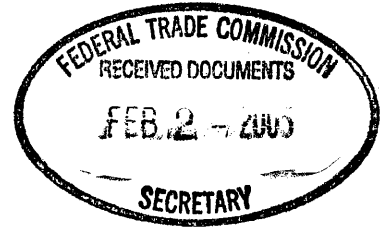


UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION



\_\_\_\_\_)  
In the Matter of )  
)  
Evanston Northwestern Healthcare ) Docket No. 9315  
Corporation, and )  
)  
ENH Medical Group, Inc. )  
)  
\_\_\_\_\_)

**THIRD-PARTY BLUE CROSS BLUE SHIELD OF ILLINOIS' MOTION FOR LEAVE  
TO FILE A RENEWED MOTION FOR *IN CAMERA* TREATMENT, IF NECESSARY  
AFTER FEBRUARY 2, 2005**

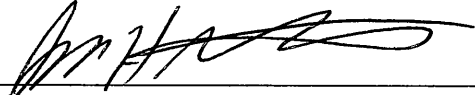
Third-Party Blue Cross Blue Shield of Illinois ("BCBSI") hereby provides notice to the Administrative Law Judge that it will not file a renewed motion for *in camera* treatment of proposed trial exhibit No. CX 3022 at this time. However, BCBSI seeks leave to renew its motion for *in camera* treatment with respect to its data after February 2, 2005, if either party seeks to introduce such data into evidence either directly, through testimony or in rebuttal.

In its Order on Non-Parties' Motions for In Camera Treatment of Documents Listed on Parties' Exhibit Lists dated January 26, 2005, the Court denied without prejudice BCBSI's motion for *in camera* treatment with respect to the data files listed in CX 3022 (the "Data Files") because BCBSI had not included copies of those files with its motion.<sup>1</sup> The Court established a deadline of February 2, 2005 for BCBSI to submit a renewed motion for *in camera* treatment of the Data Files. The Court also suggested that a renewed motion might not be necessary in the event that the parties elected not to include the Data Files on their final exhibit lists.

Pursuant to the Court's Order, BCBSI counsel contacted counsel for both parties and learned that neither would be including the Data Files on its final exhibit list. *See* Exh. 2. However, both parties left open the possibility that BCBSI data might be introduced during trial through testimony, in an expert report or in rebuttal. In light of the parties respective decisions not to include the Data Files on their final exhibit lists, BCBSI will not renew its motion for *in camera* treatment with respect to the Data Files at this time. However, by means of this motion, BCBSI seeks leave to renew its motion for *in camera* treatment and provide copies of the Data Files to the Court after February 2, 2005, if and when BCBSI receives notice of either parties' intention to introduce such data into evidence.

DATED: February 2, 2005

Respectfully submitted,



---

James H. Mutchnik  
Catherine E. Fazio  
KIRKLAND & ELLIS LLP  
200 East Randolph Drive  
Chicago, Illinois 60601  
Telephone: (312) 861-2000  
Facsimile: (312) 861-2200

---

<sup>1</sup> The Data Files listed in CX 3022 are described in Exhibit 1.

# **EXHIBIT 1**

Disc No.	Bates Number	Data File	Description
1	BCBSI 25149	PMRC0198.FTM PMRC0199.FTM PMRC0298.FTM PMRC0299.FTM PMRC0398.FTM PMRC0399.FTM PMRC0498.FTM PMRC0499.FTM PMRC0598.FTM PMRC0599.FTM PMRC0698.FTM PMRC0699.FTM PMRC0798.FTM PMRC0799.FTM PMRC0898.FTM PMRC0998.FTM PMRC0999.FTM PMRC1098.FTM PMRC1099.FTM PMRC1198.FTM PMRC1199.FTM PMRC1298.FTM PMRC1299.FTM POS0198.FTM POS0199.FTM POS0298.FTM POS0299.FTM POS0398.FTM POS0399.FTM POS0498.FTM POS0499.FTM POS0598.FTM POS0599.FTM POS0698.FTM POS0699.FTM POS0798.FTM POS0799.FTM POS0898.FTM POS0899.FTM POS0998.FTM POS0999.FTM POS1098.FTM POS1099.FTM POS1198.FTM	Contain confidential PMRC 1998 POS 1999, and PPO January 1998- April 1999 claim and reimbursement data.

