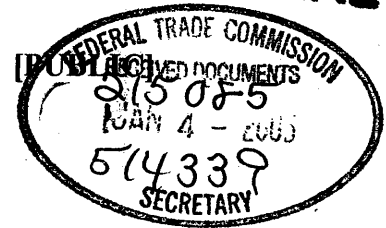


**ORIGINAL**



**UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION**

\_\_\_\_\_  
In the Matter of )  
)  
EVANSTON NORTHWESTERN HEALTHCARE )  
CORPORATION, ) Docket No. 9315  
)  
and ) Honorable Stephen J. McGuire  
)  
ENH MEDICAL GROUP, INC., )  
Respondents. )  
\_\_\_\_\_ )

**NON-PARTY UNICARE'S MOTION FOR *IN CAMERA* TREATMENT  
OF CERTAIN DESIGNATED HEARING EXHIBITS**

Non-Party UniCare Health Plans of the Midwest, UniCare Health Insurance Company of the Midwest, and UniCare Life & Health Insurance Company (“UniCare”) hereby files its Motion for *In Camera* Treatment of Certain Hearing Exhibits that Evanston Northwestern Healthcare Corporation and EHN Medical Group, Inc. (“Respondents”) and the Federal Trade Commission (“FTC”) have designated for possible introduction in the administrative trial in this matter. Each of these documents was treated by UniCare as “Confidential Discovery Material” or “Restricted Confidential Discovery Material” in accordance with the terms of the Protective Order Governing Discovery Material entered by Stephen J. McGuire, Chief Administrative Law Judge, on March 24, 2004. UniCare respectfully requests that the Administrative Law Judge enter an Order pursuant to Rule 3.45(b) of the Federal Trade Commission Rules of Practice, 16 C.F.R. § 3.45(b), granting *in camera* treatment for an indefinite duration or, alternatively, no less than ten (10) years, to the documents listed in Exhibit 1 attached to this Motion and the proposed Order. The documents are secret and material to UniCare’s on-going and future business, public

disclosure of which would harm UniCare. In support of this Motion, UniCare respectfully refers the Court to the accompanying Declaration of Lenore Holt-Darcy and states as follows:

### **I. Introduction**

A description of each document identified by Complaint Counsel and counsel for Respondents as potential trial exhibits for which UniCare seeks *in camera* treatment is attached hereto as Exhibit 1. (The documents themselves are submitted in a separate version of Exhibit 1 for *in camera* review). Each of the subject documents was treated as “Confidential Discovery Material” or “Restricted Confidential Discovery Material” under the March 24, 2004 Protective Order Governing Discovery Material (“Protective Order”) entered by Stephen J. McGuire, Chief Administrative Law Judge.<sup>1</sup> The information contained in these documents is secret, commercially sensitive, and material to UniCare’s current and prospective business. Accordingly, UniCare respectfully requests that the Administrative Law Judge enter an Order pursuant to Section 3.45(b) of the Federal Trade Commission Rules of Practice, 16 C.F.R. § 3.45(b), granting *in camera* treatment to these documents for an indefinite duration or, alternatively, for a period of no less than ten (10) years.

### **II. Standard for *In Camera* Treatment**

Materials merit *in camera* treatment when their public disclosure of the documents “will result in a clearly defined, serious injury to the person or corporation whose records are involved.” *H.P. Hood & Sons, Inc.*, 58 F.T.C. 1184, 1188 (1961). Such serious injury can be established by showing that the information at issue is “sufficiently secret and sufficiently material to the applicant’s business that disclosure would result in serious competitive injury.”

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<sup>1</sup> Each of the documents at issue were originally produced to the FTC in response to its investigative subpoena as “Confidential Discovery Material” under the Protective Order and/or were subsequently produced to the Respondents during the discovery proceedings of the above-captioned matter and marked as either “Confidential” or “Restricted Confidential-Attorney Eyes Only” in accordance with the terms of the Protective Order.

*In re General Foods Corp.*, 95 F.T.C. 352, 355 (1980); *In the Matter of Bristol Meyers Co.*, 90 F.T.C. 455, 456 (1977). The following factors should be weighed in considering both secrecy and materiality: (1) the extent to which the information is known outside the applicant's business; (2) the extent to which the information is known by employees and others involved in the applicant's business; (3) the extent of measures taken by the applicant to guard the secrecy of the information; (4) the value of the information to the applicant and its competitors; (5) the amount of effort or money expended by the applicant in developing the information; and (6) the ease or difficulty with which the information could be properly acquired or duplicated by others. *In the Matter of Bristol Meyers Co.*, 90 F.T.C. at 456.

