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# Exhibit A

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

**IN THE MATTER OF THE CONSERVATION OF  
NEXTLEVEL HEALTH PARTNERS, INC.**

Jacqueline Stevens, Intervenor, *Pro Se*

2020 CH 04431

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**INTERVENOR SUPPLEMENTAL MOTION TO ORDER DEPARTMENT OF INSURANCE  
TO RELEASE FINANCIAL RECORDS, DECLARE TERMINATION PROVISION  
UNCONSTITUTIONAL, SUR-SUR REPLY, STRIKE PORTIONS OF SUR-REPLY, AND  
ORDER SANCTIONS FOR RULE 139 VIOLATIONS**

**INTRODUCTION**

This motion is filed pursuant to Illinois Supreme Court Rule 135a. Since Intervenor Jacqueline Stevens (“Intervenor”) filed her First Amended Motion (“FAM”), she has acquired information materially relevant to her pursuit of court orders to make public records tied to the insolvency, conservancy, and liquidation of NextLevel Health Partners, Inc. (“NextLevel”), declare unconstitutional 215 ILCS 5/188.1 (b)(4,5)(“Confidentiality Provisions”) of the Illinois Insurance Code (“Code”), and obligate proceedings under 705 ILCS 105/16. Intervenor has learned that NextLevel has been fighting to preserve a court order to maintain in the public docket for these proceedings two records with redactions, even though NextLevel’s attorneys at DLA Piper knew or should have known that NextLevel never filed the redacted documents to replace the unredacted documents. Further, new information and the Sur-Reply necessitate a

further response. Pursuant to Rule 139a, Intervenor is referencing these interrelated events in one pleading that states the legal problems posed to public access revealed in the events of recent weeks, including newly revealed problems with portions of the Illinois Insurance Code 215 ILCS 5/ (“Code”) previously not challenged in this proceeding and allowing the secret transfer of taxpayer funds targeted for health care to attorneys and finance professionals with no regard for how this affects the health of Illinois residents.

### **PROCEEDING HISTORY**

On November 29, 2021, this court issued an order (“Lift and Seal Order”) lifting the stay on ending sequestration and granting NextLevel’s motion to file exhibits under seal and replace the original Complaint of June 3, 2020 (“Complaint”) and order of June 9, 2020 (“2020 Order”) with versions that had portions redacted, per NextLevel exhibits for the redacted Complaint (“Exhibit 1”) and redacted 2020 Order (“Exhibit 2”) submitted to the court for purposes of adjudicating NextLevel’s motion to redact and seal records. On December 6, 2021, the court granted Jacqueline Stevens Intervenor status in this proceeding for the purpose of making arguments about the “public nature” of these proceedings. Intervenor filed her First Amended Motion (“FAM”) on January 31, 2022. On March 14, 2022, NextLevel filed its opposition response (“NextLevel Response”). Intervenor on April 4, 2022 filed a motion to obligate parties to notice all motions to Intervenor and to declare public all records for 2020 CH 04431 previously released by Chancery Division (“Motion to Notice and Declare Public”). On April 11, 2022, the People of Illinois representing the DOI filed its Opposition Response motion (“DOI Response”). On April 26, 2022, NextLevel filed a Sur-Reply. Between May 3 – 5, 2022, opposing attorneys shared analysis and information that prompted large portions of this motion.

On May 26, 2022, Intervenor learned that NextLevel still had not properly filed the replacement documents in this case, set for oral argument on June 8, 2022.

### **ORDERS AND REMEDIES SOUGHT THROUGH SUPPLEMENTAL MOTION**

#### **1. Release of records obligated to be filed under 215 ILCS 5/202(d)(1)(i-iv) (“Liquidation Disclosure Rules”) and declaration that 215 ILCS 5/188.1(1) is unconstitutional**

Information discussed below, arising from NextLevel’s Sur-Reply, reveals new equities favoring the immediate release of information withheld because 215 ILCS 5/188.1(1) (“Termination Provision”) unconstitutionally delegates to the court administrative decision-making, in violation of the Illinois Constitution Article II, Section 1. As a result of the unconstitutional Termination Provision, the court, not receiving a motion from the DOI, did not terminate conservation proceedings. The necessary outcome is that information that should have been shared with the court and public pursuant to the Liquidation Disclosure Rules is now withheld. Intervenor, in pursuit of public access to records for this proceeding is therefore moving that the court order the DOI to release records in this proceeding it would have provided the court pursuant to the Liquidation Disclosure Rules, and, *further*, declare unconstitutional the Termination Provision.

#### **2. Strike Second Sentence in NextLevel’s Sur-Reply**

NextLevel’s Sur-Reply (“Sur-Reply”) exceeds the scope of the court’s order of April 12, 2022 and makes a vague, unsupported claim. Intervenor moves the court order the second sentence stricken from the record.

#### **3. *As sanctions* against DLA Piper attorneys’ several violations of Illinois Supreme Court Rule 137, Intervenor respectfully requests the court to order: judgment in favor of the Intervenor’s**

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motions in the FAM and herein; the full release of all records of fees paid to any attorney or firm appearing in this proceeding; a declaration that all non-disclosure agreements entered into on behalf of NextLevel are not binding on signatories; payment by DLA Piper of attorney fees for Intervenor in this proceeding going forward; any additional sanction the court finds appropriate. Per *Taylor v. Illinois*, 484 US 400, 406 (1988) the adversarial court system authorizes sanctions against an attorney that affect a client, even in a criminal, homicide case. (“The Illinois Appellate Court affirmed petitioner's conviction. 141 Ill. App. 3d 839, 491 N. E. 2d 3 (1986). It held that when ‘discovery rules are violated...[t]he decision of the severity of the sanction to impose on a party who violates discovery rules rests within the sound discretion of the trial court.’ The court concluded that in this case "the trial court was within its discretion in refusing to allow the additional witnesses to testify." *Id.*” The Court upheld this order and stated that such a sanction is within the discretion of a trial judge. The pleading violations here are analogous to the discovery violation in *Taylor*, insofar as attorneys in both cases misrepresented how evidence was acquired, in this case, a false claim about filed records, the evidence on which DLA relied in its pleadings. (More authorities on sanctions are discussed below.)

### **I. New Information on Attorney Conduct and Statements**

At the hearing of April 11, 2022, the court instructed Intervenor to use the redacted Complaint and 2020 Order when communicating with journalists. In preparation for contacting journalists, Intervenor realized that the only redacted copies she possessed were those NextLevel submitted as exhibits (Exhibits 1 and 2). Based on knowledge of opposing counsel conduct acquired during this proceeding, Intervenor formed the hypothesis that NextLevel never filed the

replacement documents. This turned out to be correct. The information below leads to troubling inferences about candor and competency that in some proceedings might be the basis of a sanctions motion, but here also goes to the equities of the case itself. Recently discovered inaccurate attorney statements and filings, as well as new information about the consolidation of other court cases into NextLevel's conservancy proceeding subsequent to the FAM, provide further evidentiary grounds for declaring public all records in this case and finding unconstitutional the Confidentiality Provisions. These include the following:

*First*, DLA Piper failed to file records they claimed were vital to protecting their client's interests. On November 29, 2021, Judge Pamela McLean Meyerson issued an order granting NextLevel's request to replace the original Complaint of June 3, 2020 and an order of June 9, 2020 with versions that had portions redacted. Lift and Seal Order, ¶¶2-3. However, NextLevel failed to file the replacement documents until **May 5, 2022**. Exhibit 1 and Exhibit 2. By failing to adhere to the court's order of November 29, 2021, DLA Piper attorneys left in the public record information that they told this court would pose dire consequences to NextLevel and Centene, including but not limited to "damaging to boh companies [NextLevel and Centene]";<sup>1</sup> "unfairly damaging to [NextLevel]";<sup>2</sup> and "jeopardize the proof of claim procedure."<sup>3</sup> NextLevel also averred that "NextLevel's and Centene's interests in confidentiality outweighs the ordinary right of public access for this limited set of documents as well..."<sup>4</sup> As late as April 26, 2022, NextLevel stated its "confidentiality interests weight in favor of keeping ... documents sealed or redacted." Sur-Reply p. 7. A firm that fails to protect the alleged interests of its own client(s),

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1 NextLevel Memorandum on Limitations on Lift of Sequestration, November 11, 2021, at ¶12.

2 *Id.*, ¶16.

3 *Id.*, ¶21.

4 *Id.*, ¶23.

and attorneys who do not notice or disclose this, have demonstrated they cannot be trusted with control over disbursements involving millions of taxpayer dollars unreviewable by the public.

*Second*, NextLevel filed briefs inaccurately claiming that they had filed these redacted documents. For instance, the NextLevel Response states, “Exhibits A and B to the Giese Declaration ...[and] NextLevel’s RBC information contained in the Complaint and Conservation Order ... are the only parts of the docket that are still sealed or redacted.”<sup>5</sup> NextLevel had not at the time of the NextLevel Response filed either the Redacted Complaint or the Redacted Conservation Order. Exhibits 3 and 4.<sup>6</sup> The DOI Response referenced the court order of November 29, 2021 on the redacted Complaint and redacted Order, as well as “the small set of documents that were placed under seal...” but omitted claiming that the redacted Complaint and redacted 2020 Order actually had been filed.<sup>7</sup> Especially in light of Intervenor raising in her FAM and in hearings before the court discrepancies between the docket and the orders,<sup>8</sup> all opposing attorneys knew or should have known that NextLevel never filed the redacted versions of the Complaint and Order and that statements in NextLevel filings to the contrary were inaccurate, and DOI omissions in filings and hearings were misleading.

If three attorneys from DLA Piper, “one of the largest business law firms in the world,”<sup>9</sup> and two state attorneys cannot insure their pleadings and statements are accurately representing court filings and statements about a matter as straightforward as a docket, they cannot be entrusted with the secret handling of claims, payouts, and attorney fees, especially when this involves a firm whose CEO is a political insider and influencer in the U.S. Congress and state of

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5 NHP Response, p. 5.

6 Intervenor has no knowledge of whether any procedure was followed to seal the Giese Exhibits.

7 DOI Response, pp. 2, 3, 7-8.

8 FAM, ¶¶75-76, 102.

9 DLA Piper, “About Us,” <https://www.dlapiper.com/en/us/aboutus/>.

Illinois (FAM ¶¶41, 47, 57), a jurisdiction that has seen numerous federal, not state or local, criminal indictments of politicians and officials for bribery and improper use of funds in recent years.<sup>10</sup>

*Third*, when on May 3, 2022 Intervenor first inquired of NextLevel attorney Matthew Freilich as to whether NextLevel had filed the replacement Complaint and replacement Order of June 2020, attorneys for both the DOI and NextLevel mischaracterized the order and court rules. DOI attorney Daniel Guberman (“Mr. Guberman”) replied, “My recollection is that the court’s order required that the unredacted copies of the complaint and conservation order be replaced, not that new filings be made. I think the court was provided with the redacted copies in order to effectuate the replacement of the two documents.” May 3, 2022 Email (“Exhibit 3”), p. 2. NextLevel Attorney Stephen Schwab wrote, “Our understanding is the same as Daniel’s [Guberman]. The Court has the redacted documents, but litigants cannot require the Clerk to make substitutions in a court file. Perhaps Judge Meyerson’s chambers can assist?” Exhibit 3, p. 1.

