Defendants' Reply in Support of Motion for Partial Summary Judgment (Filed Under Seal)	10/21/21	109	26,931–26,952
148	Second Amended Complaint	10/07/21	21 22	5246–5250 5251–5264
458	Second Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits (Filed Under Seal)	01/05/22	126 127	31,309–31,393 31,394–31,500
231	Special Verdict Form	11/16/21	41	10,169–10,197
257	Special Verdict Form	11/29/21	49	12,035–12,046
265	Special Verdict Form	12/07/21	49	12,150–12,152
6	Summons – Health Plan of Nevada, Inc.	04/30/19	1	29–31
9	Summons – Oxford Health Plans, Inc.	05/06/19	1	38–41
8	Summons – Sierra Health and Life Insurance Company, Inc.	04/30/19	1	35–37
7	Summons – Sierra Health-Care Options, Inc.	04/30/19	1	32–34
3	Summons - UMR, Inc. dba United Medical Resources	04/25/19	1	20–22
4	Summons – United Health Care Services Inc. dba UnitedHealthcare	04/25/19	1	23–25
5	Summons – United Healthcare Insurance Company	04/25/19	1	26–28
433	Supplement to Defendants' Motion to Seal Certain Confidential Trial Exhibits (Filed	12/08/21	110 111	27,383–27,393 27,394–27,400

Tab	Document	Date	Vol.	Pages
	Under Seal)			
170	Supplement to Defendants' Objection to Media Requests	10/31/21	29	7019–7039
439	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 1 of 18 (Filed Under Seal)	12/24/21	114	28,189–28,290
440	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 2 of 18 (Filed Under Seal)	12/24/21	114 115	28,291–28,393 28,394–28,484
441	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 3 of 18 (Filed Under Seal)	12/24/21	115 116	28,485–28,643 28,644–28,742
442	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 4 of 18 (Filed Under Seal)	12/24/21	116 117	28,743–28,893 28,894–28,938
443	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 5 of 18 (Filed Under Seal)	12/24/21	117	28,939–29,084
444	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 6 of 18 (Filed Under Seal)	12/24/21	117 118	29,085–29,143 29,144–29,219
445	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 7 of 18 (Filed Under Seal)	12/24/21	118	29,220–29,384
446	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 8 of 18 (Filed Under Seal)	12/24/21	118 119	29,385–29,393 29,394–29,527
447	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 9 of 18 (Filed Under Seal)	12/24/21	119 120	29,528–29,643 29,644–29,727
448	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial	12/24/21	120 121	29,728–29,893 29,894–29,907

Tab	Document	Date	Vol.	Pages
	Exhibits – Volume 10 of 18 (Filed Under Seal)			
449	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 11 of 18 (Filed Under Seal)	12/24/21	121	29,908–30,051
450	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 12 of 18 (Filed Under Seal)	12/24/21	121 122	30,052–30,143 30,144–30,297
451	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 13 of 18 (Filed Under Seal)	12/24/21	122 123	30,298–30,393 30,394–30,516
452	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 14 of 18 (Filed Under Seal)	12/24/21	123 124	30,517–30,643 30,644–30,677
453	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 15 of 18 (Filed Under Seal)	12/24/21	124	30,678–30,835
454	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 16 of 18 (Filed Under Seal)	12/24/21	124 125	30,836–30,893 30,894–30,952
455	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 17 of 18 (Filed Under Seal)	12/24/21	125	30,953–31,122
456	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 18 of 18 (Filed Under	12/24/21	125 126	30,123–31,143 31,144–31,258

Tab	Document	Date	Vol.	Pages
	Seal)			
466	Transcript of Proceedings re Hearing Regarding Unsealing Record (Filed Under Seal)	10/05/22	129	31,923–31,943
350	Transcript of Proceedings re Status Check	10/10/22	72 73	17,994–18,000 18,001–18,004
467	Transcript of Proceedings re Status Check (Filed Under Seal)	10/06/22	129	31,944–31,953
157	Transcript of Proceedings Re: Motions	10/19/21	22 23	5339–5500 5501–5561
160	Transcript of Proceedings Re: Motions	10/22/21	24 25	5908–6000 6001–6115
459	Transcript of Proceedings Re: Motions (Filed Under Seal)	01/12/22	127	31,501–31,596
460	Transcript of Proceedings Re: Motions (Filed Under Seal)	01/20/22	127 128	31,597–31,643 31,644–31,650
461	Transcript of Proceedings Re: Motions (Filed Under Seal)	01/27/22	128	31,651–31,661
146	Transcript of Proceedings Re: Motions (Via Blue Jeans)	10/06/21	21	5202–5234
290	Transcript of Proceedings Re: Motions Hearing	02/17/22	53	13,098–13,160
319	Transcript of Proceedings Re: Motions Hearing	04/07/22	68	16,837–16,855
323	Transcript of Proceedings Re: Motions Hearing	04/21/22	69	17,102–17,113
336	Transcript of Proceedings Re: Motions Hearing	06/29/22	71	17,610–17,681
463	Transcript of Proceedings Re: Motions Hearing (Filed Under Seal)	02/10/22	128	31,673–31,793

Tab	Document	Date	Vol.	Pages
464	Transcript of Proceedings Re: Motions Hearing (Filed Under Seal)	02/16/22	128	31,794–31,887
38	Transcript of Proceedings, All Pending Motions	06/05/20	6	1350–1384
39	Transcript of Proceedings, All Pending Motions	06/09/20	6	1385–1471
46	Transcript of Proceedings, Plaintiff's Motion to Compel Defendants' Production of Unredacted MultiPlan, Inc. Agreement	07/29/20	7	1644–1663
482	Transcript of Status Check (Filed Under Seal)	10/10/22	142	35,248–35,258
492	Transcript Re: Proposed Jury Instructions	11/21/21	146	36,086–36,250
425	Trial Brief Regarding Evidence and Argument Relating to Out-of-State Harms to Non-Parties (Filed Under Seal)	10/31/21	109	26,953–26,964
232	Trial Brief Regarding Jury Instructions on Formation of an Implied-In-Fact Contract	11/16/21	41	10,198–10,231
233	Trial Brief Regarding Jury Instructions on Unjust Enrichment	11/16/21	41	10,232–10,248
484	Trial Exhibit D5499 (Filed Under Seal)		142 143	35,264–35,393 35,394–35,445
362	Trial Exhibit D5502		76 77	18,856–19,000 19,001–19,143
485	Trial Exhibit D5506 (Filed Under Seal)		143	35,446
372	United's Motion to Compel Plaintiffs' Production of Documents About Which Plaintiffs' Witnesses Testified on Order Shortening Time (Filed Under Seal)	06/24/21	82	20,266–20,290
112	United's Reply in Support of Motion to Compel Plaintiffs' Production of Documents About Which Plaintiffs' Witnesses Testified	07/12/21	18	4326–4340

Tab	Document	Date	Vol.	Pages
	on Order Shortening Time			
258	Verdict(s) Submitted to Jury but Returned Unsigned	11/29/21	49	12,047–12,048

CERTIFICATE OF SERVICE

I certify that on April 18, 2023, I submitted the foregoing appendix for filing *via* the Court's eFlex electronic filing system.

Electronic notification will be sent to the following:

Pat Lundvall
Kristen T. Gallagher
Amanda M. Perach
McDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, Nevada 89102

Attorneys for Respondents (case no. 85525)/Real Parties in Interest (case no. 85656)

Richard I. Dreitzer
FENNEMORE CRAIG, PC
9275 W. Russell Road, Suite 240
Las Vegas, Nevada 89148

Attorneys for Real Parties in Interest (case no. 85656)

Dennis L. Kennedy
Sarah E. Harmon
BAILEY KENNEDY
8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148

Attorneys for Respondents (case no. 85525)

Constance. L. Akridge
Sydney R. Gambee
HOLLAND & HART LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

Attorneys for Amicus Curiae (case no. 85656)

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

Respondent (case no. 85656)

Joseph Y. Ahmad
John Zavitsanos
Jason S. McManis
Michael Killingsworth
Louis Liao
Jane L. Robinson
Patrick K. Leyendecker
AHMAD, ZAVITSANOS, & MENSING, PLLC
1221 McKinney Street, Suite 2500
Houston, Texas 77010

Justin C. Fineberg
Martin B. Goldberg
Rachel H. LeBlanc
Jonathan E. Feuer
Jonathan E. Siegelaub
David R. Ruffner
Emily L. Pincow
Ashley Singrossi
LASH & GOLDBERG LLP
Weston Corporate Centre I
2500 Weston Road Suite 220
Fort Lauderdale, Florida 33331

Attorneys for Respondents (case no. 85525)/Real Parties in Interest (case no. 85656)

/s/ Jessie M. Helm
An Employee of Lewis Roca Rothgerber Christie LLP

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of November, 2020, a true and correct copy of the foregoing **DEFENDANTS' TENTH SUPPLEMENTAL RESPONSES TO FREMONT EMERGENCY SERVICES (MANDAVIA) LTD.'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS** was electronically served on counsel through the Court's electronic service system pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, via the electronic mail addresses noted below, unless service by another method is stated or noted:

Pat Lundvall, Esq.
Kristen T. Gallagher, Esq.
Amanda M. Perach, Esq.
McDonald Carano LLP
2300 W. Sahara Ave., Suite 1200
Las Vegas, Nevada 89102
plundvall@mcdonaldcarano.com
kgallagher@mcdonaldcarano.com
aperach@mcdonaldcarano.com
Attorneys for Plaintiffs

/s/ Cynthia S. Bowman
An employee of WEINBERG, WHEELER, HUDGINS GUNN & DIAL, LLC

EXHIBIT 17

ELECTRONICALLY SERVED
1/11/2021 5:07 PM

RSPN

D. Lee Roberts, Jr., Esq.
Nevada Bar No. 8877
lroberts@wwhgd.com
Colby L. Balkenbush, Esq.
Nevada Bar No. 13066
cbalkenbush@wwhgd.com
Brittany M. Llewellyn, Esq.
Nevada Bar No. 13527
bllewellyn@wwhgd.com
WEINBERG, WHEELER, HUDGINS, GUNN & DIAL, LLC
6385 South Rainbow Blvd., Suite 400
Las Vegas, Nevada 89118
Telephone: (702) 938-3838
Facsimile: (702) 938-3864

Natasha S. Fedder, Esq.
Admitted Pro Hac Vice
nfedder@omm.com
O'Melveny & Myers LLP
400 S. Hope St., 18th Floor
Los Angeles, CA 90071
Telephone: (213) 430-6000

K. Lee Blalack, II, Esq.
Admitted Pro Hac Vice
lblalack@omm.com
O'Melveny & Myers LLP
1625 Eye St. NW
Washington, DC 20006
Telephone: (202) 383-5374

Attorneys for Defendants

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

Defendants.

Case No.: A-19-792978-B
Dept. No.: 27

DEFENDANTS' FOURTH SUPPLEMENTAL RESPONSES TO FREMONT EMERGENCY SERVICES (MANDAVIA), LTD.'S FIRST SET OF INTERROGATORIES

Case Number: A-19-792978-B

Defendants UnitedHealth Group, Inc., UnitedHealthcare Insurance Company ("UHIC"), United HealthCare Services, Inc. ("UHS"), UMR, Inc. ("UMR"), Oxford Health Plans LLC (incorrectly named as "Oxford Health Plans, Inc."), Sierra Health and Life Insurance Co., Inc. ("SHL"), Sierra Health-Care Options, Inc. ("SHO"), and Health Plan of Nevada, Inc. ("HPN") (collectively "Defendants" **or "United"**), by and through their attorneys of the law firm of Weinberg Wheeler Hudgins Gunn & Dial, LLC, hereby supplement their responses to Plaintiff's ("Plaintiff" or "Fremont") First Set of Interrogatories (new information in **bold**):

PRELIMINARY STATEMENT

Defendants have made diligent efforts to respond to the Interrogatories, but reserve the right to change, amend, or supplement their responses and objections. Additionally, Defendants do not waive their right to assert any and all applicable privileges, doctrines, and protections, and hereby expressly state their intent and reserve their right to withhold responsive information on the basis of any and all applicable privileges, doctrines, and protections.

Defendants' responses are made without in any way waiving or intending to waive, but on the contrary, intending to preserve and preserving, their right, in this litigation or any subsequent proceeding, to object on any grounds to the use of documents or information provided/produced in response to the Interrogatories.

Defendants are limiting their responses to the Interrogatories to the reasonable time-frame of July 1, 2017 to January 31, 2020 ("Relevant Period") and object to the Interrogatories to the extent that Plaintiff fails to limit the Interrogatories to a specific time period.

SPECIFIC OBJECTIONS TO PLAINTIFF'S DEFINITIONS, INSTRUCTIONS, AND RULES OF CONSTRUCTION

1. Defendants objects to the "Instructions," "Definitions," and "Rules of Construction" accompanying the Interrogatories to the extent they purport to impose any obligation on Defendants different from or greater than those imposed by the Federal Rules of Civil Procedure or applicable local rules.

2. Defendants object to the "Instructions," "Definitions," and "Rules of Construction" to the extent they purport to require information concerning Protected Health

036066

036066

036066

Information or other confidential or proprietary information without confidentiality protections sufficient to protect such information from disclosure, such as those found in the Stipulated Confidentiality and Protective Order entered on October 22, 2019. ECF No. 31.

3. Defendants object to the definition of "Claim" or "Claims" as vague, not described with reasonable particularity, overbroad, unduly burdensome, not relevant to the claims or defenses in this case, and not proportional to the needs of this case to the extent they (1) include claims not specifically identified by Plaintiff in FESM000011, or (2) relate to claims, patients, or health benefits plans for which Defendants are not responsible for the at-issue claims administration.

4. Defendants object to the definition of "Clark County Market" as vague, not described with reasonable particularity, overbroad, unduly burdensome, and not relevant to the claims or defenses in this case to the extent that the phrase "geographic market," as utilized in that definition, (1) includes persons or entities that are not parties to this case, or (2) concerns persons or entities unrelated to the at-issue claims.

5. Defendants object to the Interrogatories to the extent they seek information protected by the attorney-client privilege, the attorney work product doctrine, the settlement privilege, or any other applicable privilege, including, but not limited to: information that was prepared for, or in anticipation of, litigation; that contains or reflects the analysis, mental impressions, or work of counsel; that contains or reflects attorney-client communications; or that is otherwise privileged. Defendants object on the same basis to the terms "identify," "describe," and "explain" as used in these Interrogatories to the extent they seek privileged or protected information.

6. Defendants object to the definition of the terms "Defendants," as used in the context of the Interrogatories, and "You," and/or "Your" as vague, not described with reasonable particularity, overbroad, unduly burdensome, not proportional to the needs of the case, and seeking information that is not relevant to the outcome of any claims or defenses in this litigation. Plaintiff's definition includes, for example, "predecessors-in-interest," "partners," "any past or present agents," and "every person acting or purporting to act, or who has ever acted

036067

036067

036067

or purported to act, on their behalf," which suggests that Plaintiff seeks information beyond Defendants' possession, custody, or control. Defendants will not search for information or materials beyond their possession, custody, or control. Defendants have answered the Interrogatories on behalf of Defendants, *as defined herein*, only based upon Defendants' knowledge, information in Defendants' possession, and belief formed after reasonable inquiry.

7. Defendants object to the definition of "Fremont" as vague, not described with reasonable particularity, overbroad, unduly burdensome, not proportional to the needs of the case, and seeking information that is not relevant to the outcome of any claims or defenses in this litigation. Plaintiff's definition includes, for example, "any past or present agents," "representatives," " partners," "predecessors-in-interest," "affiliates," and "every person acting or purporting to act, or who has ever acted or purported to act, on [its] behalf" without identifying these entities or persons with reasonable particularity, and creating an undue burden by requiring Defendants to identify them. In responding to the Interrogatories, Defendants will construe "Fremont" to refer to those parties who were known to have been affiliated with Fremont Emergency Services (Mandavia), Ltd. during the Relevant Period.

8. Defendants object to the definition of "Emergency Services and Care," "Emergency Medicine Services," and "Emergency Department Services" as vague, not described with reasonable particularity, overbroad, unduly burdensome, not relevant to the claims or defenses in this case, and not proportional to the needs of this case to the extent they (1) include any medical services not related to the at-issue claims, or (2) relate to any medical services for claims, patients, or health benefits plans for which Defendants are not responsible for the at-issue claims administration.

9. Defendants object to the definition of "HMO" as vague, not described with reasonable particularity, overbroad, unduly burdensome, not relevant to the claims or defenses in this case, and not proportional to the needs of this case to the extent it (1) includes health benefits plans and members of such plans not specifically identified by Plaintiff, (2) includes health benefits plans that are not related to the at-issue claims, or (3) refers to health benefits plans for which Defendants are not responsible for the at-issue claims administration.

10. Defendants object to the definition of "Nonemergency Services and Care" as vague, not described with reasonable particularity, overbroad, unduly burdensome, not relevant to the claims or defenses in this case, and not proportional to the needs of this case to the extent it (1) includes services by not related to the at-issue claims, or (2) relate to the services for claims, patients, or health benefits plans for which Defendants are not responsible for the at-issue claims administration.

11. Defendants object to the definition of "Non-Participating Provider," "Non-Network Provider," "Participating Provider," and "Network Provider" as vague, not described with reasonable particularity, overbroad, unduly burdensome, not relevant to the claims or defenses in this case, and not proportional to the needs of this case to the extent they (1) include persons or entities that are not parties to this case, or (2) concern persons or entities unrelated to the at-issue claims.

12. Defendants object to the definition of "Plans" and "Plan Members" as vague, not described with reasonable particularity, overbroad, unduly burdensome, not relevant to the claims or defenses in this case, and not proportional to the needs of this case to the extent they (1) include health benefits plans and members of such plans not specifically identified by Plaintiff, (2) include health benefits plans that are not related to the at-issue claims, or (3) are referring to health benefits plans for which Defendants are not responsible for the at-issue claims administration.

13. Defendants object to the definition of "Provider" as vague, not described with reasonable particularity, overbroad, unduly burdensome, not relevant to the claims or defenses in this case, and not proportional to the needs of this case to the extent it (1) includes persons or entities that are not parties to this case, or (2) concerns persons or entities unrelated to the at-issue claims.

14. Defendants object to Instruction No. 1 as unduly burdensome and not proportional to the needs of the case insofar as it asks Defendants to provide "the person's full name, present or last known address and telephone number, the present or last known business affiliation,

including business address and telephone number, and their prior or current connection, interest or association with any Party to this litigation."

15. Defendants object to Instruction No. 2 as unduly burdensome and not proportional to the needs of the case insofar as it asks Defendants to provide "the identity of all persons affiliated with the organization having knowledge or documents concerning this lawsuit, and the entity's prior or current connection, interest or association with any Party to this litigation, including without limitation any account names and numbers."

16. Defendants object to Instruction No. 3 as vague and overbroad, and on the further ground that it renders the Interrogatories overbroad and unduly burdensome. Defendants have answered on behalf of Defendants only, and Defendants will not search for information or materials beyond their possession, custody, or control.

17. Defendants object to Instruction No. 4 as vague and overbroad, and on the further ground that it renders the Interrogatories overbroad and unduly burdensome. Defendants have answered on behalf of Defendants only, and Defendants will not search for information or materials beyond their possession, custody, or control.

18. Defendants object to Instruction Nos. 5, 6, 7, 8, 9, 10, 11, 12, and 13 to the extent they seek to impose obligations and/or penalties on Defendants beyond what is contemplated by the Federal Rules of Civil Procedure or applicable local rules. Defendants further object to Instruction Nos. 5, 6, 7, 8, 9, 10, 11, 12, and 13 to the extent those Instructions require disclosure of information or materials protected by the attorney-client privilege, the attorney work product doctrine, the settlement privilege, or any other applicable privilege, including, but not limited to: information that was prepared for, or in anticipation of, litigation; that contains or reflects the analysis, mental impressions, or work of counsel; that contains or reflects attorney-client communications; or that is otherwise privileged.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 8:

Identify all persons with knowledge of the following subject areas, identifying for each person their name, address, phone number, employer, title, and the subject matter(s) of their

knowledge:

(a) The development of the methodology, the materials considered in developing the methodology, and the methodology itself You used to calculate the allowed amount and the amount of Your alleged payment obligations for the CLAIMS in the Clark County Market;

(b) Communications with Fremont regarding the CLAIMS;

(c) To the extent that You contend or rely on provider charges by other providers to determine Your alleged payment obligation for the CLAIMS, the identity of those other providers, the amount of their charges, and any agreement(s) with those providers regarding those charges.

RESPONSE:

Subject to and without waiving Defendants' objections, including Defendants' specific objections to Plaintiff's Definitions, Instructions and Rules of Construction, Defendants state as follows:

Defendants object that this Interrogatory is overbroad and unduly burdensome to the extent it seeks the identification of "all persons" with knowledge of the particular subject areas. *Mancini v. Ins. Corp. of New York*, No. CIV. 07CV1750-L NLS, 2009 WL 1765295, at *3 (S.D. Cal. June 18, 2009) ("Contention interrogatories are often overly broad and unduly burdensome when they require a party to state "every fact" or "all facts" supporting identified allegations or defenses."); *Bashkin v. San Diego Cty*., No. 08-CV-1450-WQH WVG, 2011 WL 109229, at *2 (S.D. Cal. Jan. 13, 2011) ("In the written discovery process, parties are not entitled to each and every detail that could possibly exist in the universe of facts . . . Further, to the extent Plaintiff seeks every minute detail and narratives about the subject incident and every possible surrounding circumstance, written discovery is not the proper vehicle to obtain such detail."). Defendants will not be listing every single person who has any knowledge of the listed topics.

Defendants also object that all three categories listed (a, b and c) are overbroad, vague and by extension unduly burdensome. As to category a, Defendants object that information on the development of the methodology is not relevant to Fremont's claims and not proportional to the needs of the case. Moreover, to identify the persons who would have knowledge of the

036071

036071

036071

methodologies used to determine the amount of reimbursement for each of Fremont's 15,210 claims, Defendants would have to pull the administrative record for each of the 15,210 claims, which, as set forth more fully in Defendants' objection to Interrogatory No. 1, would be unduly burdensome and not proportional to the needs of the case.

As to category b, Defendants object that this category is vague, overbroad and unduly burdensome. The number of individuals who may have knowledge of *any* communications between Defendants and Fremont regarding the 15,210 claims at issue is huge. Defendants request that Fremont narrow this Interrogatory to specific type(s) of communications that will allow Defendants to identify a reasonable number of individuals with information on those specific communications.

As to category c, Defendants object that this category calls for them to reveal information about their agreements with other providers. Defendants' agreements with other providers typically contain confidentiality clauses such that revealing this information could force Defendants to breach their obligations to these third parties. Moreover, the information sought is proprietary and subject to protection as a trade secret pursuant to NRS 600A.030(5) as this information has independent value due to, among other things, the fact that it is not known to other providers like Fremont.

Defendants further object to the extent this interrogatory is intended to force Defendants to name Rule 30(b)(6) witnesses for these categories prior to a Rule 30(b)(6) deposition notice being issued.

Responding further, subject to and without waiving Defendants' objections: Defendant identifies the following witnesses:

(1) Jacy Jefferson, Director, Network Development & Contracts, Health Plan of Nevada/Sierra Health & Life, c/o Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC **and O'Melveny & Myers LLP**: Mr. Jefferson is expected to have knowledge of agreements Fremont entered into with Health Plan of Nevada, Inc. ("HPN"), Sierra HealthCare Options, Inc., Sierra Health & Life Insurance Company, Inc., and UnitedHealthcare Insurance Company, including those listed in response to

Interrogatory No. 5, and their applicability to claims submitted to Sierra and HPN by Fremont; and the reimbursement methodology used by Sierra and HPN for non-participating provider emergency department charges applicable to claims submitted by Fremont after Fremont became a non-participating provider on or around February 26, 2019.

(2) Scott Ziemer, Vice President, Customer Solutions, UMR, c/o Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC **and O'Melveny & Myers LLP**: Mr. Ziemer is expected to have knowledge of the contractual relationship between UMR, Inc. and Private Healthcare Systems, Inc., and the products and services provided by PHCS to UMR, including complementary or wrap networks. Mr. Ziemer is also expected to have knowledge of the contractual relationship between UMR and First Health Group Corp., and the products and services provided by First Health to UMR, including complementary or wrap networks.

(3) Rebecca Paradise, Vice President, Out-Of-Network Payment Strategy, UnitedHealthcare, c/o Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC **and O'Melveny & Myers LLP**: Ms. Paradise is expected to have knowledge of the contractual relationship between United and MultiPlan, Inc. ("MultiPlan"), and the products and services provided by MultiPlan to United, including complementary or wrap networks, fee negotiation services, and the Data iSight pricing tool. Ms. Paradise is also expected to have knowledge of the contractual relationship between United and First Health Group Corp., and the products and services provided by First Health to United, including complementary or wrap networks. Finally, Ms. Paradise is also expected to have knowledge of United's Extended Non-Network Reimbursement Program ("ENRP").

(4) Lisa Dealy, Director, Special Investigations Unit, Customer Care and Ledger Billing for UnitedHealthcare, Student Resources, c/o Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC **and O'Melveny & Myers LLP**: Ms. Dealy is expected to have knowledge of the processing of claims submitted by non-participating provider

036073

036073

036073

emergency department providers by Student Resources; and the fact and manner by which Student Resources uses health claim reimbursement-related information from FAIR Health in the course of processing non-participating provider emergency department claims.

Responding further, subject to and without waiving Defendants' objections: Defendant identifies the following witnesses:

Marty Millerleile, Manager, Provider Network Operations, UMR, c/o Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC and O'Melveny & Myers LLP: Ms. Millerleile is expected to have knowledge of the agreements Fremont entered into with the following self-funded plan sponsor clients of UMR, Inc.: MGM Resorts International, Caesar's Entertainment, Inc., and Las Vegas Metropolitan Police Department, including those previously listed in response to Interrogatory No. 5; and negotiations that took place between Fremont and certain other self-funded plan sponsor clients of UMR, Inc., including Las Vegas Sands Company ("LVSC") d/b/a the Venetian Las Vegas, that may have culminated in a participating provider agreement. Finally, Ms. Millerleile is expected to have knowledge of the non-participating emergency department provider reimbursement methodology(ies) used by certain UMR self-funded plan sponsor clients

Defendants have made diligent efforts to respond to this Interrogatory, but reserve the right to supplement their response and objections.

Dated this 11th day of January, 2021.

/s/ Brittany M. Llewellyn

D. Lee Roberts, Jr., Esq.
Colby L. Balkenbush, Esq.
Brittany M. Llewellyn, Esq.
WEINBERG, WHEELER, HUDGINS, GUNN & DIAL, LLC
6385 South Rainbow Blvd., Suite 400
Las Vegas, Nevada 89118
Telephone: (702) 938-3838
Facsimile: (702) 938-3864

Natasha S. Fedder, Esq.
O'Melveny & Myers LLP
400 S. Hope St., 18th Floor
Los Angeles, CA 90071
Telephone: (213) 430-6000

K. Lee Blalack, II, Esq.
O'Melveny & Myers LLP
1625 Eye St. NW
Washington, DC 20006
Telephone: (202) 383-5374

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of January, 2021, a true and correct copy of the foregoing **DEFENDANTS' FOURTH SUPPLEMENTAL RESPONSES TO FREMONT EMERGENCY SERVICES (MANDAVIA), LTD.'S FIRST SET OF INTERROGATORIES** was electronically filed/served on counsel through the Court's electronic service system pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, via the electronic mail addresses noted below, unless service by another method is stated or noted:

Pat Lundvall, Esq.
Kristen T. Gallagher, Esq.
Amanda M. Perach, Esq.
McDonald Carano LLP
2300 W. Sahara Ave., Suite 1200
Las Vegas, Nevada 89102
plundvall@mcdonaldcarano.com
kgallagher@mcdonaldcarano.com
aperach@mcdonaldcarano.com
Attorneys for Plaintiff
Fremont Emergency Services (Mandavia), Ltd.

/s/ Cynthia S. Bowman
An employee of WEINBERG, WHEELER, HUDGINS GUNN & DIAL, LLC

VERIFICATION

STATE OF NEVADA)
) ss.:
COUNTY OF CLARK)

I, Marty Millerleile, declare that I have read the foregoing **DEFENDANTS' FOURTH SUPPLEMENTAL ANSWERS TO PLAINTIFFS' FIRST SET OF INTERROGATORIES**, and verify Defendants' response to Plaintiffs' Interrogatory 8. While I do not have personal knowledge of all of the facts recited in Defendants' response to this Interrogatory, I have knowledge as to certain contracts and agreements referenced therein, and can verify that the information is true to the best of my knowledge, information, and belief. If called upon to do so, I could and would testify competently to the information set forth herein.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: 12/14/2020

Marty Millerleile
Associate Director, Network Operations, UMR

036076

036076

036076

036077

036077

EXHIBIT 18

Kristen T. Gallagher

From: Blalack II, K. Lee <lblalack@omm.com>
Sent: Friday, March 5, 2021 6:43 PM
To: Kristen T. Gallagher; Fedder, Natasha S.
Cc: Pat Lundvall; Roberts, Lee; Balkenbush, Colby; Llewellyn, Brittany M.; Portnoi, Dimitri D.; Levine, Adam; Amanda Perach
Subject: RE: Fremont Emergency Services (Mandavia), Ltd., et. al. v. UnitedHealth Group, Inc. et. al.; Case No. A-19-792978-B

Ms. Gallagher:

My name is Lee Blalack and I am counsel for the United Defendants. Nice to meet you. I will be defending Mr. Rosenthal's deposition so I am responding to your message of this afternoon.

It is not acceptable to the Defendants that Mr. Rosenthal be produced for a deposition at some later date using the process that you outlined below -- namely, Plaintiffs' counsel identifying three dates of their unilateral choosing and then Mr. Rosenthal agreeing to appear during one of those dates unless he can demonstrate unavailability according to the definition of "reasonable availability" that the Court announced at the hearing on February 25, 2021. We do not believe that your proposed procedure for scheduling depositions is efficient or practical given that we both represent corporate clients with many senior executives who have busy schedules that must be accommodated, not to mention that all of the lawyers involved in this case have heavy dockets where professional courtesy warrants a good-faith attempt to consider counsels' schedules. Perhaps I am wrong but I suspect that, like my clients, your clients' senior executives will not find it reasonable to be presented with three dates of my choosing and then be forced to appear on one of those three dates absent evidence of a personal or family emergency. For that reason, when we meet and confer next week about the scheduling of depositions in this case, we will urge a more collaborative and cooperative process for identifying dates to schedule the depositions of our respective clients' personnel.

036078
036078

With respect to Mr. Rosenthal, United will produce him for deposition on March 12th if you elect to proceed with the deposition knowing full well that the production of his custodial documents will not be complete by that date. Or, if Plaintiffs prefer to wait until that document production is complete to depose Mr. Rosenthal, we will be glad to schedule his deposition at a later date that is mutually convenient for you, Mr. Rosenthal and myself. But we will not agree to produce him at one of three dates that you unilaterally select without regard to Mr. Rosenthal's convenience or my availability. If that is indeed Plaintiffs' view, then we should go ahead and proceed with his deposition on the noticed date.

Defendants wish to work constructively and collaboratively with Plaintiffs to schedule before the close of fact discovery the many depositions that have been noticed in this case. We believe we can do so in a manner that does not impose unnecessarily on the business schedules of our respective clients' executives. I hope that we can reach agreement next week on a satisfactory process for doing so. The alternative will result in unnecessary burdens and disruptions on my client and your client as well.

Please let me know this weekend if Plaintiffs wish to proceed with Mr. Rosenthal's deposition on March 12th, as I must finalize arrangements for the deposition by Monday.

Sincerely,
Lee Blalack

From: Kristen T. Gallagher <kgallagher@mcdonaldcarano.com>
Sent: Friday, March 5, 2021 6:01 PM
To: Fedder, Natasha S. <nfedder@omm.com>
Cc: Pat Lundvall <plundvall@mcdonaldcarano.com>; Roberts, Lee <LRoberts@wwhgd.com>; Balkenbush, Colby <CBalkenbush@wwhgd.com>; Llewellyn, Brittany M. <BLlewellyn@wwhgd.com>; Blalack II, K. Lee <lblalack@omm.com>; Portnoi, Dimitri D. <dportnoi@omm.com>; Levine, Adam <alevine@omm.com>; Amanda Perach <aperach@mcdonaldcarano.com>
Subject: RE: Fremont Emergency Services (Mandavia), Ltd., et. al. v. UnitedHealth Group, Inc. et. al.; Case No. A-19-792978-B

[EXTERNAL MESSAGE]

Natasha –

In response to the below, while we disagree that United can prevent the Health Care Providers from reconvening Mr. Rosenthal's deposition after document production, in an effort to reach common ground, the Health Care Providers propose the following: United produces Mr. Rosenthal's and his assistant(s)' custodial emails/documents (to include handwritings) by March 17, 2021. The Health Care Providers will then provide three dates shortly thereafter from which Mr. Rosenthal may choose to sit for deposition based on his reasonable availability as defined by the Court at the February 25, 2021 hearing.