A showing of injury may consist of extrinsic evidence or, in certain instances, may be inferred from the nature of the documents themselves. *In the Matter of E.I. Dupont de Nemours & Co.*, 97 F.T.C. 116 (1981). Administrative law judges have broad discretion in applying these factors to determine whether information warrants *in camera* treatment. See *In re General Foods Corp.*, 95 F.T.C. 352 (1980). Moreover, the Commission has stated that a request for *in camera* treatment by a non-party company to the FTC proceeding (such as UniCare) should be given "special solicitude." *In re Crown Cork & Seal Co.*, 71 F.T.C. 1714 (1967) ("[P]etitioner's plea warrants special solicitude coming as it does from a third-party bystander in no way involved in the proceedings whose records, if *in camera* treatment is denied, will be open to the scrutiny of its competitors"); accord *Kaiser Aluminum & Chemical Corp.*, 103 F.T.C. 500 (1984) (requests for *in camera* treatment by third parties should be given special solicitude because, as a policy matter, such treatment encourages the third party to cooperate with future adjudicative discovery requests).

### **III. The UniCare Documents Meet the Standard for *In Camera* Treatment**

The documents for which UniCare seeks *in camera* treatment relate almost exclusively to one of the most critical and commercially sensitive aspects of UniCare's business: the prices and terms on which UniCare contracts for healthcare services for its members. Specifically, the documents at issue consist of 1) contracts with various healthcare providers in the Chicago metropolitan area, including Evanston Northwestern Healthcare, 2) correspondence regarding the terms of such contracts, and 3) internal documents and assessments concerning the contracts. The information contained in the documents is the very foundation of UniCare's business and is precisely the type of material that the Protective Order recognized as highly confidential and deserving of protection from disclosure. The contracts themselves, of course, are the product of negotiations over extended periods of time and reflect the contracting strategies, financial modeling, and actuarial analysis invested by UniCare into its contractual relationships with its providers.<sup>2</sup> Indeed, under the Illinois Insurance Code, an insurer or HMO's fee arrangements or capitation schedule are considered confidential, proprietary and trade secret information pursuant to the Illinois Trade Secrets Act. *See* 215 ILCS 5/368b(b) and 765 ILCS 1065/1 *et seq.*

Similarly, the correspondence and internal documentation reflect proposed contract terms as well as the terms upon which agreement was ultimately reached. These records reveal not only the contract terms themselves, but also the negotiating and pricing strategies employed by UniCare. In the same manner as the contracts themselves, these documents contain confidential and proprietary information the public disclosure of which would result in material harm to UniCare.

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<sup>2</sup> These contracts include contracts between healthcare providers in Illinois and UniCare's predecessor companies. UniCare assumed the relevant business of these entities, including Rush Prudential HMO, Rush Prudential Insurance Company, Anchor, and others identified in the contracts listed in Exhibit 1.

Each of the subject documents has been maintained internally by UniCare in a confidential manner, only being shared with those individuals requiring knowledge of the information contained within the document. The information was not made available to UniCare's competitors or other outside persons. As such, when legally compelled to produce the information under subpoena, the documents were treated as "Confidential Discovery Material" or "Restricted Confidential Discovery Material" in accordance with the terms of the Protective Order.

As described in more detail in the Declaration of Lenore Holt-Darcy (attached hereto as Exhibit 2), these documents merit *in camera* treatment because they are commercially sensitive and highly confidential business information relating to the terms of UniCare's contracts with providers, fee schedules, and rates paid by UniCare to various provider groups for healthcare services. UniCare's fee schedules and rate information are vital to UniCare's competitive position and business strategy. UniCare has expended thousands of hours of research and development implementing methods by which it analyzes and values provider groups and determines the rates it pays for physician services. Furthermore, to the extent the documents contain fee and rate schedules, they clearly constitute "trade secrets" under Section 368b of the Illinois Trade Secrets Act as a matter of law. 215 ILCS 5/368b(b) ("The fee schedule, the capitation schedule, and the network provider administration manual constitute confidential, proprietary, and trade secret information and are subject to the provisions of the Illinois Trade Secrets Act").

