

1 JAMES V. FITZGERALD, III (State Bar No. 55632)
 NOAH G. BLECHMAN (State Bar No. 197167)
 2 McNAMARA, NEY, BEATTY, SLATTERY,
 BORGES & BROTHERS LLP
 3 1211 Newell Avenue
 Post Office Box 5288
 4 Walnut Creek, CA 94596
 Telephone: (925) 939-5330
 5 Facsimile: (925) 939-0203

6 Attorneys for Defendants
 ROBERT REICHERT and KEVIN MORRIS

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

11 CHRISTOPHER HAMMOND,
 MATTHEW HAMMOND, individually
 12 and as Successors in Interest for PAUL
 HAMMOND, decedent; and EMILY
 13 HAMMOND, a minor, and LINDSEY
 HAMMOND, a minor, individually and as
 14 Successors in Interest for PAUL
 HAMMOND, decedent, and by and through
 15 their Guardian ad Litem, CHERYL
 HAMMOND,

16 Plaintiffs,

17 vs.

18 COUNTY OF CONTRA COSTA,
 19 ROBERT REICHERT, KEVIN MORRIS,
 SHERIFF WARREN E. RUPF and DOES
 20 ONE to ONE HUNDRED, inclusive,

21 Defendants.

Case No. C10-1454 JCS

**STIPULATION AND [PROPOSED]
 ORDER SEEKING DISCLOSURE OF
 PRIVATE MEDICAL AND/OR
 PSYCHOLOGICAL RECORDS OF
 DECEDENT**

Judge: Hon. Joseph C. Spero

23 IT IS HEREBY STIPULATED AND AGREED by and between the parties to this action,
 24 through their respective counsel of record, and approved by the Court in the accompanying Order,
 25 as follows:

- 26 1. WHEREAS Mr. Brian Gearinger and Mr. John Scott are attorneys that represent and have
 27 been retained by the family members of Decedent Paul Hammond (“Decedent”) in this
 28 wrongful death civil action. Both counsel for the Plaintiffs are of record and have made

McNAMARA, NEY, BEATTY, SLATTERY, BORGES & BROTHERS LLP
 ATTORNEYS AT LAW
 P.O. BOX 5288, WALNUT CREEK, CA 94596
 TELEPHONE: (925) 939-5330

McNAMARA, NEY, BEATTY, SLATTERY, BORGES & BROTHERS LLP
ATTORNEYS AT LAW
P.O. BOX 5288, WALNUT CREEK, CA 94596
TELEPHONE: (925) 939-5330

- 1 appearances for Plaintiffs' in this action.
- 2 2. WHEREAS Defendants in this matter have sought to subpoena the medical, treatment,
3 drug/alcohol and/or psychological and other related records of the Decedent to
4 investigate the claims and contentions of Plaintiffs in this civil matter and to further
5 investigate the relevant background of Decedent as it relates to issues in this case.
- 6 3. WHEREAS counsel for the parties in this matter have been working together to obtain
7 the relevant records of Decedent for review and evaluation in this matter. In that vein,
8 counsel for the parties have agreed that Plaintiffs' counsel will be sent the records of
9 Decedent subpoenaed by Defendants for a "first look" at such records and Plaintiffs will
10 then produce those records to Defendants. If any records are withheld by Plaintiffs'
11 counsel following their review, a privilege log will be produced providing such grounds
12 of non-production.
- 13 4. WHEREAS numerous subpoenas of Defendants have not been satisfied due to claimed
14 privacy rights by providers on behalf of Decedent.
- 15 5. WHEREAS all counsel in this matter agree that the privacy rights of Decedent have
16 been waived by Plaintiffs in relation to documents and information bearing on issues in
17 this wrongful death civil matter, to include prior medical, treatment, drug/alcohol and/or
18 psychological treatment of Decedent within the time prescribed in the subpoenas,
19 namely January 1, 2004, through June 7, 2009, the date of Decedent's death.
- 20 6. WHEREAS all counsel in this matter will maintain, within the rules governing civil
21 actions in Federal Court, the confidentiality and privacy of any records produced in this
22 matter in relation to Decedent, throughout the course of this litigation.
- 23 7. WHEREAS the providers that have been subpoenaed and to which will produce
24 documents should not redact any information in such records. Any non-relevant
25 information can be redacted by Plaintiffs' counsel per agreement and protocol, if need
26 be.
- 27 8. WHEREAS the following providers should produce non-redacted copies of medical,
28 treatment, drug/alcohol and/or psychological records of Decedent pursuant to the