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10 "Former Illinois Speaker of the House Indicted on Federal Racketeering and Bribery Charges in Connection With Alleged Corruption Schemes," March 2, 2022, <https://www.justice.gov/usao-ndil/pr/former-illinois-speaker-house-indicted-federal-racketeering-and-bribery-charges>; "Crestwood Mayor Indicted in Alleged Bribery Scheme Involving Red-Light Camera Services," August 7, 2021, <https://www.justice.gov/usao-ndil/pr/crestwood-mayor-indicted-alleged-bribery-scheme-involving-red-light-camera-services>; "City of Chicago Alderman and Her Chief of Staff Indicted on Federal Bribery Charges," July 1, 2021, <https://www.justice.gov/usao-ndil/pr/city-chicago-alderman-and-her-chief-staff-indicted-federal-bribery-charges>; "Consultant Indicted on Federal Charges for Allegedly Providing Bribes to City of Chicago Officials to Benefit Clients," February 25, 2021, <https://www.justice.gov/usao-ndil/pr/consultant-indicted-federal-charges-allegedly-providing-bribes-city-chicago-officials>; "Former Illinois State Senator, Gubernatorial Candidate Sam McCann Indicted for Alleged Fraudulent Use of Campaign Funds, Money Laundering, Tax Evasion," February 3, 2021, <https://www.justice.gov/usao-cdil/pr/former-illinois-state-senator-gubernatorial-candidate-sam-mccann-indicted-alleged>; "Illinois State Representative Charged with Offering Bribe to Fellow Lawmaker in Return for Support of Legislation," October 28, 2019 <https://www.justice.gov/usao-ndil/pr/illinois-state-representative-charged-offering-bribe-fellow-lawmaker-return-support>; "Illinois State Senator Indicted for Allegedly Fraudulently Receiving Salary and Benefits from Labor Union," August 2, 2019, <https://www.justice.gov/usao-ndil/pr/illinois-state-senator-indicted-allegedly-fraudulently-receiving-salary-and-benefits-0>; "Former U.S. Representative Aaron Schock Indicted for Fraud, Theft of Government Funds, False Statements and Filing False Income Tax Returns," November 10, 2016, <https://www.justice.gov/usao-cdil/pr/former-us-representative-aaron-schock-indicted-fraud-theft-government-funds-false>.



Intervenor replied, noting that the statements by opposing attorneys misrepresented the

Seal Order:

Your statement is inconsistent with the order of November 29, 2021. The order states, “NextLevel shall file a redacted version of...” the Complaint and the Order. It does not state the clerk for the court to file redacted documents.

Based on what you are stating, it would appear that NextLevel did not comply with the court's order and that instead your position is the the clerk for Judge Meyerson should have extracted the redacted pdf from your exhibit submissions and submitted them to the Chancery Division. [Referencing Lift and Seal Order, p. 1.]

In addition to the express instructions of this court’s Lift and Seal Order, Illinois Supreme Court Rule 9(a) states that absent specific exemptions, none of which apply to documents covered by this order, “all documents in civil cases shall be electronically filed with the clerk of court using an electronic filing system approved by the Supreme Court of Illinois.”<sup>11</sup> Further, 9(e) states, “Filer Responsible for Electronic Submissions. The filer is responsible for the accuracy of data entered in an approved electronic filing system and the accuracy of the content of any document submitted for electronic filing. *The court and the clerk of court are not required to ensure the accuracy of such data and content.*” *Id.*, emphasis added. Mr. Guberman and Mr. Schwab knew or should have known the requirements of the court’s Lift and Seal Order, not to mention Illinois Supreme Court rules for filing documents. Indeed, three opposing counsel were co-authors of an article on insurance proceedings,<sup>12</sup> and two publically proclaim their expertise in this field.<sup>13</sup>

<sup>11</sup> Illinois Supreme Court Rules, Rule 9. <https://www.illinoiscourts.gov/supreme-court-rules>.

<sup>12</sup> Schwab, Stephen W., Daniel A. Guberman, Carolyn S. Reed, and David E. Mendelsohn. 1991. “Cross-Border Insurance Insolvencies: The Search for a Forum Concurus.” *U. Pa. J. Int’l Bus. L.* 12: 303.

<sup>13</sup> “David Mendelsohn focuses his practice in the area of insurance and reinsurance transactional and regulatory matters. David has experience representing many insurers, reinsurers, brokers and other clients on a wide variety of transactions, including mergers and acquisitions, complex regulatory and finite, structured risk and reinsurance matters...David is a member of DLA Piper's Executive Committee.” David Mendelson, Partner. <https://www.dlapiper.com/en/us/people/m/mendelsohn-david/>. “Stephen represents, serves and advises boards and senior management of domestic and multinational stock, mutual and captive re/insurance firms, intermediaries, trade organizations, regulators, receivers and receivership creditors in high profile disputes, innovative transactions, (including M&A and legacy transfers), troublesome regulatory matters, strategic planning, reorganizations and restructuring (including run-off), receivership proceedings and in-house training.” Stephen W. Schwab, Partner. <https://www.dlapiper.com/en/us/people/s/schwab-stephen-w/>

Their inability or unwillingness to adhere to these rules further highlights the constitutional deficiencies of a statute that obligates Illinois residents to entrust them with the secret disbursement of public funds, including payments to NextLevel or Centene attorneys instead of NextLevel's health care provider network and contracted hospitals.

*Fourth*, when Mr. Schwab on May 5, 2022 indicated an intent to file the redacted documents, he wrote, "No need for a supplemental motion. Matt will [sic] please refile the documents, and our docket clerk will try to inform the clerk that the unredacted copies are to be sequestered." Exhibit 4. DLA Piper demonstrably had protocols for following the court's order and could easily have used them on November 29, 2021 or in the days thereafter, instead of over five months later. Since the documents were never filed, DLA Piper needed to *file* them, not "refile" them. Mr. Schwab's lack of candor, that is, his failure to acknowledge he and his colleagues made an error in early May and in the months preceding this when, per the court's Lift and Seal Order and Rule 9, he knew or should have known that these unredacted documents were in the public record, is further evidence that weighs in favor of removing any obligation on claimants and payees not to disclose information tied to negotiations over NextLevel debts, and for releasing to the public records of claimants, payouts, and attorney fees associated with this proceeding.<sup>14</sup>

*Further*, insofar as the Complaint and 2020 Order remained in the public docket because of failures of NextLevel, Intervenor requests the court consider this when ruling on Intervenor motion to vacate ¶¶ 2-3 of the Lift and Seal Order.

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<sup>14</sup> NextLevel revenues were exclusively from taxpayers. Centene's Annual Review for 2021 shows 13% of its membership is from commercial contracts, including Obamacare markets. Centene Annual Review, 2021, p. 14, [https://www.centene.com/content/dam/centenedotcom/investor\\_docs/Centene-2021-Annual-Review\\_508.pdf](https://www.centene.com/content/dam/centenedotcom/investor_docs/Centene-2021-Annual-Review_508.pdf).

*Fifth*, in light of NextLevel’s bungling of the Lift and Seal Order, NextLevel’s March 14, 2022 Motion to File Under Seal (“Seal Motion”) documents that were obviously in the public record was not only groundless, but are now demonstrably absurd and frivolous. NextLevel obligated substantial resources over litigation to obtain and retain an order allowing it to remove material from a Complaint filed by the People of Illinois and a court order -- records NextLevel concedes typically are subject to an “ordinary right of public access”<sup>15</sup> -- and then failed to act on the Lift and Seal Order it obtained. On information and belief, NextLevel attorneys for matters reviewed here received financial compensation, while pro se Intervenor was forced to puzzle through the confusing docket and file a motion with no compensation, thus depriving her of time needed for other research, publications, and work commitments.

*Then*, NextLevel, imposes on the time and resources of the Intervenor and the court to defend filing under seal records NextLevel not only knew were in the public record, but also knew or should have known could not possibly expose redacted information because *NextLevel never replaced the Complaint and the Order of 2020*.<sup>16</sup>

*Sixth*, shortly after NextLevel’s frivolous Seal Motion, NextLevel and the DOI informed Intervenor of their shared intention not to comply with clear black letter Illinois law, even after Intervenor shared the rules and text with opposing parties in emails. This forced Intervenor to spend more time to pursue and obtain an order restating the law, to wit, her on April 4, 2022 her motion filed in part “to obligate parties to notice all motions to intervenor.” (“Motion to Obligate Notice”). Exhibit 7 to the Motion to Obligate shows opposing parties gratuitously obligated Intervenor to spend substantial time researching and drafting a motion to pursue an order

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<sup>15</sup> NextLevel Response, p. 9.

<sup>16</sup> On March 29, 2022, this court denied NextLevel’s motion to file the records in the public docket under seal.

obligating parties to follow a law that they knew or should have known obligated their compliance without a motion, a court hearing, or this court's order of April 12, 2022, thus wasting of resources for all parties concerned.

*Seventh*, the Code at 215 ILCS 5/188.2 states “..As soon as practicable, the court shall vacate the seizure order or terminate the conservation proceedings of the company, either when the Director has failed to institute proceedings under Section 188 having a reasonable opportunity to do so, or upon an order of the court pursuant to such proceedings.” Intervenor on May 16, 2022 quoted portions of the Code on terminating conservation proceedings and asked Mr. Guberman and Ms. Jones why they failed to file a motion to terminate the conservation proceedings shortly after June 30, 2020, the point at the DOI was distributing NextLevel's assets to creditors and no longer relying on the protocols for the conservatorship.<sup>17</sup> Mr. Guberman replied on May 16, 2022 and indicated that the “questions exceed the scope of the order granting your petition for leave to intervene.”

*Eighth*, as of May 26, 2022, both the Complaint and the Order of June 9, 2020 remained available to the public via the Chancery Division terminals on the 8<sup>th</sup> floor of the Daley Center. On information and belief, this is because on May 5, 2022 DLA Piper once again failed to properly file the two redacted documents, in violation of Illinois Supreme Court Rule 9.<sup>18</sup>

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<sup>17</sup> The DOI has stated: “Under Illinois law, the confidentiality of conservation proceedings is only intended to allow ‘the Director to ascertain the condition and situation of the company.’ 215 ILCS 188.1(2). Similar to temporary restraining orders, it is meant to maintain the status quo. See 9 New Appleman on Insurance Law Library Edition § 96.03 (2021), relying on 215 ILCS 5/188.1. And the case is usually sequestered only at the start of the conservation proceedings, which are intended to be of short duration. *Id.* (“Typically, a conservation proceeding is intended to be of short duration (e.g., 90 days) and, initially is sequestered and confidential until such time as the court, after a hearing, makes it public”). DOI Reply in Support of Motion to End Sequestration, September 20, 2021.

<sup>18</sup> On May 26, 2022, a clerk in the Chancery Division working at the counter told Intervenor that absent the court order, the Chancery Division would have no basis for removing the original Complaint and Conservation Order.

