

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

MICHAEL HUMPHREYS, INSURANCE  
COMMISSIONER OF THE  
COMMONWEALTH OF PENNSYLVANIA  
IN HIS CAPACITY AS THE STATUTORY  
REHABILITATOR OF SENIOR HEALTH  
INSURANCE COMPANY OF  
PENNSYLVANIA,

**No. 2 SHP 2022**

Plaintiff,

v.

VANBRIDGE, AN EPIC COMPANY, et al.,

Defendants.

**MOTION OF THE REHABILITATOR TO COMPEL DISCOVERY AND  
FOR SANCTIONS AGAINST DEFENDANT  
DIXON HUGHES GOODMAN LLP**

Pursuant to the Pennsylvania Rules of Civil Procedure (the “Rules”) Pa.R.Civ.P. 4009.1, 4009.11, 4009.12, and 4019, Plaintiff Michael Humphreys, Insurance Commissioner of the Commonwealth of Pennsylvania, as Rehabilitator of Senior Health Insurance Company of Pennsylvania (“SHIP” or “Plaintiff”) moves:

(a) to compel Defendant Dixon Hughes Goodman LLP (“Dixon”

or “Defendant”) to produce documents in response to Plaintiff’s document requests;

(b) to establish a discovery reporting schedule of Dixon to the Court (or a Special Master); and/or

(c) for evidentiary sanctions against Dixon for failing to preserve and produce relevant documents and evidence.

*See McGovern v. Hosp. Serv. Ass’n of Northeastern Pennsylvania*, 785 A.2d 1012, 1015 (Pa. Super. Ct. 2001) (noting Pa.R.Civ.P 4019 permits sanctions where there is a discovery violation); *Marshall v. Brown’s IA, LLC*, 213 A.3d 263, 267 (Pa. Super. Ct. 2019) (a party’s destruction of evidence can result in sanctions including exclusion of evidence, monetary penalties and adverse jury instructions).

Dixon’s failures to meaningfully engage in discovery includes:

(a) repeatedly demanding to be dismissed on the basis of there being “no evidence” while failing to disclose for ***two years*** that relevant documents from 2016 and 2017 had already been purged under Dixon’s document retention policy;

(b) failing to disclose for ***over two years*** that a small number of 2016 emails that it produced had in fact originated from SHIP’s files, not Dixon’s, and were not the result of an independent search by Dixon;

(c) failing to produce or explain why relevant documents that would not have been destroyed under Dixon's 3-year document retention policy still have not been produced by Dixon in this litigation; and

(d) failing and/or refusing to search for and produce documents pursuant to reasonable search requests.

For these reasons, SHIP requests an order

1. directing Dixon to certify to the Court that:
  - a. after diligent search all responsive documents have been produced,
  - b. amended, verified responses to SHIP's document requests have been served, AND
  - c. all Dixon custodian mailboxes have been searched;
2. directing Dixon to provide an explanation why relevant documents that should have been preserved were not produced;
3. assessing an evidentiary sanction against Dixon for failure to produce relevant evidence;

4. issuing an adverse inference at trial; and
5. awarding SHIP's costs and fees in bringing this motion.

In support of this Motion, SHIP states as follows:

**I. FACTUAL BACKGROUND**

**A. Nature of this Action**

1. SHIP is a Pennsylvania limited life insurance company engaged in the administration of a closed block of long-term care insurance policies.

2. Since at least 2008, SHIP's financial condition has declined, despite corporate reorganizations and capital contributions.

3. In early 2016, in its efforts to improve its long-term solvency, SHIP engaged Vanbridge LLC ("Vanbridge") as an advisor to propose and provide solutions to SHIP that would boost SHIP's Risk Based Capital.

4. On Vanbridge's suggestion and urging, SHIP entered into a Coinsurance Agreement with Roebing Re Ltd. ("Roebing") whereby Roebing was supposed to assume 49% of SHIP's long term care policy liability obligations (the "Roebing Transaction").