Please also provide a date and time early next week so that we can discuss an order and sequence for depositions.

Thank you,
Kristy

036079

Kristen T. Gallagher | Partner

McDONALD CARANO

P: 702.873.4100 | **E:** kgallagher@mcdonaldcarano.com

036079

From: Fedder, Natasha S. <nfedder@omm.com>
Sent: Thursday, March 4, 2021 8:56 PM
To: Kristen T. Gallagher <kgallagher@mcdonaldcarano.com>
Cc: Pat Lundvall <plundvall@mcdonaldcarano.com>; Roberts, Lee <LRoberts@wwhgd.com>; Balkenbush, Colby <CBalkenbush@wwhgd.com>; Llewellyn, Brittany M. <BLlewellyn@wwhgd.com>; Blalack II, K. Lee <lblalack@omm.com>; Portnoi, Dimitri D. <dportnoi@omm.com>; Levine, Adam <alevine@omm.com>; Amanda Perach <aperach@mcdonaldcarano.com>
Subject: RE: Fremont Emergency Services (Mandavia), Ltd., et. al. v. UnitedHealth Group, Inc. et. al.; Case No. A-19-792978-B

Kristy,

Thank you for your response. We will produce Mr. Rosenthal on March 12th. We will, however, object to any effort Plaintiffs undertake to depose Mr. Rosenthal a second time for any reason, including to question Mr. Rosenthal on documents that Plaintiffs are on notice will be produced after March 12th. Plaintiffs are on notice that they will be proceeding with Mr. Rosenthal's deposition when they do not possess many of his custodial documents and with many weeks left to complete fact depositions. Under the circumstances, we will object to any argument that Plaintiffs have good cause to justify a second deposition of Mr. Rosenthal later in the fact discovery period.

Regarding Ms. Owen, we are not voluntarily withdrawing the notice at this time, though we will work with Plaintiffs to agree on a date as part of the larger scheduling process we described below. In the meantime, can you please let us know whether your client would agree to produce Ms. Owen for a deposition if the deposition were limited to lines of questioning regarding the letters Ms. Owen sent out to United's customers regarding TeamHealth's allegations in this matter? If your client will not agree to produce her under any circumstances it's important for United to know that in assessing how to proceed on this issue.

Thank you,
Natasha

Natasha S. Fedder
O: +1-213-430-8018
nfedder@omm.com

From: Kristen T. Gallagher <kgallagher@mcdonaldcarano.com>
Sent: Thursday, March 4, 2021 4:47 PM
To: Fedder, Natasha S. <nfedder@omm.com>; Amanda Perach <aperach@mcdonaldcarano.com>
Cc: Pat Lundvall <plundvall@mcdonaldcarano.com>; Roberts, Lee <LRoberts@wwhgd.com>; Balkenbush, Colby <CBalkenbush@wwhgd.com>; Llewellyn, Brittany M. <BLlewellyn@wwhgd.com>; Blalack II, K. Lee <lblalack@omm.com>; Portnoi, Dimitri D. <dportnoi@omm.com>; Levine, Adam <alevine@omm.com>
Subject: RE: Fremont Emergency Services (Mandavia), Ltd., et. al. v. UnitedHealth Group, Inc. et. al.; Case No. A-19-792978-B

[EXTERNAL MESSAGE]

036080

Natasha,

The Health Care Providers will depose Mr. Rosenthal on March 12 and will reconvene his deposition when United has completed its document production of his and his assistant(s)' custodial emails/documents (to include handwritings).

As to your first point below, we agree that the parties have agreed to discuss scheduling of depositions, subject to the Court's rulings at the February 25 hearing regarding timing, availability and ability to recall witnesses, etc. Please note, however, that the Health Care Providers have objected to Ms. Owen's deposition and I am awaiting the response from United after our earlier meet and confer as to whether United will voluntarily withdraw the notice of deposition.

Regards,
Kristy

Kristen T. Gallagher | Partner

McDONALD CARANO

P: 702.873.4100 | **E:** kgallagher@mcdonaldcarano.com

From: Fedder, Natasha S. <nfedder@omm.com>
Sent: Thursday, March 4, 2021 1:13 PM
To: Kristen T. Gallagher <kgallagher@mcdonaldcarano.com>; Amanda Perach <aperach@mcdonaldcarano.com>
Cc: Pat Lundvall <plundvall@mcdonaldcarano.com>; Roberts, Lee <LRoberts@wwhgd.com>; Balkenbush, Colby <CBalkenbush@wwhgd.com>; Llewellyn, Brittany M. <BLlewellyn@wwhgd.com>; Blalack II, K. Lee <lblalack@omm.com>; Portnoi, Dimitri D. <dportnoi@omm.com>; Levine, Adam <alevine@omm.com>

Subject: Fremont Emergency Services (Mandavia), Ltd., et. al. v. UnitedHealth Group, Inc. et. al.; Case No. A-19-792978-B

Kristy and Amanda,

This communication is to confirm that the depositions you have noticed for Ms. Paradise, Ms. Nierman, and the seven 30(b)(6) deponents are not going forward prior to March 15. Rather, in light of the new agreed-upon May 31 fact deposition completion deadline we anticipate the Court will enter, the parties will work together to develop an agreed-upon schedule for those depositions, as well as the 10 depositions that United noticed recently, and present the same to the Special Master.

Regarding Mr. Rosenthal, we are unable to commit to making a full custodial production by March 8. We will continue to make document productions for Mr. Rosenthal before March 8th and even March 12th but we will not complete the production of all of his custodial documents by that date. Mr. Rosenthal has already made significant scheduling changes in light of your prior unilateral request to depose him, and he will be made available on March 12. Please confirm you will be proceeding with this deposition by 5PM Pacific today.

Thanks,
Natasha

O'Melveny

Natasha S. Fedder
nfedder@omm.com
O: +1-213-430-8018

O'Melveny & Myers LLP
400 South Hope Street, 18th Floor
Los Angeles, CA 90071
Website | LinkedIn | Twitter

036081

036081

036081

036082

036082

EXHIBIT 19

Custodian	Count
Rosenthal, Daniel	3

036083

Row #	Bates	End Bates	Num Pages	Rating	Confidentiality	Custodian	Date	Date Received	Date Sent	End Family
1	DEF011049	DEF011049	1	unrated	CONFIDENTIAL	Rosenthal, Daniel				
2	DEF011050	DEF011051	2	unrated	CONFIDENTIAL	Rosenthal, Daniel				
3	DEF011052	DEF011054	3	unrated	CONFIDENTIAL	Rosenthal, Daniel				

EXHIBIT 20

(FILED UNDER SEAL)

036085

EXHIBIT 20

492

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.

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

UNITED HEALTHCARE INSURANCE COMPANY, Connecticut corporation; et cetera, et al.,

Defendants.

(Full caption on Page 2)

MEETING OF COUNSEL BEFORE THE COURT

REGARDING PROPOSED JURY INSTRUCTIONS

HELD NOVEMBER 21, 2021

BEFORE THE HONORABLE NANCY L. ALLF

AT 3:15 PM PST

Reported by: Kimberly A. Farkas, CRR, NV CCR #741

Job No. 47193

036086

036086

DISTRICT COURT

CLARK COUNTY, NEVADA

FREMONT EMERGENCY SERVICES (MANDAVIA), LTD., a Nevada professional corporation; TEAM PHYSICIAN 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.

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

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; SIERRA HEALTH AND LIFE INSURANCE COMPANY, INC., a Nevada corporation; HEALTH PLAN OF NEVADA, INC., a Nevada corporation;

Defendants.

_____

036087

036087

APPEARANCES

For the Plaintiffs:

PAT LUNDVALL, ESQ. (via videoconference)
McDonald Carano, LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, Nevada 89102
plundvall@mcdonaldcarano.com

JANE LANGDELL ROBINSON, ESQ. (pro hac vice)
JASON S. McMANIS, ESQ. (pro hac vice)
Ahmad, Zavitsanos, Anaipakos,
Alavi & Mensing, P.C.
1221 McKinney Street, Suite 2500
Houston, Texas 77010
jrobinson@azalaw.com

For the Defendants:

DMITRI PORTNOI, ESQ. (pro hac vice)
O'Melveny & Myers, LLP
400 South Hope Street, 18th Floor
Los Angeles, California 90071-2899
dportnoi@omm.com

DANIEL F. POLSENBERG, ESQ.
ABRAHAM G. SMITH, ESQ.
Lewis Roca Rothgerber Christie, LLP
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
dpolsenberg@lewisroca.com

036088

036088

APPEARANCES (Continued)

For the Defendants:

COLBY L. BALKENBUSH, ESQ. (via videoconference)
Weinberg Wheeler Hudgins
Gunn & Dial, LLC
6385 South Rainbow Boulevard, Suite 400
Las Vegas, Nevada 89118
cbalkenbush@wwhgd.com

Also present: Colin Stanton, O'Melveny & Myers, LLP

036089

036089

Sunday, November 21, 2021;
3:15 P.M.
* * * * * *

THE COURT: So let's -- I have the binder out so we're going to start at 1. Let's do it.

MR. PORTNOI: So this is a defense proposed instruction, which is only modified from the model insofar as the model -- if you look at the next page, the model is present for your convenience. It's just so that we just replaced the bracketed language of "his-her-its" and we just did "its."

THE COURT: Is there opposition? You guys are sitting on the wrong side of the table.

MR. McMANIS: We switched things up.

THE COURT: It's like we're going back to jury selection.

MR. McMANIS: We agree. This is following the model so we don't have an objection.

THE COURT: So that can be given as is.

Let's go over to 2 then.

MR. PORTNOI: You may remember, Your Honor, that we had reserved on this instruction and paused at that time.

THE COURT: That was 13?

MR. PORTNOI: Yes. This would be -- it's

036090

036090

based on model 13.45. And we have conferred, and we do not have an objection to this instruction.

THE COURT: Okay. So No. 2 can be given.

No. 3.

MR. PORTNOI: This is 13.0. And Your Honor may recall --I'm just going to point out --

THE COURT: And I forgot my laptop at home. I managed to get the pattern instructions.

MR. PORTNOI: You're going to see me any number of times drop my glasses. And that is because this thing just minutes before we started.

THE COURT: No problem.

MR. PORTNOI: So I'll be holding them to my head.

So where we left this instruction off, Your Honor, you had asked that we confer on a description. And if we could not come to an agreement, that we would submit competing versions. What we have is, in the binder, is language that Ms. Robinson had emailed to us for their or for plaintiffs -- for plaintiffs' suggestion. The second page there is what defendants had originally proposed.

And the third page, we tried to slim this down and make it more neutral and less long. But I do think that, ultimately, for 13.0, we're likely to be

submitting separate proposals and asking Your Honor to make a decision with respect to the -- with respect to this issue.

THE COURT: So you want to confirm from the plaintiffs' side?

MR. McMANIS: Your Honor, I think we had submitted a proposal that was just based on the form filled in. I don't know that -- let's see here.

MS. LUNDVALL: Your Honor, this is Pat Lundvall. This is my recollection, and I think Mr. Portnoi is close to being accurate. That is that the last time we discussed this, you had asked the parties to meet and confer if they couldn't reach consensus. I know that we had proposed some language. We haven't, to my knowledge, received anything back from the defense. I know we also are going to suggest tweaks from our language. So maybe the best way to handle this might be to allow the parties the opportunity to actually meet and confer so we can reach consensus because that has not yet been done.

MR. PORTNOI: That's fine with us.

THE COURT: Mr. Portnoi, you'll give that a look?

MR. PORTNOI: Yes, we'll give that a look. And, certainly, by time tomorrow when Your Honor still

has the opportunity to look at it, we will -- we will report back to you during the trial day tomorrow.

THE COURT: Tomorrow. Let's go to 4.

MR. PORTNOI: I think 4 is in here by error, actually looking at it, because I believe Your Honor had already ruled on the competing instruction that plaintiffs had provided on 13.11. So I think we, perhaps, still have a record to make that this was our proposed instruction. And you may need to make the record of saying that, instead, you are not going to give our instruction, but are going to give, I believe, I'm going to ask Mr. McManis to correct my recollection, you're going to give the pattern.

THE COURT: Before I rule I always give the other side a chance to weigh in. So Ms. Lundvall or whoever --

MR. McMANIS: I wasn't there for that. I don't know, Pat, if you have the detail on that.

MS. LUNDVALL: I'm looking at it. And I'm trying to make sure that we're on the same page here because I'm looking at the electronic version that was sent to me. Are we looking at 13.3, Failure of Condition Precedent?

MR. PORTNOI: No. We're looking at 13.11, Implied-in-fact Contract.

MS. LUNDVALL: Okay. So that was not sent to me electronically so I'm a little bit at a handicap then at not being able to see what you're talking about.

MR. PORTNOI: We're opening the zip file now just so we can see what the folder would be called. Give us a moment. It should be tab 4 in the zip file, Pat.

MS. LUNDVALL: So tab 4 of the zip file is 13.30.

THE COURT: I think it's 13.11, Unimplied Contracts.

MS. LUNDVALL: That's what I was trying to get to in the sense of that we may have to defer on this one until we're all on the same page.

MR. PORTNOI: Yeah. So, Pat, I'm going to have Collin, my associate here, email you to make sure that we're on the same page. Perhaps, if tab 5 that we have in the binder matches your electronic tab 5, maybe we can come back to this.

THE COURT: Okay. So we're going to just defer 4 until a little bit?

MR. PORTNOI: Yes.

THE COURT: So let's go over to 5, please.

MR. PORTNOI: 5 is defendants' proposed

036094

036094

instruction. It has no modification from the pattern.

MS. LUNDVALL: Which is Failure of Condition Precedent?

MR. PORTNOI: No. Again, tab 5 is just Contract Requirements, Nevada pattern 13.2.

MS. LUNDVALL: What I'm willing to do is to try to toggle back and forth between these, but they're not -- what was sent to me is not in the same order that you're discussing them. So if you'd please read the title so that I can try to find it.

THE COURT: 13.2, Contract Requirements.

MR. PORTNOI: Since I was the one that emailed you the zip file, I'll open that zip file so that I can maybe help you follow along.

Pat, when I open tab 5, it does come to -- so, Pat, I think what's happening is because of the numerical order, when you open the zip file, the folders are in order and it goes 1, 10, 11, 12, 13. So you scroll down to where it actually has 2, 3, 4, 5.

MS. LUNDVALL: Well, the zip file, whoever sent it to me, has 72 files to it. And the numerical order in which I have been given on these doesn't look the same. So I'm going to have to defer then until Ms. Robinson gets here on this point since --

MR. PORTNOI: I think what's happened is

whatever, probably, virus software you are using has pulled out the folders that are inside the zip file and it's giving you undifferentiated files as opposed to the folders that were in the zip folder. So I don't know, actually -- we can email you as we go along the individual files that are relevant to our conversation and do that on a rolling basis until Ms. Robinson comes, but there's not going to be an instruction that's not going to work that way.

MS. LUNDVALL: All right. Well, from that perspective, I have no heartburn with that.

MR. PORTNOI: Collin, why don't you email right now whatever the individual files we're discussing right now.

THE COURT: So we're deferring 4 and 5?

MR. PORTNOI: Well, I don't think we can because this is going to apply to all the files that Pat has right now -- that Ms. Lundvall has right now. So we just need to get the email to her and, hopefully --

MR. McMANIS: I think I can say for No. 5, our position is that this is an instruction that applies to express contracts as opposed to implied contracts. And there's not evidence that would support submitting this instruction. It's not an

express contract case. It's an implied contract case. So, for that reason, we'd object to the instruction.

THE COURT: Good enough.

MR. PORTNOI: Your Honor, I would disagree with that. This is just contract requirements. It is black letter law in Nevada that an express contract has the same elements as an implied-in-fact contract. The source authority cites to Certified Fire, which deals with both kinds of contracts.

So I do believe that the contract instruction that -- in fact, all of the model instructions that go from 13.2 onward all apply to both kinds of contracts. And then what is contemplated by the pattern is that once you've instructed the jury on what a -- on all the various elements of the contract formation, that's when the instructions give -- you know, that's when the instructions using 13.11 suggests that the Court say, in this case, all of those elements have to be satisfied by conduct as opposed to by a writing or an oral -- or oral statements.

THE COURT: Going back to 2. 2 doesn't close the loop on contracts because it only deals with damages.

MR. PORTNOI: 13.2 -- when I say 13.2, I'm referring to the model instruction that is at tab 5.

036097

036097

THE COURT: Right. I know. But I share his concern based upon the plaintiff that because it's not a written contract, and the standard for implied contract is conduct.

MR. PORTNOI: That's true, Your Honor. But the conduct still has to demonstrate, as Certified Fire held, offer and acceptance, a meeting of the minds, and consideration. And that's all that the pattern instruction 13.2 provides. It is supplied by conduct, that is true, but it is still the same elements. And nothing about this instruction or the pattern instruction suggests anything about a writing or an oral promise.

THE COURT: Give you one last shot at this.

MR. McMANIS: Yes, Your Honor. I think that the instruction -- I know that we kind of deferred 4, but I think the basis for that was that it had been previously ruled on. I think that instruction in 13.11 already says that terms are per conduct and requires manifestation of an attempt to contract ascertainable agreement. I think that covers it from an implied contract perspective.

THE COURT: Based on that argument, we won't give the 5 as proposed.

Are we ready to go to 6?

MR. PORTNOI: Did you email 6? Okay.

6 is based on 13.5. This is formation offer. We have eliminated some of the bracketed language that we don't think applies to this case. Again, an offer needs to be -- an offer is still required in an implied-in-fact contract. The offer is supplied by conduct.

I will point out Certified Fire, likewise, states that an offer is a required element of an implied-in-fact contract. 13.11, which refers to a implied-in-fact contract, doesn't refer to that element, which is a required element that the jury has to find under the law. So I do believe that we need to have an instruction on offer even in an implied-in-fact contract case like this. Otherwise, the jury will risk returning a verdict that is inconsistent with Certified Fire.

THE COURT: Thank you.

MR. McMANIS: Your Honor, our response would be the same as it would to the prior one. This is an instruction for a written contract context, not an implied-in-fact contract, and that the manifestation of the parties of an intent to contract is inferred from conduct as instructed in 13.11. So for the same reasons as with the prior instruction, we don't think

that this is an instruction that should be given because this is an implied-in-fact contract case.

MS. LUNDVALL: In addition, Your Honor, as far as when you take a look at that instruction, it also speaks to revocation. And what I'm trying to do is to discern at this point in time if the jury has heard any evidence on revocation. I don't think revocation has anything to do with this case.

THE COURT: I have the same concern.

MR. PORTNOI: The revocation language is bracketed, and is, therefore, designed to come out in a case where it is not -- where the facts haven't presented. I believe it's something that should be given because, otherwise, you have a situation where we have an offer that somehow exists forever. And Nevada law does not prefer contracts that have no termination date and offers that have no termination.

But if Your Honor has -- does not believe that the facts warrant the revocation language, then that can be -- then the instructions, the pattern instructions, would contemplate simply striking that language.

THE COURT: I think what's appropriate is to give the first paragraph of 13.5, and just take out the bracketed information.

036100

036100

MR. PORTNOI: Good enough, Your Honor.

THE COURT: So that takes us over to No. 7. I've read everything this morning, but I just need a minute to refresh my memory.

MR. PORTNOI: Please take your time, Your Honor. And, again, we've given you the pattern behind it.

THE COURT: All right. Mr. Portnoi.

MR. PORTNOI: This is, I believe, an unmodified pattern instruction with respect to acceptance. It obviously compares with the offer language that Your Honor just suggested should be given in part. And so I believe, again, this still -- obviously, the jury will also be instructed through 13.11 that this will be manifested by conduct so I think that this, again, given that offer and acceptance are elements in an implied-in-fact contract, ought to be given.

MR. McMANIS: Your Honor, we have the same position. I think -- I won't be repetitive. I do think that the second paragraph about qualified or conditional acceptance is probably not supported by any of the evidence that's come out. I don't think there's been any discussion of that. So while I would make the same argument, you know, with respect to the entire

instruction, that specific portion of it, I think, is not supported by the evidence.

THE COURT: Thank you.

MS. LUNDVALL: In addition, as to the first paragraph, what this contemplates is a communication to the party making the offer. And a communication suggests that that's something oral or in writing. And there has been no question about the fact that what we are contending is that conduct is the acceptance that has ruled in this case.

MR. PORTNOI: Your Honor, may I be heard?

THE COURT: I never cut anybody off.

MR. PORTNOI: I just didn't -- I saw you reading.

THE COURT: We just kind of Ping-Ponged.

MR. PORTNOI: I'm sorry. I'm just used to asking.

So I don't believe that -- a communication doesn't necessarily require words. A communication can occur by conduct. If Your Honor may recall Ms. Lundvall's argument in the directed verdict and the arguments that Your Honor credited on the implied-in-fact contract were the argument that we had -- that the defendants -- rather, that plaintiffs had communicated bills to the defendants, and the

036102

036102

defendants had decided to pay on those bills. Those are communications. Those are not oral communications in the sense or written communications in the sense of, I intend to contract, I offer, I accept. They just continue to refer to conduct.

And, again, the jury will be able to follow the pattern instructions that, once having been instructed on offer and acceptance, being subsequently instructed by 13.11, that all of these elements will be -- will not be by words, they will be inferred from the conduct of the parties, that that will nonetheless -- that that will modify 13.6 and provide a clarity that this is all by conduct.

THE COURT: To be consistent with the way we addressed 6, I do understand that acceptance is one of the elements of the contract, but I don't think that the qualified or conditional acceptance is an issue here. We can give the first paragraph of 13.6.

MR. PORTNOI: Your Honor, I would just like to make a record because I do think qualified acceptance is actually quite relevant here. Because, in a sense, that may be precisely what United did. It did not pay the billed charges. It paid the amount it believed was reasonable. That could be interpreted as a qualified acceptance to pay that amount but not to

036103

036103

pay full billed charges. So, in reality, this is actually qualified acceptance is a central issue.

THE COURT: All right. And the response?

MS. LUNDVALL: On that particular issue, what Mr. Portnoi underscores is the fact that both sides agree that there is a duty to pay a reasonable value. The specific term or the specific sum on that is up for dispute. So to the extent that what he is suggesting is that by not paying what we had specifically requested, that that constitutes a rejection. And I just don't think that that's what the law is and that the paragraph would give them that type of an argument.

THE COURT: For the record, please.

MR. PORTNOI: Your Honor, I don't believe that what I'm suggesting is that it automatically turns it into a qualified acceptance. I'm suggesting that if the jury finds the facts that way, the jury can find a qualified acceptance. And both sides will be able to argue based on the law in closing and prior to that. So I don't believe that giving the qualified acceptance language mandates that the jury has to do anything. It simply instructs the jury on what a qualified acceptance is.

MS. LUNDVALL: And then because then what you end up doing is looking at the balance of the paragraph

036104

036104

saying that, if, in fact, that it did a qualified or conditional acceptance, it rejects the original offer and it's a counteroffer that must be accepted, otherwise, there's no contract being formed.

THE COURT: I just don't see the second paragraph applying.

Anything more for the record?

MR. PORTNOI: No, Your Honor.

THE COURT: Let's go over to 8.

MR. PORTNOI: 8 is another one of defendants' instructions. It is, again, just the pattern instruction 13.7, which is not -- which is not disputed. I'm sorry. I didn't mean to say "not disputed." It's not modified. And it simply refers to what is the ascertainable agreement that the jury would have to find.

As Certified Fire holds, any contract, including an implied-in-fact contract, does require a meeting of the minds so as to essential terms. And so in this case this is simply a -- hold on. May I have a moment, Your Honor?

THE COURT: Take your time.

MR. PORTNOI: Your Honor, this is actually modified from 13.7. I was speaking in error.

The modification is that defendants have

036105

036105

added "including the price for any services contracted for because the specific price for services to be paid is a material term."

We do believe that's a correct statement of the law and ought to be instructed in 13.7 with the modification "should be provided." A number of cases, many of them are cited in here, the contract in Certified Fire, for instance, failed, in part, due to the absence of a price term. So we would ask that defendants' instruction, which is a somewhat modified instruction of 13.7. I do apologize that the modified was not noted on the page.

THE COURT: No problem. And this is something I considered about price when you did your motion.

MR. PORTNOI: Yeah. So I do believe with respect to our motion, and I think also with respect to an instruction that had been proposed by plaintiffs, where they had suggested adding language that price is not a material term, I think Your Honor elected to not give that language. So while we continue to believe this entire instruction should be given, for consistency, a backup position could be to simply give the pattern instruction unmodified.

MS. LUNDVALL: And what this would do, by

giving the instruction as proposed or any form of the instruction, in essence, would contradict then the argument that was made and that was actually accepted then in denying the motion for directed verdict, the Rule 50 motion. So the Court rejected the principle that price was a material term of the agreement. And now they're asking the Court then to include some suggestion that price is a material term.

THE COURT: How is this relevant to an implied-in-fact contract?

MR. PORTNOI: An implied-in-fact contract still requires a meeting of the minds. That is a necessary element under Certified Fire, under subsequent cases, and so on. Again, an implied-in-fact contract has all the same elements of a contract. You just have to have them implied through conduct as opposed through a written statement or an oral statement.

So a meeting of the minds still has to happen through conduct. You still need to find -- there still needs to be the case that the parties came to a meeting of the minds, but the only evidence that the jury has to find the meeting of the minds is conduct.

And, again, after giving the 13.7, and assuming that we're talking about the model here,

036107

036107

because I believe Your Honor is probably not inclined to give the price term element of it, but giving 13.7 unmodified, again, after 13.7 is given unmodified, at some point, 13.11 will be given. And 13.11 will emphasize that for every element of the contract, the existence and terms are going to be inferred from conduct. They're not going to be inferred from a written statement or an oral statement.

MS. LUNDVALL: 13.7 seems to try to place undue emphasis on earlier instructions that The Court will have already given. And one of the suggestions then that's found in 13.7 is that the parties must assent to the same terms and conditions. And so to the suggestion Mr. Portnoi offers is that somehow this is silent on terms, it implies that there had to have been an agreement on the price.

THE COURT: So I'm going to suggest that the language from Certified Fire is what I find persuasive. A meeting of the minds exists when the parties have agreed upon the contract's essential terms.

MR. PORTNOI: Your Honor, may I make another suggestion? If you look at the second sentence of 13.7, it reads, "However, contractual intent is determined by the objective meanings of the words and conduct of the parties under the circumstances."

036108

036108

And it goes on. I would suggest that what actually might remove concerns is if we remove the words "words and." The fact that conduct is actually referred in this pattern instruction suggests that it was intended to be used in a contract that is formed through conduct and not through words. I think if we remove "words," we actually have potentially something that is more focused on implied-in-fact contract.

THE COURT: And the response, please? That makes sense to me.

MR. McMANIS: I think if we are referring to conduct, it is -- it's certainly closer, but it does sort of seem to abbreviate what's being said in 13.11 as to, you know, the parties' intent to contract being inferred from conduct.

THE COURT: I think we give 13.7 and delete the words "words and" from 13.7.

Let's go over to 9.

MR. PORTNOI: 13.8. Again, this is largely an attempt to pull from 13.8, which is immediately afterwards. And I think that there's some things, as well, here that make clear -- this is consideration is an element for both an express contract and implied-in-fact contract. Consideration is essential.

And, in fact, there is language in here that

036109

036109

is favorable to an implied-in-fact contract. For instance, after the number list it has the language, "Consideration may be found anywhere in the transaction whether or not it is spelled out in writing as consideration."

So that suggests that this applies regardless of whether there is consideration. There is bracketed language, which, therefore, would be considered optional by the authors of the pattern. I would suggest that that does apply in this case and is inside defendants' proposal. That is because that language refers to a benefit confirmed or detriment incurred in the past. It is not adequate consideration. One of defendants' theories in the case -- and again --

THE COURT REPORTER: I'm sorry, Mr. Portnoi.

MR. PORTNOI: Oh, I'm so sorry.

The bracketed language --

THE COURT: Slow down.

MR. PORTNOI: Yes. The bracketed language is talking about past consideration. That's an argument that defendants are entitled to make to the jury, that the fact that, you know, there's a suggestion that a contract was proposed. The implied-in-fact contract is proposed when plaintiffs bill defendants. By the time plaintiffs have billed defendants, any consideration in

036110

036110

terms of treating a patient is in the past.

Again, none of this is a directed verdict or a suggestion that by giving this instruction this means plaintiffs cannot prevail. It's simply a factual issue that the jury is going to have to consider thinking about all the circumstances in terms of whether a contract was formed.

MR. McMANIS: Your Honor, what I would say is I think it is actually, in effect, an effort to sort of push toward a directed verdict on that. And maybe the fact that that had to be, sort of, pushback on that, I think, illustrates it. Because what it sounds like is intended to be argued from this instruction is because you have to perform -- you have to treat the patient before you can get paid, you necessarily cannot have consideration under this instruction. And it sounds like the argument that I'm hearing, which would effectively be a directed verdict. So that would be my response to the bracketed language.

I also think, consistent, perhaps, with some of the prior rulings that we just went through, is that considering only the outward expression of the intention of the parties may seem to limit it a little bit beyond just the conduct, which has been, you know, the language that has been used in the prior two

036111

036111

instructions. So I would add that.

I don't know, Pat, if you have anything else to add to that.

MS. LUNDVALL: Well, I guess, to bring this argument home, what you are looking at in the very last paragraph is that there's -- they want to argue that the plaintiffs had a duty and an obligation to treat all patients pursuant to EMTALA. So the mere fact that we had a duty to treat patients pursuant to EMTALA, that means that the treatment of those patients can't be the conduct, the consideration. That's their argument.

And what they want to say is that in the event that since we already have that duty and that obligation, then we have no contract. And that is a directed verdict.

THE COURT: I'm going to sustain the plaintiffs' objection to the proposed jury instruction. Let's direct right back to 13.8. Exactly the last two paragraphs then we're talking about?

MR. PORTNOI: Well, the last paragraph is the bracketed language to which I understood --

THE COURT: They're also part of the paragraph above it or did I misunderstand that?

MR. McMANIS: No. That's right, Your Honor.

036112

036112

MR. PORTNOI: I would suggest that if that's the case, then, nonetheless, the paragraph that begins "in determining whether" is still important to how a contract works. It may need some phraseology to ensure the jury is not overly focused on expression. So maybe something like "the outward conduct of the parties" as opposed to "the outward expression of the intention of the parties."

What this is trying to target is that the consideration needs to have objective measures that the other side would be able to see or hear, as opposed to something that is internal or subjective.

MR. McMANIS: Just to understand, were you suggesting "must consider only the conduct of the parties"?

MR. PORTNOI: The outward conduct of the parties.

MS. LUNDVALL: I guess what I'm trying to do is figure out what is internal conduct.

MR. PORTNOI: What outward expression and outward conduct, what that's intended to mean is the internal emails, for instance, between one employee of plaintiffs to another employee of plaintiffs, or conduct that is only something that is happening there, that doesn't create consideration. It needs to be

036113

036113

evidenced by the course of conduct between the parties.

MR. McMANIS: I think there is certainly conduct. Whether that's expressed internally or to another party, that is reflective of whether or not there was intent to contract based on the conduct of the parties.

THE COURT: So I'm just going to say 13.8 can be given. The last paragraph that's bracketed goes out. And the paragraph above it is revised to "determining whether there was a bargain for exchange, you must consider only the conduct of the parties."

Did you have something for the record?

MR. PORTNOI: No. I would still prefer our proposed instruction, but I thank Your Honor for the resolution.

THE COURT: Let's go over to 10.

MR. PORTNOI: On 10, Your Honor, this is another place where I just noticed an error, and I apologize. This is, I will represent, a --

THE COURT: I am certain that it's only an error so you don't need to apologize.

MR. PORTNOI: This is, actually, a word-for-word unmodified of 13.29, not 13.8, and, for that reason, you don't have 13.29 behind it. I'm looking at 13.29, and it is identical. And Mr. Stanton

036114

036114

next to me has emailed Ms. Lundvall 13.29 so she's able to see it at the same time.