Disc No.	Bates Number	Data File	Description
		POS1199.FTM POS1298.FTM POS1299.FTM PPO0198.FTM PPO0199.FTM PPO0298.FTM PPO0299.FTM PPO0398.FTM PPO0399.FTM PPO0498.FTM	
2	BCBSI 25150	PPO0499.FTM PPO0598.FTM PPO0599.FTM PPO0698.FTM PPO0699.FTM PPO0798.FTM PPO0799.FTM PPO0898.FTM PPO0899.FTM	Contain confidential PPO April 1998-August 1999 claim and reimbursement data.
3	BCBSI 25151	PPO0999.FTM PPO1098.FTM PPO1099.FTM PPO1198.FTM PPO1199.FTM PPO1298.FTM PPO1299.FTM	Contain confidential PPO September 1998-December 1999 claim and reimbursement data.
4	BCBSI 25152	PMRC0100.FTM PMRC0200.FTM PMRC0300.FTM PMRC0400.FTM PMRC0500.FTM PMRC0600.FTM PMRC0700.FTM PMRC0800.FTM PMRC0900.FTM PMRC1100.FTM PMRC1200.FTM POS0100.FTM POS0200.FTM POS0300.FTM POS0400.FTM POS0500.FTM	Contain confidential PMRC 2000, POS 2000 and PPO Files 1-5/2000 claim and reimbursement data.

Disc No.	Bates Number	Data File	Description
		POS0600.FTM POS0700.FTM POS0800.FTM POS0900.FTM POS1000.FTM POS1100.FTM POS1200.FTM PPO0100.FTM PPO0200.FTM PPO0300.FTM PPO0400.FTM PPO0500.FTM	
5	BCBSI 25153	PPO0600.FTM PPO0700.FTM PPO0800.FTM PPO0900.FTM PPO1000.FTM PPO1100.FTM PPO1200.FTM	Contain confidential PPO June-December 2000 claim and reimbursement data.
6	BCBSI 25154	PMRC0101.FTM PMRC0201.FTM PMRC0301.FTM PMRC0501.FTM PMRC0601.FTM PMRC0701.FTM PMRC1001.FTM PMRC1201.FTM POS0101.FTM POS0201.FTM POS0301.FTM POS0401.FTM POS0501.FTM POS0601.FTM POS0701.FTM POS0801.FTM POS0901.FTM POS1001.FTM POS1101.FTM POS1201.FTM PPO0101.FTM PPO0201.FTM PPO0301.FTM PPO0401.FTM	Contain confidential PMRC, POS and PPO January-May 2001 claim and reimbursement data.

Disc No.	Bates Number	Data File	Description
		PPO0501.FTM	
7	BCBSI 25155	PPO0601.FTM PPO0701.FTM PPO0801.FTM PPO0901.FTM	Contain confidential PPO June-September 2001 claim and reimbursement data.
8	BCBSI 25156	PPO0601.FTM PPO0701.FTM PPO0801.FTM PPO0901.FTM	Contain confidential PPO Files 10, 11, 12/2000 claim and reimbursement data.
9	BCBSI 25157	PMRC0202.FTM PMRC0302.FTM PMRC0602.FTM PMRC0702.FTM PMRC0902.FTM PMRC1002.FTM PMRC1202.FTM POS0102.FTM POS0202.FTM POS0302.FTM POS0402.FTM POS0602.FTM POS0802.FTM POS1002.FTM POS1202.FTM PPO0202.FTM PPO0302.FTM POS0502.FTM POS0702.FTM POS0902.FTM POS1102.FTM PPO0102.FTM	Contain confidential PMRC 2002, POS 2002, and PPO January-March 2002 claim and reimbursement data.
10	BCBSI 25158	PPO0402.FTM PPO0502.FTM PPO0602.FTM PPO0702.FTM	Contain confidential PPO April - June 2002 claim and reimbursement data,
11	BCBSI 25159	PPO0802.FTM PPO0902.FTM PPO1002.FTM	Contain confidential PPO August-October 2002 claim and reimbursement data.