5. SHIP engaged Dixon for advice during the drafting of the coinsurance agreement as well as to provide a valuation for the two Promissory Notes (Bruckner Notes A and B) that issued in the Roebing Transaction. These Notes

were supposed to be collateralized with purchased investment securities and capital contributions from Roebing Re.

6. John Roberts of Dixon was the primary contact between SHIP and Dixon. He advised SHIP as to the coinsurance agreement, including advice on language related to the transfer of risk required for regulatory approval. Brian Steen, also of Dixon, provided the valuations of the Bruckner A and B Notes.

7. The Coinsurance Agreement was executed at the end of August 2016.

8. By the end of 2017, Roebing Re was unable to perform its reinsurance obligations for SHIP because, among other things, Roebing Re had never had assets of its own and all funds contributed to the Roebing Transaction came from SHIP and only SHIP.

9. In 2018, at the urging of the Pennsylvania Insurance Department, SHIP terminated the coinsurance agreement and exited the Roebing Transaction.

10. On January 29, 2020, this Court placed SHIP into Rehabilitation.

11. On September 3, 2020, SHIP sent litigation hold letters to several defendants in this action, including Dixon. *See* Exhibit A (Letter from SHIP to Dixon regarding document preservation obligations).

12. On September 8, 2020, Dixon issued litigation hold notices to several of its employees who were involved in the Roebbling Transaction including John Roberts, Greg Russ, and Brian Steen.<sup>1</sup>

13. On January 28, 2022, SHIP brought this action against Dixon and the other defendants based on their respective roles in the ill-fated Roebbling Re transaction that had substantially worsened SHIP's financial condition.

### **B. Preliminary Discovery**

14. In 2023, Dixon (through its former counsel, Mr. Sharpless) turned over a few documents (less than 100) to SHIP as the result of an agreement between the parties for Dixon to produce documents responsive to a limited number of requests as "preliminary discovery."

15. In a June 12, 2023 letter to SHIP's prior counsel, Mr. Sharpless, asserted that "*all* of the 'work product' and other documents, including emails, related to and arising out of Mr. Roberts' engagement and the valuation engagement, are included in the production."

16. This production included emails from 2016 between Roberts and SHIP employees while the subject coinsurance agreement was being planned, drafted, and executed.

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1. See Exhibit O (Mar. 25, 2026, Letter response from Dixon to SHIP.)

17. Mr. Sharpless also stated that the only “scope” limitation that Dixon applied in its search was the exclusion of a few 2012 documents that were unrelated to the current matter, and documents from an unrelated 2018 engagement with SHIP. *See Exhibit B (June 12, 2023, Sharpless Letter to SHIP’s former counsel regarding preliminary discovery).*

18. There was no suggestion in Mr. Sharpless’ letter that potentially relevant documents had been destroyed, whether due to a routine document retention policy or otherwise. In fact, because Mr. Sharpless specifically referenced documents from 2012 (pre-dating the events here), SHIP had no reason to even suspect that responsive documents might have been destroyed.

19. Mr. Sharpless’ letter asserted that the then-produced documents showed that there was no evidence against Dixon to support SHIP’s allegations. *See id.* And specifically, that “Dixon Hughes Goodman LLP did not opine on the ‘risk transfer’ of the preliminary drafts of the ‘Roebing Deal’ that were provided to it.” *Id.*

20. On January 19, 2024, Dixon’s new (and current) lead counsel, Brian C. Fries of Lathrop GPM LLP,<sup>2</sup> provided SHIP’s former counsel with bates stamped copies of the documents that Mr. Sharpless had previously produced. Mr.

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<sup>2</sup> As of the filing of this motion, the Lathrop firm has not yet appeared but counsel from Troutman have represented that they will be filing pro hac vice applications shortly.

Fries reiterated that they agreed with Mr. Sharpless' assessment and that "there is no good faith basis for SHIP to maintain a claim against DHG." See Exhibit C (Dixon Letter to SHIP regarding litigation and discovery).