In addition, if disclosed to the public and to competitors of UniCare, this highly sensitive, confidential, and proprietary information would cause serious competitive injury to UniCare. Specifically, the disclosure of the subject documents would reveal how UniCare evaluates and

compensates its various provider groups and how UniCare determines the rates it pays for healthcare services and the terms on which it contracts for such services -- a process that UniCare has invested many man-hours over many years to develop. UniCare's efforts in this regard have allowed it to gain a competitive advantage in the marketplace and better service its members. The public disclosure of any of this critically sensitive information would be highly detrimental to UniCare as it would provide both the healthcare providers with whom UniCare does or may contract and UniCare's competitors with sensitive pricing and contracting terms, causing serious and irreparable harm to UniCare and resulting in significant loss of business advantage. Were competitors to know with certainty the pricing and contract terms of UniCare's contracts with providers, UniCare's competition would gain an unfair advantage at UniCare's expense. At the same time, UniCare would not have parallel information about its competitors. Moreover, healthcare providers armed with UniCare's pricing and contracting information could use it to their advantage in future negotiations with UniCare. The dangers of this type of competitive injury resulting from public disclosure of similar contracts in the managed healthcare context was previously recognized by the court in *In the Matter of Hoechst Marion Roussel, Inc.*, 2000 WL 33534760 (FTC)(October 4, 2000) (granting *in camera* treatment to managed healthcare provider contracts).

**IV. *In Camera* Treatment of the Documents Should Extend Indefinitely or, at Minimum, for a Ten (10) Year Period**

As a non-party seeking *in camera* treatment for its confidential business information, UniCare's request should be treated with "special solicitude." *In the Matter of Kaiser Aluminum & Chemical Corporation*, 103 F.T.C. 500, 5000 (1984) (order directing *in camera* treatment for sales statistics over five years old). Reasonable periods of *in camera* treatment encourage non-parties to cooperate with future discovery requests in adjudicative proceedings. *Id.* At great

expense, UniCare has cooperated with the discovery demands of both parties to this case, producing thousands of pages of documents and a witness for deposition. The subject documents have been made available for use by Complaint counsel and Respondents in accordance with the terms of the Protective Order. Disclosing documents containing UniCare's highly confidential business information now will not materially promote the resolution of this matter, nor will these documents lend measurable public understanding of these proceedings. The balance of interests clearly favors *in camera* treatment for the subject documents. *See In re Bristol-Myers*, 90 F.T.C. at 456.

Further, UniCare's request that *in camera* treatment for the subject documents be maintained for an indefinite period is reasonable in light of the commercial realities of the managed care industry. Provider contracts typically continue in force for a number of years and are often renegotiated and renewed with substantial incorporation of the terms of preceding contracts. The subject documents themselves establish the frequency of amendments of such contracts and the duration of such contracts. Under these circumstances, it is uncertain as to when the documents will no longer reflect current pricing and contract terms. Moreover, the market is such that even disclosure of terms of contracts no longer in force creates an unreasonable and unnecessary risk of competitive harm to UniCare such that *in camera* treatment should extend indefinitely or, at a minimum, for a period of at least ten (10) years; a reasonable estimate of the minimum length of time for the contracts at issue to expire and their terms to become outdated and irrelevant.

## V. Conclusion

UniCare, in endeavoring to remain competitive and provide superior managed healthcare services for its members, has created certain highly sensitive documents relating to the terms and

prices at which it contracts with providers. Disclosure of these documents would result in a clearly defined serious injury to UniCare. Accordingly, for the reasons set forth above and in the Declaration of Lenore Holt-Darcy, UniCare respectfully requests that this Court grant its motion directing *in camera* treatment for the subject documents.

Respectfully submitted,

**UNICARE HEALTH PLANS OF THE  
MIDWEST, UNICARE HEALTH INSURANCE  
COMPANY OF THE MIDWEST, and  
UNICARE LIFE & HEALTH INSURANCE  
COMPANY**

By: Elizabeth G. Doolin  
One of Their Attorneys

Donald A. Murday  
Elizabeth G. Doolin  
CHITTENDEN, MURDAY & NOVOTNY LLC  
303 West Madison Street, Suite 1400  
Chicago, Illinois 60606  
(312) 281-3600

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[PUBLIC]

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION

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In the Matter of	)	
	)	
EVANSTON NORTHWESTERN HEALTHCARE	)	
CORPORATION,	)	Docket No. 9315
	)	
and	)	Honorable Stephen J. McGuire
	)	
ENH MEDICAL GROUP, INC.,	)	
Respondents.	)	
_____	)	

