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6 Attorneys for Defendants
 ROBERT REICHERT and KEVIN MORRIS

7
 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

10
 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 FROM DUFFY'S NAPA
 VALLEY DRUG & ALCOHOL
 REHABILITATION CENTER**

Judge: Hon. Joseph C. Spero

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 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 the attorneys that represent and
 27 have been retained by the family members of Decedent Paul Hammond ("Decedent") in
 28 this wrongful death civil action. Both counsel for the Plaintiffs are of record and have

STIPULATION AND ORDER FOR DISCLOSURE OF
 MEDICAL/PSYCHOLOGICAL RECORDS OF DECEDENT
 FROM DUFFY'S REHAB CENTER - CV10-01454 JCS

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- 1 made appearances for Plaintiffs' in this action.
- 2 2. WHEREAS Defendants in this matter seek to subpoena the medical, treatment,
3 drug/alcohol and/or psychological and other related records of the Decedent from
4 Duffy's Napa Valley Drug & Alcohol Rehabilitation Center, Calistoga, CA ("Duffy's"),
5 to investigate the claims and contentions of Plaintiffs in this civil matter and to further
6 investigate the relevant background of Decedent as it directly relates to issues in this
7 case.
- 8 3. WHEREAS all counsel in this matter agree that the confidentiality and privacy rights of
9 Decedent have been waived by Plaintiffs in relation to documents and information
10 bearing on issues in this wrongful death civil matter, to include prior medical, treatment,
11 drug/alcohol and/or psychological treatment of Decedent at Duffy's within the time
12 prescribed in the subpoena, namely January 1, 2001, through June 7, 2009, the date of
13 Decedent's death.
- 14 4. WHEREAS Plaintiffs, as successor in interest for the Decedent, by and through their
15 attorneys Mr. Brian Gearing and Mr. John Scott, consent to the disclosure of medical,
16 treatment, drug/alcohol and/or psychological and other related records from Duffy's
17 pertaining to the Decedent. 42 CFR Ch.1 Part 2.15(b)(2).
- 18 5. WHEREAS all counsel in this matter agree that good cause exists for the disclosure of
19 such records because other ways of obtaining the information are not available, and the
20 public interest and need for the disclosure outweighs the potential injury to the patient,
21 who is now deceased, the physician-patient relationship and the treatment services, in
22 accordance with 42 CFR Ch.1 Part 2.64(d); 42 U.S.C. 290ee-3.
- 23 6. WHEREAS all counsel in this matter will maintain, within the rules governing civil
24 actions in Federal Court, the confidentiality and privacy of any records produced from
25 Duffy's in relation to Decedent, if any such records exist, throughout the course of this
26 litigation, to safeguard against unauthorized disclosure, in accordance with 42 CFR Ch.1
27 Part 2.64(e); 42 U.S.C. 290ee-3. The records produced by Duffy's shall be deemed
28 "confidential" per the Stipulated Protective Order on file in this matter.

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7. WHEREAS counsel for the parties have agreed that Plaintiffs’ counsel will be sent the subpoenaed records of Decedent at Duffy’s for a “first look” at such records and Plaintiffs will then produce those records to Defendants. If any records are withheld by Plaintiffs’ counsel following their review, a privilege log will be produced providing such grounds of non-production.

8. WHEREAS Duffy’s should produce non-redacted copies of medical, treatment, drug/alcohol and/or psychological records of Decedent pursuant to the language in the respective subpoena 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. Any non-relevant information can be redacted by Plaintiffs’ counsel per agreement and protocol, if need be.

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.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: March 28, 2010

McNAMARA, NEY, BEATTY, SLATTERY,
BORGES & AMBACHER LLP

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

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ORDER

WHEREAS, having read the foregoing stipulation between all parties, by and through their attorneys of record, and having found good cause demonstrated by the parties for the disclosure of un-redacted copies of the medical, drug/alcohol, treatment and/or psychological records of Decedent Paul Hammond from Duffy’s Napa Valley Drug & Alcohol Rehabilitation Center, Calistoga, CA, the Court authorizes the disclosure of said records.

THEREFORE, THE COURT ORDERS AS FOLLOWS:

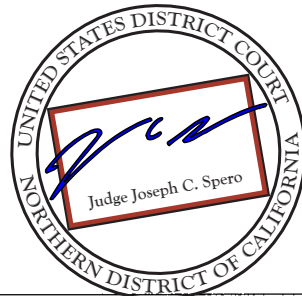
1. Duffy’s Napa Valley Drug & Alcohol Rehabilitation Center, Calistoga, CA, shall produce un-redacted batestamped copies of the medical, drug/alcohol, treatment and/or psychological records of Decedent Paul Hammond, from January 1, 2001, through June 7, 2009, the date of Decedent’s death. The disclosure of such information shall be limited to the time period above.

2. These records are to be produced directly to Plaintiffs’ attorney of record, Mr. Brian Gearing, Esq., Gearing Law Group, 825 Van Ness Avenue, 4th Floor, San Francisco, CA 94109, for a first look and Mr. Gearing will produce those records to Defendants per the above listed protocol.

3. Disclosure of these records and the information contained therein is subject to the Stipulated Protective Order regarding the production of confidential records, filed with this Court on August 24, 2010, (Doc. # 22), to safeguard against the disclosure of confidential information to unauthorized persons.

IT IS SO ORDERED.

DATED: March 29, 2011



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