21. Mr. Fries further specified that "there is no evidence in either DHG's or SHIP's files to suggest DHG was engaged by its client [SHIP] to provide an opinion on risk transfer."<sup>3</sup> Mr. Fries then requested that SHIP dismiss its claims against Dixon. *Id.*

22. As with Mr. Sharpless' correspondence, Mr. Fries' letter contained not even a hint that potentially relevant documents had been destroyed, whether due to a routine document retention policy or otherwise. To the contrary, Mr. Fries' affirmative statement that there was *no evidence* to support SHIP's allegations against Dixon in the universe of responsive documents created the impression that all responsive evidence had been preserved and produced.

23. Dixon produced these documents as PDFs and thus provided no metadata.

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<sup>3</sup> Contrary to Dixon's repeated assertions, SHIP's claims against Dixon are not so narrow as to be limited to whether or not SHIP asked Dixon, specifically John Roberts, to provide a formal, written opinion on risk transfer. Among other things, Dixon's framing of the issues against it in this case wholly disregards the civil conspiracy claim against all Defendants.

**C. Ship's discovery requests and Dixon's original response**

24. On January 6, 2025, SHIP served Dixon with its First Set of Requests for Production. *See* Exhibit D (SHIP's First Set of Requests for Production to Dixon).

25. The requests included an instruction stating "[i]f any requested document was, but no longer is, in your possession, custody, or control, or has been misplaced, destroyed, discarded, or otherwise disposed of, please so state, and identify each such document." *Id.*

26. On April 19, 2025, some four months later, Dixon responded in writing to SHIP's First Set of Requests for Production. Dixon's response included numerous objections, a statement that its investigation was ongoing, and a reservation of right to amend or supplement the responses. *See* Exhibit E (Dixon's Responses to SHIP's First Set of Requests for Production to Dixon).

27. Dixon's written responses to SHIP's First Set of Requests for Production did not mention that any potentially relevant documents had been destroyed due to Dixon's document retention policies (or otherwise).

28. Dixon did not produce any additional documents with its written responses and instead merely referred SHIP to the few documents previously produced in preliminary discovery.

**D. SHIP seeks answers concerning Dixon's limited document production**

29. In August 2025, SHIP's current counsel, ND Galli Law, took over as counsel for SHIP and appeared in this matter.

30. Following SHIP's new counsels' appearance, on September 10, 2025, SHIP amended its responses to several Dixon discovery requests. *See Exhibits F & G*, (respectively, SHIP's First Amended Responses and Objections to Dixon's First Set of Requests for Admission & SHIP's First Amended Responses to Dixon's First Set of Interrogatories).

31. SHIP's amended answers identified several emails from SHIP's production that indicated that Dixon, and specifically John Roberts, held telephone calls with Vanbridge's managing principal Kenneth Pierce regarding edits to the reinsurance agreement at issue here, including an edit that appears related to the risk transfer issue.

32. As of September 2025, Dixon had not produced any documents pertaining to these phone calls (specifically, emails between Roberts and Pierce<sup>4</sup>), save those that had otherwise been sent to SHIP at the time.

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<sup>4</sup> The engagement letter between SHIP and Dixon Hughes allowed Dixon to engage in communications directly with Vanbridge LLC (*i.e.*, Ken Pierce), thus making communications between Dixon (Roberts) and Vanbridge (Pierce), and not including SHIP, highly relevant.

33. On October 7, 2025, without explanation, Dixon produced 690 documents (emails) from a newly identified custodian, Brian Steen, relating to his work on a portion of the Roebling Re transaction from 2016 and 2017. *See* Exhibit H (SHIP's Oct. 15, 2025, Letter to Dixon concerning deficiencies in document production).

34. On October 15, 2025, SHIP then requested that Dixon supplement its production to include documents relating to John Roberts' work on the Roebling Re transaction, including documents pertaining to calls between Roberts and Pierce as identified by SHIP in its amended responses. *Id.*

35. The same day, SHIP also served its Second Set of Requests for Production, which were directed to Dixon's and John Roberts' work with SHIP on the Roebling Transaction and its communications with Vanbridge regarding the same. *See* Exhibit I (SHIP's Second Set of Requests for Production to Dixon).