THE COURT: Where would I find that?

MR. SMITH: It is -- the defense proposed instruction at tab 10 is a faithful -- is, faithfully, just 13.29 unmodified. I just don't have that 13.29 handy. I think Mr. Polsenberg is going to come around to give you this.

THE COURT: Great. Thank you.

MR. POLSENBERG: Thank you, Your Honor.

THE COURT: The plaintiffs will have this as well?

MR. McMANIS: Yes, I have a copy, Your Honor.

MS. LUNDVALL: So what I'm trying to figure out is that, based upon the multiple emails I have here, are we talking about a pattern that is labeled "Failure of Consideration?"

MR. PORTNOI: Yes.

MS. LUNDVALL: How has it been modified by 13.8?

MR. PORTNOI: It has not been. That was where the error was, Pat, is it is actually 13.29. It's an unmodified 13.29. And Collin has emailed you 13.29. And we've given a copy of 13.29 to the Judge.

THE COURT: Given the fact that these are ER

036115

036115

doctors that had to do this work, I don't know why a lot of this is necessary.

MR. PORTNOI: What's necessary about this, Your Honor, is an issue that the jury has to find for the contract claim, also for the unjust enrichment claim is did the defendants receive a benefit or did we receive the consideration or did patients receive the consideration. That's a factual issue in the case.

MS. LUNDVALL: Well, what the suggestion is, is that somehow by treating patients, that that is not a benefit or a consideration then to the insurance company or to the third-party administrator. That's what the argument is driving at.

MR. PORTNOI: Then it's a factual issue that remains in the case.

THE COURT: All right. I don't have a problem with giving an unmodified 13.8.

MR. PORTNOI: 13.29, due to our error.

THE COURT: 13.29. Sorry. Unmodified.

Does that take us to 10?

MR. McMANIS: Can I make one point, Your Honor, about 13.29?

THE COURT: Yes. Of course.

MR. McMANIS: I do think the instruction refers to consideration specified in the contract.

036116

036116

And, obviously, when you're talking about an implied-in-fact contract, there's not -- there may not be something that's, sort of, specified in that same sense. And so I don't know that this, sort of, leaves open the idea that unless there is something in writing that specifies that consideration, even if the other instructions refer to conduct, I think it does create problems there.

MR. PORTNOI: Your Honor, it makes sense in that case to strike the word "specified."

THE COURT: I see the point. Yeah, definitely have to strike "specified" from 13.29.

MR. McMANIS: So maybe it's just, "received in consideration agreed upon by the parties."

MR. POLSENBERG: Or "received in consideration, paren, if no consideration is specified, closed paren, agreed upon by the parties."

THE COURT: I like Dan's suggestion. So let's --

MS. LUNDVALL: Dan, can you repeat the suggestion.

THE COURT: He just got a call from Jane. He's going down to let her in the building so we'll have to just wait for a minute.

MS. LUNDVALL: Okay. Absolutely.

036117

036117

THE COURT: Can we go off the record for a minute.

(Discussion held off the record.)

THE COURT: Let's go back over then to tab 10. We talked about 13.29.

Dan, if you'd do your proposed language.

MR. POLSENBERG: And I talked to Dimitri. And he thinks I'm using too many words and that Jason's version, which is why we were talking about struck and weigh, Jason's version works. So it would just be, "did not receive the consideration agreed by the parties."

MS. ROBINSON: So I guess my response to this one is, what is the theory by which consideration failed?

MR. PORTNOI: Well, as we discussed before, the factual issue is not that here the consideration failed. It's that the contract can't be enforced against a party who proves that the party did not receive the consideration. So the factual issue for the jury is whether consideration was received by the defendants or whether consideration was only received by patients.

MS. ROBINSON: So since we allege that the consideration provided was not just provision of

036118

036118

services to United's patients, but also not balance billing United's patients, which United's witnesses have conceded is a benefit. And, also, providing -- or submitting claims in the manner which United requires, i.e., submitting clean claims electronically. What theory there is that the consideration failed? Because I don't think there's a factual dispute about --

MR. PORTNOI: I disagree. I think there is a factual dispute. For instance, there's only a statement of a promise not to balance bill the member, not members. And that was in the email sent to only one, or maybe two, of the defendants.

So there's a -- on all of those issues of consideration, those are factual issues. There's been no directed verdict that consideration has been established. It is a factual issue for the jury that I don't think we can take away from the jury.

MS. ROBINSON: Has there been any evidence of a member in this case with the claims in this case being balance billed?

MR. PORTNOI: There is evidence, for instance, from, I believe, Ms. Paradise that sometimes TeamHealth balance bills.

MS. ROBINSON: But has there been any evidence of any claims in this case being balance

036119

036119

billed?

MR. PORTNOI: Again, also, not balance billing. It would not be United that would pay in the event of balance billing. It would be the patients paying in the event of balance billing. So that also just further invokes the possibility that the jury can find based on the fact that it was not the defendants who received the consideration or the benefit, that it was the patients.

MS. ROBINSON: And I don't mean to beat a dead horse, but, to me, what you're saying is there was no consideration, not that there was an agreement what the consideration would be and the consideration was not provided.

MR. PORTNOI: Well, what I'm saying is that it's possible, based on this instruction, that the jury could find that the contract is being enforced against a party who proves they did not receive the consideration agreed upon by the parties in exchange for the promise of performance. I'm saying precisely that it's possible, not certain, possible, that the jury could find this precise language was factually the case.

MS. ROBINSON: I think -- and then I'll stop arguing. But just my response to that is that it has

036120

036120

to be more than a possibility. There has to be evidence. And I just don't think there's been any evidence that the consideration was not provided.

MR. PORTNOI: I think there is evidence that, throughout, that inherently in this case there's patients who received care, there's patients who received the benefit of not receiving balance bills.

THE COURT: So I'll overrule the plaintiffs' objection. We'll give Jason's version of 13.29.

Let's go to tab 11.

MR. PORTNOI: So 11. When we start with -- 11 starts with 13.13. It has a modification that I think is on an issue that Your Honor has already ruled, which is, in the middle there is language that -- the third paragraph of defendants' proposed is "Specific price for services to be paid is a material term that must be agreed upon by the parties."

I think Your Honor has ruled on language like this before, but I will, you know, to make a record, I will not concede that that ought not be there. And, instead, if Your Honor rules against including that language, I would suggest that it is 13.13 that we would focus on as the model has something that is applicable in this case in terms of an element of any contract is sufficient certainty that the terms are

036121

036121

knowable. Nothing about this applies only to express contracts. This is simply -- implements the requirement that there be an ascertainable agreement and a meeting of the minds on all material terms.

MS. ROBINSON: Sorry. I'm just looking. So I hope I didn't miss anything here. I think that we would --

I'm sorry, were you going to say something, Pat?

MS. LUNDVALL: The one thing I think that we're going to underscore here is the fact that this is an issue dealing with the certainty on price that the Court has already ruled on in the Rule 50 motion. I'm certain that you're not going to ask the Court to contradict yourself in the context then of the submission of this jury instruction.

MR. PORTNOI: Absolutely not. And, in fact, I believe that this instruction expresses the theory of plaintiffs' case. It says, "However, if an essential term is uncertain but the contract provides a means or formula by which the essential term can be determined or the parties per performance has rendered the uncertain term definite and certain, then the contract becomes enforceable."

THE COURT: I have a problem with giving this

036122

036122

at all because I don't see it's applicable to the implied-in-fact contract. So the ball is in your court, Mr. Portnoi.

MR. PORTNOI: I'll just say I believe it is applicable. And that certainty -- a contract's meaning has to provide something that the parties can target for a contract. But, with that, I'll leave that being my record.

THE COURT: We will not give No. 11.

Let's go to 12.

MR. PORTNOI: So with 12, we made another error, which is that 12 is based on 13.37, which is, obviously, not in the binder. I'm going to ask Mr. Polsenberg if he could loan 13.37 to Your Honor.

And we've emailed 13.37 to plaintiffs so it's coming to you momentarily.

MS. ROBINSON: Should we just wait until that's --

THE COURT: Yeah, let's wait just a second.

MS. ROBINSON: No problem. I'll just take another sip of water.

MR. POLSENBERG: Time of performance.

MR. PORTNOI: Time of performance. Your Honor, so 13.29, again, this is a pattern instruction, which we would request be given

unmodified. We do believe that it is Nevada law that time of performance -- that a contract cannot be formed as a perpetual obligation of the parties. And there's been no -- because that is an issue on which we have a factual dispute in terms of what is the time of whatever implied-in-fact contract has been agreed to and how long it will last, we do believe this is a correct statement of the law to which we are entitled to a simply unmodified pattern instruction.

MS. LUNDVALL: The one thing, as far as to address on this particular point, Mr. Portnoi, is that this pattern suggests that somehow that there's a single contract that's at issue. Whereas, in our circumstance, you actually have a series of contracts that are at issue for each time that a patient comes in for performance. And so the concern that you have about the perpetual nature is not based upon the theory of the case.

MS. ROBINSON: I would also just respond that this instruction is -- the language of this instruction is targeted to an express contract. Talks about specifying a time, the language of the contract, and enforced according to its terms. This is just directed towards an express contract.

MR. PORTNOI: May I have a moment,

036124

036124

Your Honor?

THE COURT: Please.

MR. PORTNOI: So, Your Honor, plaintiffs -- to respond to Ms. Lundvall, plaintiffs' proposed 13.0 reads, "Plaintiffs claim that they entered into an implied contract with defendants."

This is at tab 3. It's always been the theory of the case, it's the theory of the case in plaintiffs' own words, that there is an implied-in-fact contract, not many implied-in-fact contracts. I think if we were to look through plaintiffs' submitted jury instructions, every jury instruction would refer to contract in the singular.

MS. ROBINSON: I think that we can proceed from that premise and still this instruction does not apply because, A, it's targeted to express contracts, and, B, there's not really any dispute regarding the time of performance in this case.

THE COURT: Is it relevant to any of the claims of the plaintiff?

MS. ROBINSON: The time of performance?

MR. McMANIS: I don't think so. And I don't think there's any evidence that there was any untimely performance alleged by the defendants as a basis for, you know, avoiding any of the claims. So I just don't

036125

036125

think there's an evidentiary basis for the instruction.

MS. ROBINSON: Then I would just also add that there's not really an allegation that we've hoisted a perpetual contract. Our patients, their insureds come to us. And there's never really been any suggestion that there would be a time when they would not have to pay some amount for the care of those patients. I don't think there's a dispute about that.

THE COURT: So I'm going to sustain the plaintiffs' objection. 12 will not be given.

Go to 13.

MR. PORTNOI: On 13, this is the defense failure of condition precedent. Your Honor may recall that there are about -- there are, I believe, 445 claims in this case where defendants say that the claims were not submitted to any defendant in this case. They were submitted to other insurance companies. Many times they are submitted to, for instance, UnitedHealthcare North Carolina, other unit entities. That occurs because a United member who lives in North Carolina comes to Nevada, drinks too much, winds up in the emergency room. Those are not our insureds and we're not obligated --

THE COURT: That happens here?

MR. PORTNOI: And for some of them, we

036126

036126

believe they are simply, in error they were sent to Aetna. They're just not our insureds. They're not even insureds of our affiliates. So the condition precedent here is that any claim has ever been made.

As you heard Ms. Robinson say earlier, one of the obligations that plaintiffs agree to was to submit clean claims. On these 445 claims, we do not believe the claims are clean. And so, because they are not, in Ms. Robinson's words, clean claims, the condition precedent has not arisen for those 445 claims.

MS. ROBINSON: I guess I just wouldn't have thought of that as a condition precedent. That would just simply be something that was not between the parties. So I don't see that as a condition precedent. I just think injecting a condition precedent here is confusing to the jury.

THE COURT: I think it's confusing, too. I'm going to decline to give it. And please make a record, Mr. Portnoi.

MR. PORTNOI: Well, Your Honor, I would just point out that what is happening at this point is you are issuing judgment against us on 445 claims. We have a defense. They say that they had an obligation to submit clean claims. They did not submit these clean claims. This is directed verdict. And they have not

036127

036127

submitted --

MS. LUNDVALL: Respectfully, this is not directing a verdict. It's preserving the opportunity to suggest that if at the conclusion of the trial that there is not evidence of all of the claims that are in our claims dispute, that damages should be reduced. And they preserved that argument as far as in a damage calculation. So it's not directing a verdict against the defendants.

THE COURT: It is not a directed verdict.

MR. PORTNOI: It is a directed verdict on our defense of failure of condition precedent. That is a defense that is in our answer. That is a defense that is in our joint pretrial memorandum. It's been --

THE COURT: I just don't see it as relevant to the implied-in-fact contract. And I think your defense is absolutely intact because you're going to ask for an offset if the jury thinks there's liability.

MR. PORTNOI: Again, Your Honor, the record is made.

THE COURT: Thank you. Let's go over to 14.

MS. ROBINSON: Did you want to go ahead -- accord and satisfaction. I'm sorry. I have the wrong --

THE COURT: I have 14 being Unfair Insurance

036128

036128

Practices.

MS. ROBINSON: Sorry. I have not been able to catch up with the -- I did not have a printer.

THE COURT: Let me know when you're ready.

MS. ROBINSON: The one that says Nevada Unfair Insurances Act definition.

THE COURT: Right.

MS. ROBINSON: Okay.

THE COURT: Mr. Portnoi.

MR. PORTNOI: This is a place where we have competing instructions in terms of the elements. I think that, if you see, there are two instructions for plaintiffs here. We received, actually, the second instruction after the binders were printed so we didn't necessarily know where to put it, but we wanted to make sure it was in front of Your Honor.

It's our position, if you go to the third page, the model instruction only refers to a few elements. We believe that in a case as complex as this there actually are a number of factual elements that have not been established that we believe the jury is entitled to establish. Again, one of those is the statute. Again, to some extent, this is record making. But that the defendant they're finding against is an insurer.

036129

036129

Ms. Lundvall may suggest that I am asking you to reverse your directed verdict motion, but, obviously, your directed verdict motion simply would have found that the factual element was, as a matter of law, not established. Here we are looking to say that the element is a factual issue for the jury.

In plaintiffs' trial brief on this issue, they actually say that it is not a problem because they can actually submit evidence that every defendant is an insurer or, rather, they have submitted evidence that every defendant is an insurer. So that turns it into a factual issue for the jury, as opposed to one that would be resolved in the directed verdict motion.

The second element is that the plaintiff is an insured. Again, the statute provides liability for an insurer against -- an insurer against its insured.

Again, with respect to the issue of a contract, I would also just remind Your Honor again that plaintiffs have alleged throughout that they are basing this claim on contract. This is going back to Your Honor's order on the motion to dismiss, which held that the Nevada Unfair Claims Practices Act claim could go forward because it was based on a contract.

So we do also believe as a matter of element 3, that that is present. I think that 4 and 6 are in

036130

036130

the model. 5, I think, is based on 686A.270, which based on plaintiffs' amended instruction, I think they now -- which is on the page before -- they now agree that this is an element within here.

And then we also added -- because it is in the model that the violation was a substantial factor in causing damages, we added a model instruction for substantial factor. Because the jury, in most cases by this point in an instruction, a jury would have been instructed on what substantial factor is probably three or four times. So it wasn't included in the model, but we think it's important for the jury to know what a substantial factor is.

This is, obviously, more than what is in the pattern, but there are more issues present than the pattern contemplates in an issue as novel and complex as this one.

THE COURT: I have no problem giving 11.20, but -- I need to hear the argument of plaintiff, but the Unfair Claims Practices Act definition as requested by the defendant is overly broad. So let me hear the objection.

MS. ROBINSON: Thank you, Your Honor. The first three points about insurer, insured, and implied-in-fact contract have already been -- we've

submitted trial briefs on it. We've also argued it during directed verdict. And as far as the Unfair Insurance Practices Act, that is defined later so it doesn't need to be repeated here. Or -- sorry, that is part of the form instruction.

As far as the officer or director or department head, we have submitted a competing instruction for their following instruction so that is not an issue. It is in the statute so that's fine.

And then substantial factor, I mean, I actually think that a jury can understand what that means. I don't think they need a negligence definition for that. So I think that the form instruction is fine the way it is.

THE COURT: And for the record, please?

MR. PORTNOI: Well, for the record, obviously, generally, when substantial factor is used in an instruction, we instruct on what that means. And I think that there is a reason for that. I think if we want to look at -- I think it may make sense to defer the issue of how to do officer, director, or department head as we get to a subsequent tab where we'll be able to compare that better.

But I do, again, for the record, I think that the insurer, insured, insurance contract, those are

elements of the statute that if the jury is not instructed on, then a verdict will be -- has the risk of being issued without the jury finding on all of the legal elements.

THE COURT: 14, pattern 11.20 will be given --

MR. POLSENBERG: Your Honor, can I raise one point?

THE COURT: Certainly.

MR. POLSENBERG: The correct name for the statute is the Unfair Claims Practices Act. That's what it's been called in all of the opinions, Wohlers v. Bartgis.

MS. ROBINSON: The form calls it the Unfair Insurance Practices Act.

MR. POLSENBERG: The form is wrong. I argued Wohlers v. Bartgis. I argued Federal Insurance. There the Supreme Court even called it the UCPA. There's no case, I think, where they call it the Insurance Practices Act. In fact, the title, the chapter, rather, is Trade Practices and Frauds. And it's broken down into sections. 686A.310 falls under the Claims section, which is why the Supreme Court has always called it the Unfair Claims Practices Act.

THE COURT: So we'll change 11.20 to call it

the Unfair Claims Practices instruction.

MR. POLSENBERG: Thank you, Your Honor.

THE COURT: 15.

MS. ROBINSON: Is this the department head?

THE COURT: Yeah. Let's pivot over to the objection.

MS. ROBINSON: Sorry. Just want to make sure I'm looking at the right one here.

MR. PORTNOI: So 15, this is a separate instruction instructing the jury that an insurer is an element, and giving a statutory definition of what an insurer is. And then, subsequently, instructing the jury in the case that Mr. Polsenberg just mentioned, Albert G. Wohlers, that clear black letter law, a third-party administrator is not an insurer, and, therefore, not subject to the act.

MS. LUNDVALL: Once, again, Mr. Portnoi, you're trying to argue against an issue that was already decided by the Court through the context of your Rule 50 motion.

MR. PORTNOI: In the Rule 50 motion, we were, as Ms. Lundvall indicated, testing whether something could be found as a matter of law against the plaintiffs. In this case we are talking about a matter of fact. And, again, in plaintiffs' trial brief, they

036134

036134

have indicated that this is a factual issue and something that the jury can find against on the basis of fact.

MS. ROBINSON: The definition here is designed to exclude TPAs. And that's the issue that we have.

MR. PORTNOI: The definition here is -- NRS 686A.520 is the definition of an insurer under Nevada law, and, as such, it is unmodified. It is not designed to explain TPAs. We did not design it. We quoted it.

MS. ROBINSON: Nonetheless, the fundamental issue --

I'm sorry. Go ahead, Ms. Lundvall.

MS. LUNDVALL: But what you argued though in the context of your Rule 50 motion is that there was no actionable claim against the TPAs. And the Court had already issued a decision on that. And now what you want to suggest is that somehow that the jury can, in essence, overturn this Judge.

THE COURT: I don't see that this 15 can be given because it would basically direct a verdict to the defendant and it's inconsistent with my prior ruling. If, certainly, my ruling was incorrect, then the Supreme Court will remand the case.

036135

036135

So let's go over to 16.

MR. PORTNOI: I think 16 may also be -- following along the same line, may also be a record-making exercise here. But, again, we believe an insurer has a cause of action as a matter of fact. We've defined -- sorry -- that an insured has a cause of action. And, as a result, we would argue that the jury has to find as a matter of fact that each plaintiff is an insured covered by a policy of insurance issued in this state by an insurer defendant.

MS. ROBINSON: Your Honor, I believe this has already been argued extensively.

THE COURT: Okay. So 15 will not be given. That was 16. Okay.

Are we on 17 now?

MR. PORTNOI: Yes.

MS. ROBINSON: Yes.

MR. PORTNOI: Here in 17, we have competing instructions. And I think that the main substantive difference is that defendants have -- well, defendants opened with the "engaging in" language that is in the model 11.21. And then used E, which is the only subsection I think we all agree that is at issue here. And then, of course, defendants added a sentence which we believe to be correct in the law and something that

ought to be sent to the jury, which is, based on the case law and based on the plain language of the statute "where the amount of additional liability is a subject upon which reasonable minds could disagree, the liability of the insurer is not reasonably clear."

This is to point out that the fact that that liability has not become reasonably clear is a factual element that the jury is going to have to find. And it is plaintiffs' burden to show that the liability of the insurer has become reasonably clear.

MS. ROBINSON: So the reason that I -- I guess, two objections to this. The first is, of course -- and I think we have identical first sentences, which are basically pulled form the form instruction so the entire debate is on the second paragraph.

The issue here is that I think the way that this is phrased -- well, first of all, I don't think it belongs. It's not in the form. And I think that it's based on cases that tend to -- that are very different from this one. This is a situation where you have, like, a casualty insurance and there's, you know, a debate about how much coverage should be given for the loss. And the insured sues believing that there should have been more coverage provided for a specific loss.

036137

036137

What we are arguing here is that there's been a deliberate campaign to set unreasonably low prices or, excuse me, reimbursement rates. And the language here actually suggests that if the jury believes that we should -- if the jury believes that reasonable minds could differ about whether or not we should get our billed charges or we should get 90 percent of our billed charges, then liability is not reasonably clear even though, in fact, what we were getting was a tiny fraction of our billed charges, if that makes sense.

THE COURT: What seems fair to me is to take 11.21 and put in the first sentence and then E and L. They seem to be the applicable.

MR. PORTNOI: Did you say L?

THE COURT: L.

MR. PORTNOI: L is not alleged in this case, Your Honor. Plaintiffs are pursuing only E.

THE COURT: Not failing to settle claims promptly? That's right. Hang on. Why did I write that? You're right.

MS. ROBINSON: It's E.

THE COURT: It's E. It's only E. So that seems appropriate to me. How did the --

MS. LUNDVALL: One of the things that maybe the Court could consider is, based upon the evidence in

036138

036138

this case, is the applicability though of G.

MR. PORTNOI: Your Honor, only E has been alleged in the second amended complaint. Only E has been alleged in the joint pretrial memorandum, which supersedes the pleading. We are not at a point where we can amend the claims in this case. If we were, we would have to reopen evidence and what we would have had -- defendants have never impliedly or expressly consented to amending the joint pretrial memorandum, which is clear.

THE COURT: Is there a response?

MS. LUNDVALL: On this particular point, what the Court is permitted to do is to be able to conform the pleadings to the evidence that's been given in this case. And so to the extent we are foreclosed from doing so, I don't understand how it is that we would be.

There's been evidence that has been submitted as to what the website was concerning the payment by which out-of-network ER benefits would be paid. And so to suggest that somehow that the amounts we received were less than what those advertising materials were, we could amend our pleadings to conform to that evidence.

THE COURT: Is that the reasonable and

customary argument?

MS. LUNDVALL: Yes.

MR. PORTNOI: Your Honor --

THE COURT: I'm inclined to say that they have put on evidence for the jury to determine.

MR. SMITH: Your Honor, I apologize for interrupting. At some point, we're going to get into another issue where the plaintiffs that were expressed in their joint pretrial memorandum about the scope of their claims, and now, after they've rested their case and we have, what, one day left of evidence to put on, they're attempting to amend the complaint and amend the joint pretrial memorandum.

So just on the point that Ms. Lundvall was making about conforming to amend the pleadings, in the case last year, Yount v. Criswell Radovan, the Supreme Court was very clear about the limitations on conforming to the evidence. And a key component is that there needs to be consent by the other side. And we absolutely have not consented to the trial of these claims that were not defined in their joint pretrial memorandum or in their second amended complaint.

THE COURT: Okay.

MS. LUNDVALL: But on that particular point, it wasn't a consent to the amendment. It was consent

036140

036140

to the admission of the evidence on which the amendment was made. And there has been consent to the admission of the evidence. For example, on Exhibit 363, which is the website, there was no objection to the admission of that evidence.

MR. PORTNOI: But, Your Honor, we would be able to say -- for instance, 363 does not solicit any kind of business from anyone. And, to be clear, G only relates to written or printed advertising material accompanying or made part of an application. There's been no evidence, and we did not consent to the presentation of evidence, that that website was advertising. We would go back. We would have potentially asked Mr. Haben more questions about whether that was advertising or just simply information. There was no evidence that that website accompanied an application. In fact, it does not accompany an application.

So this is the problem when we amend the pleadings is we start to get into, well, maybe this statute kind of fits, maybe it doesn't. Then we get to a place where the parties have been preparing for trial for years. And, in fact, going back just a few days ago when we got new Unfair Claims Practices Act instructions from plaintiffs, it still didn't include

036141

036141

G. It simply is the case of, no, we did not consent to presentation of this claim. And if we were to reopen the pleadings and add new claims, we would need substantially more time for trial. We would be grossly prejudiced.

MR. SMITH: Your Honor, if I could just add one thing. The point about the specific exhibit, the only way that consent that agreeing to allow evidence in is transformed into an implied consent to a different claim is if the evidence is solely relevant to that un-pleaded claim.

But here there's no contention that Exhibit 363 had no relevance to any of the issues in the case except for subsection G. If that had been the case, if you can only say that the only thing that was relevant to was subsection G, then they might have an argument, but that clearly is not the case here, that that evidence is relevant to other issues in the case.

THE COURT: I know that you adamantly disagree with this. But the fact that the usual and customary evidence has come in, I think, requires us to get into G.

MR. PORTNOI: Your Honor, we're going to need to recall witnesses because we need to be able to talk to witnesses about whether Exhibit 363 is part of an

036142

036142

application. And we're just going to go past Thanksgiving.

THE COURT: Written or printed advertising material or made part of an application.

MR. PORTNOI: Accompanying or made part of an application. It has to accompany an application or be made part of an application.

THE COURT: Is not the website part of their advertising about what services they provide?

MR. PORTNOI: No. It can simply be informative. Not everything on the internet for a for-profit company is advertising.

Even if that is the case, Your Honor, it is a separate element that has to accompany or be made part of an application. And it has not been -- there's no evidence that it has been made part of an application or that it accompanies an application.

THE COURT: I've been persuaded. It will be E.

Do you have something for the record?

MS. LUNDVALL: The only thing I would offer for the record is that I find it a little bit disingenuous to suggest that you could have a website that informs your insureds how it is that they are going to process their claims, and then suggest somehow

036143

036143

that it doesn't apply, and that an insured cannot rely upon that, or anyone else cannot rely upon that.

Because that's what the argument is here, that it's okay to put whatever you want on your website that says this is how we're going to process your claims, but when it comes down to brass tax, unless a website is attendant to your application on --

MR. PORTNOI: Your Honor, it's not the argument that --

THE COURT: Hang on.

MS. LUNDVALL: This seems like this is an issue that the jury could consider. And the argument they're making they could make to the jury in a suggestion that it doesn't apply. But then the jury is entitled to pass upon that reasonableness of such an argument.

THE COURT: The reasonable and customary is in the record so you can argue it. But the instruction will be 11.21E.

Let's go to 18.

MR. PORTNOI: Your Honor, with 18, I would make a suggestion to you. If you would go back to tab 14 and take out the second page there. That will be plaintiffs' competing instruction on this that, I think, it will be easier for you to see the two

036144

036144

competing instructions together. Which all of this relates to the issue of whether or not an officer, director, or department head knowingly permitted or had prior knowledge. I think we're now at a point where plaintiffs and defendants agree with that.

I think that probably our main disagreement with respect to both instructions is with respect to the last sentence of both instructions. Defendants have proposed "a claims manager is not an officer, director, or department head. Prior knowledge, not after the fact ratification, is required."

That is contemplated in many cases. In fact, if you look down, there's a -- there is a citation to Goodrich v. Garrison, and the, quote, claims managers generally do not qualify as department heads, officers, or directors.

Looking to the last sentence of plaintiffs' instruction, "A defendant knowingly permitted such act or had prior knowledge thereof if an officer, director, and/or department head of the defendant developed, approved, implemented, and/or authorized polices and procedures for the settlement of claims which claims managers followed."

That is not anywhere in any case law.

There's a citation below that plaintiffs

provided to My Left Foot. And I'd like to tell you what the evidence was in My Left Foot. In My Left Foot, there was a claims manager that addressed the claim. However, there was a declaration and there was a memorandum from a specific director, officer, or department head to that claims manager that said, you have authority to settle this for $75,000. And then the claims manager, in fact, settled it for $75,000.

There's nothing in there that suggests that general policies or anything of that sort is what is contemplated here. So I would suggest that defendants' instruction is a correct statement of the law; whereas, the last sentence in plaintiffs' instruction is not a correct statement of the law. But it may be that the most sensible thing, ultimately, is to pick the first part of either defendants' or plaintiffs' instruction.

MS. ROBINSON: So my response to that is that I'm looking at My Left Foot right now, and as I read it, it says that there is an authority letter that the claims manager had authority to handle any claim less than $750,000. But that wasn't specifically necessarily directed to a specific claim. It was that he had authority to handle claims of this nature.

So point being here that the evidence United has presented is that they have so many claims that

these are handled by computer. These are not even handled by individual human beings.

So the way that they were handled was through a policy that was developed by these department heads, which we've already argued about during directed verdict whether or not they qualified as department heads or officers.

And so there's really no other way that this could be established on these facts. This is not, again, a casualty policy where you have a single loss and there's a great deal of back and forth about that loss. These are hundreds of thousands of very relatively small claims that are handled by computer, set by policies that have been directed by the people who testified in this case.

And so that's -- based on My Left Foot, and just, honestly, common sense, that's really the only way that this could be established in facts like this. And we do have the evidence to support it.

THE COURT: It makes sense to me to take the language of 686A.270 and to require the parties to conform that second sentence of the plaintiffs' proposed so that it's an accurate statement of Nevada law.

MR. PORTNOI: Your Honor, I just don't think

036147

036147

the second sentence -- it conforms with Nevada law if we don't include the second sentence. I think the second sentence is no more than gloss that is not contemplated by any case or the statute.

THE COURT: Unfortunately, I don't have the statute with me.

MR. SMITH: If you look at either of the two proposed jury instructions, I think both parties faithfully included it in the parenthetical that is in the authority underneath.

MS. ROBINSON: Again, it can be a situation where every individual claim has to be approved by a department head or an officer because that literally could not happen in a case of this nature. What has to -- the only way that this makes sense is for the claim to be processed pursuant to a policy that has been approved. And that is consistent with both -- and I think the only case that we have is this, and this is a District Court, a Federal District Court, case.

THE COURT: So what we will do then is take 686A.270 as proposed in 14, and take out the last sentence.

MR. PORTNOI: Just so I'm sure we have our record clear, when you say "as proposed in 14," are you starting with defendants' instruction or plaintiffs'

036148

036148

instruction?

THE COURT: Plaintiffs' instruction.

MR. PORTNOI: Plaintiffs' instruction and striking the last sentence?

THE COURT: Yes.

MR. PORTNOI: Thank you, Your Honor.

THE COURT: So we are to 19.

MR. PORTNOI: So we have competing instructions. Actually, I think that the second instruction is a replacement that was filed today after the binders were printed so I think that is the operative instruction for plaintiffs.

Again, this is a situation, as with unjust enrichment, where there's no pattern instruction for damages with respect to the Unfair Claims Practices Act. Defendants have proposed one that reads, "an insurer is liable to its insured" -- obviously, that might need to be amended -- "for any damages sustained by the insured as a result of the commission of any unfair practice set forth in the prior instruction. An insurer is liable to an insured only for damages that arose from the improper claims handling rather than from the underlying injury."

And this is based on case law and from the statute itself, that the statute does not provide

036149

036149

damages for the underlying jury. It provides damages usually for consequential harms that are separate and apart from the underlying value of the claims themselves.

THE COURT: So page 14 seems reasonable to me. So let me hear --

MS. ROBINSON: So let me just make sure I'm looking at the right one. Right. We actually -- so I made an error in that. So the one that you should be looking at that's ours is plaintiffs' second supplemental 5 at the bottom. And I can hand that to you if that's not --

THE COURT: I have it. Replaces Instruction 4.

MS. ROBINSON: The reason I replaced it is because I realized that the evidence that we provided is the allowed amount for the claim and not the paid amount. And so that's the correction there. It's the amount allowed and the amount that was allowed -- the amount that should have been allowed versus the amount that was allowed as opposed to paid. Paid was an inaccurate word.

THE COURT: So, that being said, your response, please?

