

BOHM WILDISH, LLP

James G. Bohm (SBN 132430)
Annie Ventocilla Won (SBN 249719)
695 Town Center Drive, Suite 700
Costa Mesa, CA 92626
(714) 384-6500 telephone
(714) 384-6501 facsimile
Attorneys for Plaintiff, COAST TO COAST REFERRAL CENTERS, INC.

REED SMITH, LLP

Amir Shlesinger (SBN 204132)
Jonathan D. Gershon (SBN 306979)
355 South Grand Avenue, Suite 2900
Los Angeles, CA 90071-1514
Telephone: +1 213 457 8000
Facsimile: +1 213 457 8080
Attorneys for Defendant Blue Cross of Idaho

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

COAST TO COAST REFERRAL
CENTERS, INC., a California
corporation,

Plaintiff,

vs.

BLUE CROSS OF IDAHO, an Idaho
corporation; CHELSEY GRASHAM, an
individual; CHARLES D. GRASHAM,
an individual, and DOES 1 through 100,
inclusive,

Defendants.

) Case No. 8:16-cv-00837-JVS-KES

) **JOINT STIPULATION AND**
) **[PROPOSED] PROTECTIVE ORDER**

)
)
) Complaint served: July 28, 2016
) FAC Filed: Sept. 22, 2016

) Honorable James V. Selna

1 **TO THE COURT AND ALL PARTIES AND THEIR ATTORNEYS OF**
2 **RECORD:**

3 Upon agreement of the parties, and in accordance with the California Code of
4 Civil Procedure, the California Rules of Court, and all applicable Local Rules of the
5 United States District Court, Central District, the Court enters this Stipulated
6 Protective Order:

7 APPLICABILITY

8 1. This Protective Order shall apply to, and shall govern, all documents,
9 things, discovery responses, and testimony designated by the disclosing party in good
10 faith as constituting or containing confidential information pursuant to this Protective
11 Order. All documents produced in this litigation, whether or not marked as
12 CONFIDENTIAL INFORMATION, shall be used solely for the purposes of this
13 lawsuit and for no other purpose.

14 2. The parties stipulate and agree that any and all records produced in this
15 action by Blue Cross of Idaho, that pertain to Defendant Chelsey Grasham or Charles
16 Grasham are designated CONFIDENTIAL.

17 3. The use of any materials that are designated as CONFIDENTIAL at trial
18 shall be governed by the orders of the trial judge.

19
20 CONFIDENTIAL INFORMATION

21 4. Material may be designated “CONFIDENTIAL” if the designating party
22 in good faith believes that disclosure of such material in this case without the
23 designation may present a risk of injury to the disclosing party. Confidential
24 information includes, but is not limited, all materials reflecting, referring to, or
25 evidencing any information deemed confidential by any local, state, or federal statute,
26 ordinance, regulation, or other law, and all private or sensitive commercial, financial,
27 personal or personnel, underwriting, rating, claims and insurance policy information.

1 5. The Parties acknowledge that any conveyance of Protected Health
2 Information ("PHI") is subject to the confidentiality requirements of the Health
3 Insurance Portability and Accountability Act ("HIPAA"). Documents containing PHI
4 shall be designated accordingly and both Parties shall comply with all HIPAA
5 confidentiality requirements.

6 6. The disclosing party shall designate any document containing
7 confidential information by stamping on at least the first page thereof a notice reading
8 "CONFIDENTIAL" or its equivalent. The disclosing party shall designate things as
9 containing confidential information by stamping or marking them in a similar manner,
10 to the extent practicable. When confidential information is disclosed in a form not
11 appropriate for such stamping or marking, it shall be designated in writing as
12 CONFIDENTIAL at the time it is delivered to the receiving party. The term
13 "CONFIDENTIAL INFORMATION" is used hereinafter to mean confidential
14 information that has been designated as CONFIDENTIAL pursuant to this Protective
15 Order.

16 7. Except upon further order of the Court or by express written consent of
17 counsel for the disclosing party, CONFIDENTIAL INFORMATION furnished in this
18 litigation shall not be disclosed by the receiving party to any person or entity other
19 than:

20 (a) Counsel of record, including employees of counsel of record (such
21 as paralegals, clerks, secretaries, associates, and partners) actively engaged in
22 this litigation;

23 (b) Employees of the respective parties, including in-house counsel, if
24 any, who are actively engaged in assisting and/or advising counsel regarding
25 the conduct of this litigation. Each party hereto represents that the employee
26 and their secretaries have been (or will be prior to receiving CONFIDENTIAL
27 INFORMATION) informed of the terms of this Protective Order and have
28

1 agreed (or will agree prior to receiving any CONFIDENTIAL
2 INFORMATION) to be bound by its terms and conditions;

3 (c) Independent accountants and experts retained by the parties for the
4 purposes of this litigation reasonably necessary, (and the professional
5 secretarial and clerical staff of such entities);