36. This second set of requests included RFP No. 27 requesting "All internal documents and communications within DHG relating to John Roberts' work on the Roebling transaction." and RFP No. 28 requesting "All documents and communications between John Roberts and Kenneth Pierce."

37. On November 5, 2025, Dixon requested a 30-day extension for its written responses to SHIP's Second Set of Requests.

38. SHIP agreed to the extension on the condition that Dixon would supplement its production at the same time.

**E. After two years of discovery, Dixon finally blames lack of production on document retention policies**

39. On November 17, 2025, Dixon responded to SHIP's October 15 letter, claiming *for the first time*, that Dixon had a three-year document retention policy that had resulted in the purging of an untold number of documents related to Dixon's work on the Roebling Transaction. *See* Exhibit J (Dixon's Nov. 17, 2025, Response Letter to SHIP).

40. Prior to Dixon disclosing in November 2025 that a document retention policy in place at the company resulted in the purging of documents from three custodians (John Roberts, Jim Sabella, and Greg Russ), all of whom worked on the Roebling Transaction between 2016 and 2017, Dixon's counsel had asserted at least twice that there was "no evidence" to support SHIP's allegations. *See* ¶¶ 19-21. Dixon's nondisclosure as to document destruction rendered its counsel's representations of "no evidence" fundamentally misleading.

41. On November 26, 2025, SHIP served its Third Set of Requests for Production of Documents on Dixon seeking information as to Dixon's document retention practices and policies that had resulted in Dixon's deletion of relevant and responsive documents – policies on which Dixon now relies as the basis for its scant document production.

42. In early December 2025, SHIP and Dixon held two meet-and-confer calls, which included discussion of the status of Dixon's document production and whether Dixon would be producing more documents.

43. In these calls, Dixon's Counsel stated that Dixon was unlikely to have further documents to produce.

44. On December 15, 2025, Dixon finally provided its unverified written responses to SHIP's October 15 Second Set of Requests, which contained only objections to each request including Request Nos. 27 and 28.

45. On December 22, 2025, Dixon requested an extension to January 6, 2026, to provide its responses to SHIP's Third Set of Requests (which sought the document retention policies on which Dixon was relying), seeking additional time to get approval from the client in light of holiday schedules.

46. Asked whether the responses would include a document production (*i.e.*, of Dixon's document retention policies), Dixon's counsel responded that they were "still looking to see if we can find anything that is responsive." *See* Exhibit K (Dec. 22, 2025, email exchange between Brian Frees and Nicole Galli concerning scope of responses).

47. On January 6, 2026, Dixon provided its written responses to SHIP's Third Set of Requests.

48. Dixon’s unverified written responses again included only objections to the requests. Dixon produced no documents and provided no privilege log. *See* Pa.R.Civ.P. 4009.12(c) (requiring responses to be “signed and verified by the party making it”).

49. On January 21, 2026, SHIP sent Dixon a deficiency letter, requesting Dixon comply fully with its discovery obligations by January 28, 2026, or leave SHIP with no choice but to seek relief from this Court. Specifically, SHIP requested that Dixon:

- a. Provide the document retention policies it asserted were the basis for the destruction of potentially responsive documents;
- b. Provide a Privilege log and/or any non-privileged documents responsive to SHIP’s Third Set of Requests for Production of Documents;
- c. Provide a description of the searches—or confirmation no searches were conducted—to find documents responsive to SHIP’s Third Set of Requests for Production of Documents;
- d. If no documents responsive to SHIP’s Third Set of Requests for Production of Documents existed, provide amended responses to state Dixon’s document retention policies were never memorialized and to

set forth the basis Dixon relied on to assert such policies existed if they were not memorialized;

- e. Provide amended responses to SHIP's Second Set of Requests for Production that state whether Dixon had already produced all documents responsive to the requests; and
- f. For all of SHIP's requests for production, a description of the document collections and searches Dixon used for each custodian in responding, including search terms used or confirmation that no such searches were conducted.

