

**STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT**

**STATE OF NEW MEXICO,
Plaintiff,**

No. D-101-CR-2024-00013

v.

**ALEXANDER RAE BALDWIN
Defendant.**

STIPULATED CONFIDENTIALITY ORDER

THIS MATTER having come before the Court on the parties' Joint Motion for Stipulated Confidentiality Order ("Motion"), the Court having reviewed the Motion and the parties' agreement that the confidentiality of certain information and documents should be maintained in this action, and having been advised in the premises hereby finds that there is good cause to grant the Motion.

IT IS THEREFORE ORDERED:

1. The following documents and information contained in said documents (hereinafter "Confidential Information"), which may be produced by the State of New Mexico as described below, shall be confidential and shall be utilized by the parties for purposes solely related to this action (including, but not limited to, discovery, motions practice, mediation, or trial), as stated below:
 - a. All documents containing Protected Health Information ("PHI"), as defined in the Health Insurance Portability and Accountability Act ("HIPAA") privacy rule and/or 45 C.F.R. Parts 160 and 64;

- b. All materials contained in the medical treatment records from the University of New Mexico Health Sciences Center pertaining to Halyna Hutchins, which may include, but is not limited to records related to diagnosis and treatment which are of a sensitive and/or confidential nature, in addition to the information described above.
2. The parties shall utilize the following procedure to identify documents and/or information as Confidential Information and protect Confidential Information from disclosure to any third party:
 - a. Any party disclosing information or materials may, at any time prior or subsequent to disclosure, identify and mark material as "CONFIDENTIAL," provided a good faith basis exists for deeming the material confidential and that this designation is expressly made on the material itself or in a document accompanying the disclosure of the material. Any materials used during a deposition which a party believes should be confidential must be identified as confidential prior to or during the deposition itself.
 - b. All Confidential Information produced or exchanged in the course of discovery in this litigation shall be used solely for the purpose of this litigation until final judgment, including any appeals or settlement, and shall not be disclosed to any person other than as permitted herein.
 - c. Confidential Information used during depositions shall be expressly identified as "Confidential" in the transcript or other official record of the deposition.

Confidential Information marked as deposition exhibits must be clearly marked as "Confidential" before those exhibits are included in any official transcription or record. The parties stipulate that nothing in this Stipulated Confidentiality Order shall preclude any party from contesting the relevant or admissibility of any material produced pursuant to the Stipulated Confidentiality Order.

3. Attorneys for the parties shall only distribute or disclose Confidential Information to the following persons: (1) the parties, judge and jury; (2) legal counsel of record representing the parties in this action (to include their administrative assistants, law clerks, and other law office support staff); (3) the Court and the Court's employees, including administrative assistants and court reporters; (4) expert witnesses retained by any party in relation to this action; (5) court reporters and videographers involved in the taking of any deposition(s), including any employees thereof; and (6) any fact witness that is called to testify at a deposition by oral examination or at trial. All persons to whom Confidential Information is disclosed, as outlined above, shall be bound by the terms of this Confidentiality Order.
4. Parties to this action may not copy or retain copies, whether paper or electronic, of any Confidential Information, but may review such documents as is necessary in this case, provided that any such document review shall be limited to the parties themselves and further provided that any such document reviewed (or copies thereof) shall be promptly destroyed or returned to their respective attorneys at the conclusion of the review.

of this case. The parties will not permit any person not identified above to inspect, examine, copy or replicate any Confidential Information. The parties will not disclose any Confidential Information to any person not identified above, except by order of the Court. Attorneys for the parties agree that they and their employees will utilize Confidential Information only for purposes related to this action and that they shall otherwise maintain confidentiality of documents and information deemed Confidential; provided however, that nothing contained in this Confidentiality Order shall prevent the State of New Mexico or its employees from using Confidential Information maintained by it, if used in the ordinary course of business.

5. In the event any party requires a fact or expert witness to review Confidential Information, the party's attorney seeking such review shall instruct the witness about the contents of this Order, and the witness shall agree in writing to be bound by its terms prior to the disclosure of Confidential Information.
6. Confidential Information about nonparties to this matter contained in exhibits to motions filed in this action shall be filed under seal and Confidential Information about nonparties contained in exhibits to depositions shall be sealed. Notwithstanding such sealing, portions of the depositions or filings that do not contain Confidential Information shall not be sealed.
7. If any party produces any document which contains PHI, as defined and used in the HIPAA, and if that party (a) chooses to produce Confidential Information that contains PHI, (b) is required to produce Confidential Information that contains PHI,

or (c) otherwise uses Confidential Information that contains PHI, this Confidentiality Order shall be considered a "Qualified Protective Order," as permitted under 45 C.F.R. §§ 164.512(e)(1)(ii) and (v). Therefore, the party producing any documentation containing PHI is hereby relieved of the requirement to give notice to the patient(s) whose PHI is contained in the confidential record being disclosed. *See* 45 C.F.R. § 164.512(e)(1)(ii)(A).

8. Upon conclusion of this matter, the provisions of this Order shall continue to be binding. This Order shall remain in full force and effect until modified, superseded, or terminated by consent of the parties or by Court Order. All Confidential Information, including but not limited to PHI subject to HIPAA, including all copies, must either be returned to the providing party or, if returning the information would be unreasonable, destroyed and certified to the providing party as destroyed within thirty (30) days of the conclusion of this matter, and subsequent appeal if any, as provided for in 45 C.F.R. § 164.512(e)(1)(v).
9. This Order shall not be construed as a waiver by any party of any objection the party might have regarding the production, admissibility or use of any Confidential Information produced in the course of litigation of this matter. If any party disputes the designation of any document as Confidential Information, such party may bring the issue to the Court's attention by motion for a decision on whether such document or information contained therein constitutes Confidential Information subject to the terms of this Order. However, the parties shall negotiate in good faith concerning any

dispute over the confidentiality of the materials before raising the issue with the Court. Any dispute as to whether a document and/or its contents is Confidential Information shall be kept confidential pursuant to the terms of this Order until, and unless, the Court rules otherwise.

IT IS SO ORDERED.



**THE HONORABLE MARY MARLOWE SOMMER
DISTRICT COURT JUDGE
DIVISION VIII**

SUBMITTED AND APPROVED BY:

/s/ Jason J. Lewis

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