6 (d) Court reporters and necessary support personnel of such court
7 reporters retained in connection with depositions taken or testimony provided
8 during the course of this action by any party in this litigation to the extent
9 necessary to transcribe such testimony and identify exhibits marked;

10 (e) Service bureaus engaged by counsel of record to perform clerical-
11 type services in connection with this litigation, e.g., photocopying, imaging,
12 computer data entry, and the like;

13 (f) Employees of a party's insurance carrier, if any, that may cover
14 damage claims made in connection with this lawsuit to the extent reasonably
15 necessary to facilitate their involvement in this action;

16 (g) The Court and its staff; and

17 (h) Deponents during depositions or witnesses during hearings to the
18 extent reasonably necessary to prepare for or provide trial, hearing, or
19 deposition testimony, provided that (i) these individual not be permitted to keep
20 copies of such documents or information, and (ii) counsel of record retains
21 direct control of such CONFIDENTIAL INFORMATION at all times.

22 8. Prior to the disclosure to any person identified in paragraphs 6(b), 6(c),
23 6(e), 6(f), and 6(h) hereof of an opposing party's CONFIDENTIAL INFORMATION,
24 such person shall be furnished with a copy of this Protective Order and shall be
25 required to execute an acknowledgment, in the form of Attachment "A" hereto, that
26 the person has read this Protective Order and agrees to be bound by its terms,
27 including the obligation to protect such confidential information from discovery by
28 unauthorized co-employees and third persons.

1 9. The parties acknowledge and agree that this Protective Order shall not be
2 deemed to be a waiver of any of the parties’ rights or remedies, other than those
3 expressly waived herein.
4

5 SPECIAL PROVISIONS FOR DEPOSITIONS

6 10. Prior to or during the deposition or within fifteen (15) days after
7 receiving the deposition transcript of any person, any party may designate the entire
8 deposition or any portion thereof as CONFIDENTIAL INFORMATION, in which
9 case it shall be so considered and treated as within the terms of this Protective Order.
10 The deposition shall be treated as containing CONFIDENTIAL INFORMATION
11 until such designation is received or until after the aforementioned 15-day period,
12 whichever occurs first. The original and all copies of any such deposition transcripts
13 shall be considered to contain CONFIDENTIAL INFORMATION and shall be
14 marked by the court reporter with the notice “CONFIDENTIAL INFORMATION
15 COVERED BY PROTECTIVE ORDER” or the equivalent.
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17 SUBSEQUENT DESIGNATION OF TESTIMONY, DOCUMENTS AND THINGS

18 11. Failure of counsel to designate and/or mark any document, thing or
19 testimony as CONFIDENTIAL INFORMATION as provided above shall not
20 preclude the disclosing PARTY from thereafter in good faith making such a
21 designation and requesting the receiving party to so mark and treat such documents
22 and things so designated. After such designation, such documents and things shall be
23 fully subject to this Protective Order and treated thereafter according to the new or
24 corrected designation. The receiving party, however, shall incur no liability for
25 disclosures made prior to notice of such designations.
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1 FILING WITH THE COURT

2 12. Any party who wishes to file any materials or information which a party
3 designates as CONFIDENTIAL INFORMATION with the Court or referred to in
4 documents filed with the Court, including deposition transcripts, answers to
5 interrogatories, briefs, memoranda, affidavits, and the like, unless otherwise agreed by
6 the parties or ordered by the Court, shall file an Application for leave to file the
7 materials “under seal” pursuant to L.R. 79-5.2.2. The parties acknowledge and agree
8 that they are familiar with, or will become familiar with, the provisions of Federal
9 Rules of Civil Procedure Rule 5.2 and L.R. 79-5.2.2, as well as any other
10 requirements that exist now or may exist in the future, regarding the sealing of court
11 records, and agree to be bound by its provisions.

12
13 LIMITATIONS ON RESTRICTIONS

14 13. The restrictions and obligations set forth in this Protective Order shall not
15 apply to documents, materials, testimony or information which:

16 (a) are, or become, public knowledge, other than through violation of
17 the terms of this Protective Order;

18 (b) are acquired by a non-designating party from a third party lawfully
19 possessing such information and having no obligation of confidentiality to the
20 designating party;

21 (c) was lawfully possessed by a non-designating party prior to the
22 opening of discovery in this proceeding;

23 (d) are disclosed by a non-designating party with the approval of the
24 designating party, except to the extent the information is inadvertently disclosed
25 pursuant to paragraph 10.

26 14. Nothing in this Protective Order shall restrict a party or its counsel from:
27 using or disclosing documents, materials, testimony or information which they already
28 possess or acquire by proper means independent of the formal discovery process in

1 this action; disclosing documents to an individual who either prepared or reviewed the
2 document prior to the filing of this action; or using any information or documents at a
3 deposition of the disclosing party or any of its employees. This Protective Order shall
4 not prohibit a party's counsel from contacting any person merely because that
5 person's identity is disclosed in documents, materials, testimony or information that
6 has been designated pursuant to the terms of this Protective Order. The restrictions
7 and obligations set forth herein shall not be deemed to prohibit discussions with any
8 person of any information if the person already has or obtains legitimate possession
9 thereof.