*Ninth*, after the FAM was filed, the DOI and NextLevel relied on portions of the Insurance Code to remove from the jurisdiction of the Illinois Circuit Courts and thus the public information on NextLevel’s alleged failure to pay fees to Loyola Memorial Hospital and Kindred THC, Chicago.<sup>19</sup> Kindred’s Complaint alleged, “Since Next Level [sic] received payments from the government each month, one way in which it was able to increase its revenue was to delay payment (or deny payment entirely) to the medical and hospital providers that care for its insureds and thereby earn money on the ‘float.’ The longer Next Level [sic] could hold on to these amounts before it paid those providers, the greater the returns from investing those funds.”<sup>20</sup> Kindred also demanded damages in excess of \$187,000 and the “disgorgement of profits NextLevel earned on the wrongfully withheld amounts.”<sup>21</sup> Had these cases remained in the courts far more information on NextLevel’s financial condition would have been revealed; even if the proceedings were handled through the Liquidation Provision, information on NextLevel’s “(i) cash and invested assets held by the Director at the beginning of the period, (ii) cash receipts, ... (iv) all other cash disbursements, and (v) cash and invested assets held by the Director at the end of the period” would have been provided to the court and in the public records, disclosures specifically not obligated for a conservation proceeding, per the Code at 215 ILCS 5/202(d)(1).

*Tenth*, NextLevel has made demonstrably inaccurate claims in its motions pursuing and defending the Seal Order about the dire outcomes expected if the records whose redactions it was

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19 Loyola University Medical Center v. NextLevel Health Partners, Inc. d.b.a Meridian Health Plan of Illinois, Inc., and Does 1 Through 25, 2021 L 000619, filed 1/19/2021, claiming \$728,804.32, at p. 18; Northwestern Memorial Healthcare v. NextLevel Health Partners, Inc. and Does 1 – 25, 2021 L 01041, filed 10/22/2021, claiming \$693,687.13, at p. 17; Kindred THC Chicago, LLC d/b/a Kindred Hospital v. NextLevel Health Partners, Inc., 03/16/2021, 2021-L-002873.

20 Id. at ¶13.

21 Id. at ¶192 and p. 32.

pursuing were not replaced. On April 26, 2022, when NextLevel filed its Sur-Reply, it had been over four months since these records were public. NextLevel has offered not one scintilla of evidence in any filing that the unredacted documents NextLevel allowed to remain in the public domain prompted any of the adverse outcomes against which NextLevel had warned, and against which the Liquidation Disclosure Provision does not protect. In light of the fact that the DOI does not share NextLevel's concerns about the public availability of data from the actuarial firm Oliver Wyman, the "Giese Exhibits," NextLevel's credibility on its statements about this demand for secrecy is even further diminished.

## **II. Sur-Sur Reply - Termination Provision Unconstitutionally Deprives Public Access to Records under Liquidation Disclosure Rules**

For reasons stated in her FAM and subsequent motions, the Code's Confidentiality Provisions excluding public access to records and hearings in conservancy proceedings are unconstitutional. Next-Level's Sur-Reply draws attention to an additional unconstitutional provision in the Code, one that permits liquidation (codified at 215 ILCS 5/193-194) to be conducted under the Confidentiality Provisions for conservancy proceedings (215 ILCS 5/188.1 (b) (4,5)). NextLevel states: "... if the conservation were unsuccessful, the proceeding would become a rehabilitation or liquidation, both of which are public proceedings. See 215 ILCS 5/188; 215 ILCS 5/194." Sur-Reply, 6-7. But NextLevel filed no opposition to the Complaint noting its insolvency and soon thereafter concluded the Membership Transfer Agreement of June 30, 2020, pursuant protocols for liquidation of 215 ILCS 5/193 and 215 ILCS 5/194, save this all occurred under the Confidentiality Provisions of the Conservancy Provisions.

In short, the DOI has been proceeding throughout as a liquidator in all but name, and even in name as well. The DOI on December 21, 2020 filed a notice with the court stating the

DOI performing duties as a *liquidator*, “You are hereby notified that on December 21, 2020, the Conservator of NextLevel Health Partners, Inc. filed the **Liquidator’s** ‘Notice of Succession’ with the Clerk of the Circuit Court of Cook County, Illinois,” thus averring that the DOI was operating as a liquidator.<sup>22</sup> And yet this notice, which is by statute, common law, and under the First Amendment intended to be a public record in a court filing, was filed as “Confidential Under 5 ILCS 188.1,” i.e., the Confidentiality Provision.

Opposing parties throughout their briefs are invoking jargon from a Code that is incoherent, unconstitutional, followed haphazardly, if at all,<sup>23</sup> and, most importantly, makes it impossible for the citizens of Illinois to have information necessary for responsible decision-making on expenditures of taxpayer funds on health care from transactions that left the Illinois Department of Health and Family Services NextLevel’s largest creditor.<sup>24</sup> By locating in the court and not the DOI responsibility for initiating the termination of a conservancy order and initiating new a liquidation proceeding, the Termination Provision unconstitutionally and impractically delegates to the judiciary administrative responsibilities properly those of the executive branch:

(2) The [conservation] order shall continue in force and effect for such time *as the court deems necessary for the Director to ascertain the condition and situation of the company*. On motion of either party or on its own motion, the court may from time to time hold such hearings as it deems desirable, and may extend, shorten, or modify the terms of, the seizure order. So far as the court deems it possible, the parties shall be given adequate notice of such hearings. *As soon as practicable, the court shall vacate the seizure order*

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<sup>22</sup> “Notice of Succession,” December 21, 2020, emphasis added.

<sup>23</sup> The Code has a lengthy section 215 ILCS 5/193 stating the “Duties of Director as liquidator.”

<sup>24</sup> FAM ¶39.

*or terminate the conservation proceedings of the company, either when the Director has failed to institute proceedings under Section 188 having a reasonable opportunity to do so, or upon an order of the court pursuant to such proceedings.* 215 ILCS 5/202(d)(1)(v).

The statute's obligations for "the court" to *sua sponte* assess company conditions during conservancy proceedings designates to the judiciary duties that are under the Illinois Constitution, statute, and practice as evidenced in this proceeding the responsibility of the DOI.<sup>25</sup>

Further, the DOI, citing a different section of the Code, has itself claimed that "Under Illinois law, the confidentiality of conservation proceedings is intended to allow 'the Director to ascertain the condition and situation of the company,'" citing 215 ILCS 188.1(2). DOI Response, p. 8. "The Director" is not "the court." Unless a judge is exceeding the scope of her statutory and judicial powers, she will not be micro-managing conservancy proceedings to the extent necessary for her to ascertain the company's condition or the Director's comportment to terminate conservation proceedings "[a]s soon as practicable." In litigation under the insolvency portion of the Code that began in 2002 and is still ongoing, the case began under the conservation provisions, then ended sequestration shortly thereafter, and then, *on motion of the DOI*, were ordered by the judge to be turned into a liquidation proceeding, at which point copious financial records were included in the public docket, within months of original conservatorship filing.<sup>26</sup> Agencies and courts need clear statutory timelines and protocols – in this context the DOI to implement a law, if it is constitutional, and the courts to assess if this

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<sup>25</sup> The Code more generally includes other opaque and seemingly inoperable protocols. For example, the compensation to DOI employees overseeing insurance firm liquidation, rehabilitation, and conservancy, including that funding comes from the insurance firms. 215 ILCS 5/202. Yet neither the salaries for Kevin Baldwin or Daniel Guberman are included in the interactive Illinois Comptroller database "Employee Salaries," unlike the salary for Margaret Jones, employed by the office of the Attorney General. <https://illinoiscomptroller.gov/financial-data/state-expenditures/employee-salary-database/>. Mr. Guberman declined to respond to Intervenor query of May 16, 2022 on this matter.

<sup>26</sup> *People of the State of Illinois, ex rel., Nathaniel S. Shapo, Director of Insurance of the State of Illinois v. Legion Indemnity Company*, 2002CH06695.



properly is occurring. The Termination Provisions, including those highlighted above, conflate the standard on which a court should rely for assessing controversies about the DOI's performance with duties properly those of the DOI but assigned to the court, in violation of Article II, Section 1.<sup>27</sup> Granting that the Illinois Supreme Court has been far more deferential to statutes that extend administrative authority to judges than to challenges under Art. I Sec. II asserting encroachments on judicial prerogatives,<sup>28</sup> the precedents are distinguishable. *In re Estate of Barker*, 63 Ill.2d 113, 115 (1976) overturns an appellate court *sua sponte* ruling that that a portion of an inheritance statute obligating a circuit judge to "ascertain whether any transfer of any property be subject to an inheritance tax" violated Art. I, Sec. 2. Citations omitted. In *Barker*, the supreme court found that "the assessment of taxes is in its nature an administrative or executive function and not a judicial one." *Id.* at 119-20. *But*, the supreme court relied on a section of the Transition Statute to the Illinois 1970 Constitution specifically granting to circuit courts "non-judicial functions vested by law as of December 31, 1963, in county courts or the judges thereof" and reversed the circuit court judge.<sup>29</sup> In the controversies of *Barker* and other precedents, the legislature is not detailing obligations for the court materially identical to the duties assigned to the agency, as is the case in the Termination Provision. *People v. Inghram*, 118 Ill.2d 140, 151 (1987), finding constitutional a statute assigning driver license

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<sup>27</sup> Article II, Section 1. Separation of Powers: "The legislative, executive and judicial branches are separate. No branch shall exercise powers properly belonging to another." And see the Code, e.g., section 202. Appointment of special deputies; employees and professional advisors; contracts; qualified immunity. (a) "For the purpose of assisting the Director in the performance of the Director's duties under Articles VII, XIII, and XIII 1/2 of this Code, the Director has authority to appoint one or more special deputies as the Director's agent or agents, and clerks, assistants, attorneys, and other personnel as the Director may deem necessary and to delegate to each such person authority to assist the Director as the Director may consider appropriate." These duties are those of the DOI, not a court.

<sup>28</sup> See *Agran v. Checker Taxi Co.*, 412 Ill. 145 (1952); *People v. Joseph*, 495 NE 2d 501 (1986);

<sup>29</sup> *Barker* at 118, citing Ill. Const. 1970, Transition Schedule, sec. 4(d).

assessment to judges not in violation of Art. II, Sec. 1, “The two sections [of the code regulating driving qualifications] clearly are concerned with different circumstances.”)

A further problem with the Code’s Termination Provision (as well as the Conservation Provision) is that it all occurs in secret; thus a judge’s failure to rely on agency information and duties of assessing a company’s condition and to authorize conservation and not liquidation proceedings, adversely affects the public access to information and provides no grounds for appeal, in violation of Article VI, Section 6, stating, “Appeals from final judgments of a Circuit Court are a matter of right to the Appellate Court in the Judicial District in which the Circuit Court is located.” The Conservancy and Termination Provisions on their face authorize some combination of the court, DOI, and NextLevel to create orders about the amount of information to be released on matters that affect the public’s health and funds without allowing the public a right to appeal these decisions, a *prima facie* violation of Article VI, Sec. 6, either because the Termination Provision prevents appeal of a court’s administrative order finding against termination to the circuit court or because it prevents appeal of a court order finding against termination to the appellate court. *See In Re Estate of George*, 83 Ill. App.3d 722, 724 (1980) (“Upon the authority of *Barker and Enos*, the order denying the amended petition for rehearing is not a final order for purposes of appeal to this court.”); *In re CB*, 750 NE 2d 1271, 1273 (2001) (“The appealability provision in section 2-28(3) of the Juvenile Court Act encroaches upon the exclusive power of the supreme court to regulate matters of appellate practice and procedure by directing that a nonfinal order is appealable contrary to the rules of the supreme court.”); *Best v. Taylor Mach. Works*, 689 NE 2d 1057, 1064, 1104 (1997), finding statute limiting tort damages violates Art. I, Sec. 2 and “Public Act 89-7 is void in its entirety.” (“If a statute is

unconstitutional, this court is obligated to declare it invalid. This duty cannot be evaded or neglected, no matter how desirable or beneficial the legislation may appear to be.” Citations omitted.)