MR. PORTNOI: Again, my response is that the

additional -- that plaintiffs' instruction is simply incorrect as a matter of Nevada law. That Nevada law explicitly prohibits giving damages of this kind. And that this would simply create duplicative damages of the contract in the unjust enrichment claims, as opposed to what the Unfair Claims Practices Act damages are supposed to be, which is to provide damages that are ripe by the claims handling process as opposed to the underlying injury.

THE COURT: Slow. Slow. Slow.

So I'll overrule the defendants' objection. The language of plaintiffs' second supp. 5 will be used.

MR. PORTNOI: Thank you, Your Honor.

THE COURT: And I assume the defendant objects to this?

MR. PORTNOI: Yes, Your Honor.

THE COURT: Let's hear it.

MR. PORTNOI: Again, as I said, plaintiffs' second supp. 5 is an incorrect statement of law.

MR. POLSENBERG: Can I interrupt for a second? Judge, we got rid of the part of the rules of civil procedure that say you have to write "rejected" on each proposed instruction. I just need the record to be clearer that you rejected our proposal, not just

036151

036151

that you overruled our objection to their proposal.

THE COURT: Then someone needs to pull out NRS 686 for me, 686A.

MS. ROBINSON: I think they're talking about tab 19.

THE COURT: I know.

MS. ROBINSON: Oh, sorry.

THE COURT: They are.

You are saying that you believe it's an incorrect statement of the law?

MR. PORTNOI: I believe it's an incorrect statement of the law. It's not based on -- it's not based on something that is expressly textural in 686A.310. It's based on the fact that the damages have to arise from our failure to promptly, equitably, and fairly settle the claims after liability had become reasonably clear.

Based on the Yusko case, which is, in fact, a Federal District Court case, which is only persuasive, But, nonetheless, that case and others have held that based on the structure of the act and the harms that it is meant to remedy, that liability is limited to those damages that are -- that arise out of the claims handling process itself. And they don't contemplate that you actually get the underlying injury compensated

036152

036152

on the basis of the Nevada Unfair Claims Practices Act. Those are usually injuries that are compensated under other claims, here the unjust enrichment and the implied-in-fact contract claims.

THE COURT: "The measure of damages for unfair insurance practices is the difference between the amount defendant would have allowed if it had not engaged in the unfair practice in the amount, if any, they did allow."

And you claim that's not an accurate representation of Nevada law?

MR. PORTNOI: That's correct, Your Honor. What you would have here usually under the Unfair Claims Practices Act --

THE COURT: I've brought that up -- a lot of times during the trial, I have brought that statute up.

MR. PORTNOI: And the statute does not include anything -- to be fair, the statute does not include textural language that directly supports plaintiffs' instruction or defendants' instruction.

THE COURT: I understand your point.

MR. PORTNOI: However, the case law -- however, there are no cases that support plaintiffs' instruction, which is why there is no authority written there. And there is case law supporting defendants'

036153

036153

instruction because the cases that have issued opinions have held that the damages have to be the result of some kind of consequence that comes from the claims handling process and not the underlying injury.

THE COURT: All right. Go ahead, please. Make your record. I'm going to reverse my ruling.

MS. ROBINSON: Okay. So the Yusko case is a casualty insurance case in which the plaintiff had received the limits of their policy. And so there was no argument by which the claims practices could have affected the outcome of -- you know, they were not entitled to more money under the claims. Their only damages were for, you know -- they were saying, we had damages that weren't covered by our policy, but they had gotten policy limits.

What we have here is the nature of the settlement practice is to -- is to set reimbursement rates artificially low as a policy. And so that is the unfair settlement -- that is the unfair practice. And it is exactly that that is causing our injury. This is not a situation where we're saying, there was policy limits that were exhausted and there should have been more.

THE COURT: No. When I reread plaintiffs' second supplemental 5, it seems like a direction to the

jury to set damages. And that's completely within their discretion if there's a plaintiffs' verdict.

MS. ROBINSON: Well, but, Your Honor, what we say is the amount defendant would have allowed for a claim if it had not engaged in the unfair insurance practice. That is up to the jury to decide.

THE COURT: You can argue that, but I'm not going to instruct the jury to award damages to you. It's not right.

MS. ROBINSON: So if they've already determined that unfair insurance practices had happened, so they're reaching the damages phase, and then they're trying to decide how much damages should be allowed, I don't know that the -- I don't know how you can define damages other than the difference between what their conduct caused.

THE COURT: That's a matter of argument though. And, certainly, you have the right to argue. They have the right to argue that there hasn't been any damage. So anything more for the record?

MS. ROBINSON: So I guess I just want to know what instruction is going to be given on damages.

THE COURT: There isn't going to be one. There could be one, if you find that there has been a breach of the contract, you may award damages

accordingly.

MR. POLSENBERG: Right. And so my record is clear, and most of these cases are decided by the Federal District Court because they wind up getting removed by the insurance company defendants. But the measure of damages on whether they should have paid more on the claim is a contract issue. What would be the result -- and Dimitri argued that last week. It would be, for example, if it wasn't paid on time, maybe more health treatment would have been engaged in by an insured. Or, in some of the cases, the way they handled the claim caused emotional distress to the insured over and above what would have been covered by the policy. That's what an Unfair Claims Practices Act claim is. And I've been trying to get the Supreme Court to say that for years.

In Federal, they just decided, no, the insurance policy issue was decided wrong, and remanded it, and, unfortunately, it settled. Not unfortunate to the parties in the case.

So I think it's very important that our instruction is given that makes clear to the jury that this is something different from the contract claim itself.

THE COURT: I don't believe that the

defendants' proposed is correct. But if there is not a breach of -- if there's not an instruction on damages for breach of contract, I'll consider adding something if it's not adequately in the instructions.

MS. ROBINSON: Sorry. For breach of contract or for breach of --

THE COURT: For calculation of damages for breaching implied-in-fact contract if you don't have an instruction.

MS. ROBINSON: We do.

MS. LUNDVALL: If I could offer this, also, for purposes of the record. The argument that's made by Mr. Portnoi suggests that if, in fact, a party brings a claim under this statute, that the only way you can make yourself whole is to also bring a breach of contract claim. And so to the extent that it doesn't require a party to bring two claims, you can bring a single claim so as to be able to make yourself whole and to recover then the benefits that one should have been able to receive.

MR. PORTNOI: Your Honor, it's a statutory claim. It's very narrow. And it's not -- it's -- unfortunately, its history started out as a regulatory statute so it was designed to handle, that's why there's so many in that list, very narrow regulatory

036157

036157

issues, but then a private right of action was created. So it's not surprising that this one claim for one subsection and one section in the Unfair Claims Practices Act wouldn't make a plaintiff whole, that the plaintiff might be multiple claims. And the fact is, insureds, when they do bring these, they do bring multiple claims. I don't think that there is anything that is surprising about that.

THE COURT: Okay. So we've made a record on 19. Let's go to 20.

MS. ROBINSON: Just to be clear, Your Honor, neither instruction will be given?

THE COURT: That's correct.

MS. ROBINSON: Thank you, Your Honor.

THE COURT: So 20.

MR. PORTNOI: 20 is the Prompt Pay Act. There is no model instruction on the Prompt Pay Act. Plaintiffs and defendants have proposed different language. The defendants' language on page 36 is designed to very, as faithfully as possible, copy and paste language out of the various statutes.

The Prompt Pay Act exists in various parts of the code identically because there may be part of the code that applies to insurers, part of the code that applies to third-party administrators. But it's always

036158

036158

the same language in different sections. And those citations are all there.

In anticipation that Your Honor would read this instruction and potentially think, even though it's faithful to the statute, it's not crisp, behind this we have included a shorter version that we think does also embody -- Mr. Smith helped draft this earlier today.

MR. SMITH: It's a modification to plaintiffs' version.

MR. PORTNOI: Yes. We tried to start with plaintiffs' version, but, actually, included the subsequent elements of the claim that are in the statute.

MS. ROBINSON: So I would respond that the statutes say that an administrator shall not pay only part of a claim that has been approved and is fully payable. And so here it says -- their proposed instruction suggests that the defendant needs to approve the full amount of the claim and not pay it. That's not accurate under the statute.

THE COURT: Correct.

MR. PORTNOI: Your Honor, I disagree. That is what the statute contemplates.

THE COURT: What happened is they approved

036159

036159

the claim, but then the reimbursement rate was at issue.

MR. PORTNOI: Because this is a promptness statute. This is not a statute about the underlying claims practices. That's for the Claims Practices Act. This is the Prompt Pay Act. So it really only focuses on timing.

THE COURT: Okay. I believe that the plaintiffs' is adequate as presented on page 15.

MR. PORTNOI: And to make a record --

MS. LUNDVALL: But most important on this is that there is all of this information about the failure to exhaust administrative remedies. That was an issue, at least under the materials that you just sent to me, is that all that language was there. Have you taken it out?

MS. ROBINSON: Ms. Lundvall, the Judge has ruled that our instruction will be given.

MS. LUNDVALL: I apologize.

MR. PORTNOI: Just so that I can make a record. On the last version where we say "the defendant approved the full amount of the claim," we just ask if the Court would consider that should be read, "the defendant approved the claim."

So we still had the three elements. A claim

is fully payable. This is under the last instruction in this tab. A claim where there are three bullets. A claim was fully payable. Defendant approved the claim. And the defendant fully paid the claim within 30 days. We can change from "full approval" to "approval." There are multiple elements to this, statute and instructing the jury on this element, which could create a clearer record.

THE COURT: And the response, please, when you're ready.

MS. ROBINSON: Yeah. Ours is an accurate statement of the law. And if they -- if Mr. Portnoi is alluding to the disputed claims, then they didn't approve the claim. So our claim would fail under our statement of the law. So I don't think there's an issue.

MR. PORTNOI: Again, Your Honor, there are 445 claims that we do not concede that we approved.

THE COURT: I'm not requiring you to by giving this instruction. I'm not limiting you. But I may have cut you off.

MR. PORTNOI: Nope. I made the record. So just so we have the record that you have rejected both versions --

THE COURT: That's correct.

036161

036161

MR. PORTNOI: -- of our instruction, including the subsequent oral amendment that I just made.

THE COURT: Yes. Let's go to 21. It's already 5:00 o'clock.

MR. PORTNOI: We have 34 total instructions, and we're at 21.

THE COURT: Let's take a five-minute recess for my personal comfort.

MR. PORTNOI: Yes, ma'am. Absolutely.

(Whereupon, a recess was taken.)

THE COURT: I can give you a tentative ruling on 21 that I would not give the instruction.

MR. PORTNOI: Your Honor, fully exhausted administrative remedies, that's one of our preserved affirmative defenses. There's been no motion for summary judgment on it, no motion for directed verdict. We recognize that there's not a model instruction for a failure to exhaust administrative remedies. So we do believe this is a correct statement of the law. And that exhaustion is a -- to make a prima fascia case under the Prompt Pay Act, plaintiffs have to show they exhausted administrative remedies.

THE COURT: Did you have anything further? I'm going to reject to give No. 21, as I don't think

036162

036162

it's applicable at the trial level. 22.

MR. PORTNOI: 22 is -- it's just our opening list of affirmative defenses. I can't recall if there's a -- it doesn't say it's based on a model. I have some recollection that it was, but it may not be. This is just our introduction as we shift from plaintiffs' case to defendants' case. Obviously, we'll have to amend the bulleted items because it's likely that some of these affirmative defenses, as we get to the instructions, will not be given.

MS. ROBINSON: So not all of these affirmative defenses apply to all of our claims. So that's our major problem with this. We believe it would make more sense to have individual affirmative defenses. To the extent it only pairs with a certain claim, have it with that claim and make it specific. The way this is worded makes it seem like any one of these could eliminate our entire case.

THE COURT: I would tend to agree and not give 22 because we'll have to address the affirmative defenses separately. Would you like to make a record?

MR. PORTNOI: I think I've made a record that it's helpful to have this transition to inform the jury about how the burden is now shifting from plaintiffs to defendants. So I believe it should be given, but I

036163

036163

understand Your Honor's ruling.

THE COURT: Thank you. Let's go to 23.

MR. PORTNOI: 23 is our proposed unclean hands instruction. Mr. Stanton, during the break, handed you the filing that came after we printed, which includes plaintiffs' competing unclean hands directly to your right.

THE COURT: I just need a moment to look at this.

MR. PORTNOI: Please.

MS. ROBINSON: Of course. Thank you, Your Honor.

THE COURT: In arguing your opposition to the defendants' proposed, please argue your proposed.

MS. ROBINSON: I just wanted to check. I think we'll be fine. I wanted to note, and this is unrelated to this, that Ms. Lundvall is going to handle the argument on the local suppression of evidence instruction. So I wanted to make sure we got to that one before she had to depart.

THE COURT: Let's go. Where is it?

MS. ROBINSON: So the order has been changed since the last time I looked. 32.

THE COURT: All right. Mr. Portnoi, do you mind not taking up the one we've been discussing and

036164

036164

pivoting?

MR. PORTNOI: Of course, Your Honor.

THE COURT: All right. So 32.

Ms. Lundvall, when you're ready.

MS. LUNDVALL: Thank you, Your Honor. I know that The Court has our proposed instruction before you on Exhibit 2. It has yet to be sent to me, but I know what it says to the extent that this is a follow-on to the Court's order that was issued earlier in April of 2021, followed up by the written decision in August of 2021. And it identifies a series of documents that were to be produced to us and the fact that they weren't by a time certain. And that we've been able to demonstrate that these documents do exist, that the Court would give an adverse instruction.

On the categories -- and I would ask Mr. Stanton if he could send the instructions to me so that I can look specifically at the categories so I can direct the Court's attention to the portions of the order that I believe that apply, and couple that with the testimony.

I know it would start with the documents dealt with, the reasons that Mr. Haben and Ms. Paradise indicated in their testimony that they were motivated to implement these new programs because of clients'

036165

036165

concerns. Clients came to them. Clients were expressing their discomfort. Consultants were telling them that clients were expressing this. And that while Mr. Haben acknowledged that he did not, he identified others within the department, and in particular the sales department would have such documents. No such documents have been given to us, and, therefore, we believe that we are entitled to an instruction on that point.

MS. ROBINSON: I'm sorry, Ms. Lundvall, did you say that you didn't have our first supplemental jury instructions with you? We can email that to you right now.

MS. LUNDVALL: It was just sent to me.

MS. ROBINSON: So you do have it?

MS. LUNDVALL: I now have it, yes.

So what I'm addressing then is the bullet point then at supp. 3, speaking with regarding communications with clients as to whether or not defendants' introduction of programs discussed in the lawsuit and whether client requests were the motivating factor in the introduction and use of such programs.

There was a request for production 19 and 16 that was at issue in April. The Court had found there was deficient production on that. And it identified

036166

036166

that if we were able to demonstrate that it was likely that the documents that did exist responsive to that were not produced to us, that this adverse instruction would be given. So I'm going to go just bullet point by bullet point.

We go to the second bullet point then for the fully insured plans. It's all of the certificates of coverage and the contracts. While we have received some certificates of coverage, as exemplars or examples, we have not received all of them from any of the defendants. And that was testimony that was offered by Mr. Haben, Ms. Paradise, Mr. Zimar, as well as Ms. Air (phonetic), that all of those documents would exist and all of those documents would be in writing.

The third point is dealing with the administrative services only plans, the summary plan descriptions, the administrative services agreement, et cetera. Once again, while we have been given exemplars, we haven't been given all of them, where each one of the defense witnesses identified that all of these documents would have been in writing.

But the most important point at subsection 3, and for which I think probably the most contentious and the most at issue, is the documents that were not given

036167

036167

036167

to us.

THE COURT: And the response, please. I'm sorry. Go ahead, Ms. Lundvall. I may have cut you off.

MS. LUNDVALL: No, you did not cut me off. That's the summary, basically, of why that we are submitting this instruction, and we believe that it should be given.

MR. PORTNOI: Your Honor, I think, as this has come up at trial, there's been a consistent request to brief this issue and to get a motion for this because this is an extremely complicated area, and, potentially, one with dangerous consequences when what we're talking about is instructing the jury.

Just some examples of why this is so confusing is we just, for the first time, heard that this is predicated on RFP 16 and 19. That's not something that's referenced in the jury instruction itself that there was a problem with RFP 16 and 19.

There is a statement that because of RFP 16 and 19 we were supposed to produce client communications. I just, for the first time, having to respond to this now for the very first time because it hasn't been briefed, I went ahead and looked at RFP 16 and 19. They don't seek client communications. They

036168

036168

036168

are far, far afield from it.

RFP 16 asks for documents that reflect shared savings programs. It does not request documents that talk about communications with clients. It asks for contracts with third parties. And it asks for amounts we were compensated. That doesn't have to do with client communications and clients talking to us about how much they were -- that the fact that they wanted to see costs go down.

And I'm looking at RFP 19 now. RFP 19 is looking for documents that -- regarding the charges and reimbursements rates. Those don't have to do with client communications. There was an understanding, going back to Ms. Paradise's deposition many months ago, that it was, of course, the salespeople who were talking to clients. That's who talks to clients. Mr. Haben doesn't talk to clients. Ms. Paradise doesn't talk to clients.

This only came up when questioning from plaintiffs asked, well, solicited information about these client communications, but they never asked for those documents. And when we exchanged the list of custodians many, many months ago, those didn't include any salespeople or account folks because the focus of this case has been on the designers and implementers of

036169

036169

shared savings programs. That's been the gravamen of the presentation so far. So there was no reason to believe that would be there.

In addition, with respect to are RFP 16 and 19, Your Honor, obviously, many of these are shared savings programs that occurred over the course of the claims period. The claims period, obviously, July 1st 2017, and onward. But many of these shared savings programs, and certainly the motivation for those shared savings programs, Your Honor, when we're talking about clients coming to tell us they wanted to see lower prices or they wanted to see more controls, when that comes about, what we have is a situation where the -- where, obviously, that's going to precede the shared savings programs themselves. But both RFP 16 and 19 are explicitly limited to only information from July 1, 2017 to the present. So they couldn't possibly include those communications within them.

Meanwhile, of course, if we're talking about did we willfully suppress them, DEFS280128 is in our production. I can rattle off many documents that are in our production that actually do reflect client complaints. They don't reflect direct communications from AT&T to the account executives because no one has ever asked us for account executives, but there's a lot

of information about consultants and clients that is passed along or it becomes paraphrased. And that was produced.

Again, this is all the kind of thing that becomes substantially concerning when what we're saying is, we're going to do this based on a record of a one-page draft jury instruction, and not a motion, and not a hearing that is explicitly going through all of these documents so that we can consider them and move on.

Even thinking about RFP 16 and 19, there's just been a representation that those were subject to Your Honor's August 3rd, 2020 order. RFP 19 is not in paragraph B of Your Honor's August 3rd, 2020 order.

THE COURT: Slow down.

MR. PORTNOI: These are important -- these may seem like details. These are important details because what we're talking about is the due process that is due when we're about to instruct a jury that something was willfully suppressed or, as this instruction says, willfully destroyed, for which there is no basis. There is no basis right now for willfulness. There is none at all. There is only the fact that I believe an AT&T plan was ultimately not -- was potentially not produced.

And that has nothing to do with client communications either. So that creates a real concern. As we look at, for instance, in the tab -- Your Honor, if you look forward, if you actually look at the model instruction for 2.5, the model instruction for 2.5 is quite clear on Nevada law, which is that only the jury may find willfulness. This is taking an issue away from the jury. And the issue is, in some circumstances, we could instruct the jury on willfulness and we could ask them to look at it.

THE COURT: Have I not previously ordered that I thought there was a willful failure to provide some of the discovery?

MR. PORTNOI: I believe the willfulness that Your Honor found was willful delay. And willful delay is not willful suppression. Willful delay is not willful destruction. Willful delay, there's no basis for an instruction on willful delay. And, ultimately, Your Honor, when we get -- when we start moving into the weeds of each of these categories of documents, this presents an extremely complex issue.

Also, you found a prior finding of willfulness based on the need for a discovery sanction, for instance, a monetary sanction and otherwise. But this is, again, now we're in the jury trial. They

designated a witness for this topic, Mr. Yurich. Mr. Yurich was on their witness list, and he would have, in their case in chief, potentially, talked about our -- he's our e-discovery head. He's a person that would have talked about the challenges. He's a person that would have talked about, you know, would have, in our opinion, refuted any finding of willfulness. In plaintiffs' opinion, he was the witness they designated to show willfulness, but they chose not to call him. Potentially, because they knew that his testimony would substantially support our position. Potentially, because, ultimately, we got to a place where we used 19.1 hours on other subjects with one witness so the case had to move along.

But to do this would be to put an issue in front of the jury and would be -- after all of this time, Your Honor, where we've prepared to ask the jury to decide the factual questions in this case, we would be in a place where -- we would be at a place where we would -- we would be at a place where we would suddenly have to ask the jury to decide on these other discovery issues when it's not there.

As we look at, for instance, the stated authority that is in the jury instruction, NRS 47.250 subsection 3, there's something very important there,

too. That section does not create an undisputable presumption -- it creates no presumption for delayed or untimely production of evidence. It is only for willful suppression or willful destruction.

More importantly, as well, it creates a rebuttable presumption. That is the maximum allowable by law. If we create a rebuttable presumption, we're going to -- based on no evidence -- because usually rebuttable presumption would come up because plaintiffs called Mr. Yurich in their case in chief, and on cross-examination, we would get -- the due process that would be required here would require us to call more witnesses to talk about this. And to have this be a jury issue in the middle of the case for which we have no time and for which we're deciding, not based on a trial brief, not based on a motion, based solely on a one-page draft jury instruction not supported by any kind of factual showing, and based on having to wade through issues of -- we would have to go back and look at all of these RFPs and determine, based on the actual language of those RFPs, did we willfully destroy or willfully suppress something. Thinking about it with client communications, why that would be logical. The question here that plaintiffs are saying is that, we willfully suppressed evidence of clients complaining to

036174

036174

us. We willfully suppressed evidence favorable to our case. It's not totally clear the logic of that.

We would have to really think through plan documents, as well as administrative records. We've produced, I believe, administrative records for 16,446 claims in this case, substantially more than we have in this. That doesn't demonstrate willful suppression. That doesn't demonstrate willful destruction. That demonstrates an extremely good faith effort to produce every claim.

For some of these, for instance, Sierra and HPN, it's going to be a different story. Because in that case, because Sierra and HPN deal with fully-insured products, we have immediate access to all the plan documents. And I believe all the plan documents have been produced.

The issue is when we start talking about third-party administration. If you have, say, MGM Grand, they can change their plan documents three times a week and not tell us. So when we're going back and actually having to find an underlying plan document for that line of business, oftentimes, they're not even in our possession to begin with. Nonetheless, we would go and try to obtain it.

And we would really have to wade through that

036175

036175

record, Your Honor. And to do so without having the evidence presentable to a jury, as is contemplated by the statute, by the law, by due process, to do so without even a brief to explain the issues, Your Honor, simply doing it based on the ipse dixit, the say-so, of this jury instruction, I just think is wholly improper.

THE COURT: Thank you. Before you reply, Ms. Lundvall, please outline the order, the findings of the order under which you're moving.

MS. LUNDVALL: Thank you, Your Honor. I'm going to work in reverse then from the Court's order. Particularly, I'm going to read subsection B that is found on page 11 of 13. And this is from the written order that bears the date then of August 3rd of 2021. "In connection with RFPs 5, 6, 7, 9, 11, 10, 12, 13, 15, 16, 18, 21, 27, 28, 30, 31, 32, 34, and interrogatories 2, 3 and 10, anything not produced by United by 5:00 p.m. Pacific time, April 15th, 2021, will result in a negative inference which may be asked of witnesses at the time of trial or at any hearing and will be included in jury instruction, stating that the jury should infer that the information would be harmful to United's position."

So to suggest that somehow that we needed an extra motion or extra briefing or extra anything by

036176

036176

which to ask the Court to give such instruction, that would ask us to do something more than what the Court's order has already required.

Point 2 is this. The Court made a finding of willfulness within the Court's order that's found on 9 and 10. If you go to the section of the Court's order that is found on page 6 and 7, the Court outlined the specific categories of documents for which that you expressly found that their production had been deficient and that they had unduly delayed the proceedings and had done so in a willful fashion.

Subsection A on page 6 deals with United's statements and related financial documents.

Subsection C on page 7 deals with documents related to United's decision-making and strategy in connection with its out-of-network reimbursement rates and implementation. And then it identifies some specific RFPs that were not properly responded to and so did the first subsection.

In addition, section B, "documents related to United's decision-making and strategy in connection with its in-network reimbursement rates and implementation thereof." And the specific section that called for that category of documents.

So let me see, if I can, put this

036177

036177

particularly in context then. The Court already, by that time, found there was willful suppression of evidence. You gave them opportunity by which to cure that by some type of a production by April 15th. In fact, they did not cure them.

At the time of trial, when Mr. Haben, as an example, began to testify and said, my clients were telling me that, our clients were telling us that, we originally objected, if you recall, based upon hearsay. And, ultimately, the Court allowed him to testify, saying that this impacted his decision making. It was influential -- he wasn't testifying based upon the truth of the matter being asserted, but on his state of mind. That state of mind is his decision making.

And so this is expressly then the follow-on question that we asked, as to where would be the documents that would reflect that. He identified that he personally did not keep logs, but others did, that would be found in the sales department. To suggest that somehow the sales department at United is separate from any other department and so that they would have -- they weren't within the scope of this order, I find that to be phenomenally disingenuous.

When you get to then the language that is found within the proposed instruction that we have, it

036178

036178

is straight from Bass Davis. Bass Davis allows two different types of inferences to be made, one based upon willful suppression, a second based upon negligence. The Court did not find negligence, and you expressly indicated that you weren't finding negligence. You were finding willfulness on the part of United not complying, and, therefore, suppressing evidence.

The language also complies with, I think it is the most recent pronouncement on this issue, that is the FTB v. Hyatt case. And that's my case that I've been dealing with for about the last 22 years. And so it comports with FTB v. Hyatt.

Finally, Your Honor, the indication that somehow that we needed to do something more, that something more wasn't our burden to demonstrate when, in fact, we submitted this particular instruction. Because what we were doing was using the Court's order. We had informed the opposing side that we were going to be using the Court's order that you had already found in identifying the categories of documents that would fit within.

They were on ample notice to be able to identify any documents that then actually were produced that would be responsive to these individual

036179

036179

categories. They did not. And, in fact, each and every time that this issue has come up, what they have done is to try to sidestep the fact that the motivation, the decision making, what had motivated their decision making concerning these shared savings programs and any of the other programs, that documentary evidence did not exist.

Now, the exhibits for that determination, and I've scoured the record then, that those documents did not get submitted to the Court.

Mr. Portnoi is accurate. This is a serious issue. We treated this issue seriously. And the fact that they have tried to give the Court's order kind of just the brush of the hand, that somehow that there was something that was incumbent upon us to do, there wasn't. It was incumbent upon them to come forward once we put them on notice that these were the category of documents that we believe that do exist based upon the evidence that's been presented at the time of trial. And it fell directly within the scope of the Court's August order. And so we believe that the foundation has been given for this, Your Honor, and we would respectfully request that you give it.

No party should be able to -- be able to suppress evidence. Especially when they've been given

036180

036180

an opportunity to cure their errors and their omissions and their intentional and willful indifference to the prior Court's order.

And so, in addition to the other arguments I would make, just wanted to offer that to the Court.

THE COURT: Thank you.

And your reply, please.

MR. PORTNOI: Your Honor, none of these issues were encompassed in the August 3rd order. There are the two issues that we're talking about. One, plan documents, which I did not hear Ms. Lundvall reference in the last argument, but that doesn't mean that she's abandoned it. But that was not the subject of the briefing or anything that was before the Court when it came to that. And I remember, because you and I talked the plan documents and administrative record when we were -- when I was arguing the sanctions motion on April 9th. That wasn't the subject.

And, in fact, in their motion for sanctions that was filed, I believe, on March 8th of 2021, they were very clear that they weren't seeking sanctions on the administrative records because we had been producing so many of them and they believed those records were non-substantive. That's a quotation. That wasn't the subject of the order.

036181

036181

Neither was it the subject of the order these client quotations that they are now, for the first time, interested in. But I want to be clear. Those were produced and they were produced before April 15th.

Defendants 280.128, quote, "Our clients costs have continued to rise at alarming rates and are one of the main concerns our clients raised to the account team." Produced before April 15.

Defendants 528.207. "Large employers are showing interest in innovative benefit designs that are on HDHPs to drive down overall healthcare costs.

THE COURT REPORTER: I'm sorry. Innovative designs that are?

MR. PORTNOI: On HDHPs to drive down overall healthcare costs.

Defendants 100.526. "Employers, health point clients, are increasingly believing that incumbents do not deliver the potential value for money necessary to deliver on their health benefits, driving increasing interest in attackers and innovators to disrupt the system."

Defendants 413.948. "Demand for cost of care tools is high, driven by consultant marketing, client frustration with limitations of discount tools, and competitor promotion of these new tools."

036182

036182

036182

Defendants 524.202. "UHG is disadvantaged to the market by 1.73 PM. If you exclude non-court admin, consistent with our competitors, we are slightly more favorable to the industry but remain significantly more expense."

Defendants 305.683. "ASO clients are seeking more OON, out-of-network, spend solutions without necessarily shifting greater cost share to employees."

Defendants 482.543. "The heat is on and we need to formulate our position with being compared to our competitors. We've got some immediate needs for any insights we can get."

There's no willful suppression of evidence. There was no suppression at all of evidence that our clients were putting pressure on us. We produced them. We produced hundreds of thousands of documents overall. This is a portion of the documents that relate to the pressures that our clients were putting on us.

The fact is that what is at issue in this case is, as we pointed out, the state of mind of the witnesses, Mr. Haben and Ms. Paradise, when they were in their roles creating shared savings programs. And their state of mind was influenced by folks in other parts of the company telling them about client pressure.

036183

036183

It was not directly influenced by the individual statements that might have come from AT&T and others, which, by the way, may have been oral. There is no -- there's been no statement that there are some batch of emails that came from AT&T to the sales team that were, A, never requested, and, B, might not even exist to begin with. And that's the record we're dealing with on a subject matter that wasn't briefed in April, wasn't argued in April, and was not the subject of the August 3rd order.

If I go to the August 3rd order, what we see is there was a reference to paragraph 16, subparagraph A, which relates to our shared savings program. It says we hadn't produced any agreement with any employer group related to shared savings program.

It's not relevant to the subject matter that we're talking about when we're talking about client communications. Documents related -- subparagraph C. "Documents related to United's decision-making and strategy in connection with its out-of-network reimbursement rates and implementation thereof."

Here it is described as information related to decision made or reimbursement strategy or the methodology. We'd already produced or were produced by April 15th the documents that I just listed to

036184

036184

Your Honor that relate to that.

And, oddly, I heard subsection D, which relates to in-network reimbursement. This has nothing to do with in-network reimbursement.

So this is an issue -- and we have multiple RFPs underneath this, 6, 7, 18, 31, 32. We would have to go through these one by one because none of these issues were determined in the April -- at the April 9th hearing or the August 3rd order. These are new issues that are being presented to Your Honor now for the first time.

Willful delay may have been found with respect to categories of documents. But willful delay was not found with respect to any category of documents that have been put at issue in this jury instruction. And, certainly, willful suppression has not been shown. Neither has willful destruction.

Where we -- and, you know, the question is, is there an implication that plaintiffs were supposed to do something to justify the instruction. That's how jury instructions work. You put on evidence to justify a jury instruction. This is a jury instruction. Again, when we look at the pattern instruction 2.5, it's not -- it is something where the jury has to be informed or the jury has to make the determination.

036185

036185

THE COURT: I'm going to stop you here. I took an oath to be patient, but I really pretty much made up my mind on this. I'll give you both a chance to respond. To me, it seems fair to mark as an exhibit or have the Court take judicial notice of a redacted order as of August 3, 2021. And then modify 2.5 to add a sentence at the beginning, "In this case the Court has previously found" and agree on language with regard to the order. This order can be found at Exhibit whatever. Then give me jury instruction under the pattern and give both parties a chance to talk about in their closing arguments compliance or noncompliance with the order.

MR. PORTNOI: Would you like to hear from me first?

THE COURT: From you.

MR. PORTNOI: Your Honor, I don't believe that that's appropriate and I don't believe that's appropriate in no small part because we've had no --

THE COURT: No, the redaction won't include anything about sanctions. It will only deal with the obligation to produce and what will result if things are not produced.