**ORDER GRANTING NON-PARTY UNICARE'S MOTION  
FOR *IN CAMERA* TREATMENT OF CERTAIN DESIGNATED DOCUMENTS**

Upon consideration of Non-Party UniCare's Motion for *In Camera* Treatment of Certain Designated Documents and the Declaration in support thereof, it is hereby ORDERED that UniCare's motion is GRANTED. It is further ordered that the documents identified in Exhibit 1 of UniCare's Motion for *In Camera* Treatment of Certain Designated Documents are afforded indefinite *in camera* treatment.

Dated:

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

## Exhibit 1

### Exhibits Identified by Complaint Counsel

Exhibit No.	Description
CX00129	Memorandum of June 15, 2000 to Lenore Holt-Darcy from Carol Peters re: Negotiations with ENH
CX05080	Agreements between Rush Prudential HMO and Evanston Hospital Corporation dated 5/1/94; Rush Prudential Insurance Company and Evanston Hospital Corporation dated 5/1/94; Highland Park Hospital and The Prudential Insurance Company of America dated 1/1/93; Rush Prudential Insurance Company and Highland Park Hospital dated 5/1/94; Rush Prudential HMO, Inc. and Highland Park Hospital dated 5/1/94; and Participating Hospital Agreement between UniCare Life & Health Insurance Co., UniCare Health Plans of the Midwest, Inc. and UniCare Health Insurance Co. of the Midwest and Evanston Northwestern Healthcare dated 9/16/00
CX0591	Exhibits to Contracts between UniCare and ENH reflecting charges for cardiac services
CX05090	UniCare Life & Health Insurance Co. Participating Hospital Agreement with Evanston Northwestern Healthcare
CX05088	Additional portions of UniCare Life & Health Insurance Co. Participating Hospital Agreement with Evanston Northwestern Healthcare, including provisions re: compensation billing, and other aspects of contract administration
CX05083	Amendment 1 to Agreement between Rush Anchor HMO and Evanston Hospital Corporation dated 4/15/93
CX05082	Agreement for in-patient and out-patient hospital services between Rush Anchor HMO and Evanston Hospital dated 6/1/93
CX05074	Agreement between Access Health, Inc. and Evanston Hospital dated 5/1/93; Agreement between Rush Anchor and Evanston Hospital dated 4/21/92; Hospital Services Agreement dated 1/15/93 between Evanston Hospital and Prudential
CX02203	UniCare Internal Contracting Plan for Evanston Northwestern Healthcare and ENH Medical Group
CX05909	UniCare Internal Contracting Plan for Evanston Northwestern Healthcare and ENH Medical Group
CX05087	Agreement between Access Health, Inc. and Evanston Hospital containing billing procedures dated 6/1/93
CX05248	Letter of Agreement between Evanston Hospital Corporation and Access Health, Inc dated 4/21/92

Trial Exhibit No.	Description
CX05242	Agreement between Access Health, Inc. and Evanston Hospital Corporation dated 5/27/87
CX05249	Hospital Services Agreement between Evanston Hospital Corporation and Prudential Insurance Company of America dated 1/1/93
CX05077	Hospital Services Agreement between The Prudential Insurance Company of America and Highland Park Hospital dated 1/1/93

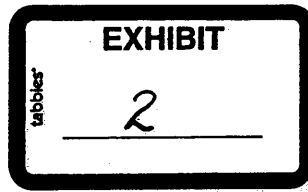
**Documents Identified by Respondents**

Trial Exhibit No.	Description
RX0568	Participating Hospital Agreement between UniCare and St. John's Hospital dated 7/1/99
RX0810	Participating Hospital Agreement between UniCare and LSF Healthcare System dated 3/1/00
RX0811	Interim Agreement between UniCare and Touchette Regional Network dated 3/1/00
RX0179	Letter from Christine Stoll of UniCare to Advocate Healthcare re: contract termination dated 8/21/96
RX0665	Letter from Christine Stoll of UniCare to Richard Wright of Rush Prudential Healthplans re: termination of Hospital Services Agreement with Provena St. Mary's Hospital dated 11/12/99
RX0682	Letter from Richard Wright of Provena Health to Sherry M. Johnson of UniCare re: proposal of rates for in-patient and out-patient services dated 11/24/99
RX0690	Interim Agreement between UniCare and Doctors Hospital dated 12/01/99
RX0722	Letter from Richard Wright to Christine Stoll of UniCare re: proposed contract rates for Provena Hospitals dated 12/29/99
RX0802	Letter from Richard Wright to Christine Stoll of UniCare re: Provena's termination of all agreements with Rush Prudential effective 5/31/2000 dated 2/22/00
RX0937	Participating Hospital Agreement between UniCare and Condell Medical Center dated 9/01/00
RX1030	Participating Hospital Agreement between UniCare and Northwestern Memorial Hospital dated 2/01/01