In the alternative, if the court decides that the Termination Provision is constitutional, Intervenor moves that pursuant to the Termination Provision, the court immediately terminate the conservancy proceeding because the record indicates that the DOI has been liquidating NextLevel, not conserving it, or based on the Termination Provision’s obligation to conclude conservancy proceedings “as soon as practicable.” Intervenor requests that this order be retroactive to July 1, 2020 and that it obligate the DOI to release all records pursuant to the Liquidation Disclosure Provision. Insofar as the key difference between liquidation and conservation proceedings is the amount of information to which the public has access, she respectfully requests the court consider her request tied to the Termination Provision and Liquidation Disclosure Provisions as pursuant to the scope of her “public access” purpose as stated in the order of December 6, 2021.

*Second*, NextLevel claims, “Intervenor is also flat wrong in her suggestion that courts never uphold statutes requiring other kinds of civil proceedings to be kept confidential.” Sur-Reply, 5. Intervenor did not make this claim. Her Reply states instead, “[N]either opponent brief provides a single precedent from any state or federal court finding a state or federal legislature can create laws obligating judges to order all court proceedings involving insurance firm insolvency, or any other civil court proceeding, to occur “privately in chambers ... on request of any officer of the company proceeded against” (215 ILCS 5/188.1 (b)(4) without violating the First Amendment. Such precedents do not exist.” Reply, 8. NextLevel’s irrelevant

citations to cases on child adoption and guardianship (Response, 5-6) knock down straw arguments, and do not address the fundamental question at stake in this litigation: is it constitutional for the Illinois legislature to obligate courts to allow private corporations to encroach on the inherent powers of the judiciary, especially when this infringes on constitutional rights of public access to courts and information? NextLevel and the DOI in the course of several months have not not provided a single precedent to support this patently absurd and unconstitutional scheme.

*Third*, NextLevel incorrectly claims that Intervenor declined in her Reply to address NextLevel's argument that the court's affirmed its "confidentiality interests" November 29, 2021. Intervenor's Reply specifically addressed the Response at 14, by noting the FAM's reference to the docket's disarray and the availability of the supposedly redacted records. Reply at 7. And, Intervenor's Reply states that Nextlevel disregarded the order of December 6, 2021 granting Intervenor's petition to "make constitutional arguments not made by the Director." Reply at 4 and 14. Especially in light of NextLevel's failure to file the records supposedly so important to its confidentiality interests, the reassertion in the Sur-Reply of important "confidentiality interests" in records NextLevel never filed is inane.

*Fourth*, NextLevel falsely asserts Intervenor improperly withheld case law. Sur-Reply at 8. The record shows it was NextLevel attorneys, not *pro se* Intervenor, who first introduced into this proceeding *Kunkel v. Walton*, 179 Ill. 2D 519 (1997). See NextLevel Response, p. 15. Hence, *Kunkel* is not "new material" but Intervenor's engagement with a precedent introduced by NextLevel, and cited as such in her Reply, at 16-17. It is in fact NextLevel improperly revisiting language in its own precedent fatal to its claims, and not responding to "new matter,"

in violation of this court's order. Moreover, NextLevel misstates the decision. *Kunkel* was prompted by legislative encroachment on an Illinois Supreme Court rule, but NextLevel fails to heed the language in the supreme court's order, quoted in Intervenor's Reply: "Consequently, the separation of powers principle is violated when a legislative enactment *unduly encroaches upon the inherent powers of the judiciary*, **or** directly and irreconcilably conflicts with a rule of this court." *Kunkel*, quoted in Intervenor Reply at 11-12, citations omitted, emphasis added.

### **III. Move to Strike Portions Sur-Reply**

Intervenor moves that the court strike the second sentence of the Sur-Reply: "Intervenor's reply brief fails to overcome that mootness and, instead, largely just repeats incendiary allegations about NextLevel, see Reply at 1-2, that are both false and utterly irrelevant to the legal issues raised in her motion." Sur-Reply 1. *First*, NextLevel states it is responding to statements previously asserted. *Second*, absent a single reason to support NextLevel's assertion that Intervenor's factual statements about NextLevel's ownership, officials, and Illinois corruption do not merit consideration in evaluating the public's interest in these proceedings, NextLevel repeats a bald assertion that the statements, not NextLevel officials' documented actions, are "incendiary," and, more alarming, states that some unspecified information is "false," a claim that was never alleged by any party in the prior briefs and appears here without specificity much less evidence. The sentence should be struck first because it violates this court's order of April 12, 2022 permitting a "sur-reply as to any *new matter* raised in Intervenor's motion papers..." *Further*, the sentence is vague. Which statements are supposedly "incendiary" and which ones "false"? *Knox College v. Celotex Corp.*, 88 Ill.2d 407, 421(1981). ("The

granting of the motion to strike or dismiss is within the sound discretion of the trial court.”

Citations omitted.)

#### **IV. Sanctions Proper under Rule 137**

The signature of an attorney or party [on a pleading, motion or other paper] constitutes a certificate by him that he has read the pleading, motion or other paper; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. \* \* \* If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion or other paper, including a reasonable attorney fee. 155 Ill.2d R. 137.

This section incorporates the problems with attorney statements referenced in pages 4-12 of this Supplemental Motion. Each and every statement NextLevel filed in a pleading averring the existence of a redacted Complaint and a redacted 2020 Order was not grounded in fact. NextLevel’s arguments for their remaining confidential were moot, not to mention a bizarre gas-lighting of the Intervenor if not this court. *Either* Mr. Schwab’s misstatement of court procedure (Exhibit 3) indicates Mr. Schwab has no knowledge of how to interpret a court order that uses “shall,” as in “NextLevel shall file...” *and* no knowledge on how to file documents, *or*, he and other attorneys at DLA Piper (and the DOI) knew that these redacted documents were never filed and knowingly misrepresented or withheld this information in their statements and NextLevel in its pleadings. Even after Intervenor’s inquiry led Mr. Schwab to admit that NextLevel never filed the replacement documents, NextLevel on May 5, 2022 still failed to effectively replace the Complaint and 2020 Order with the redacted versions.

Intervenor in her FAM, her Motion to Notice and Declare Public of April 4, 2022, and her statements in hearings, indicated a discrepancy between the court's Lift and Seal Order and the actual record of this proceeding, one of which this court was well-aware. Further, NextLevel attorneys knew or should have known the Complaint and 2020 Order had not been removed because they were the ones who never performed their obligations per the Lift and Seal Order. The appellate court for the first circuit, fifth division found that a complaint wrongly alleging the existence of a contract warranted sanctions, finding the "burden [for Rule 137 sanctions] was satisfied if the plaintiffs or their attorney knew or should have known that the pleadings were untrue at the time the pleadings were filed." *Stiffle v. Baker Epstein Marz* 71 N.E.3d 770, 775 (2016). *Garlick v. Bloomingdale TP.*, NE 3d 193, 205 (2018), ("The standard for evaluating a party's conduct under the rule is one of reasonableness under the circumstances existing at the time of the filing.")

The failure to correctly file the documents and statements indicating otherwise in the pleadings obligated Intervenor, Chancery Division staff and possibly court staff, not to mention the court, to devote substantial time to puzzling through what happened. Insofar as Intervenor is seeking information, an appropriate equitable remedy for NextLevel's Rule 137 violations is the immediate release of information on claims, payouts, and attorney fees for this proceeding, and the removal of any Non-Disclosure obligations on signatories to agreements with NextLevel; this would be merited in any case, insofar as Intervenor is aware of no law or court order authorizing non-disclosure as a settlement claim requirement for a party seeking payment from an insolvent insurance firm in conservancy or liquidation proceedings. Insofar as opposing parties managed to conduct a liquidation under conservancy provisions for about two years, *and*, absent her

request for the Complaint under the Freedom of Information Act would have left these proceedings forever hidden, Intervenor respectfully requests sanctions under Rule 137 that will restore some credibility to the rule of law. Further, in light of the substantial time lost to Intervenor due to the Rule 137 violations of DLA Piper attorneys who signed the pleadings, remained silent on the unfiled records in hearings, especially Mr. Schwab, Intervenor respectfully requests an order that DLA Piper provide payment for an attorney to represent Intervenor in these proceedings going forward. *McCormick v. Louis Joliet Bank & Tr. Co.*, 114 Ill. App.3d 205, 210 (1983). (“The amount of fees and expenses, like the decision whether to award them as a sanction under section 41, is a matter within the trial court's sound discretion,” citing at 209 *Brandenberry Park East Apartments v. Zale* (1978), 63 Ill. App.3d 253, 262-63.) A sanction ordering the release of information is more than reasonable and within this court’s discretion. *Lewy v. Koeckritz Intern. Inc.*, 570 NE 2d 361, 365 (1991). (“A trial court exceeds its discretion only where no reasonable person would take the view adopted by the trial court.”)

Opposing parties claim that the public’s interests are best protected by private attorneys and officials tied to the insurance industry acting in secret. Conduct that is at best unprofessional by those demanding unaccountable public trust in their judgment is material to the concerns raised by Intervenor about the Confidentiality Provisions challenged in the FAM and the Termination Provision Intervenor now challenges for its constitutionality. When attorneys pleading for an exemption from the First Amendment demand our trust, information revealing they are not trustworthy merits if not obligates inclusion in the record for this proceeding to support an order for a release of all claims, payouts, and attorney fees for this proceeding, even if they were not filed with the court.

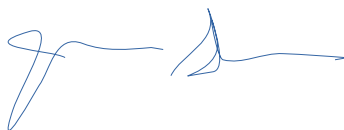


Finally, NextLevel has stated in hearings and pleadings that the conservatorship is in its last legs and the claims process is winding down. Leaving aside the DOI and NextLevel failure to move from conservation to liquidation *de jure* if not *de facto*, insurance liquidation cases can take several years. Indeed the case involving the conservation and liquidation of Legion Indemnity, initiated in 2002 remains open in 2022, a point relevant to consider as NextLevel and the State continue to oppose releasing records that have been released in similar cases.<sup>30</sup>

Respectfully Submitted,  
/s/ Jacqueline Stevens  
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June 8, 2022

VERIFICATION

I, the undersigned, swear under penalty of perjury, as provided by law under Section I-109 of the Illinois Rule of Civil Procedure, that the statements contained in this motion are true and correct to the best of my knowledge and belief, except where I lack sufficient knowledge to form a belief of the truth of the allegations, where so stated.



