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Attorneys for Defendants  
 7 BHC SIERRA VISTA HOSPITAL and  
 PAUL HYPPOLITE  
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9 **UNITED STATES DISTRICT COURT**  
 10 **NORTHERN DISTRICT OF CALIFORNIA**

11 MINNY FRANK 12                   Plaintiff, 13                   v. 14 COUNTY OF HUMBOLDT, COUNTY OF ) 15 HUMBOLDT DEPARTMENT OF ) HEALTH AND HUMAN SERVICES, ) 16 JAMES BRAGG, CHRISTY REIHM, ) KATHERINE YOUNG, KERI SCHROCK, ) 17 DAVID WILLIAMS, JENNIFER ) WILLIAMS, BHC SIERRA VISTA ) 18 HOSPITAL, INC., PAUL HYPPOLITE, ) ROXANNE HALZCAK, ABDUL QADIR, ) 19 M.D., individually and in their official ) capacities; DOES 2-50, inclusive, ) 20                   Defendants. ) 21 ) 22 )	Case No.: C13-00089 MMC  <b>STIPULATION AND [PROPOSED]</b> <b>ORDER RE: IDENTIFICATION, NON</b> <b>USE AND RETURN AND/OR</b> <b>CONFIRMED DESTRUCTION OF</b> <b>DOCUMENTS SUBJECT TO THE</b> <b>HEALTH INSURANCE PORTABILITY</b> <b>AND ACCOUNTABILITY (“HIPAA”)</b> <b>PROTECTIONS AND PRIVILEGED</b> <b>UNDER CALIFORNIA EVIDENCE CODE</b> <b>SECTION 1157 AND EXHIBIT A - C</b>  Judge: Maxine M. Chesney Referred: Magistrate Judge Elizabeth D. LaPorte  Action Filed: January 8, 2013 Trial Date: October 6, 2014
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23                   WHEREAS, certain information that has been inadvertently disclosed during discovery in  
 24 this action constitutes privileged private information or information of a sensitive nature that is not  
 25 generally known or readily accessible to the general public and that may cause harm to one or  
 26 more of the parties if such information is disclosed to the general public; and  
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1 WHEREAS, all parties to the action have agreed to return or destroy said sensitive  
2 information.

3 WHEREAS, on June 4, 2014, a Motion to Compel Plaintiff to return or to destroy said  
4 sensitive information is set for hearing.

5 WHEREAS, Defendant, County of Humboldt and all named County individuals and  
6 entities have agreed to enter into this Stipulation in lieu of filing a motion.

7 WHEREAS, Defendants, David Williams and Jennifer Williams have agreed to enter into  
8 this Stipulation in lieu of filing a motion.

9 WHEREAS, Defendant, Dr. Qadir has agreed to enter into this Stipulation in lieu of filing a  
10 motion.

11 The Parties, by and through their counsel of record, enter into this Stipulation.

12 **1. PURPOSE OF STIPULATION**

13 The Parties acknowledge that on March 24, 2014 Defendants Paul Hyppolite and BHC  
14 Sierra Vista Hospital ("Designating Defendants") notified Plaintiff and counsel for all other parties  
15 in this action of inadvertently disclosed and produced writings/documents<sup>1</sup> in discovery.

16 Said writings/documents are Protected Material, and are subject to protections of The  
17 Health Insurance Portability and Accountability Act of 1996 (HIPAA) - particularly Title II,<sup>2</sup>  
18 defining policies, procedures and guidelines for maintaining the privacy and security of  
19 individually identifiable health information and to the protections of California Evidence Code  
20 Section 1157 privilege (Proceedings and Records of Certain Health Care Professional Review  
21 committees).

22 The Protected Material inadvertently disclosed by Designating Defendants Hyppolite and  
23 BHC Sierra Vista Hospital, as set forth below in Section 2 constitute private and privileged  
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25 <sup>1</sup> "Writings" as defined by California Evidence Code Section 250.

