

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ZOYA VASILEVSKAYA,

Plaintiff,

-against-

15 CV 6974 (CBA)(MDG)

**HIPAA/CONFIDENTIALITY
STIPULATION & ORDER**

P.S.C. COMMUNITY SERVICES, INC.,

Defendant.

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The parties hereto, defendant P.S.C. COMMUNITY SERVICES, INC. (“PSC” or “Employer”) by and through its attorneys, Bond, Schoeneck & King, PLLC, and plaintiff ZOYA VASILEVSKAYA (“Vasilevskaya” or “Employee”), by and through her attorneys, Sobel Law Offices PC, hereby stipulate to this HIPAA/CONFIDENTIALITY STIPULATION and ORDER (“Stipulation and Order”) limiting the disclosure of confidential information which has been requested and may be revealed in the course of discovery, including HIPAA-protected patient information, social security numbers and confidential patient or personnel information, among other private and sensitive materials (collectively referred to as “Confidential Information” as defined below).

The parties having agreed to the terms of this Stipulation and Order, and the Court having found that there is good cause for the issuance of this Stipulation and Order, it is hereby

ORDERED as follows:

1. Scope. This Stipulation and Order shall govern the handling of all “Confidential Information” (as hereinafter defined), disclosed pre-trial in the course of or in connection with the above-captioned action (the “Action”), including, without limitation, discovery demands, testimony, documents, items produced or revealed in discovery, and court filings.

2. HIPAA Compliance. The undersigned agree that any and all “protected health information,” as defined under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), 45 C.F.R. §164.501, that may be disclosed during the Action shall automatically be designated as “Confidential Information” and subject to the terms of this Stipulation and Order, to assure the privacy and protection of such information. All protected health information used or disclosed in the Proceeding shall be: (i) redacted to avoid patient identifying information; (ii) used only for the purposes of this action; (iii) maintained as confidential pursuant to and in compliance with HIPAA; and (iv) handled in accordance with this Stipulation and Order and returned to the producing party at the conclusion of this action. The parties, witnesses, participants and observers in the Action are prohibited from disclosing any protected health information or patient-identifying information for any purpose other than the Proceeding or in any communication outside the Proceeding. In the event that any protected health information produced or disclosed in this Action inadvertently includes any patient-identifying information, whether at the time of disclosure or thereafter, it shall immediately be redacted by the party discovering such omission, and the other party shall be immediately notified of the omission. The parties are instructed to use identifying letters or initials when referring to patients at depositions. If patient names or identifying information are inadvertently revealed in deposition testimony, they shall be redacted from the original transcript and all copies by the certified reporting service, and replaced with identifying letter or initials.

3. Social Security Numbers. The Social Security Numbers (“SSN”) of any non-party shall be redacted. In the event that any SSN of a third party is inadvertently not redacted, whether at the time of disclosure or thereafter, it shall immediately be redacted for all originals

and copies by the party discovering such omission. SSNs of non-parties shall not be included to in depositions.

4. Confidential Information. “Confidential Information” as used herein shall refer to and incorporate (a) any and all patient records or records of patient care or treatment, including and any patient-identifying information, whether or not redacted, and whether or not stamped “Confidential,” (b) SSNs of any patient or employee, whether or not stamped “Confidential,” and (c) any confidential patient-related or private personnel-related information of non-party patients or employees designated as “Confidential” by any party to this Action.

- a. Deposition Testimony. Deposition testimony may be designated as “Confidential” by a statement on the record or by advising counsel in writing, after review of the transcript, of any portions to be so designated.
- b. Challenging Confidential Designation. If the opposing party objects to the designation of any document or testimony as Confidential Information, it may, if good faith negotiations prove unsuccessful, apply to this Court for a ruling that the document shall not be so treated, giving notice to the other party. Unless and until this Court enters an Order changing the designation, any document or material so designated shall be treated as Confidential Information in accordance with this Stipulation and Order.

5. Disclosure of Confidential Information. All Confidential Information produced by any party shall be maintained by the other in confidence to be used solely for the purposes of this action, and shall not be used or disclosed in any communication outside this action, except as expressly permitted elsewhere in this Stipulation and Order, or by the Court.