Jacqueline Stevens

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<sup>30</sup> *Legion*, 2002 CH 06695.

# Exhibit 1

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5/5/2020 10:55 AM  
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COOK COUNTY, IL  
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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

PEOPLE OF THE STATE OF ILLINOIS, *ex rel.*, )  
ROBERT H. MURIEL, DIRECTOR OF THE )  
ILLINOIS DEPARTMENT OF INSURANCE, )  
)  
)  
Plaintiffs, )  
)  
v. )  
)  
NEXTLEVEL HEALTH PARTNERS, INC. )  
An Illinois domestic Health Maintenance Organization, )  
)  
Defendant. )

This Complaint is  
Confidential Under  
215 ILCS 5/188.1

No. 2020CH04431

**VERIFIED COMPLAINT FOR CONSERVATION  
OF ASSETS AND INJUNCTIVE RELIEF**

Plaintiffs, the People of the State of Illinois, upon the relation of Robert H. Muriel, Director of the Illinois Department of Insurance (the “Director”), by and through their attorney, Kwame Raoul, Attorney General of the State of Illinois, for their Verified Complaint for Conservation of Assets and Injunctive Relief against Defendant NextLevel Health Partners, Inc., allege and state as follows:

**JURISDICTION AND VENUE**

1. This Verified Complaint is filed pursuant to the provisions of Article XIII of the Illinois Insurance Code (the “Code”), 215 ILCS 5/187, *et seq* which, *inter alia*, authorizes the Director to apply to this Court, through the Attorney General of the State of Illinois, on behalf of the People of the State of Illinois, for entry of an order, without a hearing or prior notice, to conserve the assets of a domestic company upon a showing that any of the grounds specified in Section 188, 215 ILCS 5/188, of the Code exist.

FILED DATE: 5/5/2020 10:55 AM 2020CH04431

2. Venue is proper in the Circuit Court of Cook County, Illinois pursuant to the provisions of Section 188 of the Code, 215 ILCS 5/188, and Section 2-101 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-101.

### **PARTIES AND RELATED ENTITIES**

3. Pursuant to the McCarran-Ferguson Act, 15 U.S.C. Section 1011, *et seq* the 50 states, the District of Columbia and the U.S. territories regulate the business of insurance, not the federal government. Robert H. Muriel is the Director of the Illinois Department of Insurance and, as such, is charged under Section 401 of the Code, 215 ILCS 5/401, with the rights, powers and duties appertaining to the enforcement and execution of all of the insurance laws of the State of Illinois. The Illinois Department of Insurance licenses, regulates, examines and, if appropriate, disciplines individuals and entities engaged in Illinois in the business of insurance. The Department's responsibilities include, but are not limited to, all aspects of insurance company solvency, the conduct of agents, brokers and companies, the collection of insurance taxes and assessments and, more broadly, the authority to regulate any individual or company involved with the management, distribution, sales or marketing of insurance or insurance-related matters in Illinois. On every topic, the Department's first priority is the protection of the people, families and businesses that purchase insurance in the State of Illinois.

4. Defendant, NextLevel Health Partners, Inc. ("NextLevel"), is a domestic for profit corporation licensed as a health maintenance organization in Illinois, and organized under and existing by virtue of the laws of the State of Illinois, having its principal place of business in Chicago, Illinois. NextLevel exclusively writes Medicaid business in Illinois.

## **STATUTORY GROUNDS FOR REHABILITATION**

5. Section 187 of the Code, 215 ILCS 5/187, provides, *inter alia* that Article XIII applies to every corporation, association, society, order, firm, company, partnership, individual, and aggregation of individuals to which any article of the Code is applicable, or which is subject to examination, visitation or supervision by the Director under any provision of the Code or under any law of this State, or which is engaging in an insurance or surety business:

### § 187. *Scope of Article*

(1) This Article shall apply to every corporation, association, society, order, firm, company, partnership, individual, and aggregation of individuals to which any Article of this Code is applicable, or which is subject to examination, visitation or supervision by the Director under any provision of this Code or under any law of this State, or which is engaging in or proposing or attempting to engage in or is representing that it is doing an insurance or surety business, or is undertaking or proposing or attempting to undertake to provide or arrange for health care services as a health care plan as defined in subsection (7) of Section 1-2 of the Health Maintenance Organization Act, including the exchanging of reciprocal or inter-insurance contracts between individuals, partnerships and corporations in this State, or which is in the process of organization for the purpose of doing or attempting or intending to do such business, anything as to any such corporation, association, society, order, firm, company, partnership, individual or aggregation of individuals provided in this Code or elsewhere in the laws of this State to the contrary notwithstanding.

(2) The word “company” as used in this Article includes all of the corporations, associations, societies, orders, firms, companies, partnerships, and individuals specified in subsections (1), (4), and (5) of this Section and agents, managing general agents, brokers, premium finance companies, insurance holding companies, and all other non-risk bearing entities or persons engaged in any aspect of the business of insurance on behalf of an insurer against which a receivership proceeding has been or is being filed under this Article, including, but not limited to, entities or persons that provide management, administrative, accounting, data processing, marketing, underwriting, claims handling, or any other similar services to that insurer, whether or not those entities are licensed to engage in the business of insurance in Illinois, if the entity or person is an affiliate of that insurer.

(3) The word “court” shall mean the court before which the conservation, rehabilitation, or liquidation proceeding of the company is pending, or the judge presiding in such proceedings.

(4) The word “affiliate” as used in this Article means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the person specified.

(5) The word “person” as used in this Article means an individual, an aggregation of individuals, a partnership, or a corporation.

215 ILCS 5/187.

6. Section 188 of the Code, *supra* provides the grounds for rehabilitation and liquidation of a domestic company, as follows:

Sec. 188. ~~Grounds for rehabilitation and liquidation of a domestic company.~~

Whenever any domestic company...

1. is insolvent;

\* \* \*

6. is found to be in such condition that its further transaction of business would be hazardous to its policyholders, or to its creditors, or to the public;

\* \* \*

With respect to a domestic company, the Director must report,...any such case to the Attorney General of this State whose duty it shall be to apply forthwith by complaint on relation of the Director in the name of the People of the State of Illinois, as plaintiff, to the Circuit Court of Cook County ..., for an order to rehabilitate or liquidate the defendant company as provided in this article, and for such other relief as the nature of the case and the interests of its policyholders, creditors, members, or the public may require...

215 ILCS 5/188. See also 215 ILCS 125/5-6.

7. Section 1250.20 of Title 50 of the Illinois Administrative Code, 50 Ill. Adm. Code 1250.20, provides that the Director may consider *inter alia*, certain criteria when determining whether the continued operation of any insurer transacting an insurance business in Illinois might be deemed to be hazardous to the policyholders, creditors or to the public; as follows:

Section 1250.20 Standards

Depending upon an examination of the factual circumstances, applicable law and financial situation of the company involved, the following standards, either

singly or a combination of two or more, may be considered by the Director to determine whether the continued operation of any insurer transacting an insurance business in this State might be deemed to be hazardous to the policyholders, creditors or the general public which could warrant the Director issuing a corrective order:

a) adverse findings reported in financial and market conduct examination reports, audit reports, and actuarial opinions, reports or summaries;

\* \* \*

t) any other finding determined by the Director to be hazardous to the insurer’s policyholders, creditors or general public, including those of a nonfinancial nature.

8. The Illinois Insurance Code requires that when the Director causes a Verified Complaint for Conservation to be filed, through the Attorney General of the State of Illinois, alleging the existence of grounds justifying the entry of an order under Section 188.1(1) and that “the interests of creditors, policyholders or the public will probably be endangered by delay, then the circuit court of ... Cook County ... *shall enter forthwith without a hearing or prior notice* an order of conservation and injunctive relief. 215 ILCS 5/188.1(1) (emphasis added).

9. In addition to the fifteen (15) grounds for the entry of a receivership order set forth in Section 188, *supra* Section 35A-30(d), 215 ILCS 5/35A-30(d), of the Code sets forth an additional ground, as follows:

(d) In the case of a **mandatory control level event** with respect to a health organization, ***the Director shall take the actions necessary to place the insurer in receivership under Article XIII*** or, in the case of an insurer that is writing no business and that is running-off its existing business, may allow the insurer to continue its run-off under the supervision of the Director. In either case, ***the mandatory control level event is deemed sufficient grounds for the Director to take action under Article XIII, and the Director has the rights, powers, and duties with respect to the insurer that are set forth in Article XIII***. If the Director takes action regarding an Adjusted RBC [Risk Based Capital] Report, the insurer shall be entitled to the protections of Article XIII. If the Director finds that there is a reasonable expectation that the mandatory control level event may be eliminated

within 90 days after it occurs, the Director may delay action for not more than 90 days after the mandatory control level event.

215 ILCS 5/35A-30(d) (emphasis added).

10. Section 35A-30(a) identifies three events that can trigger a mandatory control event:

(a) A mandatory control level event means any of the following events:

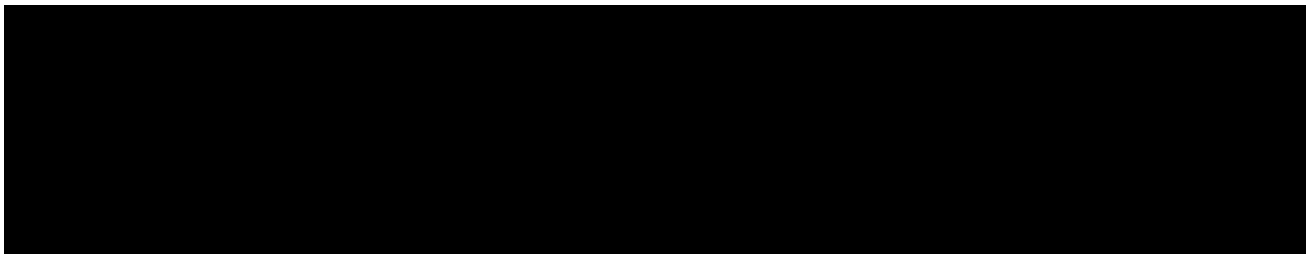
- (1) **The filing of an RBC Report that indicates that the insurer's total adjusted less than its mandatory control level RBC.**
- (2) The notification by the Director to the insurer of an Adjusted RBC Report that indicates the event described in paragraph (1), provided the insurer does not challenge the Adjusted RBC Report under Section 35A-35.
- (3) The notification by the Director to the insurer that the Director has, after a hearing, rejected the insurer's challenge under Section 35A-35 to the Adjusted RBC Report that indicates the event described in paragraph (1).

215 ILCS 5/35A-30(a) (emphasis added).

11. Mandatory control level RBC is defined as, “the product of 0.70 and the insurer’s authorized control level RBC.” 215 ILCS 5/35A-5 (emphasis added).

**FACTUAL GROUNDS FOR CONSERVATION**

12. On March 17, 2020, NextLevel filed an Annual Statement for the year ending December 31, 2019. In its Annual Statement, NextLevel reported that its Surplus as Regards Policyholders Liabilities was a negative (\$2,794,769). In its recently filed Quarterly Statutory Financial Statement, NextLevel reported that its Capital and Surplus, as of March 31, 2020, was a negative (\$1,857,254). Accordingly, NextLevel is insolvent on a statutory basis.