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11 REMOVAL FROM CONFIDENTIALITY

12 15. If the receiving party disagrees with a CONFIDENTIAL
13 INFORMATION designation, it may notify counsel for the disclosing party in writing
14 of such disagreement by specifically identifying the CONFIDENTIAL
15 INFORMATION the receiving party contends is not confidential, and request that the
16 designation be so changed. Within fifteen (15) days after receipt of such request both
17 parties will confer in good faith as to the proper status of such information. If the
18 parties are unable to reach agreement, the receiving party may apply to the Court to
19 resolve the dispute by following the procedure outlined in L.R. 37. At any hearing or
20 briefing with respect to such re-designation, the disclosing party shall have the burden
21 of establishing the confidentiality of the particular CONFIDENTIAL
22 INFORMATION. While such application and ruling are pending, the receiving party
23 shall treat such information as CONFIDENTIAL INFORMATION under this
24 Protective Order as designated by the disclosing party. No party shall be obligated to
25 challenge the propriety of a confidential designation, and a failure to do so during or
26 after this litigation shall not preclude a subsequent challenge to the propriety of such
27 designation.

GENERAL PROVISIONS

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2 16. This Protective Order shall be without prejudice to the right of any party
3 to object or oppose production of any information for lack of relevance or any other
4 ground other than the mere presence of CONFIDENTIAL INFORMATION. The
5 existence of this Protective Order shall not be used by any party as a basis for
6 discovery that is otherwise not proper under the Code of Civil Procedure.

7 17. The parties acknowledge and agree that this Protective Order shall not be
8 deemed to waive any of the parties' rights or remedies, other than those expressly
9 waived herein.

10 18. Each person, other than the Court or its staff, that receives materials
11 designated CONFIDENTIAL, or their equivalent, or information contained therein:

12 (a) shall not use the materials or information for any other purpose
13 other than in connection with the conduct of this litigation;

14 (b) shall agree to subject himself/herself/itself personally to the
15 jurisdiction of this Court, solely for the purpose of proceedings relating to the
16 performance under, compliance with, or violation of this Protective Order;

17 (c) shall not disclose such materials or information to any person to
18 whom disclosure is not authorized by the express terms of this Protective Order;
19 and

20 (d) shall maintain such materials or information in a secure and safe
21 area, exercising all reasonable standards of due and proper care with respect to
22 the storage, custody, and use of such materials or information, such that the
23 materials or information are not further disclosed or used, either intentionally or
24 unintentionally, in any manner inconsistent with this Protective Order.

25 19. Any third party producing materials in this action may be included in this
26 Protective Order by endorsing a copy of this order and delivering it to the party
27 requesting materials, who, in turn, will serve it upon counsel for the other parties.

1 20. Within (60) days after entry of dismissal of this action, or termination of
2 this case by way of satisfied settlement, counsel for the parties shall assemble and
3 deliver to each other all documents containing or referencing “Confidential” material.
4 In the event of third party confidential information, such documents shall be delivered
5 to the counsel for the party asserting confidential designation. In the alternative, the
6 producing party and receiving party may further stipulate in writing that all or some
7 documents containing “Confidential” information may be destroyed so long as an
8 appropriate certification satisfactory to the party asserting confidential designation is
9 provided.

10 21. All copies of deposition transcripts bearing a “Confidential” designation,
11 whether written or video, shall be delivered to counsel for the party asserting such
12 designation. All “rough” deposition transcripts and excerpts bearing a “Confidential”
13 designation shall be returned, destroyed or deleted, and the party asserting
14 “Confidential” designation may require certification to that effect from any participant
15 of this Order.

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1 22. This Protective Order shall not preclude any party from applying to the
2 Court for further or additional protective orders, or from agreeing with the other
3 parties to modify this Protective Order, subject to the approval of the Court.
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5 **IT IS SO STIPULATED:**

6 DATED: February 23, 2017

7 **BOHM WILDISH, LLP**

8
9 By: /s/ Annie Ventocilla Won
10 James G. Bohm
11 Annie Ventocilla Won
12 Attorneys for Plaintiff
13 COAST TO COAST REFERRAL
14 CENTERS, INC.

15 DATED: February 23, 2017

16 **REED SMITH, LLP**

17 By /s/ Jonathan D. Gershon
18 Amir Shlesinger
19 Jonathon Gershon
20 Attorneys for Defendant
21 BLUE CROSS OF IDAHO

22
23 *Filer's Attestation: Pursuant to Local Rule 5-1(i)(3), Jonathan D. Gershon hereby*
24 *attests that all other signatories listed, and on whose behalf the filing is submitted,*
25 *concur in the filing's content and have authorized the filing.*
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29 **IT IS SO ORDERED.**

30 DATED: March 01, 2017

31 
32 Honorable Karen E. Scott
33 United States Magistrate Court Judge