50. In response, Dixon stated that it would need until February 13, 2026, to fully respond, due to its counsel's trial schedule.

51. On January 27, 2026, Dixon produced three documents that Dixon's prior counsel Mr. Sharpless had apparently failed to produce and asserted that those three documents "concludes Dixon's production of documents responsive to SHIP's Second Set of Requests for Production." Exhibit L (January 27, 2026 email from K. Gasper to D. Cevalasco).

52. Between January 27 and February 9, 2026, in emails exchanged among opposing counsel, Dixon finally further explained that, at some point in 2025, Dixon had searched the mailboxes of John Roberts, Greg Russ, Jim Sabella, and Brian Steen for the following seven search terms for the period of 1/1/2016-

12/31/2019: *SHIP, Roebing, Vanbridge, “Golden Tree”, “GoldenTree”, Bruckner, and Fuzion. See Exhibit M (Jan. 27, 2026-Feb. 9, 2026, email correspondence between counsel for SHIP and Dixon concerning discovery deficiencies).*

53. On February 4, 2026, SHIP replied to Dixon’s January 27, 2026, preliminary email response. SHIP’s response:

54. expressed concern that it took Dixon over three months to disclose the seven search terms it had used,<sup>5</sup>

- a. highlighted the insufficiency of Dixon’s list of search terms, namely its lack of relevant terms like “risk transfer” or names of others involved in the Roebing Transaction such as Ken Pierce, and
- b. re-stated SHIP’s intention to request additional judicial oversight of discovery given Dixon’s failure to provide basic information in a timely manner if these deficiencies were not remedied. *Id.*

55. On February 13, 2026, Dixon responded to SHIP’s January 6, 2026, letter, finally producing document retention policies from 2020, 2021, 2022, and 2023 (more than two months since these documents were first requested by SHIP), as well as a 20-entry privilege log.

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<sup>5</sup> SHIP first asked Dixon to confirm the search terms it had used in its searches in its October 15, 2025 letter, and then repeatedly in meet and confers and other correspondences thereafter.

**F. SHIP discovers discrepancies in Dixon’s application of document retention policies**

56. On March 2, 2026, SHIP wrote to Dixon seeking clarification on its document retention policies and highlighting remaining deficiencies as well as relating SHIP’s ongoing concerns about the sufficiency and timeliness of Dixon’s discovery production. *See* Exhibit N (Mar. 2, 2026, Letter from SHIP to Dixon concerning discovery deficiencies.)

57. Specifically, SHIP observed that Dixon’s three-year document retention policy<sup>6</sup> should have preserved *all* relevant documents that existed in the three years prior to the litigation hold implemented on September 8, 2020, which suspended the policy (*i.e.*, at least back to September 8, 2017). SHIP asked Dixon to explain how it was able to produce 2016 emails from Brian Steen but was unable to produce *any* documents from Roberts, Russ, and Sabella from September 2017 or later.

58. SHIP once again expressed concern with the adequacy of Dixon’s search for documents, noting that Roberts, Russ, and Sabella all appear in Brian Steen’s produced emails, including emails dated after September 8, 2017, which should have been preserved for all custodians pursuant to the 2020 litigation hold

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<sup>6</sup> Dixon’s document retention policies also reference a seven (7) year retention period for all “work papers.” With respect to SHIP’s request for all workpapers related to its work on the Roebing transaction, Dixon responded only that “[t]o the extent DHG created any ‘workpapers’ for its work pertaining to the Roebing transaction, those documents have been produced.”

which should have halted deletion of old matter under Dixon's 3-year retention policy.