14. NextLevel is in a hazardous condition based on its Surplus as Regards Policyholders [REDACTED] as reported on December 31, 2019 and March 31, 2020.

**GROUND S EXIST JUSTIFYING THE ENTRY OF AN ORDER AGAINST NEXTLEVEL UNDER SECTION 188**

15. NextLevel’s reported RBC as of December 31, 2019 and estimated RBC as of March 31, 2020 constitutes a mandatory control level event under 215 ILCS 5/35A-30(a)-(d), requiring the Director to take the actions necessary to place NextLevel in receivership under Article XIII.

16. NextLevel is statutorily insolvent; a situation which justifies the entry of a court order for the conservation of NextLevel pursuant to Section 188.1 of the Code. 215 ILCS 5/188.1

17. The Director has determined that the standards set forth in Paragraph (6) herein exist, each of which independently support a finding that the further transaction of NextLevel’s business would be hazardous to its policyholders, its creditors and to the public; a situation which justifies the entry of a court order for the conservation of NextLevel pursuant to Section 188.1 of the Code. 215 ILCS 5/188.1.

18. The Director further alleges that, not only is it the case that the interests of creditors, policyholders or the public will probably be endangered by delay, the facts alleged support a finding that the interests of creditors, policyholders or the public *will be* endangered by delay.

**WHEREFORE** the People of the State of Illinois, upon the relation of Robert H. Muriel, Director of the Illinois Department of Insurance, pray that an order be promptly entered by this Court as follows:

**FINDING THAT:**

(A) Sufficient cause exists for the entry of an Order of Conservation of NextLevel, including the fact that the company is insolvent and in a hazardous condition.

(B) Pursuant to Section 191 of the Code, 215 ILCS 5/191, the entry of the order prayed for herein creates an estate comprising all of the liabilities and assets of NextLevel.

(C) Upon the entry of the Order prayed for herein, the Conservator's statutory authority includes, without limitation, the following:

(i) Pursuant to Section 191 of the Code, 215 ILCS 5/191, the Conservator is vested by operation of law with the title to all property, contracts, and rights of action of NextLevel; and

(ii) Pursuant to Section 191 of the Code, 215 ILCS 5/191, the Conservator is entitled to immediate possession and control of all property, contracts, and rights of action of NextLevel; and

(iii) Pursuant to Section 191 of the Code, 215 ILCS 5/191, the Conservator is authorized to remove any and all records and property of NextLevel to his possession and control or to such other place as may be convenient for purposes of the efficient and orderly administration of the conservation of NextLevel; and

(iv) Pursuant to Section 193(1) of the Code, 215 ILCS 5/193(1), the Conservator is authorized to deal with the property, business and affairs of NextLevel in his name, as Director, and that the Conservator is also authorized to deal with the property, business and affairs of NextLevel in the name of NextLevel; and

(v) Pursuant to Section 193(2) of the Code, 215 ILCS 5/193(2), the Conservator, without the prior approval of the Court, is authorized to sell or otherwise dispose of any real or personal property of NextLevel, or any part thereof,

and to sell or compromise all doubtful or uncollectible debts or claims owing to NextLevel having a value in the amount of Twenty-Five Thousand Dollars (\$25,000.00), or less. Any such sale by the Conservator of the real or personal property of NextLevel having a value in excess of Twenty-Five Thousand Dollars (\$25,000.00), and sale or compromise of debts owing to NextLevel where the debt owing to NextLevel exceeds Twenty-Five Thousand Dollars (\$25,000.00) shall be made subject to the approval of the Court; and

(vi) Pursuant to Section 193(3) of the Code, 215 ILCS 5/193(3), the Conservator is authorized to bring any action, claim, suit or proceeding against any person with respect to that person's dealings with NextLevel including, but not limited to, prosecuting any action, claim, suit, or proceeding on behalf of the policyholders, claimants, beneficiaries or creditors of NextLevel; and

(vii) Pursuant to Section 193(4) of the Code, 215 ILCS 5/193(4), the Conservator may solicit contracts whereby a solvent company agrees to assume, in whole or in part, or upon a modified basis, the liabilities of a company in conservation; and

(viii) Pursuant to Section 194(a) of the Code, 215 ILCS 5/194(a), the rights and liabilities of NextLevel and of its creditors, policyholders, stockholders or members and all other persons interested in its assets, except persons entitled to file contingent claims, shall be fixed as of the date of the entry of the order prayed for herein unless otherwise provided for by order of the Court; and

(ix) Pursuant to Section 194(b) of the Code, 215 ILCS 5/194(b), the Conservator may, within two (2) years after the entry of the conservation order prayed for herein or within such further time as applicable law permits, institute an action, claim, suit,

or proceeding upon any cause of action against which the period of limitation fixed by applicable law had not expired as of the filing of the complaint upon which the conservation order was entered; and

(x) Subject to the provisions of Section 202 of the Code, 215 ILCS 5/202, the Conservator is authorized to appoint and retain those persons specified in Section 202(a) of the Code, 215 ILCS 5/202(a), and to pay, without the further order of this Court, from the assets of NextLevel, all administrative expenses incurred during the course of the conservation of NextLevel; and

(xi) Pursuant to Section 203 of the Code, 215 ILCS 5/203, the Conservator shall not be required to pay any fee to any public officer for filing, recording or in any manner authenticating any paper or instrument relating to any proceeding under Article XIII of the Code, *supra* nor for services rendered by any public officer for serving any process; and

(xii) Pursuant to the provisions of Section 204 of the Code, 215 ILCS 5/204, the Conservator may seek to avoid preferential transfers of the property of NextLevel and to recover such property or its value, if it has been converted.

**ORDERING THAT:**

- (1) The Order of Conservation prayed for herein is entered as to and against NextLevel.
- (2) Robert H. Muriel, Director of the Illinois Department of Insurance, and his successors in office, is affirmed as the statutory Conservator (the "Conservator") of NextLevel with all of the powers appurtenant thereto.
- (3) All policies and contracts of insurance, and agreements of reinsurance where NextLevel is the ceding company, shall remain in full force and effect pending a

determination by the Director as to when, and upon what terms, cancellation or renewal is appropriate. All treaties, contracts and agreements of reinsurance wherein NextLevel was, or is, the assuming or retrocessional reinsurer shall be cancelled upon the entry of the order prayed for herein.

(4) Subject to further orders of this Court, the Conservator is authorized to take such actions as the nature of the cause and the interests of NextLevel and its policyholders, claimants, beneficiaries, creditors, or the public may require including, but not limited to, the following:

- (i) The Conservator shall proceed to take immediate possession and control of the property, books, records, accounts, business and affairs, and all other assets of NextLevel, and of the premises occupied by NextLevel for the transaction of its business, and to marshal and liquidate the assets, business and affairs of NextLevel pursuant to the provisions of Article XIII of the Code, *supra* and to conserve the same for the benefit of the policyholders and creditors of NextLevel, and of the public; further that the Conservator is directed and authorized to orderly wind down and run off the business and affairs of NextLevel, and to make the continued expenditure of such wages, rents and expenses as he may deem necessary and proper for the administration of the conservation of NextLevel; and
- (ii) The Conservator may both sue and defend on behalf of NextLevel, or for the benefit of the policyholders, claimants and other creditors of NextLevel, in the courts either in his name as the Conservator of NextLevel, or in the name of NextLevel, as the case may be; and

(5) The Director is vested with the right, title and interest in all funds recoverable under contracts, treaties, certificates, and agreements of reinsurance heretofore entered into by or on behalf of NextLevel.

(6) Any acts or omissions of the Conservator in connection with the conservation of NextLevel, shall not be construed or considered to be a preference within the meaning of Section 204 of the Code, 215 ILCS 5/204, notwithstanding the fact that any such act or omission may cause a policyholder, claimant, beneficiary, third party or creditor to receive a greater percentage of debt owed to or by NextLevel than any other policyholder, claimant, beneficiary, third party or creditor in the same class.

(7) The caption in this cause and all pleadings filed in this matter shall hereafter read:

**“IN THE MATTER OF THE CONSERVATION OF  
NEXTLEVEL HEALTH PARTNERS, INC.”**

(8) All costs of the proceedings prayed for herein be taxed and assessed against NextLevel.

(9) Pursuant to its authority under Section 189 of the Code, 215 ILCS 5/189, the Court hereby issues the following mandatory and prohibitive injunctions:

(i) All accountants, auditors and attorneys of NextLevel are ordered to deliver to the Conservator, at his request, copies of all documents in their possession or under their control concerning or related to NextLevel, and to provide the Conservator with such information as he may require concerning any and all business and/or professional relationships between them and NextLevel, and concerning any and all activities, projects, jobs and the like undertaken and/or performed by them at the request of NextLevel, or its agents, servants, officers,

directors and/or employees, or which NextLevel may be, or is, entitled to as the result of its relationship with such accountants, auditors and attorneys; and

- (ii) NextLevel and its directors, officers, agents, servants, representatives, employees, affiliated companies, and all other persons and entities, shall give immediate possession and control to the Conservator of all property, business, books, records and accounts of NextLevel, and all premises occupied by NextLevel for the transaction of its business; and
- (iii) NextLevel and its directors, officers, agents, servants, representatives, employees, affiliated companies, and all other persons and entities having knowledge of this Order are restrained and enjoined from transacting any business of NextLevel, or disposing of any company property or assets, including books, records and computer and other electronic data, without the express written consent of the Conservator, or doing or permitting to be done any action which might waste the property or assets of NextLevel, until the further order of the Court; and
- (iv) The directors, officers, agents, servants, representatives and employees of NextLevel, and all other persons and entities having knowledge of this Order are restrained and enjoined from bringing or further prosecuting any claim, action or proceeding at law or in equity or otherwise, whether in this State or elsewhere, against NextLevel, or its property or assets, or the Director as its Conservator, except insofar as those claims, actions or proceedings arise in or are brought in the conservation proceedings prayed for herein; or from obtaining, asserting or enforcing preferences, judgments, attachments or other like liens, including common law retaining liens, or encumbrances or the making of any levy against

NextLevel, or its property or assets while in the possession and control of the Conservator, or from interfering in any way with the Conservator in his possession or control of the property, business, books, records, accounts, premises and all other assets of NextLevel, until the further order of the Court; and

(v) Any and all banks, brokerage houses, financial institutions and any and all other companies, persons or entities having knowledge of this Order having in its possession accounts and any other assets which are, or may be, the property of NextLevel, are restrained and enjoined from disbursing or disposing of said accounts and assets and are further restrained and enjoined from disposing of or destroying any records pertaining to any business transaction between NextLevel, and such banks, brokerage houses, financial institutions, companies, persons or entities having done business, or doing business, with NextLevel, or having in its possession assets which are, or may be, the property of NextLevel, and further, that each such person or entity is ordered to immediately deliver any and all such assets and/or records to the Conservator; and

(vi) All insurance and reinsurance companies and entities that assumed liabilities from NextLevel arising under either contracts, policies of insurance, certificates of insurance, or agreements, contracts, treaties or certificates of reinsurance issued by NextLevel, are restrained and enjoined from making any settlements with any claimant or policyholder of NextLevel, or any other person other than the Conservator, except with the written consent of the Conservator, or when the reinsurance agreement, contract, treaty, or certificate expressly and



lawfully provides for payment by the reinsurer directly to a claimant or policyholder on the behalf of NextLevel.