26 <sup>2</sup> Covered entities within the meaning of Title II include health care providers that transmit health  
27 care data in a way that is regulated by HIPAA and has been extended by the DHHS rule to  
independent contractors of covered entities who fit within the definition of "business associates."  
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1 information pertaining to Paul Hyppolite - Case Worker and Employee of BHC Sierra Vista  
2 Hospital, and to Dr. Abdul Qadir - Independent Contractor and treating psychiatrist at BHC Sierra  
3 Vista Hospital.

4 The Designating Defendants requested Plaintiff and counsel for all other parties to  
5 immediately return or confirm destruction of the subject privileged/protected covered records  
6 including all copies of same. All parties have agreed to do so except Plaintiff, which necessitated  
7 Designating Defendants to file a Motion to Compel seeking the issuance of an Order compelling  
8 Plaintiff to identify, agree to non use and return and/or confirm destruction of the subject  
9 documents.

10 This Stipulation is entered into as a result of the agreement by Defendant County of  
11 Humboldt and all named County individuals and entities; Defendant Jennifer and David Williams;  
12 and Defendant Abdul Qadir, M.D., to comply with Designating Defendants' request.

13 **2. IDENTIFICATION OF THE INADVERTENTLY DISCLOSED PROTECTED AND**  
14 **PRIVILEGED WRITINGS**

15 The writings/documents that are Protected Material, and subject to protections of The  
16 Health Insurance Portability and Accountability Act of 1996 (HIPAA) - particularly Title II,  
17 defining policies, procedures and guidelines for maintaining the privacy and security of  
18 individually identifiable health information and to the protections of California Evidence Code  
19 Section 1157 privilege(Proceedings and Records of Certain Health Care Professional Review  
20 committees) are identified in the Designating Defendants' inadvertent production as follows:

- 21 1. Batestamps SVH00429 through SVH00529 inclusive (Personnel file of Dr. Abdul Qadir  
22 and Peer Review documents);
- 23 2. Batestamps HYPPOLITE000006-9 (Univ. of Phoenix Official Academic Transcript);  
24 HYPPOLITE000052-63 (Performance Evaluation Social Worker);
- 25 3. Batestamps HYPPOLITE000065-70 (Sierra Vista Hospital Performance Evaluation Case  
26 Manager);
- 27 4. Batestamps HYPPOLITE000073 (Employee Withholding Allowance Certificate);
- 28 5. Batestamps HYPPOLITE000074-000080 (Background Check);
6. BatestampsHYPPOLITE000096 (Employee Updated Information Sheet)

1  
2 The above-referenced writings, items 1 through 6, were inadvertently produced in  
3 Batestamped numbers referenced above and they were also produced in non-Batestamped format.  
4 This Stipulation applies to both Batestamped and non-Batestamped writings.

5 Defendant County of Humboldt and all named County individuals and entities; Defendant  
6 Jennifer and David Williams; and Defendant Abdul Qadir, M.D., hereby stipulate and agree that  
7 all originals and all copies of the writings referenced above, whether batestamped or not, shall be  
8 located and identified to the Designating Defendants as having been isolated and destroyed or,  
9 alternatively, all of such writings shall be returned to Designating Defendants.

10 **3. SCOPE**

11 The protections conferred by this Stipulation and Order cover not only Protected Material  
12 (as defined above in paragraph 2), but also (1) any information (writings) copied or extracted from  
13 said Material; (2) all copies, excerpts, summaries, or compilations of said Protected Material  
14 (writings); and (3) any testimony, conversations, or presentations Defendants, and any  
15 conversations, or presentations by Defendants to any attorney such Protected Material (writings).  
16 Defendants understand that pursuant to this Stipulation they are to retrieve any and all such  
17 writings whether Batestamped or not, and Defendants understands they are to send back any disks  
18 to confirm retrieval and return such writings to Designating Defendants or, alternatively, confirm  
19 the destruction of said writings. Defendants have indicated they will send back the said Protected  
20 Material (writings).

21 **4. DURATION**

22 Even after final disposition of this litigation, the confidentiality obligations imposed by this  
23 Order shall remain in effect.