Trial Exhibit No.	Description
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RX0321*	Hospital Participation Agreement between Rush Prudential HMO, Inc., Rush Prudential Insurance Company and Loyola University Medical Center/Foster G. McGaw Hospital dated 3/1/98
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\*RX0321 has not been disclosed by counsel for Respondents as one they intend to use at the administrative trial. RX0321, however, was subsequently identified in a subpoena to UniCare as a document which Respondents seek to authenticate. Although not apparent in the copy provided, RX0321 was produced by UniCare as WLP002890-WLP002914. UniCare believes that Respondents may attempt to use RX0321 at trial and therefore included it in their motion.



[PUBLIC]

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In the Matter of
EVANSTON NORTHWESTERN HEALTHCARE CORPORATION,
and
ENH MEDICAL GROUP, INC.,
Respondents.
Docket No. 9315
Honorable Stephen J. McGuire

DECLARATION OF LENORE HOLT-DARCY
IN SUPPORT OF NON-PARTY UNICARE'S
MOTION FOR IN CAMERA TREATMENT OF CERTAIN
DESIGNATED HEARING EXHIBITS

I, LENORE HOLT-DARCY, declare and state as follows:

1. I am Regional Vice-President of Network Services for UniCare. In this capacity, I am responsible for provider contracting on behalf of UniCare entities in Illinois.

2. I submit this declaration in support of non-party UniCare's motion requesting in camera treatment of certain designated hearing exhibits which were identified by Complaint counsel and counsel for Respondents Evanston Northwestern Healthcare Corporation and ENH Medical Group, Inc. (hereinafter collectively referred to as "ENH" or Respondents) as potential trial exhibits. UniCare produced this material during the initial investigatory and later discovery phases of the above-captioned matter. The material includes contracts and other documentation from entities which UniCare and its predecessors acquired or assumed in the past several years. Each of the documents identified in Attachment A to this declaration contains sensitive and confidential material and/or information that would result in competitive injury to UniCare

should it be made public. Each document identified by UniCare as requiring *in camera* treatment has been maintained internally by UniCare in a confidential manner, only being shared with those individuals requiring the knowledge contained within the document. Additionally, each such document has, upon production in this case, been designated “*Confidential*” or “*Restricted Confidential, Attorney’s Eyes Only*”, pursuant to the protective order governing discovery material entered on March 24, 2004.

3. I have reviewed all of the documents for which UniCare seeks *in camera* treatment. By virtue of my current position at UniCare, I am familiar with the type of information contained in the documents at issue. Based on my review of the documents, my knowledge of UniCare’s business, and my familiarity with the confidentiality protection afforded this type of information by UniCare, it is my belief that disclosure of these documents to the public, to competitors of UniCare, and to other providers with which UniCare does business would cause serious competitive injury to UniCare.

4. Each of the documents identified in UniCare’s motion requesting *in camera* treatment of certain designated hearing exhibits and listed in Attachment A contains highly sensitive information related to the prices and terms at which UniCare contracts for healthcare services, or the manner in which UniCare negotiates those prices and terms. The disclosure of any of this critically sensitive information would be highly detrimental to UniCare as it would provide both the healthcare providers with whom UniCare does or may contract and UniCare’s competitors with sensitive pricing and contracting terms, causing serious and irreparable harm to UniCare resulting in significant loss of business advantage.

5. Documents containing information relevant to the prices and terms at which UniCare contracts for healthcare services are important to UniCare’s business, competitiveness,

and profitability. Were a competitor to know with certainty (as opposed to unverified belief) the pricing and contracting terms of UniCare, such a competitor would have gained an advantage at the expense of UniCare. Moreover, healthcare providers armed with UniCare's pricing and contracting information could use it to their advantage in future negotiations with UniCare.