(10) The Director, as Conservator, be directed to ascertain the condition of NextLevel while he is in possession and control of the property, books, records, accounts, assets, premises, business and affairs of NextLevel, and to make periodic reports to the Court as the nature and condition of NextLevel while in conservation; and further directing the Director, as Conservator, to file with the Court for its consideration reports relating to the administration of the conservation of NextLevel in accordance with Section 188.1 of the Code, *supra* and

(11) The Court retains jurisdiction in this cause for the purpose of granting such other and further relief as the nature of this cause and the interests of NextLevel, its policyholders, claimants, beneficiaries and creditors, or of the public, may require and/or as the Court may deem proper in the premises.

Respectfully Submitted,

KWAME RAOUL  
*Attorney General*  
*State of Illinois*  
Atty. Code 99000

s/ Maggie Jones  
MAGGIE JONES  
Assistant Attorney General  
General Law Bureau  
100 W. Randolph Street, 13<sup>th</sup> Floor  
Chicago, Illinois 60601  
(312) 814-4061  
MaJones@atg.state.il.us

Of Counsel:  
J. Kevin Baldwin

Daniel A. Guberman  
dguberman@osdchi.com  
Dale A. Coonrod  
Counsel to the Director as Receiver  
222 Merchandise Mart Plaza, Suite 960  
Chicago, Illinois 60654  
(312) 836-9500  
Attorney Code 16819

FILED DATE: 5/6/2020 2:19:39 AM 2020CH0431

## VERIFICATION BY CERTIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned, in his capacity as the Director of the Illinois Department of Insurance, certifies that the statements set forth in the above and foregoing Complaint are true and correct, except as to matters therein stated to be on information and belief, and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

DATED: May 28, 2020



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Robert H. Muriel  
Director of the Illinois  
Department of Insurance

# Exhibit 2

FILED  
5/5/2022 10:55 AM  
IRIS Y. MARTINEZ  
CIRCUIT CLERK  
COOK COUNTY, IL  
2020CH04431  
Calendar, 11  
17776483

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

PEOPLE OF THE STATE OF ILLINOIS, *ex rel.*, )  
ROBERT H. MURIEL, DIRECTOR OF THE )  
ILLINOIS DEPARTMENT OF INSURANCE, )  
)  
)  
Plaintiffs, )  
)  
v. )  
)  
NEXTLEVEL HEALTH PARTNERS, INC. )  
An Illinois domestic Health Maintenance Organization, )  
)  
Defendant. )

This Complaint is  
Confidential Under  
215 ILCS 5/188.1

No. 2020 CH 04431  
Judge Meyerson

**ORDER OF CONSERVATION OF ASSETS AND INJUNCTIVE RELIEF**

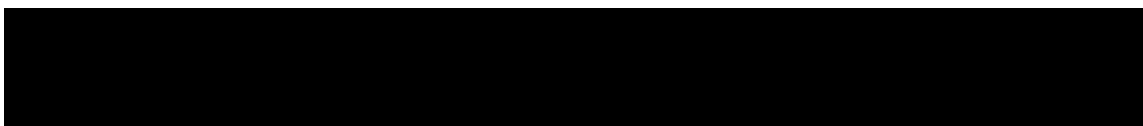
THIS CAUSE COMING TO BE HEARD upon the Verified Complaint for Conservation of Assets and Injunctive Relief, filed herein by the People of the State of Illinois, on the relation of Robert H. Muriel, Director of the Illinois Department of Insurance (the "Director"), for an order authorizing and directing the Director to take possession and control of the property, accounts, assets, records, business, and affairs of NextLevel Health Partners, Inc. ("NextLevel") to conserve the same pursuant to the provisions of Article XIII of the Illinois Insurance Code (the "Code"), 215 ILCS 5/187, *et seq.*, and further to protect the interests of NextLevel's policyholders and creditors, and of the general public; the Court having jurisdiction over the parties hereto and the subject matter hereof; the Court having reviewed the pleadings filed herein and having considered the arguments of counsel thereon, and the Court then being otherwise advised in the premises, and for good cause appearing therefore;

**THE COURT FINDS BASED ON THE VERIFIED COMPLAINT:**

FILED DATE: 5/5/2022 10:55 AM 2020CH04431

A. That, by his Verified Complaint, the Director seeks an Order of Conservation against the defendant, NextLevel, pursuant to Section 188.1 of the Code, 215 ILCS 5/188.1, and alleges therein that sufficient cause exists under Section 188 of the Code, 215 ILCS 5/188, for the entry of an order of rehabilitation or liquidation against the Defendant, including, without limitation, the following facts and circumstances:

- (i) NextLevel is insolvent;
- (ii) NextLevel's continued operation constitutes a hazardous condition; and



B. That the Director's Verified Complaint sets forth sufficient allegations of fact for issuance of an order of conservation and injunctive relief pursuant to Section 188.1 of Article XIII of the Code, *id.*

**IT IS HEREBY ORDERED THAT:**

1. This Order of Conservation is entered as to and against NextLevel.
2. Robert H. Muriel, Director of the Illinois Department of Insurance, and his successors in office, is hereby affirmed as conservator of NextLevel (the "Director" or "Conservator"), and is hereby authorized and directed to immediately take possession and control of the property, books, records, accounts, assets, business and affairs of NextLevel and of the premises currently occupied, or hereafter occupied, by NextLevel for the transaction of business, pursuant to the provisions of Article XIII of the Code, 215 ILCS 5/187, *et seq.*, and to conserve the same for the benefit of the policyholders and creditors of NextLevel and of the public; and, further, to take such actions that the nature of this cause and the interests of the policyholders and creditors of NextLevel, or the public, may require, subject to the further orders of this Court;

3. The Director, as Conservator, is directed to ascertain the condition of NextLevel while he is in possession and control of the property, books, records, accounts, assets, premises, business and affairs of NextLevel and shall make periodic reports to the Court as to the nature and condition of NextLevel while in conservation. The Director, as Conservator, is further directed to file with this Court, reports relating to the administration of the conservation of NextLevel in accordance with Section 202 of the Code, 215 ILCS 5/202; and,

4. NextLevel and its present and former, officers, directors, trustees, agents, managing general agents, third-party administrators, servants, representatives employees and its parent, subsidiary and affiliated companies and persons, and all other persons and entities having knowledge of this order, shall give immediate possession and control to the Director, as Conservator, of all property, business, books, records, accounts, funds, and all other assets of NextLevel and of any and all premises occupied by NextLevel; and,

5. That all directors, officers, trustees, agents, managing general agents, third-party administrators, insurers, reinsurers, retrocessionaires, accountants, auditors, actuaries and attorneys of NextLevel shall deliver to the Director, as Conservator, upon request, copies of all documents in its possession or under its control concerning or relating to NextLevel and to provide the Director, as Conservator, with such information as he may require concerning any and all business and/or professional relationships between them and NextLevel and concerning any and all activities, projects, jobs and the like undertaken and/or performed by them at the request of NextLevel and its officers, directors, agents, servants, representatives and/or employees, or which NextLevel are, or may be, entitled to as the result of its relationship with such agents, managing general agents, third-party administrators, insurers, reinsurers, retrocessionaires, accountants, auditors, actuaries and/or attorneys; and,

6. NextLevel and its officers, directors, principals, trustees, shareholders, partners, agents, servants, administrators, representatives and employees, and its parent, subsidiary and affiliated companies and persons, and all other persons and entities having knowledge of this order, are enjoined and restrained from transacting any business of NextLevel without the prior written approval of the Director, as Conservator, or until further order of the Court, to wit, in the absence of the prior written approval of the Director, as Conservator, or the further order of the Court, NextLevel and all such persons and entities shall not: (i) advertise, solicit, sell, issue, mail or deliver any applications for insurance or reinsurance coverage, insurance policies or contracts, certificates of insurance, contracts or certificates of reinsurance, or any other evidence of insurance or reinsurance coverage or participation by NextLevel; (ii) collect any premiums; (iii) deal with, or dispose any of the property or assets, whether real, personal or mixed of NextLevel; or (iv) do or permit to be done any action which might waste or conceal the property or assets of NextLevel; and,

7. That all directors, officers, trustees, third-party administrators, banks, brokerage houses, financial institutions, investment advisors and any and all other companies, persons or entities having knowledge of this order, having in its possession accounts and any other assets which are, or may be, the property of NextLevel are enjoined and restrained from disbursing or disposing of said accounts and assets, without the express written consent of the Director, as Conservator, and, the aforesaid directors, officers, trustees, third-party administrators, banks, brokerage houses, financial institutions, investment advisors, companies, persons and entities are further enjoined and restrained from disposing of, or destroying, any records pertaining to any business transaction between NextLevel and such directors, officers, trustees, banks, brokerage houses, financial institutions, investment advisors, companies, persons or entities having done



business, or doing business, with NextLevel; and that each such director, officer, trustee, third-party administrator, bank, brokerage house, financial institution, investment advisor, company, person or entity are ordered and directed to immediately turn over and deliver possession and control of any and all such accounts, assets and/or records to the Director, as Conservator; and,

8. That all directors, officers, trustees, beneficiaries, agents, managing general agents, third-party administrators and brokers of NextLevel and its agents, servants, representatives and employees, and all other persons and entities having knowledge of this order, are enjoined and restrained from returning any premium, earned or unearned, or any other money in its possession, or under its control to claimants, creditors, insureds, beneficiaries, insurers or any others; and said directors, officers, trustees, agents, managing general agents, third-party administrators and brokers, and its respective agents, servants, representatives and employees, and all other persons and entities having knowledge of this order, are ordered and directed to immediately turn over all such funds in its possession or under its control, or to which they may hereafter acquire possession or control, to the Director, as Conservator, in gross and not net of any commissions which may be due thereon; and,

9. That all directors, officers, trustees, third-party administrators, principals, shareholders, partners, members, agents, servants, representatives, employees, parents, subsidiaries and affiliates of NextLevel and all other persons, companies and entities having knowledge this order, are enjoined and restrained from: (i) bringing, asserting or further prosecuting any claim, action or proceeding, at law or in equity or otherwise, whether in this State or elsewhere, against NextLevel, or its property or assets, or against the Director as its Conservator, except insofar as those claims, actions or proceedings arise in or are brought in the conservation proceedings prayed for herein; (ii) obtaining, asserting or enforcing preferences, judgments,

attachments, garnishments, or other like liens or encumbrances, including common law retaining liens, or the making of any levy against NextLevel or its property or assets while in the possession and control of the Director, as Conservator; (iii) interfering, in any way, with the Director's conduct of the conservation of NextLevel; and (iv) interfering, in any way, with the Director, as Conservator, in his possession and control of the property, business, books, records, accounts, premises and all other assets of NextLevel, until further order of the Court; and,