MR. PORTNOI: I don't think that the jury -- given that there's been no witness who's been able to

talk about the production, I don't think that the jury is going to be able to understand or do anything with that so it's going to create an unwarranted implication since there's no time for us to rebut the presumption since the instruction is about a rebuttable presumption, to put on evidence which I believe would be evidence that I've just described, which is that this order had to do with certain discovery requests in certain subjects. There's a complaint about productions on totally different subjects. And those subjects are -- and, nonetheless, it turns out that there is a lot of production on those subjects.

It just isn't something that I believe we've laid the predicate factually for the jury to be able to hear pattern instruction 2.5. Plaintiffs put a witness on their list to discuss this. They chose not to call that witness. And now we are at a point where, due to the extended presentation that plaintiffs gave in the beginning of the case, we're talking about injecting sanctions into this or injecting -- having to put on evidence about the quality of the production when there's only one day of trial left before we have to charge the jury. And that just creates an undue and severe prejudice.

THE COURT: The testimony, it would be the

036187

036187

plaintiffs' burden to say that, in this testimony we ask for this information, it's covered in the order, and it didn't exist. Or it wasn't -- there wasn't testimony with regard to what was compliant.

MR. PORTNOI: But the issue is that there was nobody called who was familiar with our production, that would be familiar -- the person they primarily talked to is somebody who is not even a United employee.

THE COURT: The plaintiff did elicit testimony from some of the defense witnesses that certain plan information, and they denied it. So I think they've set a predicate for something. Now, let me hear from Ms. Lundvall.

MS. LUNDVALL: Your Honor, we would agree to be able to mark the Court's order as an exhibit in a redacted format. The one thing I think would be very important is to ensure that the Court's first finding that is found on page 10, where on page 10, line 25, where you expressly found already with respect to the first factor, "The Court finds United's conduct to be willful." And I think that would be an appropriate inclusion into the redacted version. And then from the jury's perspective, that they could be able to hear argument from both sides.

To suggest from Mr. Portnoi's standpoint that somehow they've been prejudiced, they have been on notice since August that the jury instruction is going to be at issue. And we made note that, in fact, that we intended to pursue this instruction in the event that there were witnesses that identified documents that we thought fell within the scope of it. There's been no prejudice to them. Therefore, we agree with the suggestion that the Court has made.

THE COURT: I'll give you a chance to respond.

MR. PORTNOI: Your Honor, we were on notice of the idea that there was going to be a discussion of the quality of the production based on plaintiffs calling a witness who was on their witness list who was, in part, responsible internally at United for pulling and producing documents. That's how we were on notice. When the plaintiffs chose to not call that witness because of the many hours that had to be spent with another witness, that -- we were no longer on notice of that. And at that point, the issue, given that it is the rule in Nevada that the jury has to find willfulness once you get to trial and that it becomes a rebuttable presumption, it became -- there ceased to be that kind of due process and notice. And this

036189

036189

instruction was only submitted a couple of days ago. It was not part of the original packet.

THE COURT: We've talked about it off and on since April.

MR. PORTNOI: Yes, Your Honor. And the fact is that, again, there still needs to be a connection between the order and what has been deemed to not be produced. And it's not fair to ask us to have to prove to the jury that RFP 16 and RFP 19 don't encompass these subjects. That's not something that the jury is competent to do. The fact is we don't have time to call a witness who can describe those RFPs and how they are not encompassed by the scope of Your Honor's order.

THE COURT: Thank you. Let's move on. I need to text my husband because I told him I thought we'd be done by 6:00. So I can work until 6:30, but I'll need to let him know. So everybody just take a minute here.

(Whereupon, a recess was taken.)

THE COURT: We are back to 23.

MR. SMITH: With respect to those couple of proposed instructions, obviously, our position was, don't give an instruction on spoliation, but seeing as how you've rejected that position, our first preference would be make it the adverse inference instruction

rather than the rebuttable presumption instruction. And then if you're deciding you are going to give the rebuttable presumption instruction, there are a few changes to the language that we --

THE COURT: I think I just did.

MR. SMITH: So then the second alternative there proposes changes to that language of the rebuttable presumption just because statutorily the language used does not -- we colloquially say rebuttable presumption, but the statute says disputable presumption.

Then there are a couple of clarifications about needing to -- I have it in front of me. It's not a burden of proof that shifts. That the burden always remains on the plaintiff, but the burden to rebut the presumption shifts to the party who is found to have suppressed the evidence. So we would want to ask that the Court make those couple of changes to the pattern the plaintiffs have proposed.

THE COURT: I wish you'd brought this up before I ruled.

MR. SMITH: And I understand that you have ruled that you are giving the adverse for the rebuttable presumption instruction. I'm just saying as a modification to that.

THE COURT: Good enough. Let's go to 23.

MS. ROBINSON: I believe that we have -- I think Your Honor has the version that we have submitted, but let me --

THE COURT: And where is that?

MS. ROBINSON: If not, then I can pull --

THE COURT: No. No. I was given this today.

MS. ROBINSON: It should be third supplement 3.

THE COURT: I got it.

MS. ROBINSON: I tried to give unique page numbers. And so I'm just going to say right off the bat that, as we say at the very top of this, we don't believe there is sufficient evidence to give an unclean hands instruction. The most important factor in that is that there needs to be a showing of damages.

Now, my understanding, and Mr. McManis can also address this, is that the basis of unclean hands is the alleged supp. 10 issue. And, as I understand it, there has been no evidence of damage to United. Now, they claim that we have inflated our charges and that the jury could award damages that are incorrect based on the supp. 10, but that's up to the jury.

They have not, to date, suffered any damage and there's been no evidence of damage. And so the

036192

036192

cases really -- there's not a lot in the Nevada Supreme Court of unclean hands, but it is clear under -- let me just -- under the Las Vegas -- I'm almost blushing to say this, Your Honor, Fetish & Fantasy Halloween Ball case, is clear that the Court -- in this case, it was because it's an equitable defense, it was considered by the Court. "The Court needs to consider the seriousness of the harm caused by the misconduct."

That presupposes that there is harm caused by the misconduct. And here there has been no harm.

In addition, just to highlight the main points that we have here, the defendants have offered unclean hands as a defense to our entire case. There is no Nevada Supreme Court case saying that an equitable defense can be applied to legal claims. Now, there's no Nevada Supreme Court case saying that it can't.

We have offered a Federal District Court case. That's the D.E. Shaw Laminar Portfolios case that's in our support that's on the 3rd Supp. 4, saying that -- you know, recognizing that it believes that the Nevada Supreme Court would hold that the unclean hands defense would only apply to equitable claims, which would be our unjust enrichment claim and not our breach of contract statutory claims.

036193

036193

That's kind of the highlight. I don't want to take a lot of time by going through every possible argument. I'd invite Mr. Portnoi to respond.

THE COURT: Please.

MR. PORTNOI: Your Honor, plaintiffs could have moved for summary judgment on the unclean hands defense. They didn't. They moved to eliminate to exclude evidence on the unclean hands defense. They lost. This is improper dispositive motion and motion for reconsideration.

To address the individual issues. When we read D.E. Shaw, that is the only case that suggests that, as it says, not that it doesn't, but that there is some doubt about whether the unclean hands defense applies to legal claims as opposed to equitable claims.

But, more broadly, when we look across the different states and they decide whether or not unclean hands applies to legal or equitable claims, what happens there, Your Honor, what we see in those cases, Your Honor, is that in states where law and equity has merged, such as Nevada, equitable and legal defenses apply to equitable and legal claims. In states like Delaware, for instance, which still observe the archaic separation of law and equity, unclean hands is a defense only to equitable claims.

036194

036194

So as a matter -- although that's not me saying that there's a Nevada Supreme Court case, it's like, right on point. That tells us that we know already there's no Nevada Supreme Court saying that this doesn't apply, and, furthermore, that there's a problem now.

With respect to seriousness of the harm, that's a big leap that's being made here, that you have to show damages to, one of the balancing factors is seriousness of the harm. There are cases that in balancing egregiousness of the conduct and seriousness of the harm mention that one of the issues is that there was no harm in that case, and so it was a balancing factor. Unclean hands couldn't survive.

But here it is instead a case here that what we have is there's, we believe, egregious conduct. And the balancing factors can be argued to the jury. But they're balancing factors. They're not elements. And they're being converted into elements when that's not -- when that's simply not true.

The language in Truck Insurance Exchange v. Palmer J. Swanson, a Nevada Supreme Court case is simply that the doctrine bars relief to a party who has engaged in improper conduct in the matter in which that party is seeking relief. As such, alleged inequitable

conduct relied upon must be connected with the matter in the litigation.

We have put that already in our instruction, which is a simpler and a shorter statement of the rule that is the rule here in Nevada.

We've not gone after every plaintiff, as we noted, as you can see in the instruction. It lists parties because there's no allegation that TEAM Physician was involved in the substance. We've tried to be as careful as possible with respect to this instruction.

But the fact is, is that this is a correct statement of the law. There's been no motion to get rid of this affirmative defense. And this has already been litigated in context with the motion in limine.

THE COURT: I have a question for him first.

So do you argue that under D.E. Shaw, that the injury part element is improper in the plaintiffs' paragraph 5?

MR. PORTNOI: I think D.E. Shaw is only cited by plaintiffs for the proposition that this doesn't apply to claims in law as opposed to claims in equity. So I think it was potentially Las Vegas Fetish & Fantasy that is argued by plaintiffs to have an element or require an element that there must be harm, but

036196

036196

that's just simply not the case. What Las Vegas Fetish & Fantasy states is that there are factors to be balanced. And among those factors is egregiousness of the misconduct and seriousness of the harm. So as that subsequently gives to the jury, as it says, broad discretion in determining whether to apply the unclean hands.

So I do believe that that is -- that's present. Also, I will state that neither Truck Insurance Exchange or Las Vegas Fetish say anything about defendants' clean hands or the idea that there needs to be -- that defendants must come to the issue without there being misconduct. A, that's not in the cases, as is suggested by their instruction. It also makes no sense.

An unclean hands defense always contemplates the idea that there are going to be allegations that the defendants did something wrong. Otherwise, you wouldn't need an unclean hands defense because you would have simply defeated plaintiffs' case.

So the focus in unclean hands is never on defendants' conduct. It's on the plaintiffs' claim of unclean hands. Not there.

And so I would also state the evidence hasn't come in on this. Your Honor knows from reviewing depo

036197

036197

designations.

THE COURT: I read those this morning.

MR. PORTNOI: It simply is the case that we are doing jury instructions before defendants have rested. Obviously, that evidence is coming in.

THE COURT: Response?

MS. ROBINSON: So my response is that their instruction, I'm searching it, and I don't see anything about balancing the egregiousness of the issue and the seriousness of the harm. It's simply not there. What they say is, "If the jury finds that Fremont and Ruby Crest engaged in any improper conduct, the jury must find against Fremont and Ruby Crest on all claims."

That does not involve any balancing. It's completely divorced from what the Nevada Supreme Court said in Las Vegas Fetish & Fantasy.

THE COURT: The ruling is that the plaintiffs' version of unclean hands will be given to the jury. That takes us to 24.

MS. ROBINSON: Thank you, Your Honor.

MR. PORTNOI: Just so we have a clear record, you're ruling the defendants' instruction will not be given?

THE COURT: That's correct.

MR. PORTNOI: Thank you. Accord and

036198

036198

satisfaction, I think at this time, as the evidence has come in, we believe that this would have related to evidence that has been -- that has been not included based upon the Court's in limine rulings. This is a record-making exercise. We think this would have related to appeals within the Data iSight system. So we are not withdrawing it.

MS. ROBINSON: Our response is that it's not supported by the evidence.

THE COURT: 24 will not be given. Let's go to 25.

MR. PORTNOI: Same for 25, where, you know, this would relate to, for instance, exhausting claims through the administrative process, which has not happened. And, as a result, claims going back to 2017 which could have been appealed and oftentimes would have been successfully appealed, as we would have seen had more evidence come in on this issue. But, again, this is similarly the same as the last instruction.

MS. ROBINSON: It's the same, Your Honor. No evidence to support.

THE COURT: 25 will not be given.

MR. PORTNOI: And, likewise, 26 relates to, again, to some extent relates to earlier discovery rulings. This is our affirmative defense that would

036199

036199

have provided us offset with respect to claims that were submitted that we don't believe are supported by the underlying medical records.

MS. ROBINSON: So our position is that if defendants -- if the jury agrees with the defendant that these are not claims that they approved, were not claims that were submitted to them, were not claims that they were responsible for.

THE COURT: That's the 455.

MS. ROBINSON: Correct. Then the jury will just take that out of the damages calculation. And I believe the defendants have already offered a damages calculation based upon that.

MR. PORTNOI: As a result, I think that this instructs the jury on how to address that evidence.

THE COURT: I'm going to decline to give 26. Let's go to 27.

MR. PORTNOI: I believe Mr. Smith is going to help me out with punitives and let my voice rest for a moment.

MR. SMITH: Thank you, Your Honor.

So there are a couple of issues with plaintiffs' proposed --

MS. ROBINSON: I don't mean to interrupt. I just want to point out that we have an updated version.

036200

036200

I just wanted to make sure you were looking at the updated version, which is plaintiffs' supplemental 6 at the bottom. It should be in the binder.

THE COURT: Is that on the bottom right it says, page 193? Or is it after that?

MS. ROBINSON: We have it on tab 27. It was, the first page was -- said "punitive damages part 1" and then the second page says "replaces previous instruction." Plaintiffs' supplemental 6 is our live proposed instruction.

THE COURT: Okay. Why shouldn't I just give the pattern instruction?

MS. ROBINSON: Are you asking me? Okay. I think that the only thing that we changed here was to specify the relevant claims and to add -- this is maybe some record-making on my part -- adding "the person includes corporations and other business entities."

This is something that we argued with respect to treating corporations the same as any other party, but I had a concern that the jury might be confused with the word "person" does not refer to a natural person but can refer to a business entity as well.

THE COURT: But there is an instruction I've already given --

MS. ROBINSON: I'm sorry, Your Honor. The

036201

036201

instruction says that corporations should be -- I guess the form instruction on how corporations should be treated always -- what I get from that, and what I'm concerned a jury will get from that, is that you shouldn't be harder on a corporation than you would be on a natural person.

THE COURT: And you can address that in closing argument.

MS. ROBINSON: Thank you, Your Honor. We've made a record.

THE COURT: So on 27, the pattern will be given.

MR. SMITH: So, Your Honor, there is a, as they indicate, they've modified the pattern. I actually have one problem with the pattern that I think maybe we can address first, and then we'll get to the bigger issue.

I think when they went from the 2011 version to the 2018 version, the drafters of the 2018 version, for some reason, put all of the instructions on punitive damages, including the amount of damages, into one instruction. Now, I think we've all agreed, both sides, that, obviously, we're phasing the trial. The jury is not going to award an amount of punitive damages during the first phase. But the pattern

instruction from 2018 doesn't reflect that because it kind of assumes that it's all going to be together.

So I would propose --

THE COURT: How about if I charge you with coming to an agreement on some language with regard to the 2018?

MS. ROBINSON: I would just say, Your Honor -- I would disagree with the premise. If you look at the use note of the 2018 instruction, it's the very last -- if you flip over the pattern and look at the very last line, it does contemplate. That's what we followed. We did exactly what the use note said. It just split the 2018 into two parts. That's why ours says part 1 and part 2.

MR. SMITH: And I think the 2011 version does a better job of actually making that explicit. So what we've proposed as our supplemental instruction is the pattern from 2011, just the two paragraphs that discuss the issue of phasing. I think it's important to let the jury know that they are going to receive additional instructions and evidence regarding how to calculate punitive damages, but that's not coming in this phase. Otherwise, the jury is going to be left hanging with this impression that they're supposed to award punitive damages. And, yet, they're not instructed as to how

that works logistically. That's why I'm saying the pattern of 2011 addresses that.

MS. ROBINSON: I'll just be very frank. The message to the jury with the 2011 instruction is if you want to go home quicker, then find no predicate for punitive damages.

MR. POLSENBERG: My concern with not giving the 2011 is the 2011 was based on the case I had where the jury awarded punitives as part of the compensatory damages so we had to do it all over again.

MS. ROBINSON: We're not going to ask for that, Your Honor.

MR. POLSENBERG: Of course. If you ask for it, the judge would say, that's not the way we're going to do that. Trust me, that was a big headache.

THE COURT: So why don't we take 12.1, the 2018 version, and just add a sentence, "if you find that punitive damages are appropriate, I will further instruct you."

MS. ROBINSON: That works, Your Honor.

MR. POLSENBERG: Judge, I think we --

THE COURT: You will agree on the language. The parties will agree on the language.

MR. POLSENBERG: I think the language in 2011 works.

036204

036204

THE COURT: And if you don't, I'll make up the language. 28.

MR. SMITH: The other issue -- sorry, still on 27 -- so this is the bigger issue. The plaintiffs have added that and specified that they're seeking punitive damages not only with respect to their claim under the Unfair Claims Practices Act, but also with respect to the claim for unjust enrichment.

THE COURT: Didn't I just say that we would give the pattern instruction. I'm not going to give the first two proposed.

MR. SMITH: Well, the pattern instruction -- okay. So you would be -- so it would begin with --

THE COURT: If you find.

MR. SMITH: -- "if you find that the plaintiff suffered damage as a result of the defendants' conduct and the defendants are liable based on that conduct."

I still feel it's important to specify because the plaintiffs have several claims in this case.

MR. PORTNOI: That's because, Your Honor, the -- because the issue is that there's bracketed language in the pattern that has to be filled out. And as a result, when it comes -- generally, you would

036205

036205

inform the jury. Because the issue with punitive damages is that it has to be punitive damages with respect to the conduct for which punitive damages can be a basis. When you have multiple claims in a case and some of those claims have punitive damages alleged and some of them don't, the jury has to be instructed. And here we do have that.

And I want to be clear. And I want to provide to you and opposing counsel the joint pretrial order, which is very clear on this issue. And it's something that I asked to be very clear because Eighth District Circuit Rule 2.67, I believe subsection B8, requires that you have a -- that you list a claim of damages -- I'll point you to page 5, Your Honor. It's going to bleed from page 5 to page 6.

It requires that you list the individual claims and requires that you list the damages underneath. And here, if you go to count 2, unjust enrichment, plaintiffs ask for damages, actual damages and pre- and post-judgment injuries. And unfair settlement practices, they listed actual damages, punitive damages, pre- and post-judgment injuries.

THE COURT: So make sure that you two agree on language that also specifies against whom punitives may be awarded.

036206

036206

MR. PORTNOI: And with respect to only that the Nevada Unfair Claims Practices Act; Your Honor.

THE COURT: That's correct.

MS. ROBINSON: I'm sorry. Is that an Unfair Claims Practices Act. So the Court is ruling -- because I had thought you had already ruled about the unjust enrichment.

THE COURT: I had. Do you want to respond?

MS. ROBINSON: Yes. We would like to pursue punitive damages for unjust enrichment and we don't believe there's any prejudice.

THE COURT: I believe that's consistent with my prior ruling. The punitive damages rely on the unjust enrichment.

MR. PORTNOI: Your Honor, again, I don't think this has been ruled upon. This was only a footnote in our directed verdict motion. We didn't move for a directed verdict on this issue because you can't move for a directed verdict on something that hasn't been pled. It hadn't been pled because, again, the joint pretrial memorandum supercedes the pleadings. And the prior pleadings also didn't ask for punitive damages for unjust enrichment. Your Honor, this was not the subject of the directed verdict, and Your Honor has not ruled yet.

036207

036207

The fact is, is that if there's a desire to amend the joint pretrial memorandum, there should be a motion to amend the joint pretrial memorandum, and there should be a proposed amended joint pretrial memorandum submitted to the Court.

THE COURT: I just overruled your objection. We'll go with the punitive damages 12.1 with language that you agree upon with regard to claims and parties, and adding a sentence at the end that says, if you find that punitive damages are appropriate, you will be instructed further.

MR. SMITH: So, Your Honor, just to clarify, so you're allowing them to amend their pleadings under Rule 15 even though they haven't made a motion to amend?

THE COURT: I am allowing them to seek punitive damages on unjust enrichment.

MR. PORTNOI: Just so we have the record, are you doing so by allowing them to amend the joint pretrial order or are we disregarding the joint pretrial order?

MS. ROBINSON: Would it help if I move to amend the --

THE COURT: We'll take it up tomorrow so they have a chance.

036208

036208

MS. ROBINSON: Understood.

THE COURT: Okay. Now, let's go to 28. I only have something from the plaintiffs here or the pattern. Oh, I see; I do have something from the defendant.

First, how is the pattern instruction revised and why?

MS. ROBINSON: Number 28? So 28 is the pattern. That's just a second part. I broke it into two pieces, as suggested by the use note.

THE COURT: I see.

MR. McMANIS: This would be, I think, the further instruction that's referred to in the sentence that we're going to add to the one we just discussed.

MS. ROBINSON: Correct. This would be given during the second phase.

THE COURT: And response, please.

MR. SMITH: I think we should take this up if and when there is a second phase.

THE COURT: I agree. That takes us to 29. Same thing.

MS. ROBINSON: So in this case, I don't think there has been any evidence -- I know that there was a great deal of discussion about this before trial. However, I haven't been hearing any evidence regarding

harm outside of Nevada, nor have I been hearing evidence regarding harm to nonparties. We have been focusing on the harm to the plaintiffs in Nevada. So I just don't think that this is supported by the evidence in this case, and it's confusing because it's not supported by the evidence in this case.

THE COURT: I understand. Who's going to argue this?

MR. SMITH: I can, just briefly. I think that this is, again, another way in which the 2011 pattern, perhaps, makes more sense. When we talk between us to discuss adding the language, perhaps we can come to some agreement about this. But the pattern from 2011 does make clear that you cannot punish the defendant for conduct that is lawful or which did not cause actual harm to the plaintiff or which occurred and caused harm in other states.

Obviously, we prefer the more thorough instruction that we've provided.

THE COURT: Where is the evidence that the defendants' conduct occurred outside of Nevada?

MR. SMITH: Well, Your Honor, I don't think that they have put on evidence that supports that. But we've heard reference to the fact that plaintiffs -- that this has been some kind of nationwide scheme of

036210

036210

United as a whole to embark on this plan to harm TeamHealth as a whole. And I'm concerned that even though the plaintiffs --

That that would be construed -- the jury did not have an instruction telling them how to process that information, that they might --

THE COURT: I can ensure you if you guys go into this national scheme, I'll sustain an objection. I'd sustain the objection and instruct the jury to disregard the statement making this unnecessary. So 29 won't be given.

MR. PORTNOI: Your Honor, because you mentioned a nationwide scheme --

THE COURT: If they get into that, I'll sustain an objection and instruct the jury not to consider it. This is only about what's happening in Nevada.

MR. PORTNOI: May I also be clear there's nationwide scheme, which is sort of the cause of problems, and there's also potentially nationwide or out of state harm, which is, sort of, the effect --

THE COURT: That would be golden rule, and that's not going to happen.

MR. PORTNOI: That's what I wanted to ask. Thank you, Your Honor.

036211

036211

MR. SMITH: I think we'd also ask for a curative instruction if that were the case.

THE COURT: If it comes up, we'll deal with it. 30.

MS. ROBINSON: So, Your Honor, this instruction is not relevant to the evidence in this case. It's basically an instruction to the jury that healthcare is too expensive. And I don't see how it helps the jury decide any issues in front of the case. It just sort of tells the jury that healthcare is too expensive.

THE COURT: And the response?

MR. PORTNOI: Your Honor, this is a direct quote from the legislature's factual findings. It is the law and policy. It is a correct statement of the law that there has to be a balancing that includes dealing with high healthcare costs.

THE COURT: 30 will not be given. 31.

MS. ROBINSON: I believe 31 is the same. My argument is the same, that this is, essentially -- this is an instruction to the jury that healthcare is too expensive, and it's not relevant to the evidence or the issues in this case.

THE COURT: How does this come in? I'll give you a chance to respond.

036212

036212

MR. PORTNOI: Same argument as the last instruction, Your Honor.

THE COURT: 31 will not be given. Thank you.

32 we've resolved not to anyone's satisfaction but mine.

And then 33.

MR. PORTNOI: Your Honor, this is a proposed instruction from plaintiffs that we don't think ought to be given. We think it is, first off, there's been some statements regarding the greatest of three. We don't think the jury needs to be instructed on the greatest of three. I think that what would have been previously proposed by plaintiffs was that the regulation would come in under judicial notice, which we also oppose. But that's one thing. It's another thing for Your Honor to instruct the jury how to interpret this regulation that goes on for many pages.

And I would also point out, Your Honor, that it's simply wrong. It states it is not necessarily a method of determining what amount is reasonable.

MS. ROBINSON: Actually -- sorry, I didn't mean to interrupt. We realized that the necessarily didn't belong, and that's the third supplemental. So that word is not in here.

MR. PORTNOI: Your Honor, in eight times in

036213

036213

this regulation, this regulation says this is a measure of what is reasonable. So this is plaintiffs asking you to tell an untruth, to say that this regulation doesn't say that the greatest of three is a measure of reasonableness. It states, "it is necessary that a reasonable amount be paid before a patient becomes responsible for a balance."

THE COURT: Colby Balkenbush just joined us.

MR. PORTNOI: I think he was sitting in. I'm not sure if he's choosing to talk. We've been losing the Zoom link, for whatever reason.

Thus, these interim final regulations require that a reasonable amount be paid for services by some objective standard.

I don't think you want to hear it, but there's going to be eight more times that it's going to say this is a measure of a reasonable amount.

THE COURT: I'm going to decline to give the greatest of three instruction.

Let's talk about 34, which talks about in-network and Medicare.

MR. PORTNOI: So, Your Honor, this is also a proposed instruction that I'm not totally sure what wrongful evidence it's believed that this instruction is necessary. I believe this was first raised after

036214

036214

Mr. Diehl was asked a question by the jury about the Brookings Institute report. But when you actually go back to the transcript, he was not actually saying that the jury should use in-network rates or Medicare rates. He was asked by the jury, what did the authors of the Brookings Institute report do. Now, anyone, if you read the Brookings Institute report --

THE COURT: We had a big colloquy on the record about all of that.

MR. PORTNOI: Right. As a result, I don't believe that there's any reason for a corrective instruction at this time. If anything, this is going to draw the jury's attention to a single issue.

THE COURT: I think that they shouldn't consider in-network rates. I think that's been really clear.

MR. PORTNOI: But they haven't been presented with in-network rates.

THE COURT: It's come up indirectly a number of times. Let me hear from the plaintiff, and then I'll give you a chance to respond.

MR. POLSENBERG: I also think their objection was late. They could have objected at the time and we could have handled it.

THE COURT: You're right.

036215

036215

Respond, please.

MR. McMANIS: Yes, Your Honor. So the reason this is necessary is because of the Chris Diehl testimony and the fact that in response to that question, which did not ask about the actual values of in-network rates, we volunteered that information despite knowing that Your Honor --

THE COURT: You can argue that. And I'll decline to give No. 34.

MR. PORTNOI: Your Honor -- if you're declining to give it --

THE COURT: I'll decline to give it, but they can say that Mr. Diehl said some things that were inappropriate. And we only are talking about out-of-network charges and their reasonableness.

MR. McMANIS: So the concern I would have, Your Honor, is that if that's the approach, then we're going to be faced with them presenting that evidence in closing as, these are the in-network rates.

THE COURT: You are not going to emphasize that language. It was the subject of a motion in limine. And if you do, again, I'll admonish and instruct. And that embarrasses -- I don't want to have to embarrass you guys.

MR. PORTNOI: I don't think Mr. Boil intends

036216

036216

to. "It is hereby ordered that the motion is deferred to trial with respect to the issue of healthcare providers' in-network rates."

THE COURT: We deferred it and in-network is out.

MR. PORTNOI: I understand that, but I'm just pointing out that there's a statement that there was an indepth of in limine ruling. To my knowledge, maybe you are deferring it to now.

THE COURT: No. I deferred it to the time trial.

MR. PORTNOI: I don't think Your Honor has ruled on it.

THE COURT: I consistently kept all of the in-network stuff out.

MR. PORTNOI: I just want to be clear. But there was an inference that we didn't provide Mr. Diehl what's in the in limine ruling. The in limine rulings had not actually touched in-network rates.

MR. McMANIS: That's not to be the suggestion if that's what was interpreted.

MR. PORTNOI: I guess the other piece is to say I also would, likewise at closing, not want to see statements that Mr. Diehl violated an order or that Mr. Diehl did something improper in that way.

036217

036217

THE COURT: I think the scope of what would come in about in-network had been determined before he took the stand so.

MR. PORTNOI: Your Honor, as a non-lawyer being asked questions and being asked questions about the basis of, again, the jury asking what did the Brookings Institute authors do, everyone in that room, plaintiffs and defendants, we all read the Brookings Institute report. So plaintiffs, when they went to side bar, presumably, knew because it's their exhibit. Their report is not our exhibit. That report was their exhibit. They presumably knew what the Brookings Institute said and what an honest answer to that question would be, and they didn't object to the question.

MR. POLSENBERG: I think what Dimitri is worried about is you had said that plaintiffs could argue that he inappropriately said something. I think what we're saying is --

THE COURT: If there wasn't an objection before he got off the stand --

MR. POLSENBERG: Right.

THE COURT: I think that's why I'm inclined to give the instruction.

You have the last bite at the apple.

036218

036218

MR. McMANIS: Thank you, Your Honor. I think that the issue is not that Mr. Diehl -- this is not something that he was unaware of or was inadvertently stepping over the line. As Your Honor recalls, his entire opinion was based on in-network rates. And he spent four hours on the testimony in direct carefully tiptoeing to avoid going into that. And then at the first opportunity that he had in response to a jury question, a question from the jury, he went beyond what he knew to be the scope, and he inserted that evidence in. So that's why we requested the instruction.

THE COURT: I'm going to decline. There was not an objection to the testimony at the time.

Let's go to the verdict forms. I can tell you that, you know, the proposed, what I had in mind was if you find for the defendant, and, if so, go to paragraph whatever. If you find for the plaintiff, then you walk through the plaintiff's proposed verdict form rather than having two verdict forms, one for the defendant, one for the plaintiff, I think there should just be one. Are you guys following me?

MR. PORTNOI: Yeah. But, I mean, well, Mr. Polsenberg will inform me on the intricacies of general verdict forms and special verdict forms.

MR. POLSENBERG: That's a big issue for me.

036219

036219

THE COURT: That would be the general. With regard to the specials, that would follow. I think we argue first the form and then get to the specials.

MR. POLSENBERG: I think one of the issues that I'm concerned about is if we do interrogatories without a general verdict form.

THE COURT: No. No. We will have a general verdict form, but it will give them the option for the defendant. If so, skip to the end. If you find for the plaintiff, then you go by entity, by plaintiff entities and defendant entities. And the way that the plaintiffs' proposed general verdict form was presented, from there, you get the special after you have a general form.

MR. POLSENBERG: Okay. We can look at it either as special verdict forms or interrogatories following the general verdict form.

THE COURT: Right.

MR. POLSENBERG: This verdict form is a bear.

THE COURT: It's a bear.

MS. ROBINSON: So which one are we looking at?

THE COURT: I had looked at all of them and marked them up last week and left them at work. So the plaintiffs' proposed general verdict forms, to me,

036220

036220

seemed fair, but it should first give them the option of finding for the defendant.

MR. PORTNOI: Your Honor, the plaintiffs' general verdict form doesn't actually, as far as I can tell, it doesn't actually ask the jurors to rule, to define any claim in anyone's favor. It just goes straight to damages.

MR. POLSENBERG: I think the Judge is saying the general verdict form -- I have it here -- the general verdict form should, in the beginning, say whether they're ruling for the plaintiff or the defendant, and where the current version now only has them ruling for the plaintiff. So they could start with saying, we have a general verdict form for the defendant. If you enter general verdict form for the defendant, skip to the end. Then if you are finding for the plaintiffs, then they have to go through and break everything down.

So I don't think the Judge is saying the way they break it down is better than the way we break it down. She's just saying we should have a general verdict form up front.

Am I accurately --

THE COURT: Yes.

MR. POLSENBERG: Thank you, Your Honor.

036221

036221

MS. ROBINSON: So then I guess the big question is whether you're inclined to go the way we break it down versus the way they break it down. I have actually had another -- I'm just trying to figure out. So I had submitted a more detailed, but not as detailed as theirs, verdict. And I just don't see it in the packet. So I need to pull that out.

MR. PORTNOI: I'm not aware of one. I'm not saying it didn't happen, but it would only be missing due to inadvertence.

MS. ROBINSON: No. I know. There's been a lot flying around.

THE COURT: I didn't find anything objectionable in either of the proposed special verdict forms.