6. Specifically, Complaint counsel has identified a number of documents for which UniCare seeks *in camera* protection:

- a. Exhibit No. CX00129 is an internal UniCare memorandum written to me by Carol Peters, one of the managers whom I supervise in negotiations with providers. The memo discusses in detail and comments upon contract negotiations between UniCare and representatives of ENH, and includes details of the negotiations of the financial agreements between ENH and UniCare, as well as UniCare's negotiation strategies. Disclosure of this memo would reveal how UniCare analyzes and negotiates contracts and determines the rates it pays for hospital and physician services. Disclosure of this information could cause serious competitive injury to UniCare.
- b. Exhibits Nos. CX05080, CX05091, CX05090, CX05088, CX05081, CX05083, CX5909, CX5087, CX05242 and CX05077 consist of contracts between UniCare entities (including entities which UniCare or its predecessor acquired) and ENH entities. All of these contracts contain confidential terms, including fee structures and rate information, as well as detailed contract terms which reveal the manner in which UniCare administers its relationship with providers, all of which UniCare, as discussed above, considers to be highly confidential, proprietary, and

secret. As discussed above, disclosure of these documents would result in irreparable competitive injury to UniCare.

- c. Exhibit No. CX02203 is a contracting plan prepared by UniCare in connection with its contract negotiations with ENH. This document was prepared for internal use only. The information contained in the contracting plan is highly confidential and proprietary to UniCare, as it outlines a specific negotiation strategy for contracting with a provider. Disclosure of UniCare's contracting plan to UniCare's competitors, or other providers, would result in a serious competitive disadvantage to UniCare, as it would allow those entities access to UniCare's internal strategy for contract negotiation.

7. UniCare also seeks *in camera* protection for the following documents identified by Respondents:

- a. Exhibits Nos. RX0568, RX0810, RX0811, RX0690, RX0937, RX0321 and RX1030 all consist of contracts between UniCare, or its predecessors, and other healthcare providers in Illinois. These contracts contain confidential terms, fee schedules, and rate information which, for the reasons discussed above, UniCare considers to be confidential, proprietary, and secret. Public disclosure of these terms and fee schedules would result in competitive injury to UniCare, as discussed above.
- b. Exhibits Nos. RX0179, RX0665, RX0682, RX0722 and RX0802 all constitute confidential correspondence between UniCare and various providers regarding the terms and conditions of the contracts between UniCare and these providers. In many cases, these letters include specific rate proposals, or discuss changes in fee



structure which UniCare considers to be highly confidential. In all cases, the letters disclose confidential communications between UniCare and these providers concerning the terms and conditions of their contracts with UniCare. Disclosure of this information, which UniCare considers and treats as confidential, would result in competitive injury to UniCare should it fall into the hands of its competitors or other providers.

8. Furthermore, the information contained in the exhibits discussed above is essential to UniCare's business and strategic planning, and its competitors' use of such information would directly harm UniCare. If this information were to be made public, UniCare's competitors could pinpoint the rates paid by UniCare to various provider groups and could use this information to specifically target and build relationships with such provider groups for their own competitive gain, resulting in serious competitive harm to UniCare. Access to this information would also enable a competitor and other providers to understand how UniCare evaluates the relative importance of various provider groups to its provider network and therefore could be used by competitors and providers to UniCare's severe competitive disadvantage. Knowledge about how UniCare evaluates and compensates its various provider groups who are key to UniCare's networks would arm competitors and providers with information that strikes at the core of UniCare's business. This would have an immediate and detrimental effect on UniCare's ability to compete, while UniCare would enjoy no similar advantage over its competitors, whose fee schedules and rates paid to its provider groups would remain unknown to UniCare.

9. The documents for which UniCare seeks *in camera* treatment are sensitive and material to UniCare's business, competitiveness and profitability. Disclosure of the information

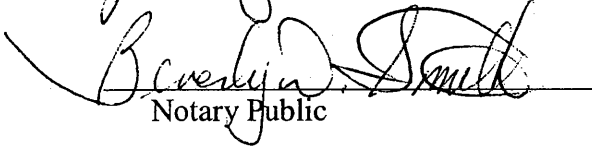
contained in these documents will result in loss of business advantage and serious irreparable injury to UniCare.

I declare, under penalty of perjury, that the above statements are true and correct.

EXECUTED this 3<sup>rd</sup> day of January, 2005, in Chicago, Illinois.