Disc No.	Bates Number	Data File	Description
12	BCBSI 25160	PPO1102.FTM PPO1202.FTM	Contain confidential PPO November -December 2002 claim and reimbursement data.
13	BCBSI 25161	PMRC0203.FTM PMRC0303.FTM PMRC0403.FTM PMRC0603.FTM PMRC0703.FTM POS0103.FTM POS0203.FTM POS0303.FTM POS0403.FTM POS0503.FTM POS0603.FTM POS0703.FTM PPO0103.FTM PPO0203.FTM	Contain confidential POS, PMRC 1-7/2003 and PPO January - February 2003 claim and reimbursement data.
14	BCBSI 25162	PPO0303.FTM PPO0403.FTM PPO0503.FTM	Contain confidential PPO March - May 2003 claim and reimbursement data.
15	BCBSI 25163	PPO0603.FTM PPO0703.FTM	Contain confidential PPO June-July 2003 claim and reimbursement data.
16	BCBSI 25164	FTCH0303.FTM FTCH0402.FTM FTCH0600.FTM FTCH0601.FTM FTCH0703.FTM FTCH0802.FTM FTCH1200.FTM FTCH1201.FTM FTCH1202.FTM FTCH1998.FTM FTCH1999.FTM	Contain confidential HMO claims incurred between January 1, 1998 - July 31, 2003 and paid on or before July 31, 2003.
		CLM98Q01.TXT CLM98Q02.TXT CLM98Q03.TXT CLM98Q04.TXT CLM99Q01.TXT	Contain confidential January 1, 1998 - September 30, 2003 claim and reimbursement data.



Disc No.	Bates Number	Data File	Description
		CLM99Q02.TXT CLM99Q03.TXT CLM99Q04.TXT CLM00Q01.TXT CLM00Q02.TXT CLM00Q03.TXT CLM00Q04.TXT CLM01Q01.TXT CLM01Q02.TXT CLM01Q03.TXT CLM01Q04.TXT CLM02Q1.DAT CLM02Q2.DAT CLM02Q3.DAT CLM02Q4.DAT CCM03Q01.TXT CLM03Q02.TXT CLM03Q03.TXT PPO0998.FTM PPO1001.FTM PPO1101.FTM PPO1201.FTM	

# **EXHIBIT 2**

# KIRKLAND & ELLIS LLP

AND AFFILIATED PARTNERSHIPS

200 East Randolph Drive  
Chicago, Illinois 60601

312 861-2000

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Catherine Fazio  
To Call Writer Directly:  
312-861-2281  
cfazio@kirkland.com

Facsimile:  
312 861-2200

January 31, 2005

## Via Facsimile

Jeff Dahnke  
Complaint Counsel  
Federal Trade Commission  
Bureau of Competition  
601 New Jersey Avenue, NW  
Washington, DC 20001

Charles B. Klein  
Respondent Counsel  
Winston & Strawn LLP  
1400 L Street, NW  
Washington, DC 20005

Re: In the Matter of Evanston Northwestern Healthcare Corporation and ENH  
Medical Group, Inc., Docket No. 9315

Dear Mr. Dahnke and Mr. Klein:

As you know, in the Court's Order on Non-Parties' Motions for *In Camera* Treatment of Documents Listed on Parties' Exhibit Lists, the Court denied the motion Blue Cross Blue Shield of Illinois ("BCBSI") for *in camera* treatment with respect to the BCBSI data files included on the Commission's preliminary exhibit list as CX 3022. The Court's ruling with regard to these files was without prejudice and provided BCBSI with the opportunity to supply copies of the files to the Court and to renew its motion on or before February 2, 2005 if the Commission elected to include those BCBSI files on its final exhibit list. This letter will confirm that we have discussed the Court's order with both parties and that both have informed us that they will not include data files produced by BCBSI on their respective final exhibit lists including, but not limited to, disks bates labeled BCBSI 25149-25164 (the "Data Files"). However, both parties have indicated that data from the Data Files may nonetheless be introduced through testimony, in rebuttal or in expert submissions during the trial. Please confirm this representation with respect to your client by countersigning below and then returning a copy to me.