MR. POLSENBERG: But then you didn't see my draft.

MS. ROBINSON: So we submitted a more detailed verdict form today. No. No. Two days ago. It was Friday.

THE COURT: Oh, you know, I don't think that one made it into this binder. I have a temp JEA. It came in too late.

MS. ROBINSON: So this is the one that was submitted on Friday. And I think this is a nice

compromise between the 30-something page form. And I'm just handing you the one submitted Friday.

THE COURT: Defendants, do you guys have this and have you looked at it?

MR. PORTNOI: I'm confident we have.

MS. ROBINSON: It was filed.

THE COURT: Because I'm inclined to take it up at 5:00 tomorrow to give you a chance to be prepared.

MR. PORTNOI: I think that would make some sense.

MR. POLSENBERG: That's a good idea.

THE COURT: And I don't think you guys heard me. They don't have this. So I'm inclined to take this up tomorrow at 5:00 at the close of the evidence.

MS. ROBINSON: Also, I understand it's 6:30.

THE COURT: It's my bewitching hour. Okay. Does that pretty much wrap us up for tonight and does anyone have anything else for the record?

MS. ROBINSON: We don't, Your Honor, not for the plaintiff.

THE COURT: My husband is always five minutes late and I am always five minutes early so we have an extra five minutes or 10, I guess.

Off the record.

036223

036223

(Whereupon, the meeting was adjourned at 6:30 p.m.)

* * * * *

CERTIFICATE OF REPORTER

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

I, Kimberly A. Farkas, a Certified Court Reporter licensed by the State of Nevada, do hereby certify: That I reported the meeting of counsel before the Court held on November 21, 2021, at 3:15 p.m.

That I thereafter transcribed my said stenographic notes into written form, and that the typewritten transcript is a complete, true and accurate transcription of my said stenographic notes; that review of the transcript was not requested.

I further certify that I am not a relative, employee or independent contractor of counsel or of any of the parties involved in the proceeding; nor a person financially interested in the proceeding.

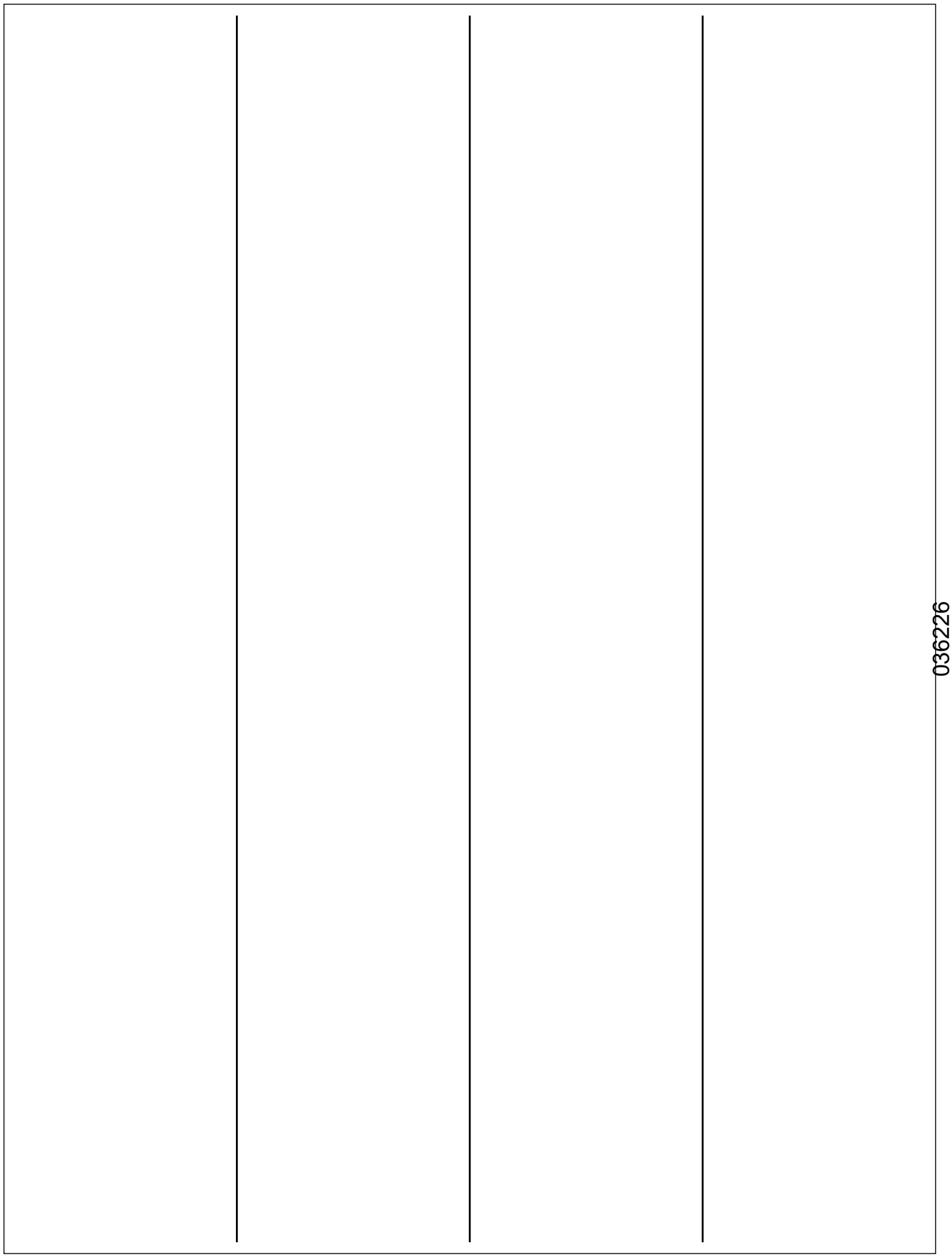
IN WITNESS WHEREOF, I have set my hand in my office in the County of Clark, State of Nevada, this 22nd day of November, 2021.