McNAMARA, NEY, BEATTY, SLATTERY, SLATTERY, BORGES & BROTHERS LLP
ATTORNEYS AT LAW
P.O. BOX 5288, WALNUT CREEK, CA 94596
TELEPHONE: (925) 939-5330

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

language in the respective subpoenas and such production should be made directly to Brian Gearing, Esq., Gearing Law Group, 825 Van Ness Avenue, 4th Floor, San Francisco, CA 94109, counsel for Plaintiffs, per the above listed protocol,

- a. Kaiser Hospital and PMG in Vallejo, CA.
- b. Kaiser Hospital and PMG in Walnut Creek, CA
- c. Kaiser Hospital and PMG in Antioch, CA
- d. Duffy’s Rehabilitation Center, Calistoga, CA

9. WHEREAS The information sought in these subpoenas by Defendants is not sought for the purposes of any criminal investigation or prosecution. Rather, this information is relevant to potential liability and damages issues in this civil action brought by Decedent’s family members.

10. WHEREAS Plaintiffs’ counsel, on behalf of Plaintiffs, hereby waives relevant HIPPA protections in accordance with the above stipulations to move this litigation forward.

11. WHERAS should additional relevant providers of Decedent be revealed throughout the course of this litigation, the parties will meet and confer to agree to use this order to obtain the relevant records of Decedents in the same manner and per same protocol as listed herein, for example, similar to that requested for the providers as is listed in Paragraph 8(a-d) above.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

McNAMARA, NEY, BEATTY, SLATTERY, BORGES & BROTHERS LLP
ATTORNEYS AT LAW
P.O. BOX 5288, WALNUT CREEK, CA 94596
TELEPHONE: (925) 939-5330

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

Dated: November 8, 2010

MCNAMARA, NEY, BEATTY, SLATTERY,
BORGES & BROTHERS LLP

By: /s/ James V. Fitzgerald, III
James V. Fitzgerald, III
Noah G. Blechman
Attorneys for Defendants
ROBERT REICHERT and KEVIN MORRIS

Dated: November 8, 2010

OFFICE OF THE COUNTY COUNSEL OF CONTRA COSTA

By: /s/ Janet Holmes
Janet Holmes / Janice Amenta
Attorneys for Defendants
COUNTY OF CONTRA COSTA and SHERIFF
WARREN E. RUPF

Dated: November 8, 2010

GEARINGER LAW GROUP

By: /s/ Brian Gearinger
Brian Gearinger
Attorneys for Plaintiffs

Dated: November 8, 2010

THE SCOTT LAW FIRM

By: /s/ John Houston Scott
John Houston Scott
Attorneys for Plaintiffs

McNAMARA, NEY, BEATTY, SLATTERY, SLATTERY, BORGES & BROTHERS LLP
ATTORNEYS AT LAW
P.O. BOX 5288, WALNUT CREEK, CA 94596
TELEPHONE: (925) 939-5330


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

ORDER

PURSUANT TO STIPULATION, THE ABOVE LISTED ENTITIES ARE HEREBY ORDERED TO PRODUCE UNREDACTED COPIES OF THE MEDICAL, DRUG/ALCOHOL, TREATMENT AND/OR PSYCHOLOGICAL RECORDS OF DECEDENT PAUL HAMMOND PER THE SUBPONEAS ISSUED BY DEFENDANTS. THESE RECORDS ARE TO BE PRODUCED DIRECTLY TO MR. GEARINGER PER THE AGREED UPON PROTOCOL LISTED ABOVE. THE COURT FINDS THAT THE PLAINTIFFS' HAVE KNOWINGLY WAIVED THE PRIVACY RIGHTS OF DECEDENT FOR THE PURPOSES OF THIS LITIGATION PER THE ABOVE PARAMETERS. SHOULD ADDITIONAL PROVIDERS OF DECEDENT BE REVEALED IN THIS MATTER, COUNSEL FOR THE PARTIES ARE ORDERED TO MEET AND CONFER AND CAN SUBMIT THIS ORDER FOR THE PRODUCTION OF SUCH RECORDS PER AGREEMENT.

IT IS SO ORDERED.

DATED: November 10, 2010


Hon. Joseph C. Spero
United States District Court Magistrate Judge