  
LENORE HOLT-DARCY

SUBSCRIBED AND SWORN to  
before me this 3<sup>rd</sup> day of  
January, 2005.

  
Notary Public



## **ATTACHMENT A**

### **Exhibits Identified by Complaint Counsel**

<u><b>Trial Exhibit No.</b></u>	<u><b>Description</b></u>
CX00129	Memorandum of June 15, 2000 to Lenore Holt-Darcy from Carol Peters re: Negotiations with ENH
CX05080	Agreements between Rush Prudential HMO and Evanston Hospital Corporation dated 5/1/94; Rush Prudential Insurance Company and Evanston Hospital Corporation dated 5/1/94; Highland Park Hospital and The Prudential Insurance Company of America dated 1/1/93; Rush Prudential Insurance Company and Highland Park Hospital dated 5/1/94; Rush Prudential HMO, Inc. and Highland Park Hospital dated 5/1/94; and Participating Hospital Agreement between UniCare Life & Health Insurance Co., UniCare Health Plans of the Midwest, Inc. and UniCare Health Insurance Co. of the Midwest and Evanston Northwestern Healthcare dated 9/16/00
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CX05087	Agreement between Access Health, Inc. and Evanston Hospital containing billing procedures dated 6/1/93
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<b>Trial Exhibit No.</b>	<b>Description</b>
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CX05249	Hospital Services Agreement between Evanston Hospital Corporation and Prudential Insurance Company of America dated 1/1/93
CX05077	Hospital Services Agreement between The Prudential Insurance Company of America and Highland Park Hospital dated 1/1/93

**Documents Identified by Respondents**

<b>Trial Exhibit No.</b>	<b>Description</b>
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RX0810	Participating Hospital Agreement between UniCare and LSF Healthcare System dated 3/1/00
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RX0682	Letter from Richard Wright of Provena Health to Sherry M. Johnson of UniCare re: proposal of rates for in-patient and out-patient services dated 11/24/99
RX0690	Interim Agreement between UniCare and Doctors Hospital dated 12/01/99
RX0722	Letter from Richard Wright to Christine Stoll of UniCare re: proposed contract rates for Provena Hospitals dated 12/29/99
RX0802	Letter from Richard Wright to Christine Stoll of UniCare re: Provena's termination of all agreements with Rush Prudential effective 5/31/2000 dated 2/22/00
RX0937	Participating Hospital Agreement between UniCare and Condell Medical Center dated 9/01/00
RX1030	Participating Hospital Agreement between UniCare and Northwestern Memorial Hospital dated 2/01/01

<u>Trial Exhibit No.</u>	<u>Description</u>
RX0321*	Hospital Participation Agreement between Rush Prudential HMO, Inc., Rush Prudential Insurance Company and Loyola University Medical Center/Foster G. McGaw Hospital dated 3/1/98

\*RX0321 has not been disclosed by counsel for Respondents as one they intend to use at the administrative trial. RX0321, however, was subsequently identified in a subpoena to UniCare as a document which Respondents seek to authenticate. Although not apparent in the copy provided, RX0321 was produced by UniCare as WLP002890-WLP002914. UniCare believes that Respondents may attempt to use RX0321 at trial and therefore included it in their motion.

## CERTIFICATE OF SERVICE

I, Elizabeth G. Doolin, hereby certify that on January 3, 2005, I caused copies of:

1. Non-Party UniCare's Motion for *In Camera* Treatment of Certain Designated Hearing Exhibits; and
3. Proposed Order Granting Non-Party UniCare's Motion for *In Camera* Treatment

to be served upon the following persons:

Office of the Secretary  
Federal Trade Commission  
Room H-159  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
*(Original and 12 copies served via FedEx overnight delivery, and electronic copies served via e-mail)*

The Honorable Stephen J. McGuire  
Chief Administrative Law Judge  
Federal Trade Commission  
Room H-106  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
*(Two courtesy copies served via FedEx overnight delivery)*

Thomas H. Brock, Esquire  
Federal Trade Commission  
Room H-374  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
*(Served via FedEx overnight delivery)*

Philip M. Eisenstat, Esquire  
Federal Trade Commission  
Room NJ-5235  
601 New Jersey Avenue, NW  
Washington, DC 20580  
*(Served via FedEx overnight delivery)*

Chul Pak, Esquire  
Assistant Director Mergers IV  
Federal Trade Commission  
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