10. That a moratorium is hereby issued and established enjoining and prohibiting NextLevel from paying any claims, loss adjustment expenses, or other contractual obligations incurred by it, unless, prior to the issuance of any such payment, such payments are approved in writing by the Director, as Conservator, or until further order of the Court; and,

11. That a moratorium is hereby issued and established enjoining and prohibiting NextLevel and its directors, officers, trustees, principals, shareholders, partners, agents, managing general agents, third-party administrators, servants, representatives, employees, parents, subsidiaries and affiliated companies, and all other persons and entities having knowledge of this order, from paying any contractual obligations of NextLevel owing to its creditors, insurers, and/or vendors, or its assignees, or any other persons, except insofar that such payments are necessary in the administration of the conservation of NextLevel, as contemplated by Section 202 of the Code, *supra*, and as authorized in writing by the Director, as Conservator, until further order of the Court; and,

12. That all persons, companies and entities are enjoined and restrained from construing this order as an anticipatory breach of any contract, including, but not limited to, agreements, treaties, certificates or contracts of insurance or reinsurance, heretofore entered into with NextLevel; and,

13. The Director, as Conservator, is authorized to pay from the assets of NextLevel those expenses incurred during the course of its conservation, including but not limited to, attorneys' fees, accounting fees and consulting fees, as administrative expenses, pursuant to and in a manner consistent with the provisions of Section 202 of the Code, *id.*; and,

14. That all costs of these proceedings are taxed and assessed against the NextLevel; and,

15. That the caption in this cause and all pleadings filed in this matter shall hereafter read:

**"IN THE MATTER OF THE CONSERVATION OF NEXTLEVEL HEALTH PARTNERS, INC."**

16. The Conservator shall make immediate service, by email, of both the Verified Complaint for Conservation and this Order of Conservation of Assets and Injunctive Relief on counsel for NextLevel.

17. That this Court shall retain jurisdiction in this cause for the purpose of granting such further relief as the nature of the cause, and the interests of NextLevel, its creditors or of the public, may require, and as the Court may deem proper in the premises.

18. This cause is set for status, by remote hearing, on June 18, 2020, at 2:00 p.m.

ENTERED:



Judge Presiding

KWAME RAOUL  
Attorney General of the  
State of Illinois  
Atty. Code 99000

Attorney for the People of  
the State of Illinois

**ENTERED**  
Judge Pamela Meyerson  
JUN 09 2020  
DOROTHY BROWN  
CLERK OF THE CIRCUIT COURT  
OF COOK COUNTY, IL  
DEPUTY CLERK

Maggie Jones  
Assistant Attorney General  
General Law Bureau  
100 West Randolph Street, 13th Floor  
Chicago, Illinois 60601  
(312) 814-7199  
MaJones@atg.state.il.us

Of Counsel:

J. Kevin Baldwin  
Daniel A. Guberman  
Dale A. Coonrod  
Counsel to the Director as Receiver  
222 Merchandise Mart Plaza, Suite 960  
Chicago, IL 60654  
(312) 836-9500  
Attorney Code #16819  
dguberman@osdchi.com

# Exhibit 3

## RE: Redacted Complaint and June 9 order

From: jackiestevens@protonmail.com <jackiestevens@protonmail.com>

To Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com>

CC Guberman, Daniel <DGuberman@osdchi.com> Freilich, Matt <Matt.Freilich@us.dlapiper.com>  
ccc chancerycalendar11 <ccc.chancerycalendar11@cookcountyil.gov>  
Jones, Margaret <Margaret.Jones@ilag.gov> Mendelsohn, David <david.mendelsohn@us.dlapiper.com>

Date: Tuesday, May 3rd, 2022 at 3:53 PM

Mr. Schwab,

Your statement is inconsistent with the order of November 29, 2021. The order states, "NextLevel shall file a redacted version of..." the Complaint and the Order. It does not state the clerk for the court to file redacted documents.

Based on what you are stating, it would appear that NextLevel did not comply with the court's order and that instead your position is the the clerk for Judge Meyerson should have extracted the redacted pdf from your exhibit submissions and submitted them to the Chancery Division.

If I do not hear otherwise, I will be filing a supplemental motion.

Also, as you know, I do not normally copy the court on our communications. In light of the fact that this involves long-standing questions about the docket, it seemed appropriate, and especially so insofar as you are now directly implicating the court's clerk in the subject matter of my query.

Jacqueline Stevens  
Professor  
Northwestern University

----- Original Message -----

On Tuesday, May 3rd, 2022 at 3:35 PM, Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com> wrote:

Ms. Stevens:

Our understanding is the same as Daniel's. The Court has the redacted documents, but litigants cannot require the Clerk to make substitutions in a court file. Perhaps Judge Meyerson's chambers can assist? We will do whatever the Court wishes on this point.

FYI, ordinarily litigants do not cc the court on communications between them, unless the court directs otherwise.

Thanks and best wishes.

Stephen W. Schwab

Partner

---

T +1 312 368 2150  
F +1 312 630 7343  
M +1 847 366 5490  
stephen.schwab@us.dlapiper.com

DLA Piper LLP (US)  
dlapiper.com

---

From: Jackie Stevens <jackiestevens@protonmail.com>  
Sent: Tuesday, May 3, 2022 2:15 PM  
To: Guberman, Daniel <DGuberman@osdchi.com>  
Cc: Freilich, Matt <Matt.Freilich@us.dlapiper.com>; ccc chancerycalendar11 <ccc.chancerycalendar11@cookcountyil.gov>; Jones, Margaret <Margaret.Jones@ilag.gov>; Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com>; Mendelsohn, David <david.mendelsohn@us.dlapiper.com>  
Subject: RE: Redacted Complaint and June 9 order

⚠ EXTERNAL MESSAGE

Mr. Guberman,

Thank you for this information. I'm still curious as to whether NextLevel actually submitted to the Chancery Division the redacted documents for purposes of the replacement. The only redacted files I have been able to locate from the documents the Chancery Division provided to me in January were the ones filed as exhibits to the motion for them to be redacted.

Mr. Freilich, can you please let me know whether NextLevel filed redacted complaint and order with the Chancery Division and if so, when that happened?

Also, although I am not familiar with the protocols, it would make sense if the Chancery Division noted the replacement with a dated docket entry.

Thanks so much,

Jacqueline Stevens

Professor

Northwestern University

----- Original Message -----

On Tuesday, May 3rd, 2022 at 2:23 PM, Guberman, Daniel <[DGuberman@osdchi.com](mailto:DGuberman@osdchi.com)> wrote

Professor Stevens,

My recollection is that the court's order required that the unredacted copies of the complaint and conservation order be replaced, not that new filings be made. I think the court was provided with the redacted copies in order to effectuate the replacement of the two documents.

**Daniel A. Guberman**

Senior Deputy General Counsel

Compliance and Conflict Officer

Office of the Special Deputy Receiver

222 Merchandise Mart Plaza

Suite 960

Chicago, IL 60654

W: (312) 836-9519

F: (312)836-1944

---

From: Jackie Stevens <[jackiestevens@protonmail.com](mailto:jackiestevens@protonmail.com)>

Sent: Tuesday, May 3, 2022 11:34 AM

To: Freilich, Matt <[Matt.Freilich@us.dlapiper.com](mailto:Matt.Freilich@us.dlapiper.com)>

Cc: ccc chancerycalendar11 <[ccc.chancerycalendar11@cookcountyil.gov](mailto:ccc.chancerycalendar11@cookcountyil.gov)>; Jones, Margaret <[Margaret.Jones@ilag.gov](mailto:Margaret.Jones@ilag.gov)>; Guberman, Daniel <[DGuberman@osdchi.com](mailto:DGuberman@osdchi.com)>; Schwab, Stephen W. <[Stephen.Schwab@us.dlapiper.com](mailto:Stephen.Schwab@us.dlapiper.com)>; Mendelsohn, David <[david.mendelsohn@us.dlapiper.com](mailto:david.mendelsohn@us.dlapiper.com)>

Subject: Redacted Complaint and June 9 order



CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Freilich,

I write to inquire as to whether NextLevel actually filed with the Chancery Division a redacted complaint and redacted order of June 9, 2020, per the 11/29/2021 order of Judge Meyerson? In doing a search of the records released to me in January, 2022 I only see the redacted versions as exhibits to NextLevel's motion for sealing, and not as separate filings. These digital records were released to me with long gibberish file names and the files themselves show now dates for when anything is filed. According to supposedly updated Chancery Division docket for this case, it does not appear that NextLevel submitted any such filings between November 29, 2021 and when I filed my intervenor motion.

Thank you,

Jacqueline Stevens

Professor

Northwestern University

The information contained in this email may be confidential and/or legally privileged. It has been sent for the sole use of the intended recipient(s). If the reader of this message is not an intended recipient, you are hereby notified that any unauthorized review, use, disclosure, dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please reply to the sender and destroy all copies of the message. To contact us directly, send to [postmaster@dlapiper.com](mailto:postmaster@dlapiper.com). Thank you.

# Exhibit 4

## RE: Redacted Complaint and June 9 order

From: Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com>

To jackiestevens@protonmail.com

CC Guberman, Daniel <DGuberman@osdchi.com> Freilich, Matt <Matt.Freilich@us.dlapiper.com>  
ccc chancerycalendar11 <ccc.chancerycalendar11@cookcountyil.gov>  
Jones, Margaret <Margaret.Jones@ilag.gov> Mendelsohn, David <david.mendelsohn@us.dlapiper.com>  
Cerda, Tony <Tony.Cerda@us.dlapiper.com>

Date: Thursday, May 5th, 2022 at 10:47 AM

Ms. Stevens:

No need for a supplemental motion. You will please refile the documents, and our docket clerk will inform the clerk that the unredacted copies are to be sequestered.

Apologies to the Court for this string.

Best wishes.

**Stephen W. Schwab**

Partner

T +1 312 368 2150  
F +1 312 630 7343  
M +1 847 366 5490  
stephen.schwab@us.dlapiper.com

DLA Piper LLP (US)  
dlapiper.com

From: Jackie Stevens <jackiestevens@protonmail.com>

Sent: Tuesday, May 3, 2022 2:54 PM

To: Schwab, Stephen W. <Stephen.Schwab@us.dlapiper.com>

Cc: Guberman, Daniel <DGuberman@osdchi.com>; Freilich, Matt <Matt.Freilich@us.dlapiper.com>; ccc chancerycalendar11 <ccc.chancerycalendar11@cookcountyil.gov>; Jones, Margaret <Margaret.Jones@ilag.gov>; Mendelsohn, David <david.mendelsohn@us.dlapiper.com>

Subject: RE: Redacted Complaint and June 9 order

⚠ EXTERNAL MESSAGE

Mr. Schwab,

Your statement is inconsistent with the order of November 29, 2021. The order states, "NextLevel shall file a redacted version of..." the Complaint and the Order. It does not state the clerk for the court to file redacted documents.

Based on what you are stating, it would appear that NextLevel did not comply with the court's order and your position is the the clerk for Judge Meyerson should have extracted the redacted pdf from your external submissions and submitted them to the Chancery Division.

If I do not hear otherwise, I will be filing a supplemental motion.

Also, as you know, I do not normally copy the court on our communications. In light of the fact that this