- a. The parties shall not disclose Confidential Information to any third party except as follows:
 - i. counsel of record for the parties and regular employees of such counsel assisting in the conduct of this action;
 - ii. experts or consultants retained or employed by the parties or their counsel, as long as they have signed a copy of the Certification annexed to this Stipulation and Order;
 - iii. witnesses or prospective witnesses from whom testimony is taken or may be taken in this action, as well as any stenographer who has been hired to produce a transcript of any deposition taken in this action, provided that each such witness or prospective witness has first signed a copy of the Certification annexed to this Stipulation and Order; and
 - iv. the Court, jury, or other court personnel in this action.

6. Designation Continues. Information designated or defined herein as "Confidential" shall continue to be treated as such until this designation is revoked by order of a Court of competent jurisdiction.

7. Court Filings. Any document to be filed with the Court that contains Patient Identifying Information or other HIPAA-protected confidential information shall be filed under seal in an envelope on which a statement substantially in the following form shall be written: "CONFIDENTIAL -- This envelope contains documents and/or information that are SUBJECT TO A CONFIDENTIALITY ORDER ENTERED BY THE COURT." All such material so filed shall be maintained by the Court Clerk separate from the public records in this action and shall not be released except upon the stipulation of the parties or further Order of the Court.

8. Return of Confidential Information. Within forty-five (45) days of the conclusion or termination of the Action for any reason, including all appeals or periods of time within which an appeal could be taken, each party shall either (a) return all Confidential Information to the attorneys for PSC and upon request shall certify completion of such in writing, or (b) shall

certify that all such material has been destroyed, provided however, that each party may maintain one original of any confidential materials filed in Court, to be maintained exclusively with the party's attorneys in a secure manner, as a permanent record.

9. Plaintiff's Personnel File. Ms. Vasilevskaya consents to the disclosure of her personnel file and SSN in this Action, subject to all evidentiary objections. Furthermore, such disclosure is subject to the confidentiality provisions hereof.

10. Non-Admission. Nothing in this Stipulation and Order, nor any action taken in compliance with it, shall operate as an admission by any party that any particular document, testimony or information is or is not relevant or admissible. Further, nothing in this Stipulation and Order shall affect the admissibility or non-admissibility of documents or other evidence at trial or in connection with any motion or motion papers. Any material designated as Confidential Information may be offered into evidence, subject to such separate confidentiality provisions, if any, as the Court may direct at the time of such offer; and its admission or non-admission into evidence shall be determined by the Court independently of this Stipulation and Order.

11. No Preclusion. Subject to all other rules of evidence, nothing in this Stipulation and Order shall preclude either party from using Confidential Information produced in discovery, or as redacted in this litigation, to support its case. Nothing in this Stipulation and Order shall preclude either party from making further or additional discovery requests relating to matters contained in Confidential Information, to the extent such further discovery is otherwise permissible, and subject to the rights of the opposing party to interpose such objections, if any, as may apply. Nothing in this Stipulation and Order shall limit or restrict PSC from using its

internal personnel information or patient information contained in its files or records for any and all lawful and usual PSC business and purposes.

12. No Prejudice to Entry of Other Orders. This Stipulation and Order is without prejudice to other or different confidentiality provisions or protections that may be sought or applied for during this litigation or in connection with trial. Nothing herein shall limit either party from seeking such other confidentiality protections at trial as may be required in the circumstances.

13. The signatures of counsel bind the parties to the terms of this Stipulation and Order.

Dated: New York, New York
October 6, 2016

P.S.C. COMMUNITY SERVICES, INC.

By: /s/ David Prager
David E. Prager, Esq.

BOND, SCHOENECK & KING, PLLC
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New York, New York 10016
Attorneys for Defendant

ZOYA VASILEVSKAYA

By: /s/ Svetlana Sobel
Svetlana Sobel, Esq.

SOBEL LAW OFFICES PC
175 Eileen Way
Syosset, New York 11791
Attorneys for Plaintiff

IT IS SO ORDERED THIS _____ DAY OF _____, 2016.

Magistrate Judge Marilyn D. Go

CERTIFICATION

I certify my understanding that Confidential Information is being provided to me pursuant to the restrictions of the Stipulation and Order dated July ___, 2016, in Vasilevskaya v. PSC Community Services, Inc., No.15-CV-6974 (CBA)(MDG), and that I have been given a copy of and have read that Stipulation and Order and agree to be bound by it. I understand that all such Confidential Information and copies thereof, including, but not limited to, any notes or other transcriptions made therefrom, shall be returned to counsel for the party providing them to me no later than 45 days after the conclusion of this proceeding.

Dated: _____, 2016

[print name]

[signature]