59. SHIP is aware of responsive, non-privileged documents that existed and should have been produced by Dixon unless they were otherwise destroyed. For example, based on its own records, SHIP is aware that, in 2018 several SHIP employees emailed Roberts for advice pertaining to the Roebling Re transaction as SHIP was endeavoring to terminate it. Even though these emails should have been identified using Dixon's keyword searches on its custodians, none of these emails were produced by Dixon from Roberts' files either in response to SHIP's RFP No. 7 seeking "[a]ll documents and communications exchanged between [Dixon] and SHIP relating to the Roebling transaction" or otherwise.

60. On March 25, 2026, Dixon responded to SHIP's March 2, 2026, letter. Dixon confirmed that the email inboxes of Brian Steen, Greg Russ, John Roberts, and Jim Sabella had been put on a litigation hold shortly after September 8, 2020, and that all files "related to the relevant engagements from custodians subject to the legal hold" had been segregated, collected, preserved, searched and produced in this litigation. *See* Exhibit O (Mar. 25, 2026, Letter response from Dixon to SHIP.)

61. Dixon further responded that it had also issued a second litigation hold shortly after SHIP filed suit on February 7, 2022, to a number of employees including Greg Russ, John Roberts, Brian Steen, and Jim Sabella. *Id.*

62. In the March 25, 2026, response, Dixon claimed that “most of Dixon’s work for SHIP took place before September 2017” and thus “most potentially relevant emails had already been autodeleted as a result of Dixon’s three-year email retention policy when the September 2020 legal hold was put into place.” *Id.*

63. Dixon’s March 25, 2026, response stated, *for the first time*, that the Roberts 2016 emails that Mr. Sharpless originally provided *some three years earlier*, were not the result of searching Roberts’ files but merely a replication of a set of emails in SHIP’s possession that were sent to Roberts in 2019.<sup>7</sup>

64. As explained in Dixon’s March 25 letter, on March 18, 2019, Ginger Darrough of SHIP sent a collection of emails between Roberts and SHIP pertaining to the Roebing transaction to Mark Lynch, a Dixon employee on secondment to SHIP at that time.

65. That same day, Lynch forwarded the emails to John Roberts.

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<sup>7</sup> SHIP conducted a document-by-document comparison and the only emails produced by Sharpless in 2024 were the same emails attached to Ginger Darrough’s email to Mark Lynch in 2019.

66. On February 8, 2022, Roberts forwarded the same set of emails to Dixon’s internal legal team, presumably in response to the legal hold put in place after the Complaint was filed in this case that January.

67. On February 9, 2022, that email thread was then forwarded again to Sharpless.

68. Thus, *at all times*, Dixon knew that its production of the Roberts 2016 emails was not the result of Dixon’s or its counsel’s own independent searches of Dixon’s records but rather were materials SHIP itself had collected and provided to it in 2019.

69. In its March 2026 response, Dixon also revealed, *for the first time*, that ***Dixon had discovered, at some unspecified point in 2025***, that certain mailboxes<sup>8</sup> subject to a litigation preservation hold were “impacted by certain data loss as part of the Information Technology transition that took place as a result of when Dixon and BKD merged in 2022” – despite the fact that a litigation hold had been in place and that this lawsuit had already been filed at the time of this merger.

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<sup>8</sup> Dixon identified Greg Russ’ mailbox as being “impacted by the unintentional and unknowing data loss that occurred as part of the Information Technology transition.”

70. Dixon also insisted yet again that “[b]eyond what has already been provided to SHIP, Dixon has no additional responsive documents within its current possession, custody, or control that it has agreed to produce in this case.”<sup>9</sup> *Id.*

71. Despite again stating that Roberts, Sabella, and Russ’ mailboxes were searched, to date, Dixon has provided no explanation as to why Dixon has failed to produce responsive emails from these custodians’ mailboxes from September 2017 and later, including clearly responsive emails between SHIP and Roberts from 2018 pertaining to Roebing, despite repeated requests for an explanation.

