

Hon. James L. Robart

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CLAUDE KARAM,

Plaintiff,

v.

HARTFORD LIFE AND ACCIDENT
INSURANCE COMPANY,

Defendant.

No. 2:20-cv-01435-JLR

STIPULATED MOTION TO FILE
THE ADMINISTRATIVE
RECORD UNDER SEAL AND
~~PROPOSED~~ ORDER

NOTE ON MOTION CALENDAR:
December 16, 2020

For good cause, the parties respectfully move the Court to grant their stipulated motion to allow the Administrative Record to be filed under seal.

**STIPULATED MOTION TO FILE THE ADMINISTRATIVE RECORD
UNDER SEAL**

1. In light of COVID-19 precautionary measures, the parties elected to satisfy their meet and confer requirement by teleconference, conducted on December 1, 2020. The participants at this conference were: a) Jesse Cowell, Attorney for Plaintiff; and b) Sarah Swale, Attorney for Defendant.

STIPULATED MOTION TO FILE THE ADMINISTRATIVE
RECORD UNDER SEAL

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1 2. First, Plaintiff submits, and Defendant does not dispute for
2 purposes of this case only, that a motion to seal the Administrative Record
3 (“AR” or “Administrative Record”) is justified in this case, because it involves a
4 dispute over Plaintiff’s eligibility for long-term disability (“LTD”) benefits
5 under an employee welfare benefit plan governed by the Employee Retirement
6 Income Security Act, 29 U.S.C. §1001, *et seq.* (“ERISA”). This LTD benefits case
7 is analogous to Social-Security Appeals, in that the Administrative Record
8 contains highly sensitive medical information, protected under the Health
9 Insurance Portability and Accountability Act of 1996 (“HIPAA”). Plaintiff
10 asserts that, like Social-Security Appeals, the Plaintiff’s privacy interests far
11 outweigh the public interest in access to the files. Therefore, just as the public
12 is limited to accessing files in Social-Security Appeals under FRCP 5.2(c),
13 Plaintiff asserts that this motion to file the AR under seal is justified in this
14 LTD benefits case. In the interest of efficiency, and to avoid unnecessary
15 motions practice, Defendant agrees to filing the AR under seal in this matter.
16 In doing so, Defendant does not waive its right to assert in any other matter,
17 ERISA or otherwise, that the AR should not be filed under seal.

18 3. Second, the parties agree that a motion to seal is far more
19 economical, from both a human and financial resource perspective, than the
20 alternative of redacting the Administrative Record. More specifically, the AR
21 produced by Defendant will likely number in the thousands of pages and is
22 peppered throughout with numerous references to Plaintiff’s social security
23 number and date of birth, which would plainly require considerable time and
24 effort to redact. Further, given Plaintiff’s assertion of the minimal public
25 interest in accessing the highly sensitive medical information of the Plaintiff
26 that comprises a significant portion of the Administrative Record, the parties

1 respectfully submit that the expense and burden of redaction outweighs the far
2 more economical option of simply filing the AR under seal in this matter.

3 4. Finally, given inefficiencies and added burdens affecting attorneys
4 and support staff for both parties due to the COVID-19 pandemic, the parties
5 are seeking relief from a potentially demanding redaction process to conserve
6 their already strained resources. The parties respectfully submit that the ready
7 and mutually agreeable alternative of filing the AR under seal will assist the
8 parties in doing so.

9 5. Pursuant to LCR 5(g)(3)(A), the parties certify that:

10 A. The conferencing details noted above are true and correct.

11 B. The need to file the Administrative Record was discussed
12 with particular emphasis on: 1) Plaintiff's assertion that HIPAA privacy
13 considerations outweigh the public interest in this LTD benefits case, as
14 analogous to FRCP 5.2(c) treatment of Social-Security Appeals; and
15 2) undue burdens implicated by the alternative of redacting an
16 Administrative Record numbering in the thousands of pages, especially in
17 the midst of the COVID-19 pandemic.

18 C. Attempts to minimize the amount of material filed under seal
19 would be impractical and unduly burdensome, since the Administrative
20 Record is principally composed of either: 1) the highly sensitive medical
21 records of Plaintiff; or 2) discussion of such highly sensitive information in
22 the context of LTD benefits determinations. Further, the portions that
23 would need to be redacted if they are not filed under seal are peppered
24 over thousands of pages throughout the entire AR. The parties
25 understand that FRCP 5.2(c) limits public access to the entire electronic
26 files of analogous Social-Security Appeals for similar reasons.

1 D. Redaction appears to be the only alternative to filing under
2 seal. And the parties agree that filing under seal is the better alternative
3 for the reasons specifically given above.

4 6. Pursuant to LCR 5(g)(3)(B), the parties agree for purposes of this
5 case only, and counsel provides the following declaration briefly describing
6 discussion that:

7 A. By close analogy, FRCP 5.2(c) provides an applicable legal
8 standard for filing the Administrative Record under seal.

9 B. More specifically, just as public access is limited to the highly
10 sensitive medical information which permeates the files of Social-Security
11 Appeals under FRCP 5.2(c), Plaintiff asserts that the legitimate privacy
12 interest of Plaintiff under the HIPAA in protecting highly sensitive
13 medical information within this LTD benefits case far outweighs any
14 legitimate public interest in free and unfettered access, thereby
15 warranting the relief of the Court's allowance to file the Administrative
16 Record under seal. In the interest of efficiency, and to avoid unnecessary
17 motions practice, Defendant agrees to filing the AR under seal in this
18 matter. In doing so, Defendant does not waive its right to assert it any
19 other matter, ERISA or otherwise, that the AR should not be filed under
20 seal.

21 C. The injury that will result if the stipulated motion is not
22 granted is twofold: 1) Plaintiff asserts, and Defendant does not dispute for
23 purposes of this case only, that Plaintiff's highly sensitive medical
24 information would be unnecessarily available to public access, in likely
25 violation of the HIPAA, which could also create irreparable harm by
26 misuse of such information by private persons and the publication of such
information; and 2) the parties would incur high and potentially

1 unnecessary expenditures of financial and human resources through the
2 alternative of redaction at a time of continuing national crisis, when
3 both parties can ill afford to waste time and money.

4 D. The less restrictive alternative of redaction is not sufficient,
5 for the unduly burdensome reasons noted above.

6 In conclusion, for the reasons provided, the parties respectfully move the
7 Court to grant the stipulated motion to file the AR under seal.

8 Respectfully submitted this 16th day of December, 2020.

9
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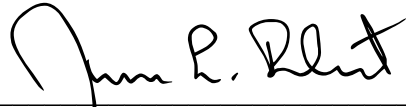
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~~PROPOSED~~ ORDER

Based on the Stipulated Motion to File the Administrative Record under Seal, it is hereby ORDERED that the stipulated motion is granted for good cause shown and the parties shall now file the Administrative Record under seal.

DATED: December 17, 2020.



The Honorable James L. Robart
United States District Judge

Presented by:

ROY LAW GROUP

By: s/ Jesse Cowell
Jesse Cowell, WSBA 50725
Attorney for Plaintiff

JENSEN MORSE BAKER PLLC

By: s/ Sarah E. Swale
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