Kimberly A. Farkas

Kimberly A. Farkas, CCR NO. 741

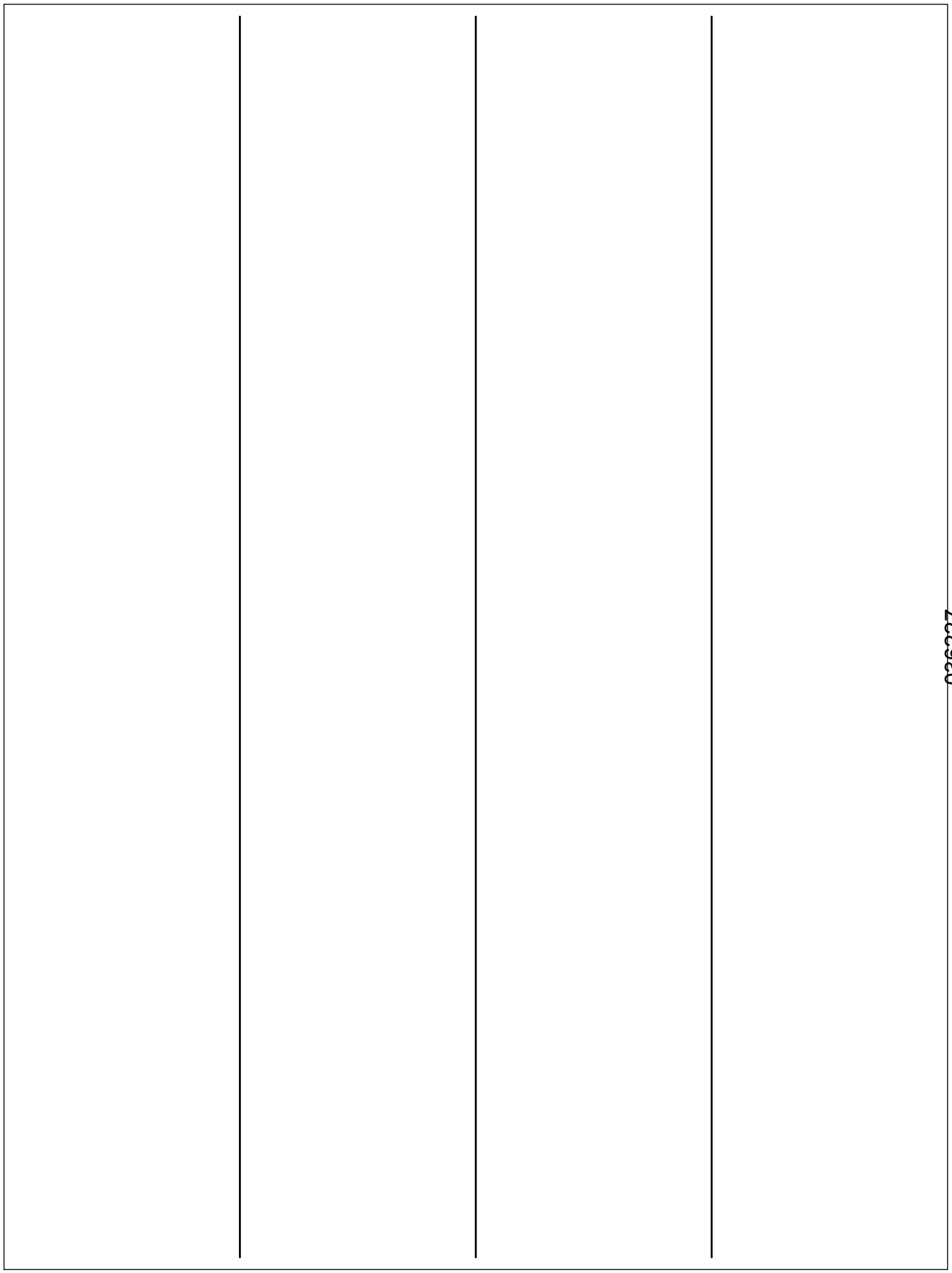
036225

036225



036226

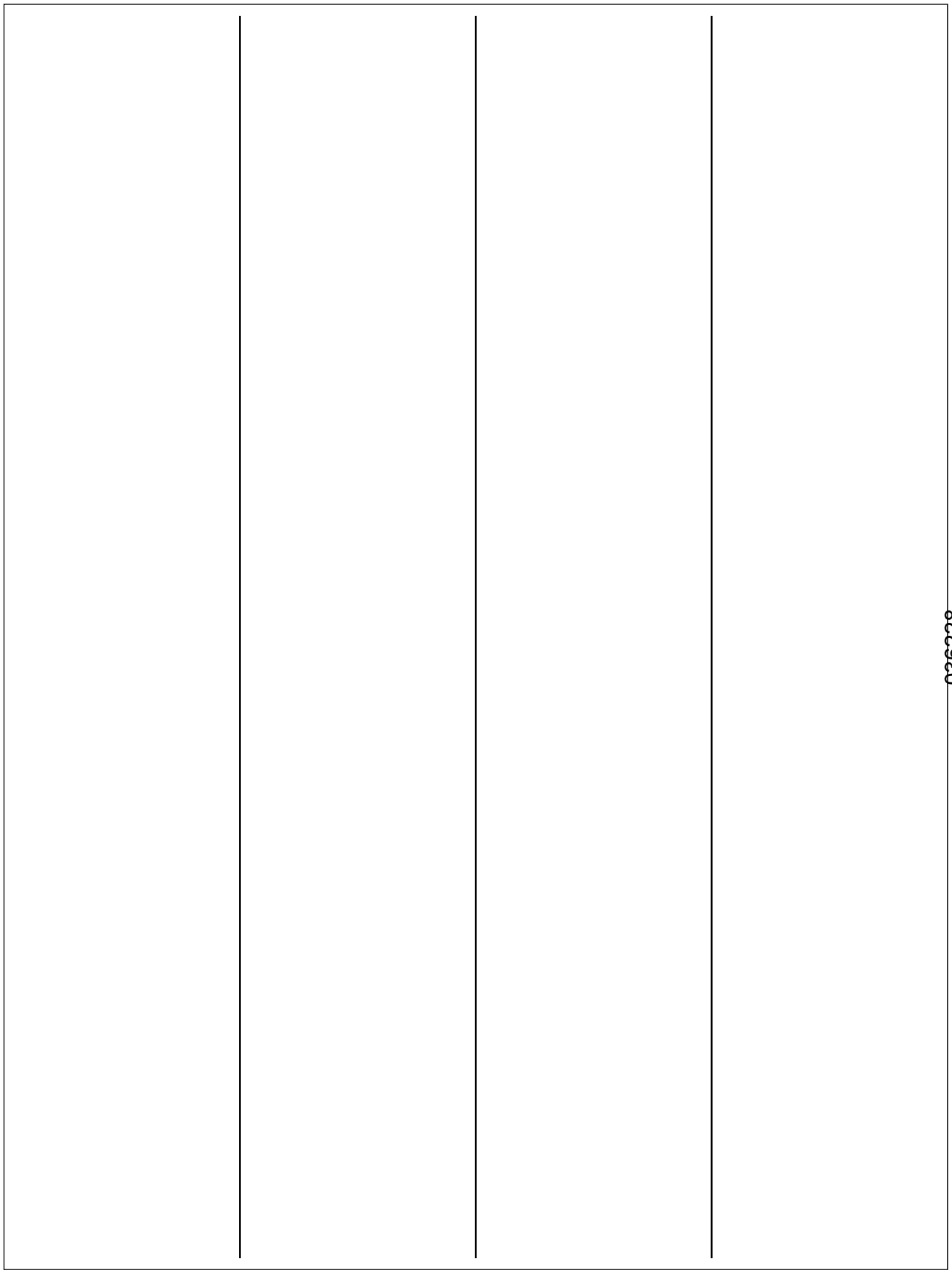
036226



036227

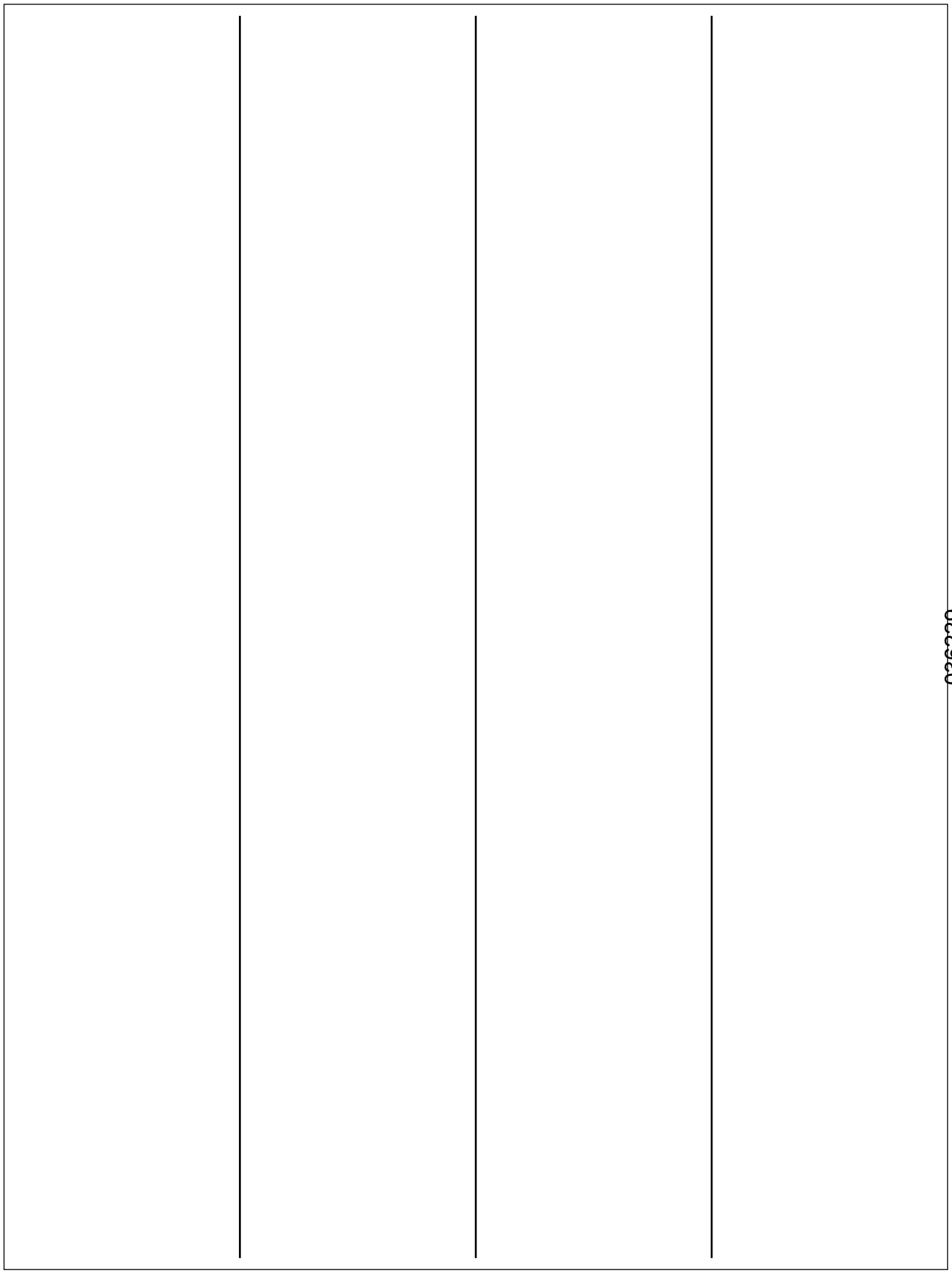
036227

OASIS
REPORTING SERVICES



036228

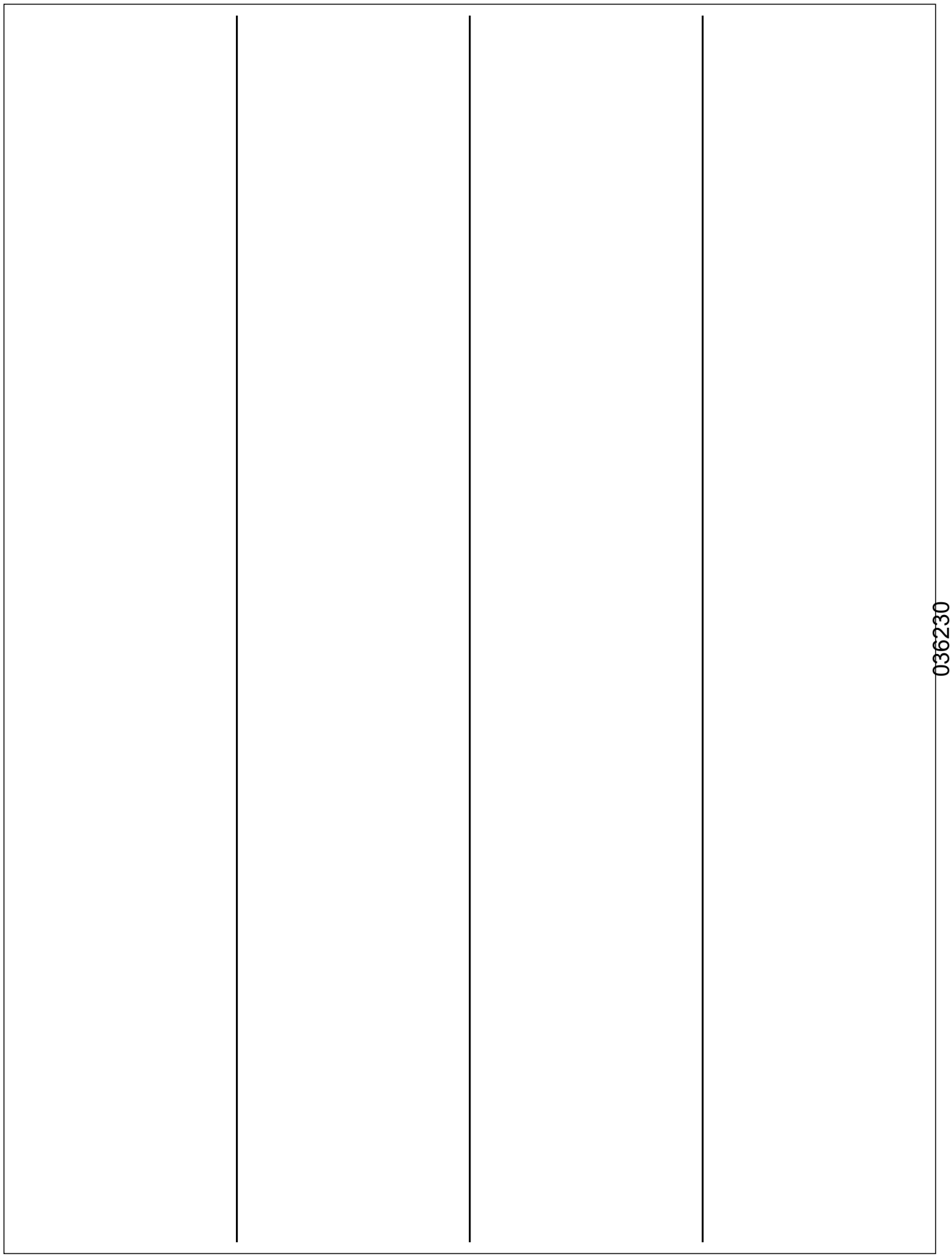
036228



036229

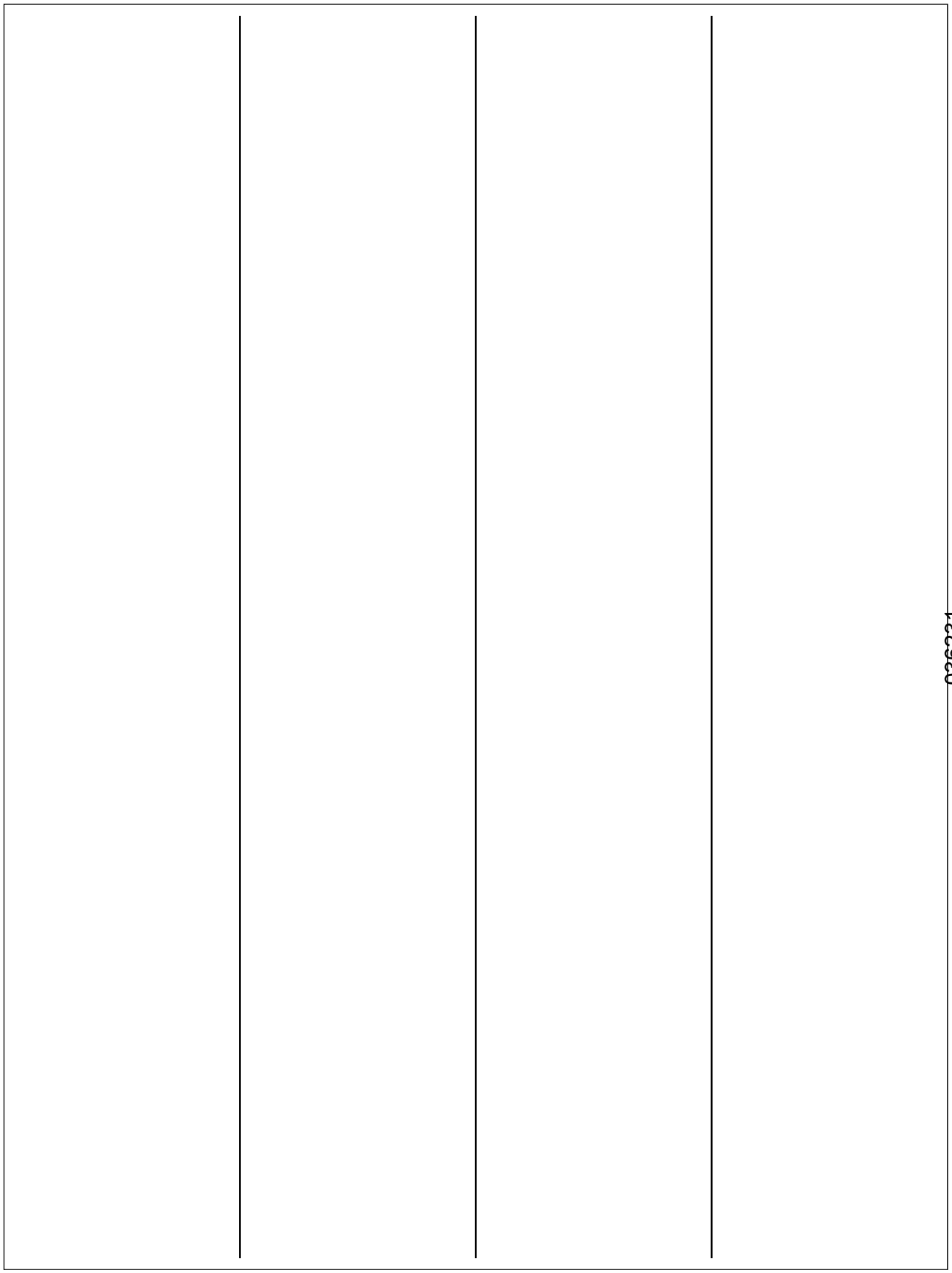
036229

OASIS
REPORTING SERVICES



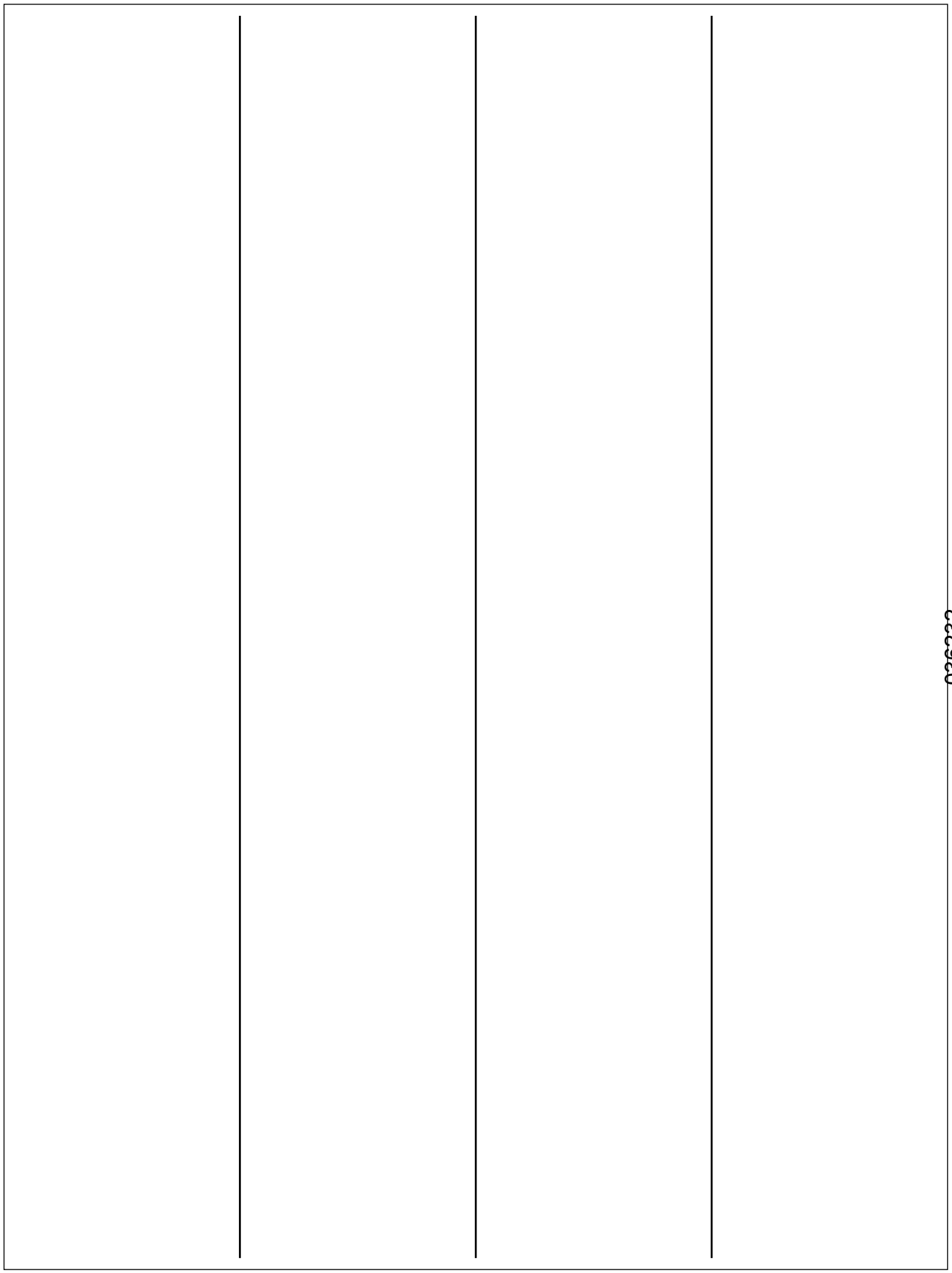
036230

036230



036231

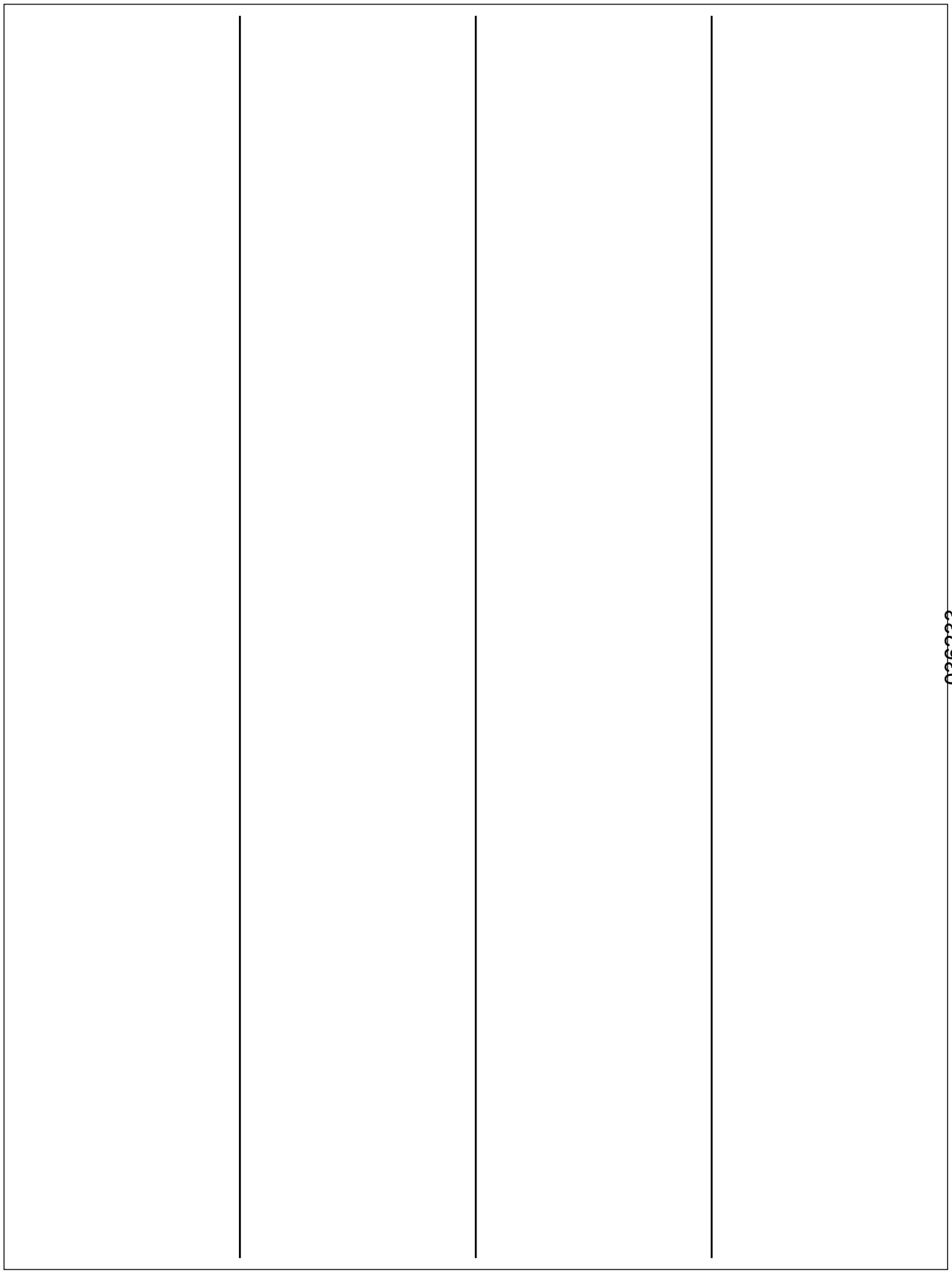
036231



036232

036232

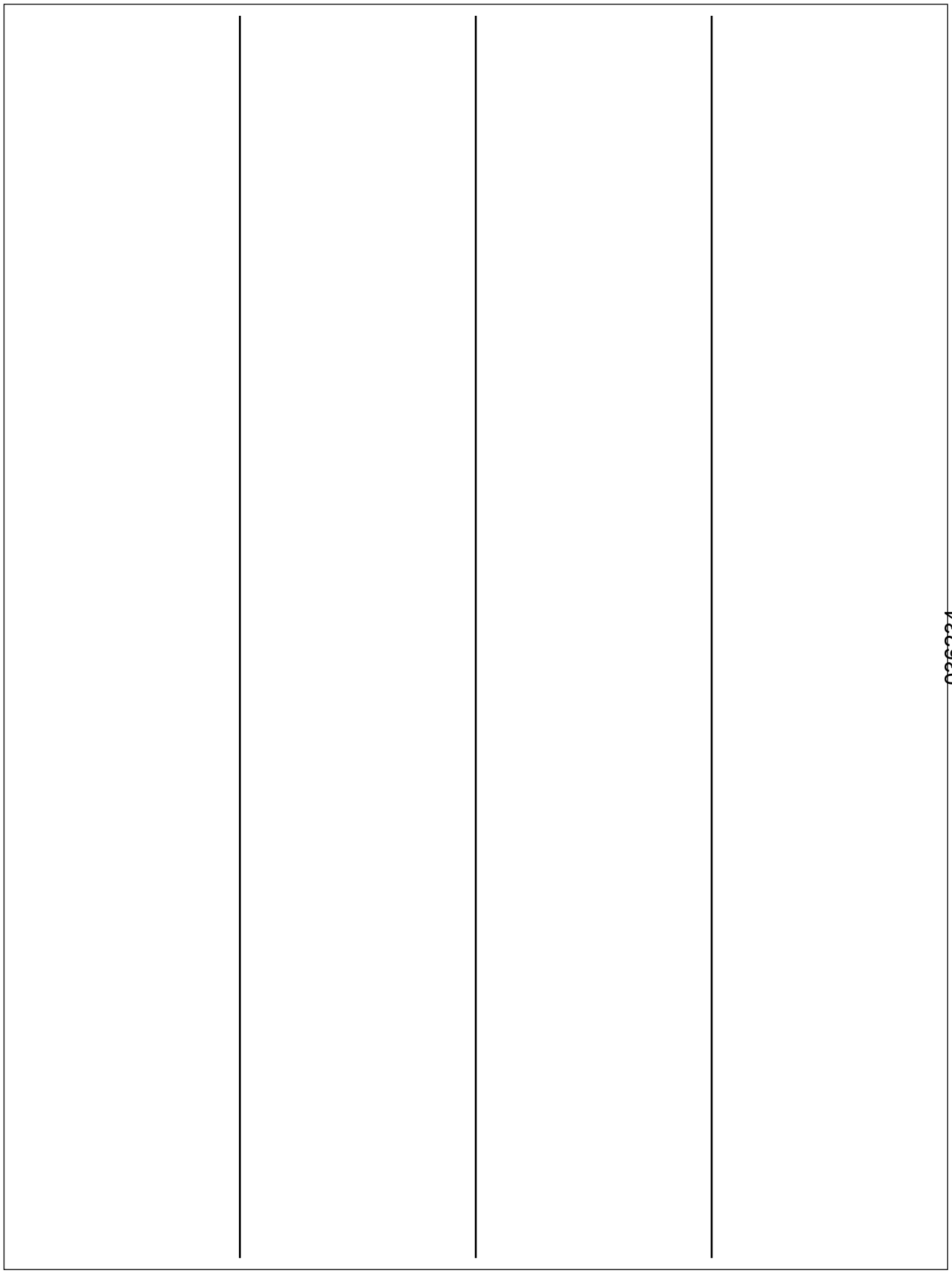
OASIS
REPORTING SERVICES



036233

036233

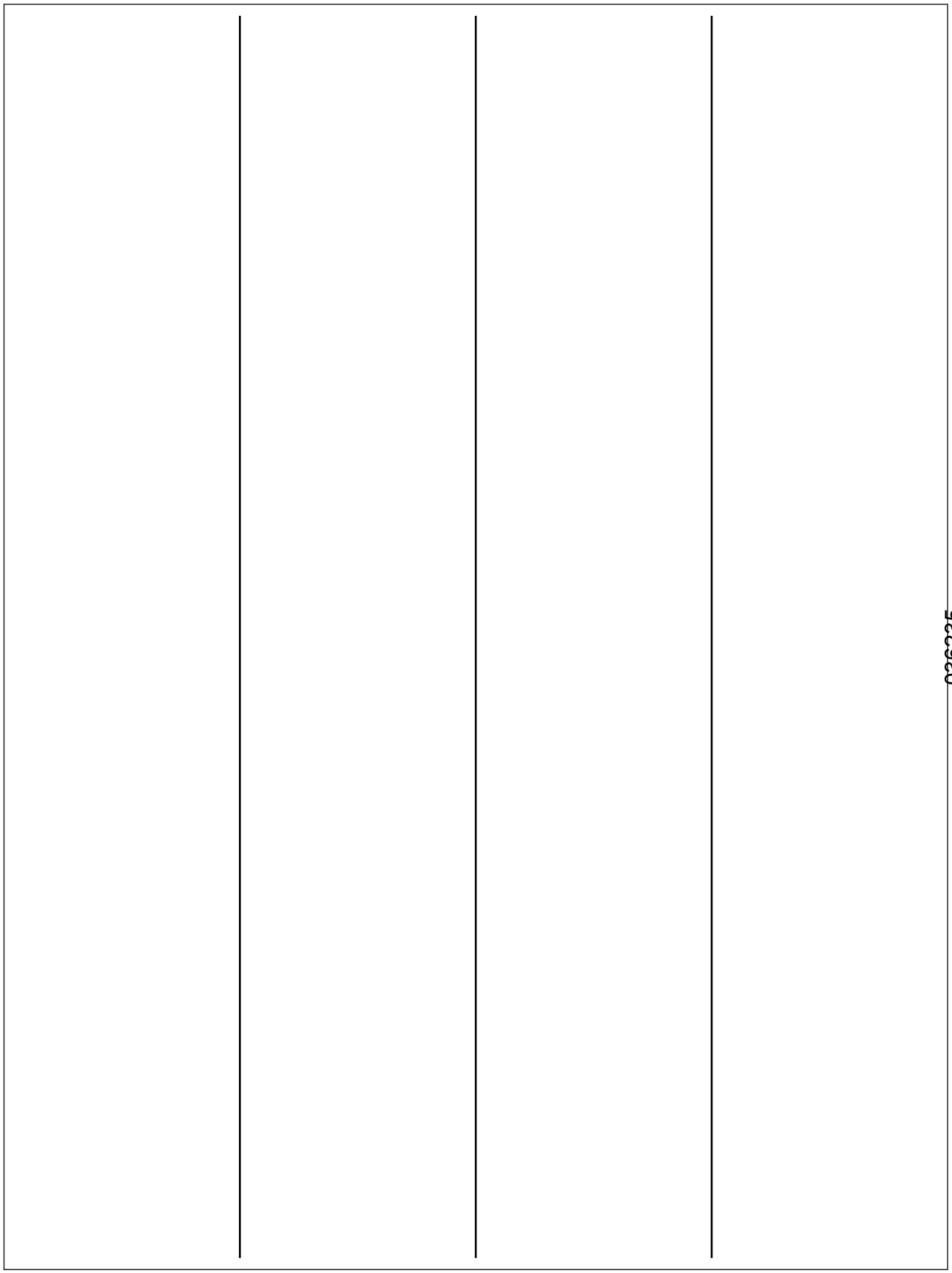
036233



036234

036234

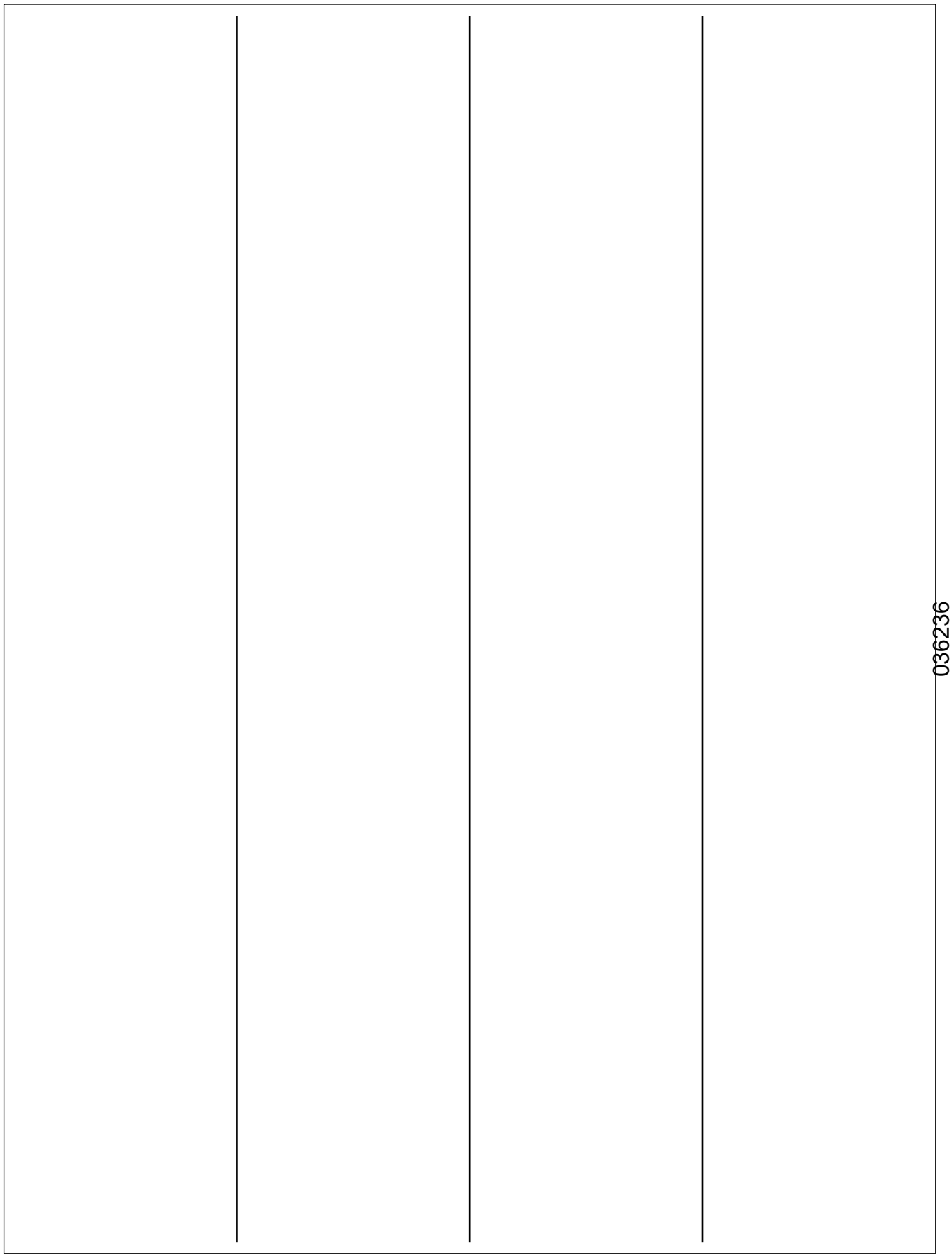
OASIS
REPORTING SERVICES



036235

036235

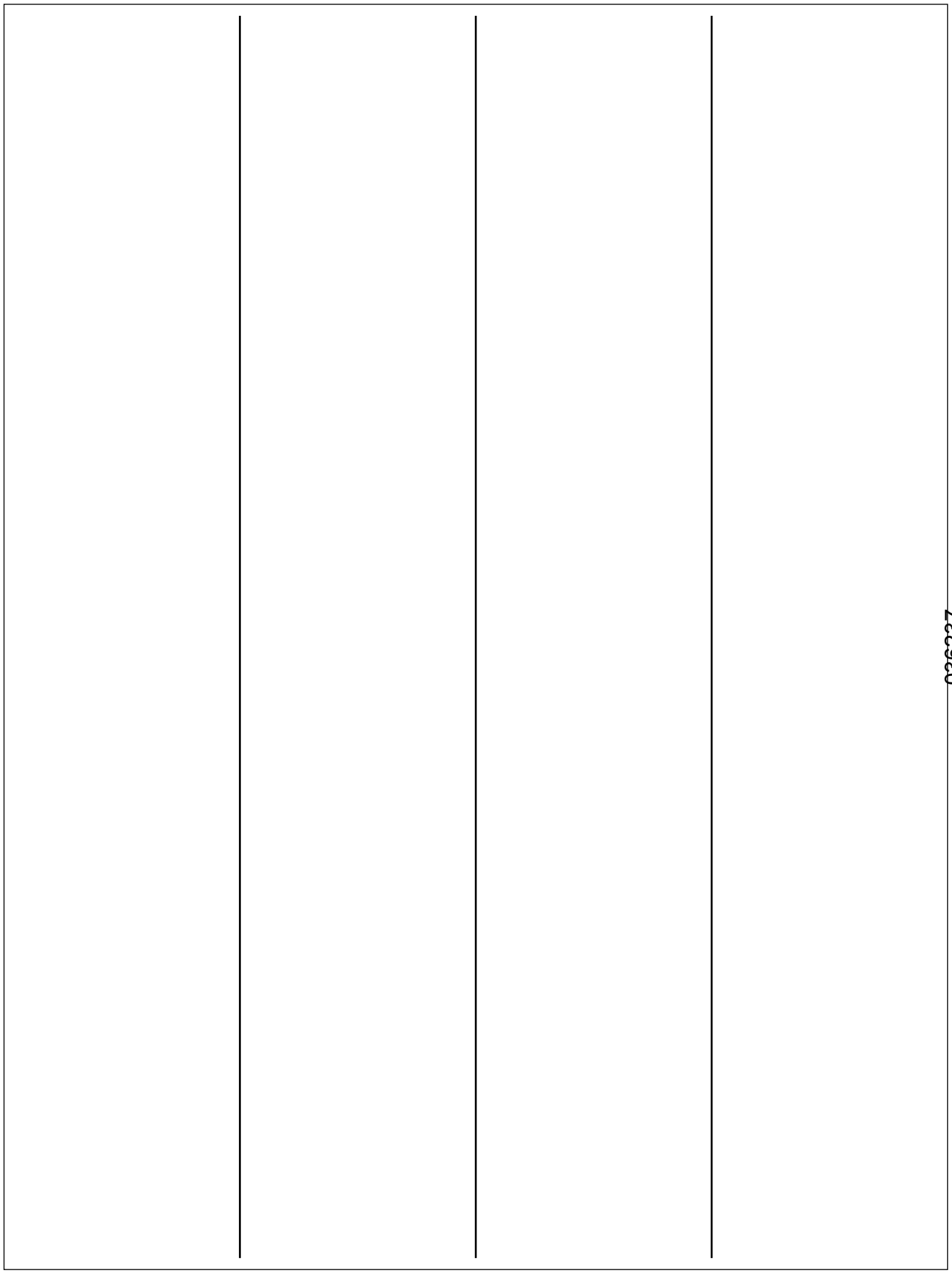
OASIS
REPORTING SERVICES



036236

036236

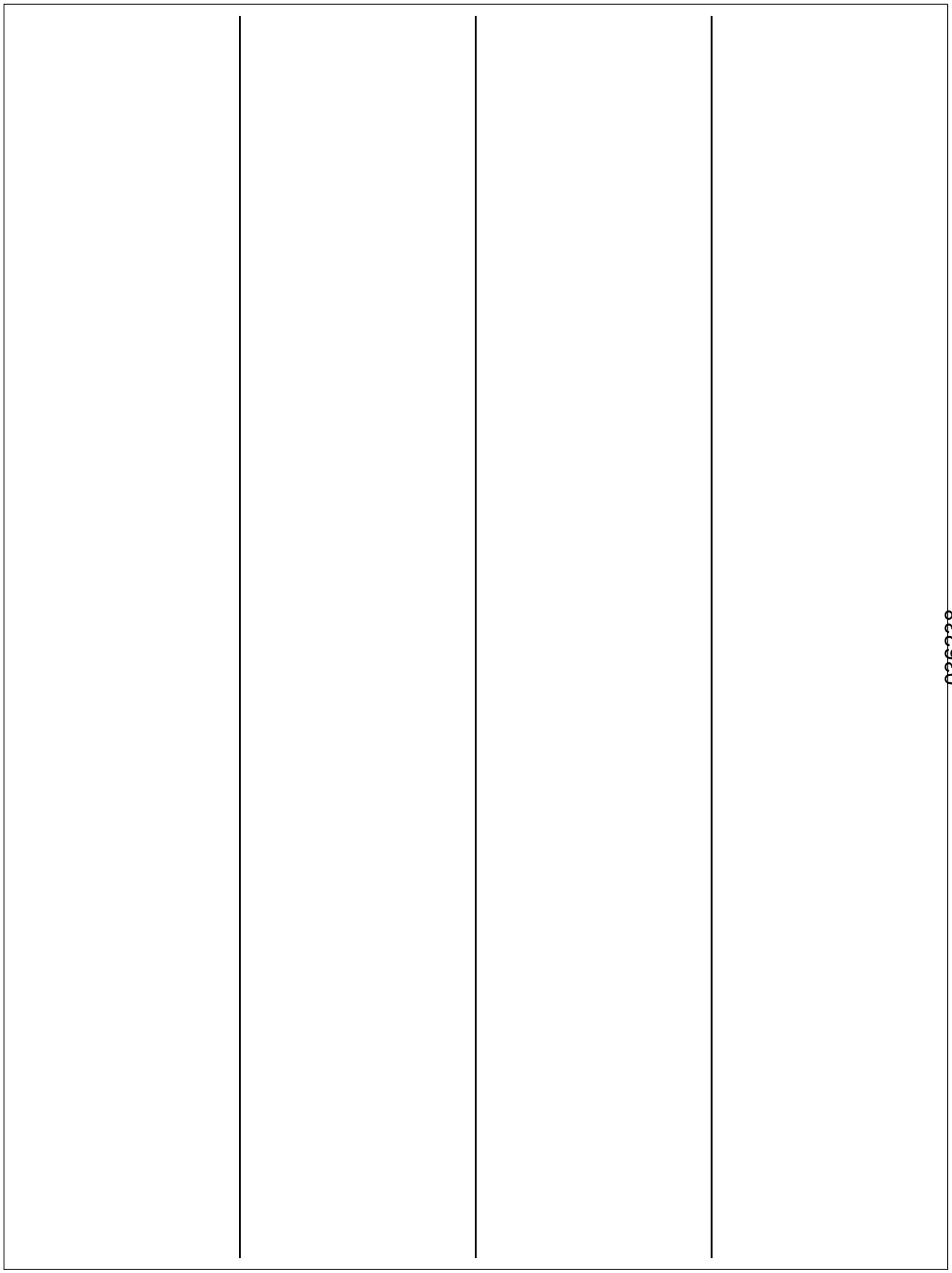
OASIS
REPORTING SERVICES