24 **5. PLAINTIFF'S AFFIRMATIVE AGREEMENT TO BE BOUND BY THE TERMS**  
25 **OF THIS STIPULATION**

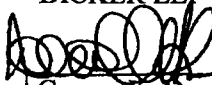
26 Defendants County of Humboldt and all named County individuals and entities; Defendant  
27 Jennifer and David Williams; and Defendant Abdul Qadir, M.D., expressly agree to date, sign and  
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1 return to Designating Defendants the "Acknowledgment and Agreement to Be Bound" that is  
2 attached hereto as Exhibit A-C.

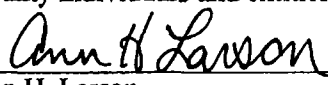
3 **6. DESIGNATING DEFENDANTS WITHDRAWAL OF MOTION TO COMPEL**

4 Once Defendants County of Humboldt and all named County individuals and entities;  
5 Defendant Jennifer and David Williams; and Defendant Abdul Qadir, M.D., date, sign and return  
6 to Designating Defendants the "Acknowledgment and Agreement to Be Bound" that is attached  
7 hereto as Exhibit A-C, Designating Defendants will withdraw their pending Motion to Compel.  
8 Designating Defendants shall present the executed Exhibit A-C to the Court with this Stipulation  
9 and Proposed Order.

10 **IT IS SO STIPULATED.**

11 WILSON, ELSER, MOSKOWITZ, EDELMAN &  
12 DICKER LLP  
13 DATED: 5/9/14   
14 Genese K. Dopson  
15 Lenore C. Kelly  
16 Attorneys for Defendants  
17 BHC SIERRA VISTA HOSPITAL and  
18 PAUL HYPPOLITE

16 DATED: \_\_\_\_\_  
17 Nancy Delaney  
18 Attorneys for Defendants  
19 COUNTY OF HUMBOLDT and all named  
20 County individuals and entities

19 DATED: 5/9/14   
20 Ann H. Larson  
21 Attorneys for Defendant  
22 ABDUL QADIR, M.D.

22 DATED: \_\_\_\_\_  
23 DAVID WILLIAMS and  
24 JENNIFER WILLIAMS  
25 In Pro Per

25 **PURSUANT TO THE STIPULATION, IT IS SO ORDERED.**

26  
27 DATED: \_\_\_\_\_  
28 United States District Judge

1 return to Designating Defendants the "Acknowledgment and Agreement to Be Bound" that is  
2 attached hereto as Exhibit A-C.

3 **6. DESIGNATING DEFENDANTS WITHDRAWAL OF MOTION TO COMPEL**

4 Once Defendants County of Humboldt and all named County individuals and entities;  
5 Defendant Jennifer and David Williams; and Defendant Abdul Qadir, M.D., date, sign and return  
6 to Designating Defendants the "Acknowledgment and Agreement to Be Bound" that is attached  
7 hereto as Exhibit A-C, Designating Defendants will withdraw their pending Motion to Compel.  
8 Designating Defendants shall present the executed Exhibit A-C to the Court with this Stipulation  
9 and Proposed Order.

10 **IT IS SO STIPULATED.**

11 WILSON, ELSER, MOSKOWITZ, EDELMAN &  
12 DICKER LLP

13 DATED: \_\_\_\_\_

14 Genese K. Dopson  
15 Lenore C. Kelly  
16 Attorneys for Defendants  
17 BHC SIERRA VISTA HOSPITAL and  
18 PAUL HYPPOLITE

19 DATED: \_\_\_\_\_

20 Nancy Delaney  
21 Attorneys for Defendants  
22 COUNTY OF HUMBOLDT and all named  
23 County individuals and entities

24 DATED: \_\_\_\_\_

25 Ann H. Larson  
26 Attorneys for Defendant  
27 ABDUL QADIR, M.D.

28 DATED: 5-19-14 \_\_\_\_\_

*David Williams*  
*Jennifer Williams*  
DAVID WILLIAMS and  
JENNIFER WILLIAMS  
In Pro Per

29 **~~PURSUANT TO THE STIPULATION, IT IS SO ORDERED.~~**

30 DATED: \_\_\_\_\_

31 United States District Judge

1 return to Designating Defendants the "Acknowledgment and Agreement to Be Bound" that is  
2 attached hereto as Exhibit A-C.