Based on this representation, BCBSI will notify the Court that it will not renew its motion for *in camera* treatment with respect to the Data Files at this time. Given that the Data

KIRKLAND & ELLIS LLP

Jeff Dahnke,  
Charles B. Klein  
January 31, 2005  
Page 2

Files may still be introduced into evidence in the trial, BCBSI will also move for leave to file a renewed motion for *in camera* treatment of the Data Files after February 2, 2005 in the event that the Commission or Respondents seek to introduce any of the data contained therein into evidence during the trial. Along these lines, BCBSI hereby requests that if either party seeks to utilize BCBSI data at trial in whole or in part that that party provide notice to BCBSI as required by 16 C.F.R. § 3.45(b).

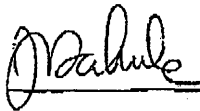
A draft of the motion described above is attached for your review. Please notify me of any opposition to this motion by 5:00 pm CST on Tuesday February 1, 2005.

Thank you for your continued courtesy and cooperation.

Sincerely,



Catherine Fazio



---

Jeff Dahnke  
Complaint Counsel  
Federal Trade Commission  
Bureau of Competition  
601 New Jersey Avenue, NW  
Washington, DC 20001

---

Charles B. Klein  
Respondent Counsel  
Winston & Strawn LLP  
1400 L Street, NW  
Washington, DC 20005

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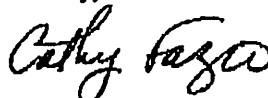
Jeff Dahnke,  
Charles B. Klein  
January 31, 2005  
Page 2

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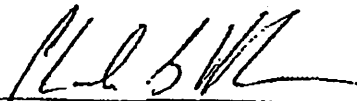
A draft of the motion described above is attached for your review. Please notify me of any opposition to this motion by 5:00 pm CST on Tuesday February 1, 2005.

Thank you for your continued courtesy and cooperation.

Sincerely,



Catherine Fazio



---

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Complaint Counsel  
Federal Trade Commission  
Bureau of Competition  
601 New Jersey Avenue, NW  
Washington, DC 20001

Charles B. Klein  
Respondent Counsel  
Winston & Strawn LLP  
1400 L Street, NW  
Washington, DC 20005

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION**

_____	)	
In the Matter of	)	
	)	
Evanston Northwestern Healthcare	)	Docket No. 9315
Corporation, and	)	
	)	
ENH Medical Group, Inc.	)	
_____	)	

**ORDER**

Upon consideration of Third-Party Blue Cross Blue Shield of Illinois' ("BCBSI") Motion For Leave to File a Renewed Motion for *In Camera* Treatment, If Necessary, After February 2, 2005, IT IS HEREBY ORDERED that BCBSI may renew its motion for *in camera* treatment with respect to its data after February 2, 2005, if either party seeks to introduce such data into evidence either directly, through testimony or in rebuttal.

\_\_\_\_\_  
Stephen J. McGuire  
Administrative Law Judge

DATE: \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I hereby certify that on February 2, 2005, a copy of the foregoing Third-Party Blue Cross Blue Shield's Public Motion For Leave to File a Renewed Motion for *In Camera* Treatment. If Necessary After February 2, 2005 was served via email and by first class mail, postage prepaid, on:

The Honorable Stephen J. McGuire  
Chief Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue, NW (H-106)  
Washington, DC 20580  
(two courtesy copies delivered by messenger  
only)

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