036237

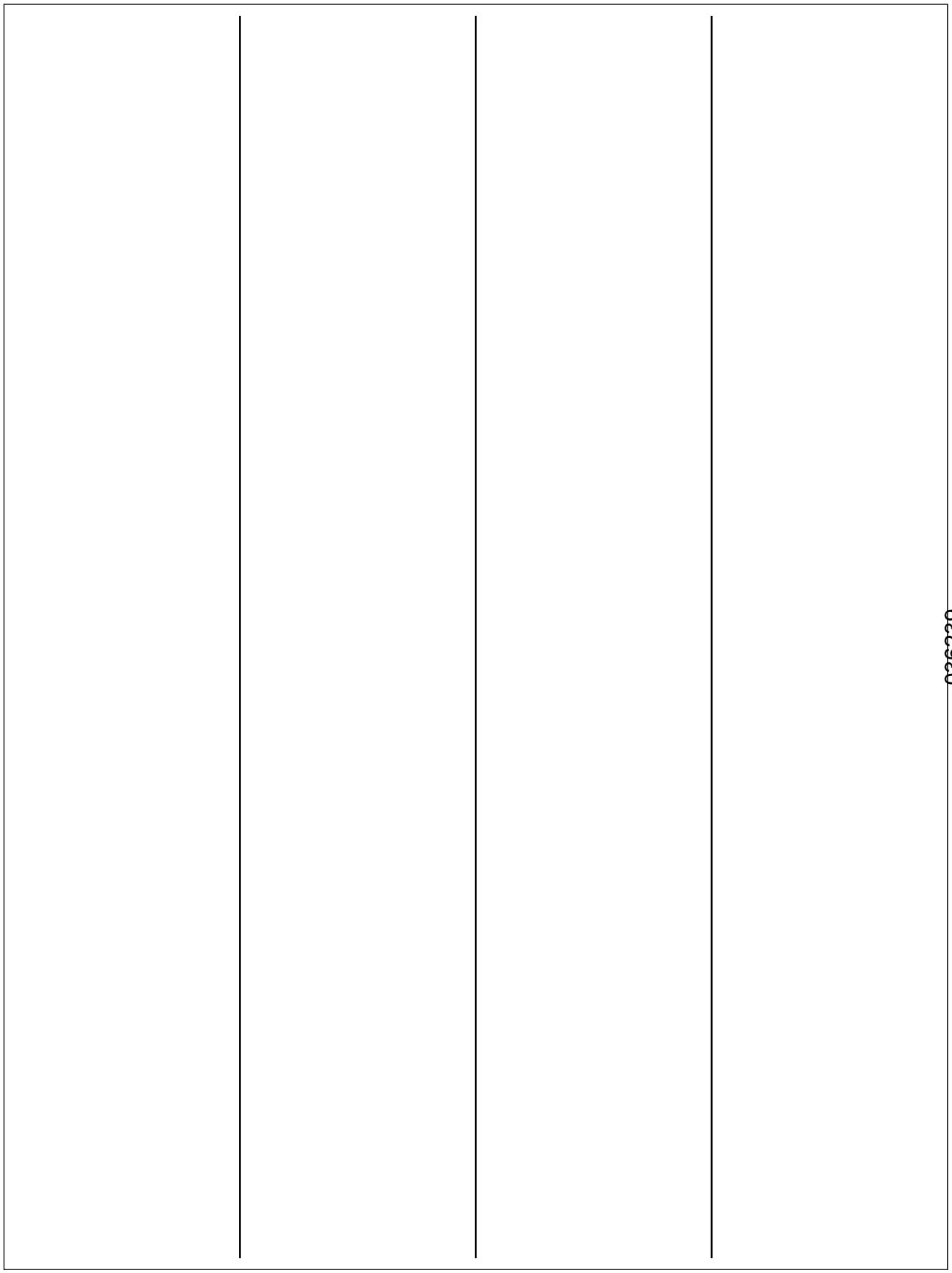
036237

036237



036238

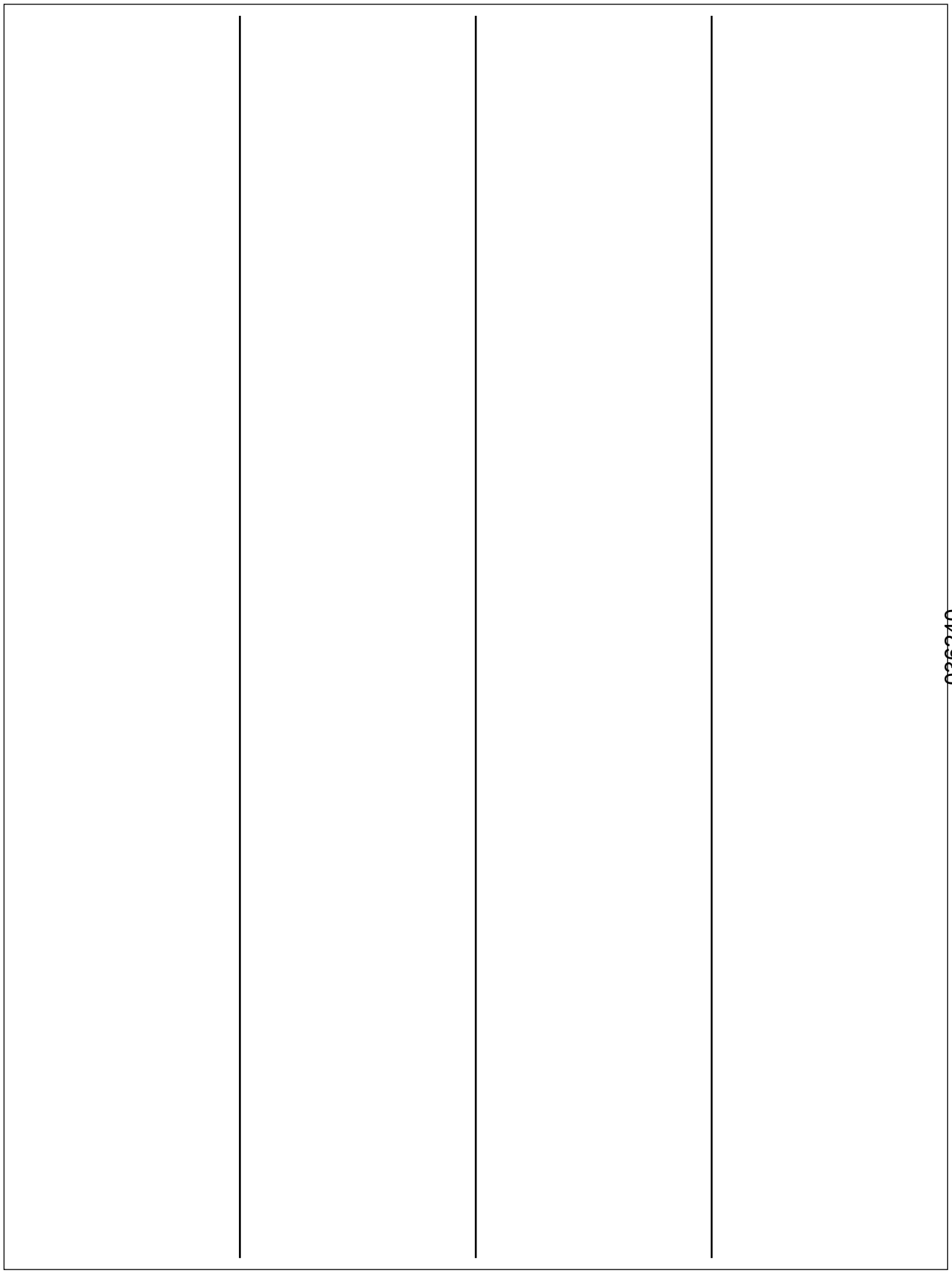
036238



036239

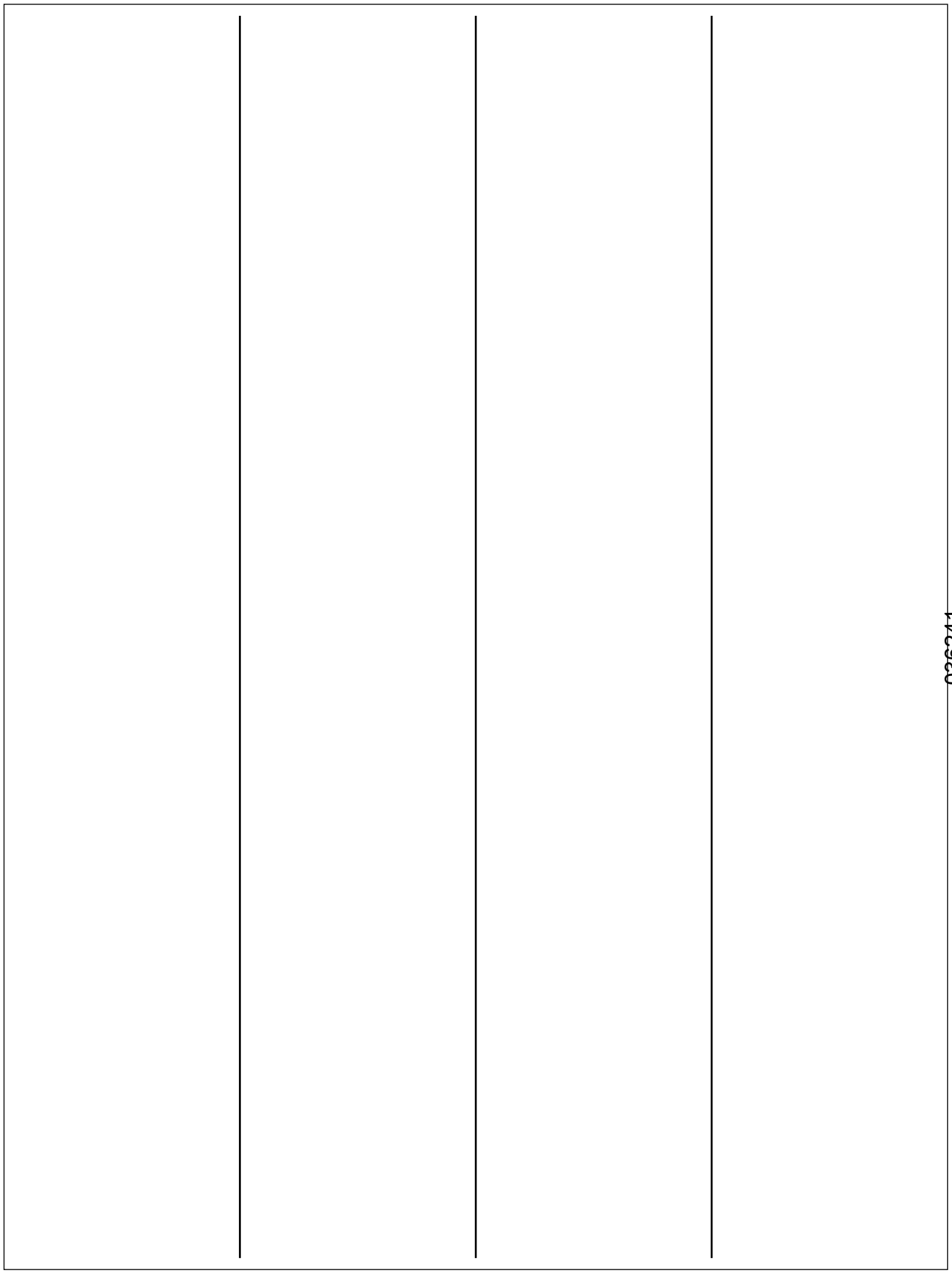
036239

OASIS
REPORTING SERVICES



036240

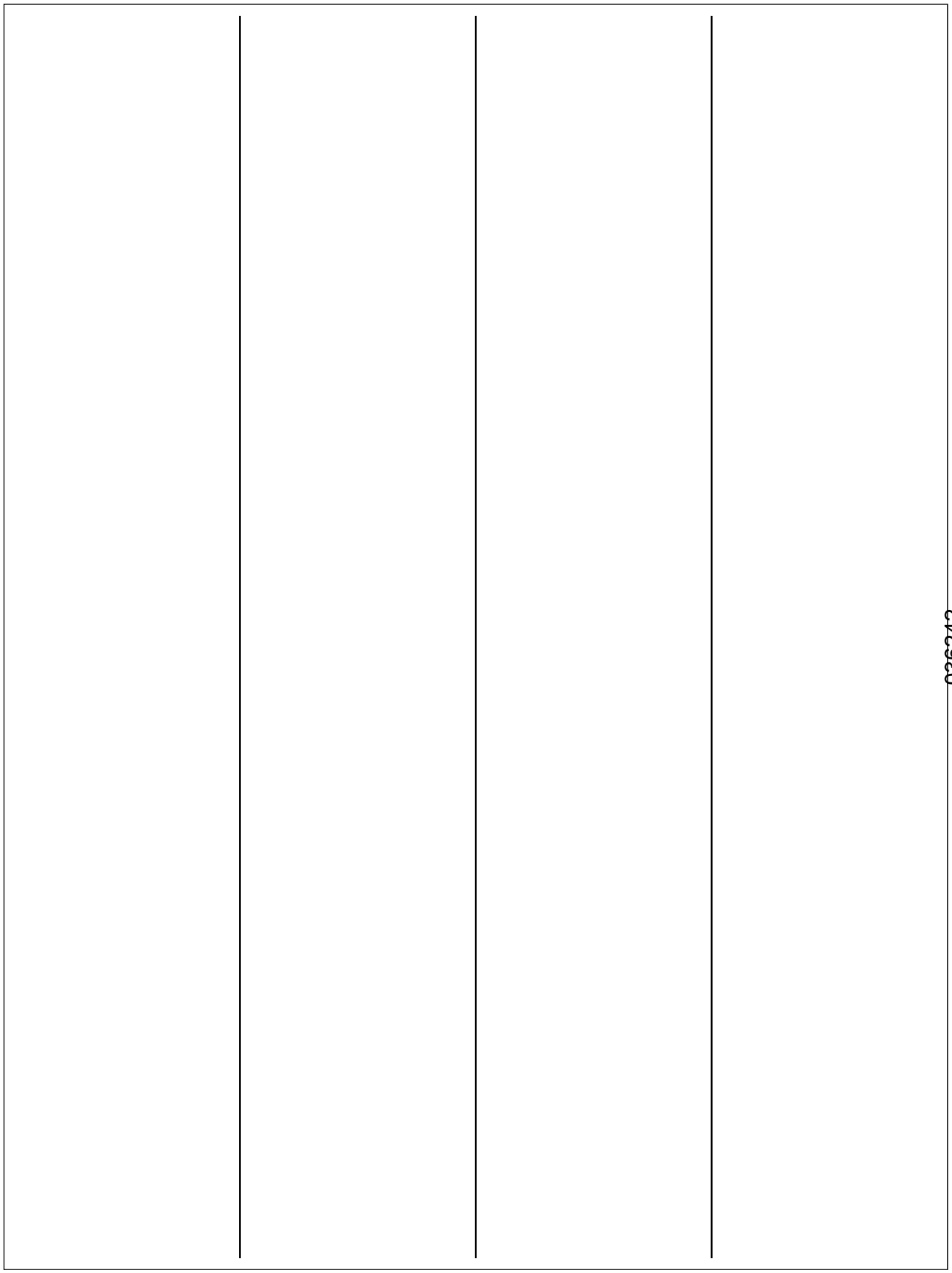
036240



036241

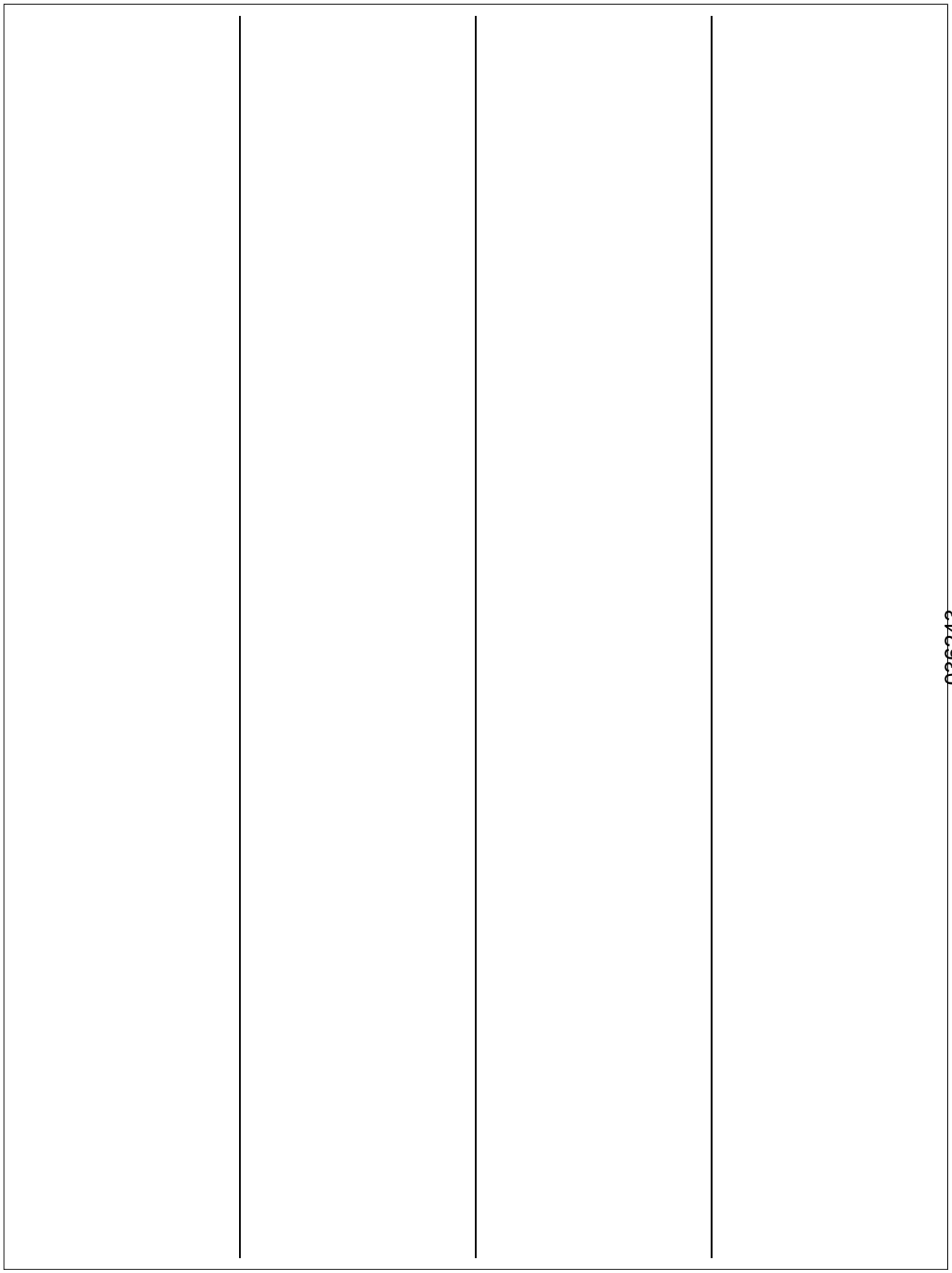
036241

OASIS
REPORTING SERVICES



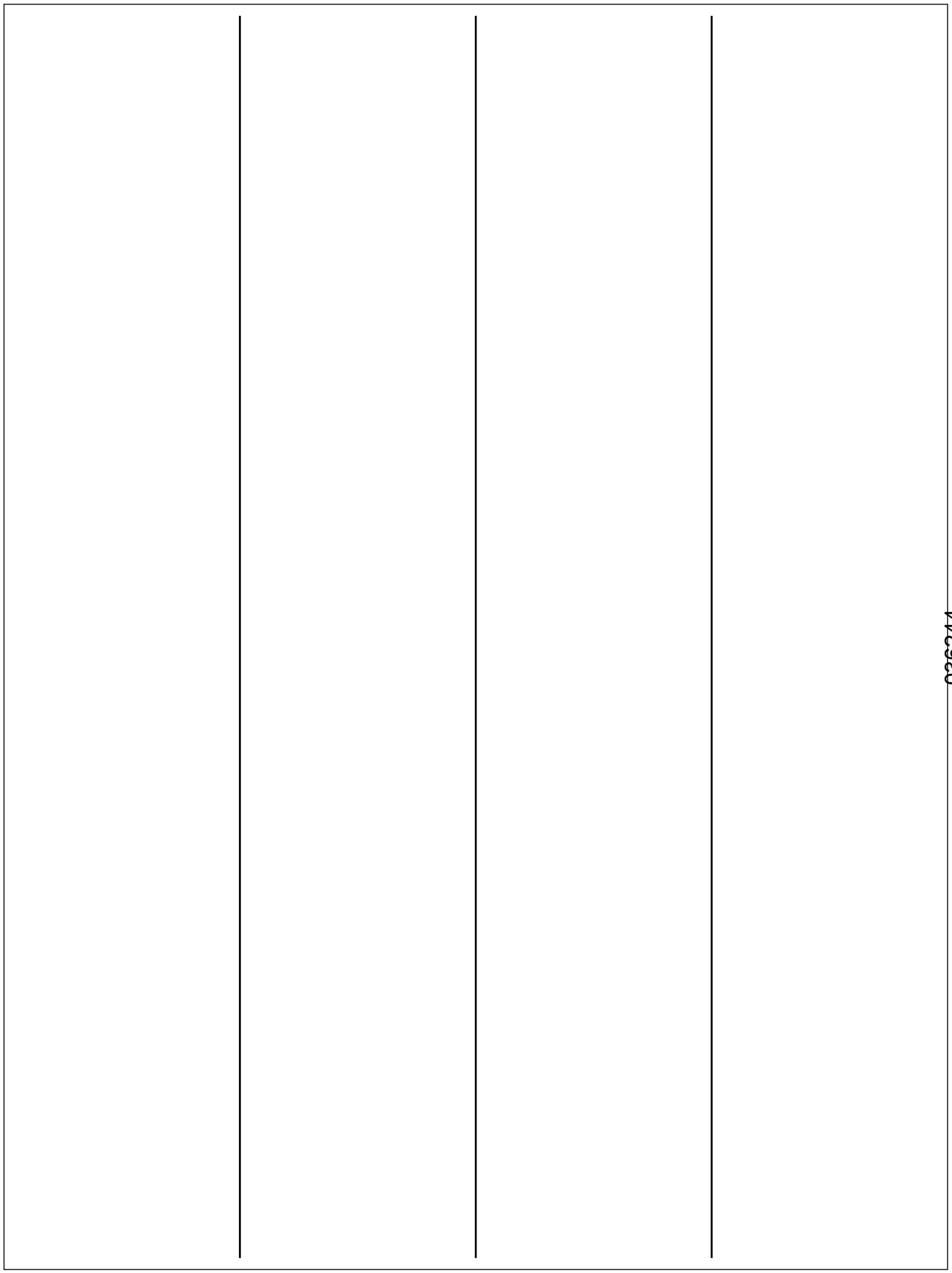
036242

036242



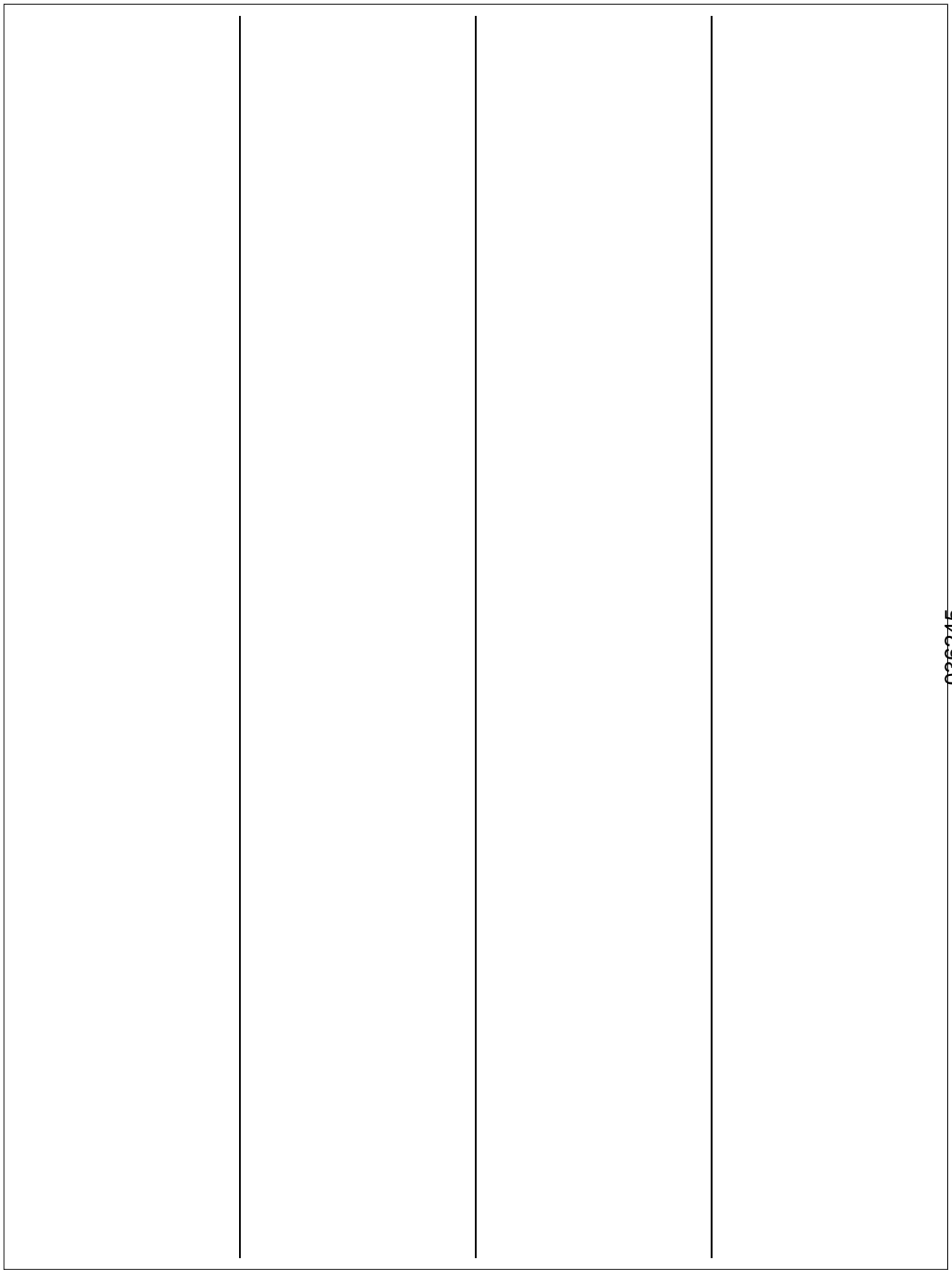
036243

036243



036244

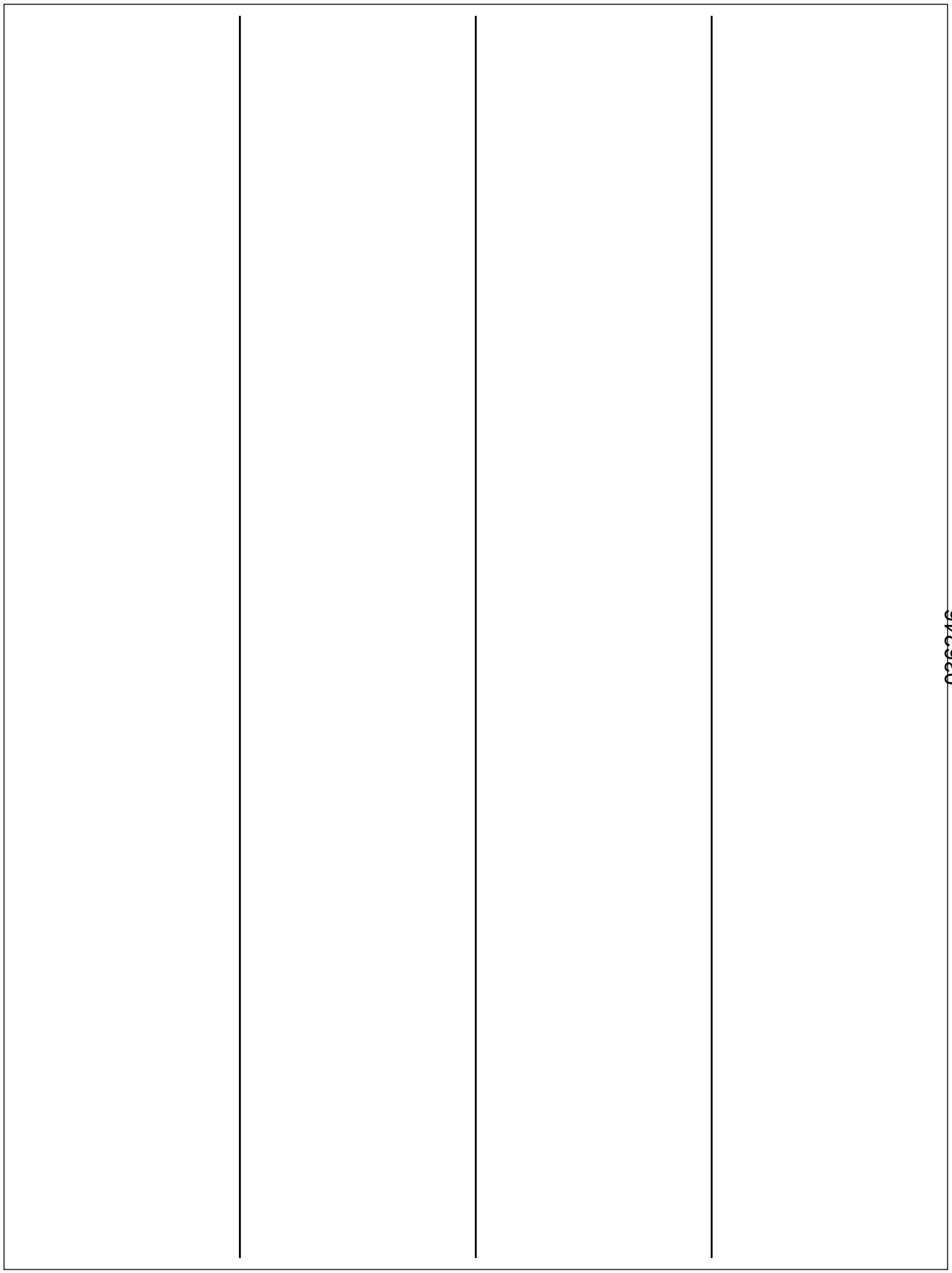
036244



036245

036245

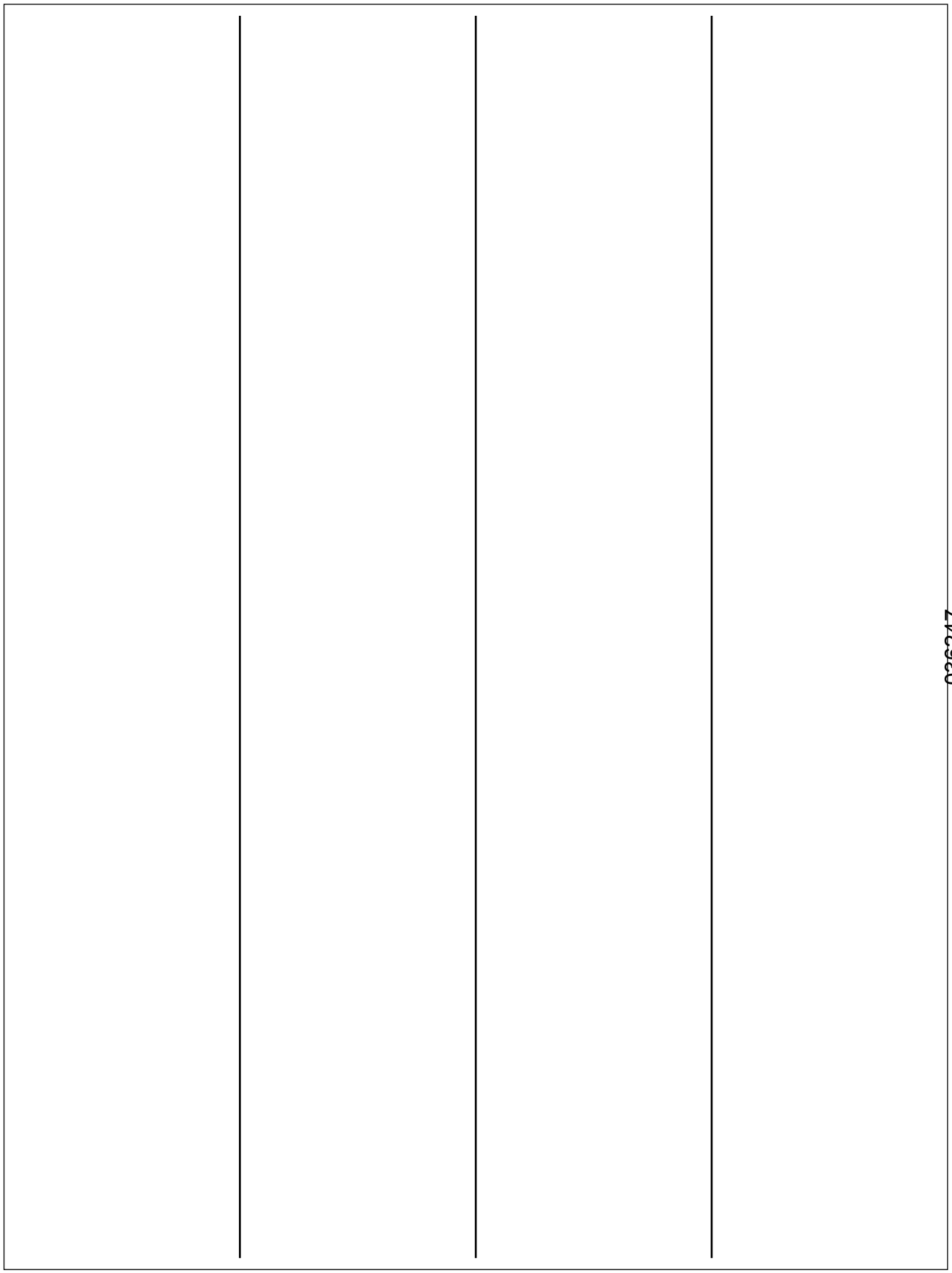
OASIS
REPORTING SERVICES



036246

036246

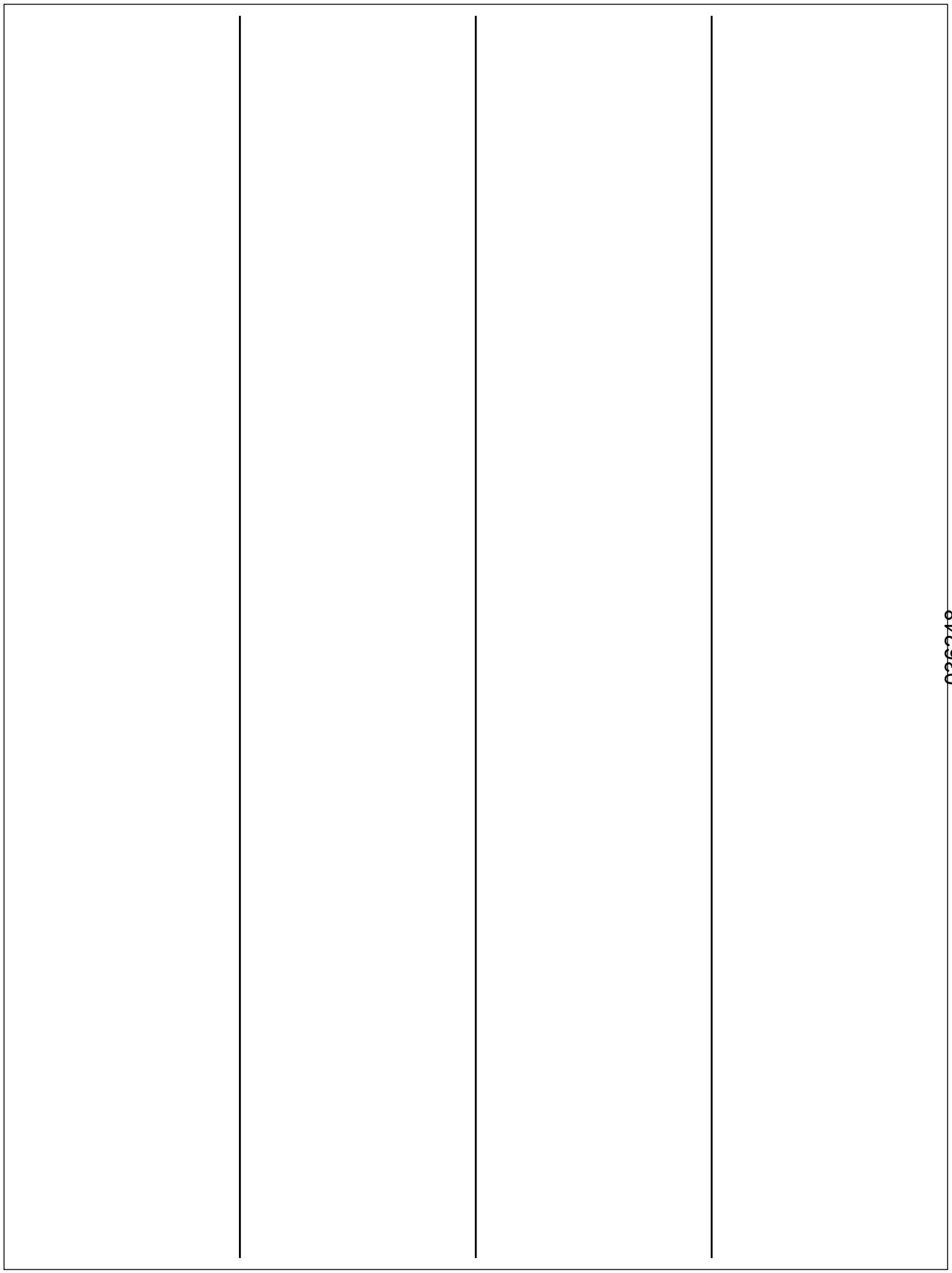
OASIS
REPORTING SERVICES



036247

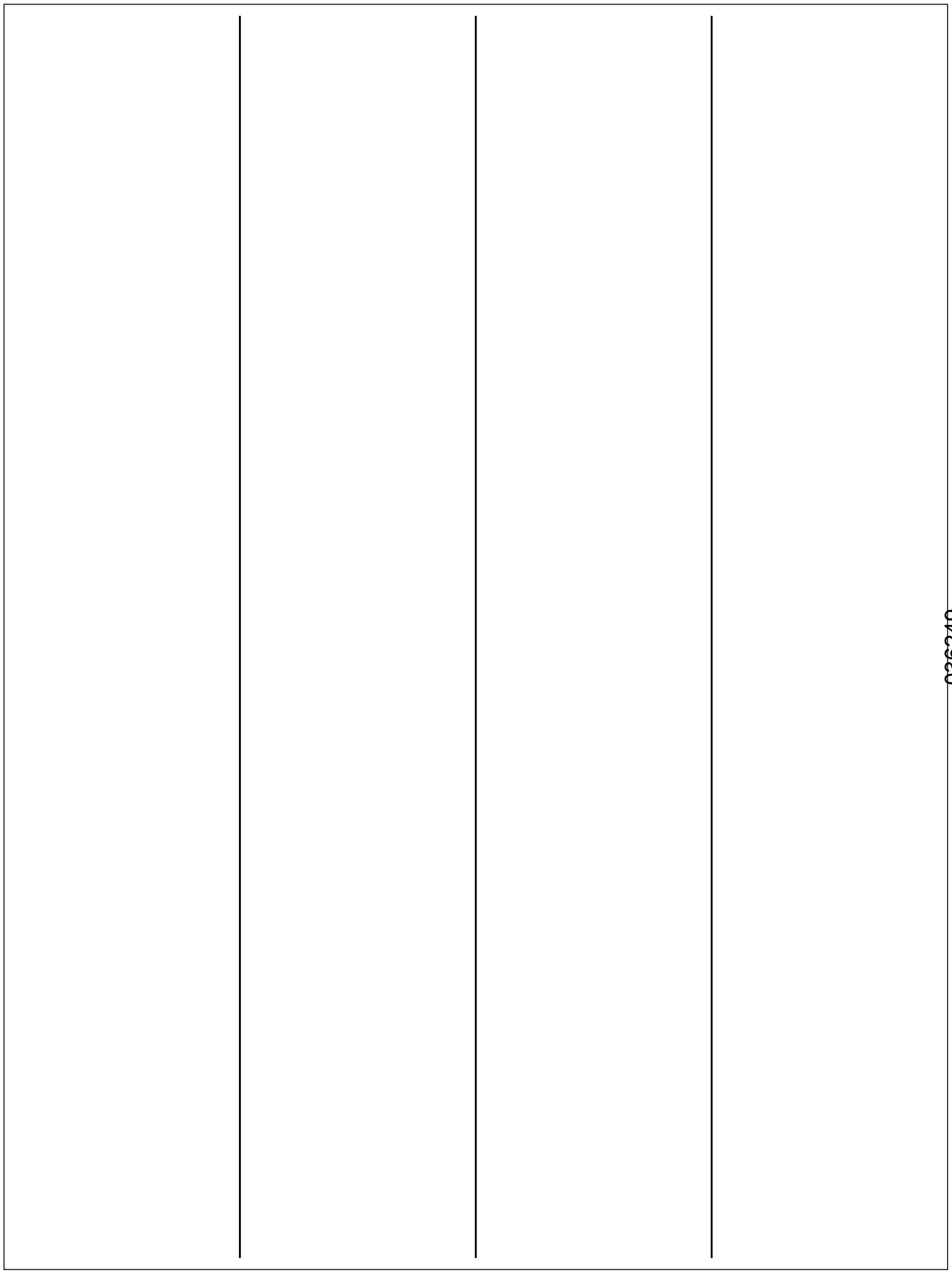
036247

OASIS
REPORTING SERVICES



036248

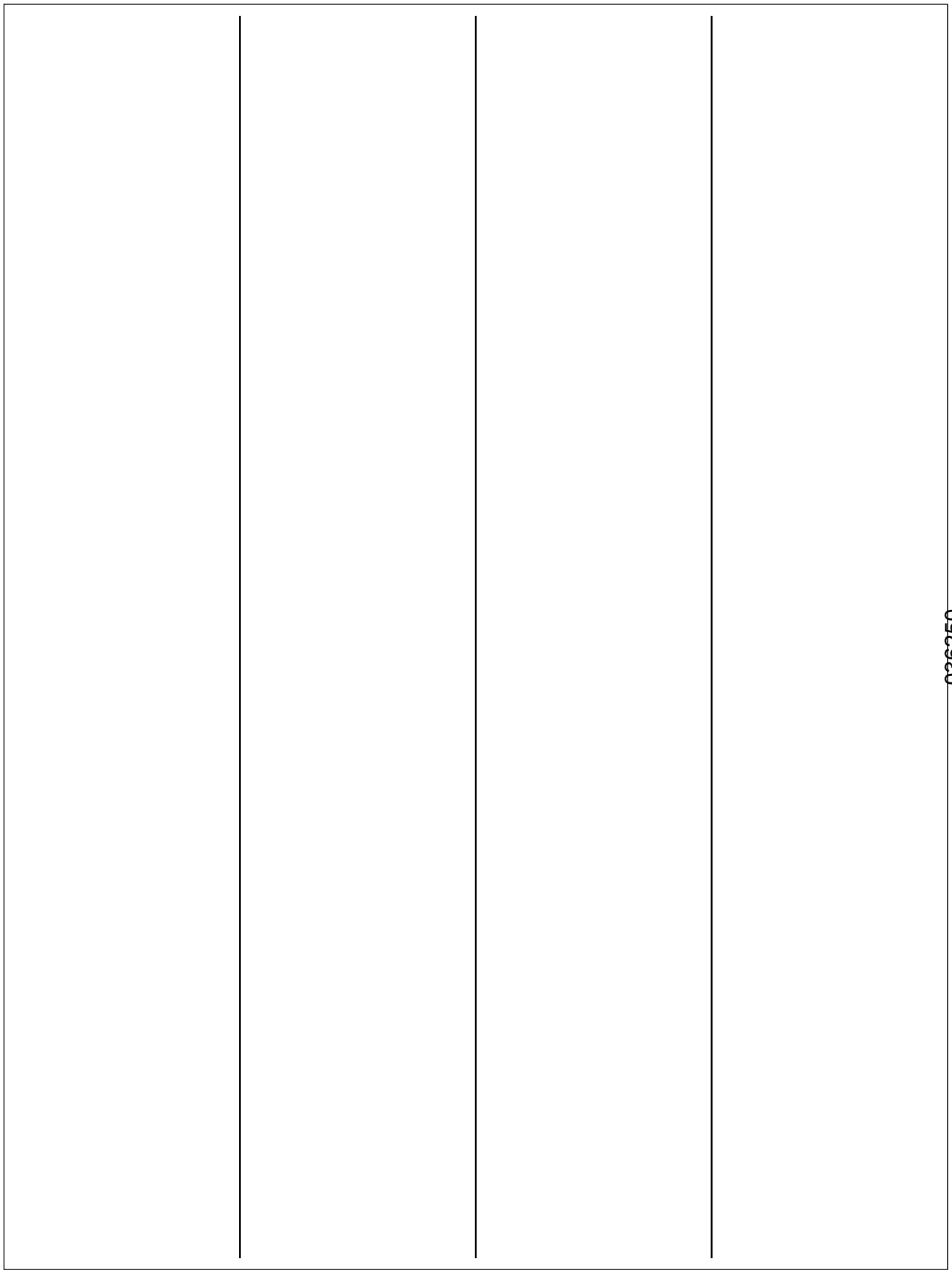
036248



036249

036249

OASIS
REPORTING SERVICES



036250

036250