

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

VADIM STANLEY MIESEGAES,

Plaintiff,

v.

CLIFF ALLENBY, et al.,

Defendants.

Case No. 2:15-cv-01574-CJC-RAO
[PROPOSED] PROTECTIVE ORDER

The following Protective Order shall govern the use and disclosure of documents and/or information (“Confidential Information”) to be produced following the Court’s in camera review of documents and records containing protected health information (PHI) of third parties. FED. R. CIV. P. 26(C)(1). The Court’s Order filed in the above-captioned matter on April 29, 2020 (ECF No. 139) provides the parameters for the materials that will be covered by this Protective Order.

1. Under no circumstances shall Confidential Information, either orally or by written form, be used in any proceeding other than the instant case or be disseminated, in any form, except by court order. This prohibition encompasses

1 any other ongoing litigation in state or federal court between Plaintiff and
2 Department of State Hospitals, Atascadero, its officers, directors, employees,
3 agents, staff, or counsel.

4 2. Under no circumstances shall Confidential Information, either written
5 responses or produced documents, be publicly filed. Confidential Information
6 cannot be quoted in a publicly filed document, described generally or specifically in
7 a publicly filed document, and/or attached as evidentiary support to a publicly filed
8 document. The Court will issue a further order regarding the appropriate steps to
9 file Confidential Information under seal.

10 3. Documents, written discovery responses, summaries of expert opinion,
11 or other writings containing Confidential Information will be clearly designated by
12 adding “CONFIDENTIAL INFORMATION SUBJECT TO PROTECTIVE
13 ORDER” to the document.

14 4. Disclosure of Confidential Information shall be limited to the
15 personnel and/or classification of persons listed below:

- 16 a. Plaintiff Vadim Stanley Miesegeaes, in *pro se*;
- 17 b. Defendants, counsel for Defendants, and staff personnel
18 employed by counsel for any party to this action;
- 19 c. The Court and its personnel, in connection with this litigation;
- 20 d. Experts or consultants retained to work on this case by counsel
21 for any party to this action;
- 22 e. Counsel, experts, or other consultants appointed on behalf of
23 any party to this action (collectively referenced as appointee).

24 5. Defendants will produce to Plaintiff two copies of all records
25 designated as Confidential Information. This will allow Plaintiff to maintain a copy
26 for his personal information during the litigation, and have an additional copy
27 available if needed to attach as exhibits to the Court and file under seal. Plaintiff is
28 prohibited from making additional copies of Confidential Information.

1 6. In the event Plaintiff requires an additional copy of Confidential
2 Information, he can request it from counsel for Defendants in writing with a brief
3 explanation why the additional copy is necessary for the litigation. Counsel for
4 Defendants shall respond to such a request within five court days of its receipt. If
5 counsel for Defendants refuses to provide an additional copy of Confidential
6 Information, counsel will notify the Court of Plaintiff's request and Defendants'
7 reason for refusal within the same five court day period.

8 7. Confidential Information must be stored securely where individuals
9 not subject to this Protective Order cannot access it. Plaintiff must keep the
10 Confidential Information securely stored in his personal locker when he is not
11 actively using it for this litigation. If Plaintiff removes Confidential Information
12 from secure storage to work on this litigation, Plaintiff cannot leave Confidential
13 Information unsecured at any time. For example, if Plaintiff is working on
14 litigation issues in the shared library and needs to go to the bathroom or look at a
15 book across the room, Confidential Information cannot be left unattended where
16 anyone walking by could access it. Plaintiff must first re-secure Confidential
17 Information in his personal locker, then may proceed to do whatever other tasks are
18 necessary. Any breach of security of Confidential Information must be reported
19 upon its discovery.

20 8. Protected Health Information (PHI) includes any information about
21 non-parties relating to their health, medical conditions, diagnosis, and treatments
22 protected by federal and/or state law including but not limited to information
23 relating to HIV status, mental health, and substance abuse. It also includes
24 personally identifying information that may appear on medical records such as
25 address, phone number, birthdate, and social security number.

26 9. If Plaintiff, Defendants, counsel, or other appointee identify documents
27 or other materials containing Confidential Information that have not been
28 appropriately designated pursuant to paragraph 3 of this Protective Order, counsel

1 for Defendants, contact information below, should be notified immediately. Any
2 non-party PHI inadvertently not designated as Confidential Information shall be
3 treated as Confidential Information pursuant to the terms of this Protective Order
4 until appropriately designated materials can be provided.

5 Mary R. Conklin, Deputy Attorney General
6 California Department of Justice
7 Office of the Attorney General
8 300 South Spring Street, Suite 1702
9 Los Angeles, CA 90013
10 Tel: (213) 269-6437; Fax: (916) 731-2125
11 E-mail: Mary.Conklin@doj.ca.gov

12 10. Upon receipt of properly designated Confidential Information, any
13 documents subject to paragraph 9 shall be returned according to the procedures set
14 forth in paragraph 13 without delay even if the litigation is ongoing.

15 11. Counsel or the appointee for any party to this action shall, before any
16 disclosure of Confidential Information, provide a copy of this Protective Order to
17 those individuals to whom disclosure of Confidential Information is to be made and
18 notify them of the contents of this Protective Order. Before disclosure of
19 Confidential Information, counsel or the appointee, shall obtain the consent of such
20 individual that he or she will be bound by this Protective Order. In the event such
21 individual does not consent to be bound by the Protective Order, no disclosure of
22 Confidential Information shall be made to such individual.

23 12. In the event that Plaintiff in *pro se* wants to disclose Confidential
24 Information, he must make a motion to the Court and cannot make any disclosures
25 until it is authorized by order of the Court.

26 13. Except for documentation filed under seal by the Court, all originals
27 and copies of Confidential Information (including written discovery responses)
28 shall be returned to Alison DeLong, Litigation Coordinator for Department of State
Hospitals, Atascadero, or to counsel identified in paragraph 9, by all persons in
receipt of the Confidential Information within ten (10) days after final termination

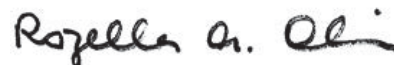
1 of this action, whether such termination occurs by settlement, judgment, dismissal,
2 appeal, or otherwise. Plaintiff can notify any staff on his unit to contact Ms.
3 DeLong to timely return Confidential Information.

4 14. This Protective Order, and the obligations of all persons thereunder,
5 including those relating to the disclosure and use of Confidential Information, shall
6 survive the final termination of this action, whether such termination is by
7 settlement, judgment, dismissal, appeal, or otherwise, until further order of the
8 Court.

9 15. Plaintiff, Defendants, counsel, and any other authorized recipients of
10 Confidential Information are reminded that willful violation of this Protective Order
11 is punishable by the Court. *Evon v. Law Offices of Sidney Mickell*, 688 F.3d 1015,
12 1035 (9th Cir. 2012).

13
14 IT IS SO ORDERED.

15
16
17 Dated: May 19, 2020



18
19
20
21
22
23
24
25
26
27
28

Honorable Rozella A. Oliver
United States Magistrate Judge