



**IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA**

**IN RE: RALEIGH HEART CLINIC LITIGATION      CIVIL ACTION NO. 18-C-5000**

**THIS DOCUMENT APPLIES TO ALL CASES**

**JOINT PROPOSED ORDER REGARDING NON-WAIVER OF PRIVILEGE**

NOW COME Plaintiffs, by lead counsel Scott S. Segal, C. Edward Amos, II, and The Segal Law Firm, and Defendants Cardinal Health 414, LLC, by counsel Marc E. Williams and Christopher D. Smith and the law firm of Nelson Mullins Riley & Scarborough, LLP and Cheryl A. Falvey and the law firm of Crowell & Moring, LLP, and Thair Barghouthi, M.D. and the Raleigh Heart Clinic (collectively, "RHC Defendants"), by counsel Robert P. Dunlap, II and the law firm Dunlap & Associates, (and collectively, "the Parties"), to seek entry of this joint proposed order regarding the production of CARD000025378-79 and CARD000027312.

1. The production of these documents does not and will not serve as a partial or complete waiver of any privilege or protection possessed by Cardinal Health at any time now or in the future, except with respect to the two documents specifically referenced;
2. In addition, this disclosure in connection with the litigation pending before the Court does not now or in the future waive any privilege or protection in this Court or in any other court or agency proceeding;
3. Plaintiffs and RHC Defendants agree not to seek to compel the production of any other documents Cardinal Health claims as privileged or protected work-product by asserting that Cardinal Health's production of the above-referenced two documents constitutes a waiver of any privilege or protection;
4. Plaintiffs and RHC Defendants further agree that these documents remain confidential under the terms of the protective order and that production of these documents does not preclude Cardinal Health from asserting that such documents, or any information contained therein, are inadmissible at trial; and

5. This agreement is binding and forecloses any argument regarding waiver of privilege on the basis of the production of the two documents identified above.

It is so **ORDERED**.

**ENTERED:** August 20, 2019

/s/ Jay M. Hoke  
Lead Presiding Judge  
Raleigh Heart Clinic Litigation

**Prepared and Agreed to By:**

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*Counsel for Defendants, Thair Barghouthi, M.D. and Raleigh Heart Clinic with Respect to Crossclaims filed by Cardinal Health 414, LLC for Indemnity and Contribution*