## **II. GROUNDS FOR COMPELLING PRODUCTION AND/OR ISSUING SANCTIONS**

72. Dixon’s inability to produce responsive documents that were subject to the litigation hold, combined with the absence of an explanation for why certain documents that should have been preserved were not produced, suggests that Dixon 1) conducted no searches; 2) poorly conducted the searches it did do; 3) did not conduct the right searches to find responsive documents; and/or 4) improperly deleted (or at least did not adequately preserve) documents subject to the litigation hold, even as Dixon’s counsel has repeatedly contended that Dixon should be dismissed from this case because there is “no evidence” to support SHIP’s allegations.

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<sup>9</sup> Along with its March 25, 2026 written response, Dixon also made a supplemental production of 21 additional documents from Brian Steen’s files not previously produced.

73. Dixon has thus caused undue burden and delay during the discovery process with continued new excuses and rationalizations for its failure to produce responsive documents, necessitating repeated and ongoing correspondence between the parties for months on end, and stalling SHIP's ability to move this case forward. *See Boyle v. Steiman*, 631 A.2d 1025, 1031 (Super. Ct. 1993) (“The purpose of discovery is to *expediate* litigation and not to provide an intermediate arena for jousting in the time between pleadings and the actual trial.”) (emphasis added) (internal citation omitted).

74. Dixon waited until November 2025 – nearly four years after this litigation commenced – to disclose the existence of the document retention policies it now relies on (in part) to explain the deletion of relevant emails. Dixon took an additional three months to actually produce those policies.

75. Dixon also waited until March 2026 to reveal that documents from a relevant custodian (Russ), subject to the litigation hold and saved from the routine destruction policy, were then destroyed in 2022 – the year this suit was filed – even though Dixon discovered this destruction some time in 2025. *See Pa. R. Civ. P. 4009.12(a)(2)* (requiring that responsive documents be produced within thirty days after service of request).

76. As SHIP has dutifully produced well over 100,000 documents in response to Dixon's extensive requests including tens of thousands of documents

from other SHIP cases, multiple third-party productions (which required permission), expert reports, and deposition transcripts, Dixon has failed to engage meaningfully in the discovery process, producing approximately 700 documents from one custodian. *See Com. v. TAP Pharmaceuticals Products, Inc.*, 904 A.2d 986, (Pa. Cmwlth Ct. 2006) (holding purpose of broad discovery is to “avoid surprise and undue fairness at trial”)

WHEREFORE, SHIP respectfully requests that this Court enter an Order:

1. requiring Dixon to produce all documents as to which it does not claim privilege that are responsive to any of SHIP’s Document Requests, including but not limited to all documents responsive to RFP Nos. 27 and 28, within 14 days of entry of the Order and certify to the Court when such production is complete;
2. requiring Dixon to provide verified, amended responses to SHIP’s Second and Third Set of Requests for Production of Documents within 14 days of entry of the Order and certify to the Court when such amended responses have been served;
3. requiring Dixon to certify to the Court, within 14 days of entry of the Order, that the Roberts, Russ, and Sabella mailboxes have been independently searched for responsive documents, and provide an explanation as to why Dixon has refused to produce relevant documents from these custodians that should have

been prevented from autodeletion under two different preservation and litigation holds;

4. issue an evidentiary sanction preventing Dixon from arguing that there is “no evidence” to support SHIP’s allegations;

5. issuing an adverse inference at trial that the missing documents would support SHIP’s arguments about Dixon’s wrong-doing based on Dixon’s failure to search for and produce relevant, responsive documents;

6. issuing Dixon any additional sanctions this Court sees fit; and

7. awarding SHIP its costs and fees for bringing this motion, for the drafting of, and meeting and conferring pertaining to, SHIP’s Third Set of Requests for Production, and for the drafting of the January and March 2026 discovery letters to Dixon.

Dated: June 8, 2026

**ND GALLI LAW LLC**

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**CERTIFICATE OF SERVICE**

I, Nicole D. Galli, Esquire, do hereby certify that I caused to be served a true and correct copy of the foregoing document upon the following counsel of record via electronic mail:

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**ND GALLI LAW LLC**

Dated: June 8, 2026

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