

**IN THE CIRCUIT COURT OF WOOD COUNTY, WEST VIRGINIA  
BUSINESS COURT DIVISION**

**CHARLESTON DIABETES AND  
ENDOCRINE CONSULTANTS,  
PLLC, and PRASUNA JAMI, M.D.,**

**Plaintiffs,**

**v.**

**Civil Action No. 16-C-457**

**Presiding Judge James A. Matish**


**HIGHMARK WEST VIRGINIA INC.,**

**Defendant.**

**AGREED PROTECTIVE ORDER**

On this date came Plaintiffs, Charleston Diabetes and Endocrine Consultants, PLLC, nad Prasuna Jami, M.D. ("Plaintiffs"), and Defendant, Highmark West Virginia Inc. ("Defendant"), by their respective counsel, and moved the Court for the entry of an agreed protective order protecting from public disclosure documents containing confidential or sensitive commercial information and protected health information ("PHI"). Pursuant to Rule 26(c) of the West Virginia Rules of Civil Procedure, and the stipulation of Plaintiffs and Defendant, as evidenced by the signatures of their respective counsel below, it is hereby ORDERED that:

1. The purpose of this Order and agreement is to permit discovery and trial preparation to proceed with a minimum of discovery motions over matters of confidentiality.
2. This Order governs the use and handling of (a) records of either party containing confidential or sensitive commercial information ("Confidential Information"); and (b) records of either party containing the protected health information ("PHI") of various individuals, as that term is defined in the Health Insurance Portability and Accountability Act and its implementing regulations ("HIPAA").

 ENTERED  
PAGE 1 of 1  
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CAROLE JONES  
CLERK CIRCUIT COURT

9/21/17 CC<sup>3</sup> to Steptoe; Muller & Amos; Segal Law Firm



3. Documents that either party indicates contain “Confidential Information” shall be produced subject to the following terms and conditions:

(a) The terms “party” and “parties” shall mean Plaintiffs and Defendant.

(b) The term “counsel of record” shall be limited to those attorneys who have appeared by notice or on the pleadings as counsel of record, and employees of those attorneys’ law firms who are assigned to work on this litigation.

(c) Unless prior written consent to further disclosure has been obtained from a party, or permission or direction for such disclosure has been given by this Court, the parties and counsel of record shall not disclose any such document, nor any information extracted or extrapolated therefrom, to any person other than:

(i) the Court (including the Clerk’s Office), with the stipulation that said documents shall be filed under seal as set forth below;

(ii) each party’s counsel of record;

(iii) experts retained by either party or their counsel of record to assist counsel in the prosecution or defense of this civil action;

(iv) deponents or witnesses in a court proceeding, to the extent necessary for examination;

(v) deposition and trial court reporters, with the stipulation that such documents shall be submitted and filed under seal.

(d) All persons, other than the parties and counsel of record (who are bound by the terms of this Protective Order) and employees of counsel, shall sign a copy of an Acknowledgment of Protective Order, in the form of Exhibit A, prior to reviewing any document



designated as containing "Confidential Information." The original of any signed Acknowledgment shall be maintained by counsel of record for the party soliciting the review.

(e) Any documents indicated to contain "Confidential Information" that are used in connection with any motion, memorandum, pleading, or other document submitted to the Court, shall be filed under seal, with a notice on the outside of the envelope that the documents are filed under seal pursuant to this Protective Order.

(f) Any documents indicated to contain "Confidential Information" that are used in any deposition or Court proceeding herein shall not lose their confidential status through such use. The parties and the Court shall take such steps as are reasonably required to protect confidentiality during and following each such use, including without limitation (i) limiting copies, reproductions and/or disclosure of the Confidential Information; (ii) advising witnesses of the confidential nature of the information and of their obligation to maintain its confidentiality; (iii) closure of court proceedings during the presentation or discussion of any such documents or information; and (iv) limiting access to transcripts of such proceedings as they relate to Confidential Information.

4. Within thirty (30) days of the termination or conclusion of any and all proceedings relating to this action, including entry of final judgment and any appeal therefrom, each party and counsel of record shall return to the opposing party any and all documents indicated to contain "Confidential Information," together with any and all copies of the same, and any information extracted or extrapolated therefrom, and together with a written certification that any and all such documents and information have been returned pursuant to this paragraph 4. If any party has a good-faith belief that documents that contain Confidential Information or information extracted or extrapolated from Confidential Information are protected by the work



product doctrine, counsel to the party shall destroy such documents and certify the destruction by affidavit. This destruction option pertains only to documents about which a party has a good-faith belief that they are protected by the work product doctrine.

5. Documents designated as containing PHI ("PHI Documents") will be produced subject to the following terms and conditions:

(a) PHI Documents may be disclosed only to the persons identified in, and under the conditions stated, in paragraph 3(a) - (f) above.

(b) PHI Documents may be used by those persons solely for purposes of this civil action.

(c) PHI Documents must be returned to the producing party in accordance with paragraph 4 above, or those persons to whom such documents were disclosed must provide to the producing party a written certification that all PHI Documents, together with any and all copies, have been destroyed.

6. This Order contemplates that the parties shall continue to resolve confidentiality issues by agreement of counsel not inconsistent with this Order.

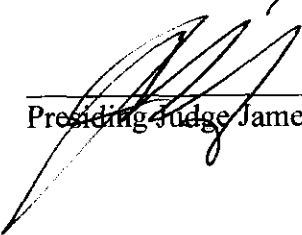
7. Notwithstanding the foregoing provisions, this Order shall be without prejudice to the right of either party to challenge the propriety of discovery on other grounds.

The Clerk is directed to send copies of this Order to counsel of record.

IT IS SO ORDERED.

ENTER:

09/05/2017

  
\_\_\_\_\_  
Presiding Judge James A. Matish



**EXHIBIT A**

**IN THE CIRCUIT COURT OF WOOD COUNTY, WEST VIRGINIA  
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**HIGHMARK WEST VIRGINIA INC.,**

**Defendant.**

**ACKNOWLEDGEMENT OF PROTECTIVE ORDER**

\_\_\_\_\_ hereby acknowledges  
and agrees that he/she has been provided with a copy of the Agreed Protective Order entered in  
the above captioned action; he/she has read the Order; he/she agrees to be bound by its terms;  
and he/she subjects himself/herself to the jurisdiction of the Circuit Court of Wood County, West  
Virginia, and the Business Court Division of the West Virginia Circuit Courts for purposes of  
any action to enforce the terms of the Order.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name

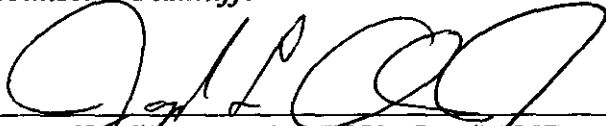


**Agreed to for Submission:**



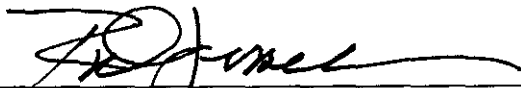
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