

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JIONNI CONFORTI,

Plaintiff,

v.

ST. JOSEPH'S HEALTHCARE SYSTEM,
INC.; ST. JOSEPH'S HOSPITAL AND
MEDICAL CENTER D/B/A ST. JOSEPH'S
REGIONAL MEDICAL CENTER; and
FATHER MARTIN D. ROONEY,

Defendants.

Honorable Claire C. Cecchi, U.S.D.J.
Honorable Cathy L. Waldor, U.S.M.J.

Case No. 2:17-cv-00050 (CCC/CLW)

**ORDER GRANTING
DEFENDANTS' CONSOLIDATED
MOTION TO SEAL**

THIS MATTER having been opened to the Court by McCarter & English, LLP, counsel for Defendants St. Joseph's Health, Inc., St. Joseph's University Medical Center, Inc., and Father Martin D. Rooney (collectively, "Defendants"), and with consent of counsel for Plaintiff Jionni Conforti ("Plaintiff"), and the Court having considered submissions in support of Defendants' Consolidated Motion to Seal pursuant to L. Civ. R. 5.3:

FINDINGS OF FACT

1. On July 22, 2019, Defendants filed a Brief in support of their Motion to Compel the Mental Examination of Plaintiff, pursuant to Federal Rules of Civil Procedure 35(a) and 37 (the "Motion to Compel") [D.E. 96, 97].

2. Defendants' Moving Brief and supporting materials attached to the Declaration of Christopher S. Mayer, Esq. ("Mayer Declaration") were filed under temporary seal. The supporting materials reproduced as Exhibits A (relevant portions of Plaintiff's deposition testimony), C (Plaintiff's Answers to Defendants' First Set of Interrogatories), D (Plaintiff's

medical records provided by Dr. Vitale), E (Plaintiff's medical records provided by Dr. Tang), F (Plaintiff's medical records provided by Ms. Batista), and G (Plaintiff's medical records provided by Mr. Fitzgerald) have been designated by Plaintiff as either "Confidential" or "Attorneys' Eyes Only" pursuant to the parties' Discovery Confidentiality Order, entered by this Court on July 19, 2017 [D.E. 21].

3. On August 12, 2019, Defendants filed a redacted version of their Reply Brief in further support of their Motion to Compel, with designated portions thereof filed separately under temporary seal [D.E. 101, 102].

4. In support of this Motion to Seal, counsel for Defendants prepared redacted versions of Defendants' Moving Brief (attached hereto as Exhibit 1) and Reply Brief (attached hereto as Exhibit 2) in accordance with L. Civ. R. 5.3(c)(2)(i).

5. The narrowly tailored portions of Defendants' Moving Brief and Reply Brief that Defendants seek to file under seal contain information derived from the supporting materials attached as Exhibits A and C through G of the Mayer Declaration.

6. Furthermore, in support of this Motion to Seal and in accordance with Local Civil Rule 5.3, Defendants submit an index in the form prescribed by Appendix U to the Local Civil Rules.

7. The foregoing materials are identified on the Index with reference to the supporting declaration to justify their confidential nature.

8. Defendants were required to submit the foregoing materials to the Court to effectively advocate their position while simultaneously following the terms of the parties' Discovery Confidentiality Order [D.E. 21].

9. On February 4, 2019, the Court granted a motion to seal a pre-motion joint letter filed by Plaintiff, which contained the same or similar medical and/or health care information derived from the materials at issue here [D.E. 68].

10. On May 19, 2019, the Court granted the Plaintiff's consolidated motion to file under seal information and documents relating to his treatment with certain medical and/or health care providers identified in Defendants' Motion to Compel, including Dr. Joseph Vitale, Dr. Ian Tang, Ms. Rissy Batista, and Mr. Vincent Fitzgerald [D.E. 77, 82].

CONCLUSIONS OF LAW REGARDING MOTION TO SEAL

Following review of the papers submitted in support of the Motion to Seal, and for good cause shown, the Court hereby concludes:

11. A party seeking to seal information must demonstrate "good cause," which turns on an examination of the factors set forth in Local Civil Rule 5.3(c)(3). Telebrands Corp. v. Newmetro Design, LLC, 2016 U.S. Dist. LEXIS 191179, at *3 (D.N.J. July 18, 2016) (quoting Pansy v. Borough of Stroudsburg, 23 F.3d 772, 786 (3d Cir. 1994)).

12. Local Civil Rule 5.3(c) governs Motions to Seal and requires a single, consolidated motion on behalf of all parties that includes an index and supporting declaration(s) describing with particularity: (a) the nature of the materials or proceedings at issue; (b) the legitimate private or public interest which warrant the relief sought; (c) the clearly defined and serious injury that would result if the relief sought is not granted; (d) why a less restrictive alternative to the relief sought is not available; (e) any prior order sealing the same materials in the pending action; and (f) the identity of any party or nonparty known to be objecting to the sealing request. See L. Civ. R. 5.3(c)(3).

13. Plaintiff designated the foregoing materials and the information derived therefrom as “Confidential” or for “Attorneys’ Eyes Only” under the Discovery Confidentiality Order because Plaintiff maintains that the materials contain, reference, and/or reflect highly sensitive personal and medical information. [D.E. 21 at ¶ 1(a)-(d)].

14. Given the nature of the arguments made by Defendants in support of their Motion to Compel, there is no less restrictive alternative available to Defendants than to rely upon the confidentially-designated documents while simultaneously following the terms of the Discovery Confidentiality Order [Id. at ¶¶ 1(d), 9].

15. The omission of the materials from the submissions made on Defendants’ Motion to Compel would significantly limit the parties’ ability to advocate for their positions.

16. Defendants’ request to seal is narrowly tailored and limited to the materials deemed “Confidential” or “Attorneys’ Eyes Only” by Plaintiff, and the unredacted portions of Defendants’ Motion to Compel sufficiently disclose the nature of the parties’ discovery dispute to the public while adhering to the parties’ Discovery Confidentiality Order.

17. The foregoing materials and information derived therefrom are presently designated as “Confidential” or for “Attorneys’ Eyes Only” and unavailable to public access.

18. On February 4, 2019, the Court granted a motion to seal a pre-motion joint letter filed by Plaintiff, which contained the same or similar medical and/or health care information derived from the materials at issue here [D.E. 68].

19. On May 19, 2019, the Court granted Plaintiff’s consolidated motion to file under seal information and documents relating to Plaintiff’s treatment with the treating physicians and/or health care providers identified in Defendants’ Motion to Compel [D.E. 82].

20. Counsel for Plaintiff consents to the instant request. The undersigned is not aware of any other party or nonparty opposing this motion.

21. The Court concludes that Defendants have demonstrated that their application meets the requirements of Local Civil Rule 5.3.

IT IS on this 28 day of August 2019

ORDERED that Defendants' Motion to Seal is GRANTED; and it is further

ORDERED that designated portions of Defendants' Moving Brief and Reply Brief and Exhibits A and C to G attached to the Mayer Declaration submitted in support of Defendants' Motion to Compel, shall be filed under seal pursuant to L. Civ. R. 5.3. This Order is without prejudice to the parties' rights to seek further confidentiality protections during the course of this litigation; and it is further

ORDERED that the proposed redacted versions of Defendants' Moving Brief and Reply Brief shall be publicly filed.

s/ Cathy Waldor

HON. CATHY L. WALDOR, U.S.M.J.