3 **6. DESIGNATING DEFENDANTS WITHDRAWAL OF MOTION TO COMPEL**

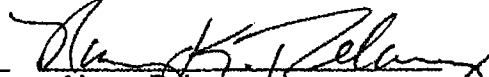
4 Once Defendants County of Humboldt and all named County individuals and entities;  
5 Defendant Jennifer and David Williams; and Defendant Abdul Qadir, M.D., date, sign and return  
6 to Designating Defendants the "Acknowledgment and Agreement to Be Bound" that is attached  
7 hereto as Exhibit A-C, Designating Defendants will withdraw their pending Motion to Compel.  
8 Designating Defendants shall present the executed Exhibit A-C to the Court with this Stipulation  
9 and Proposed Order.

10 **IT IS SO STIPULATED.**

11 WILSON, ELSER, MOSKOWITZ, EDELMAN &  
12 DICKER LLP

12 DATED: 5/9/14 

13 Genese K. Dopson  
14 Lenore C. Kelly  
15 Attorneys for Defendants  
16 BHC SIERRA VISTA HOSPITAL and  
17 PAUL HYPPOLITE

16 DATED: 05/19/14 

17 Nancy Delaney  
18 Attorneys for Defendants  
19 COUNTY OF HUMBOLDT and all named  
20 County individuals and entities


19 DATED: \_\_\_\_\_

20 Ann H. Larson  
21 Attorneys for Defendant  
22 ABDUL QADIR, M.D.

22 DATED: \_\_\_\_\_

23 DAVID WILLIAMS and  
24 JENNIFER WILLIAMS  
25 In Pro Per

25 **PURSUANT TO THE STIPULATION, IT IS SO ORDERED.**

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27 DATED: May 22, 2014   
28 United States District Judge

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**EXHIBIT A**

**Acknowledgment and Agreement to Be Bound**

Defendant Humboldt County and all named County individuals and entities herein, stipulate, acknowledge and agree to be bound as follows:

The inadvertently produced writings/documents that are Protected Material, and subject to protections of The Health Insurance Portability and Accountability Act of 1996 (HIPAA) - particularly Title II, defining policies, procedures and guidelines for maintaining the privacy and security of individually identifiable health information and to the protections of California Evidence Code Section 1157 privilege (Proceedings and Records of Certain Health Care Professional Review committees) are identified in the Designating Defendants' production as:

1. Batestamps SVH00429 through SVH00529 inclusive (Personnel file of Dr. Abdul Qadir and Peer Review documents);
2. Batestamps HYPOLITE000006-9 (Univ. of Phoenix Official Academic Transcript); HYPOLITE000052-63 (Performance Evaluation Social Worker);
3. Batestamps HYPOLITE000065-70 (Sierra Vista Hospital Performance Evaluation Case Manager);
4. Batestamps HYPOLITE000073 (Employee Withholding Allowance Certificate);
5. Batestamps HYPOLITE000074-000080 (Background Check);
6. Batestamps HYPOLITE000096 (Employee Updated Information Sheet)

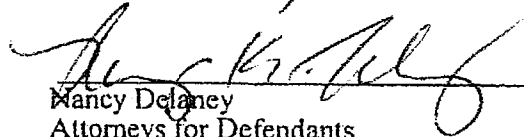
This Stipulation applies to both Batestamped and non-Batestamped originals and/or copies of said writings.

Defendant Humboldt County and all named County individuals and entities herein, hereby stipulate and agree under penalty of perjury that all originals and/or all copies of the writings referenced above are protected, privileged, whether batestamped or not, and said documents shall



1 not be made public, that said documents have been located and identified, and I represent to the  
2 Designating Defendants that said documents have been returned, isolated and destroyed.

3  
4 Signed this 21<sup>st</sup> day, May, 2014, in Eureka, CA (City and State.)

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6   
7 Nancy Delaney  
8 Attorneys for Defendants  
9 COUNTY OF HUMBOLDT and all named  
10 County individuals and entities  
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1 **EXHIBIT B**

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3 **Acknowledgment and Agreement to Be Bound**

4 Defendant Abdul Qadir M.D., stipulates, acknowledges and agrees to be bound as follows:

5 The inadvertently produced writings/documents that are Protected Material, and subject to  
6 protections of The Health Insurance Portability and Accountability Act of 1996 (HIPAA) -  
7 particularly Title II, defining policies, procedures and guidelines for maintaining the privacy and  
8 security of individually identifiable health information and to the protections of California  
9 Evidence Code Section 1157 privilege (Proceedings and Records of Certain Health Care  
10 Professional Review committees) are identified in the Designating Defendants' production as:

- 11
- 12 1. Batestamps SVH00429 through SVH00529 inclusive (Personnel file of Dr. Abdul Qadir  
13 and Peer Review documents);
  - 14 2. Batestamps HYPOLITE000006-9 (Univ. of Phoenix Official Academic Transcript);  
15 HYPOLITE000052-63 (Performance Evaluation Social Worker);
  - 16 3. Batestamps HYPOLITE000065-70 (Sierra Vista Hospital Performance Evaluation Case  
17 Manager);
  - 18 4. Batestamps HYPOLITE000073 (Employee Withholding Allowance Certificate);
  - 19 5. Batestamps HYPOLITE000074-000080 (Background Check);
  - 20 6. Batestamps HYPOLITE000096 (Employee Updated Information Sheet)

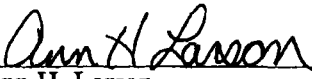
21 This Stipulation applies to both Batestamped and non-Batestamped originals and/or copies  
22 of said writings.

23  
24 Defendant Abdul Qadir M.D hereby stipulates and agrees under penalty of perjury that all  
25 originals and/or all copies of the writings referenced above are protected, privileged, whether  
26 batestamped or not, and said documents shall not be made public, that said documents have been  
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1 located and identified, and I represent to the Designating Defendants that said documents have  
2 been returned, isolated and destroyed.

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Signed this 9<sup>th</sup> day, May, 2014, in Walnut Creek, CA (City and State.)

  
Ann H. Larson  
Attorneys for Defendant  
ABDUL QADIR, M.D.

1 **EXHIBIT C**

2  
3 **Acknowledgment and Agreement to Be Bound**

4 Defendants Jennifer and David Williams stipulate, acknowledge and agree to be bound as  
5 follows:

6 The inadvertently produced writings/documents that are Protected Material, and subject to  
7 protections of The Health Insurance Portability and Accountability Act of 1996 (HIPAA) -  
8 particularly Title II, defining policies, procedures and guidelines for maintaining the privacy and  
9 security of individually identifiable health information and to the protections of California  
10 Evidence Code Section 1157 privilege (Proceedings and Records of Certain Health Care  
11 Professional Review committees) are identified in the Designating Defendants' production as:

- 12
- 13 1. Batestamps SVH00429 through SVH00529 inclusive (Personnel file of Dr. Abdul Qadir  
14 and Peer Review documents);
  - 15 2. Batestamps HYPPOLITE000006-9 (Univ. of Phoenix Official Academic Transcript);  
16 HYPPOLITE000052-63 (Performance Evaluation Social Worker);
  - 17 3. Batestamps HYPPOLITE000065-70 (Sierra Vista Hospital Performance Evaluation Case  
18 Manager);
  - 19 4. Batestamps HYPPOLITE000073 (Employee Withholding Allowance Certificate);
  - 20 5. Batestamps HYPPOLITE000074-000080 (Background Check);
  - 21 6. BatestampsHYPPOLITE000096 (Employee Updated Information Sheet)

22 This Stipulation applies to both Batestamped and non-Batestamped originals and/or copies  
23 of said writings.

24 Defendants Jennifer and David Williams hereby stipulate and agree under penalty of  
25 perjury that all originals and/or all copies of the writings referenced above are protected,  
26 privileged, whether batestamped or not, and said documents shall not be made public, that said  
27  
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1 documents have been located and identified, and I represent to the Designating Defendants that  
2 said documents have been returned, isolated and destroyed.

3  
4 Signed this 19 day, May, 2014, in Overton, Nevada (City and State.)

5 *David Williams*  
6 *Jennifer Williams*  
7 DAVID WILLIAMS and  
8 JENNIFER WILLIAMS  
9 In Pro Per  
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