

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
(EAST ST. LOUIS)

CASE NO.: 3:12-CV-00114-DRH-SCW

ALEX WALKER,)
)
Plaintiff,)
v.)
)
THREE ANGELS BROADCASTING)
NETWORK, INC., and TOMMY SHELTON)
)
Defendants.)
_____)

**AGREED HIPAA QUALIFIED PROTECTIVE ORDER
AND ORDER TO DISCLOSE PROTECTED HEALTH INFORMATION**

THIS CAUSE having come before the Court on Plaintiff’s Motion for HIPAA Qualified Protective Order and Order to Disclose Protected Health Information, and upon agreement of the parties, and the Court being otherwise duly advised in the premises, it is hereby

ORDERED AND ADJUDGED as follows:

HIPAA Qualified Protective Order

In accordance with the requirements of the regulations promulgated under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), specifically 45 C.F.R. §164.512 (e) (1) (ii) (B) & (v), the Court hereby institutes a **HIPAA QUALIFIED PROTECTIVE ORDER**, as the term is defined in the foregoing regulations, and requires, for information obtained by discovery procedures, that all parties be:

- (1) prohibited from using or disclosing protected health information (“PHI”) for any purpose other than the litigation of the above-styled lawsuit; and
- (2) required to return to the disclosing entity, or destroy the PHI (including all copies made), at the conclusion of the litigation of the above-styled lawsuit. (“Conclusion” is not defined by HIPAA but should be understood to include the time for any records retention requirements and statute of limitations applicable to a party or a party’s counsel; “Litigation” is not defined by HIPAA but should be

understood to include all trial and appellate proceedings at any level or the expiration of the time to commence such further appellate proceedings without appeal).

Based upon this **HIPAA QUALIFIED PROTECTIVE ORDER** and commencing immediately from the date of this Order, all persons, including but not limited to physicians and other medical providers, shall **COMPLY** with, and are hereby **AUTHORIZED** and **ORDERED** to use or disclose PHI in response to, any and all requests for and subpoenas for records without deposition (under Fed. R. Civ. P. 45) to which no objection has been timely made in the course of this litigation.

Interrogatories, Requests for Production, Requests for Copies & Expert Communications

In addition to the foregoing, pursuant to 45 C.F.R. §164.512 (e) (1) (I) and for purposes of compliance with HIPAA, without waiver of any right to prepayment of costs or any other appropriate objection or privilege that may be timely asserted, the attorneys, employees, agents, and designees of each party or party's legal counsel in this case are expressly and specifically **AUTHORIZED** and **ORDERED** to disclose and provide requested PHI to:

- a) respond to valid Requests for Production or Interrogatories served pursuant to the Federal Rules of Civil Procedure in the above-styled claim or litigation seeking protected health information;
- b) respond to valid and timely Requests for Copies in the above-styled claim or litigation for production of documents and things without deposition concerning protected health information; and
- c) respond to each one of a party's own expert (s) who requests, either orally or in writing, protected health information for purposes of reviewing the above-styled claim or litigation in whole or in part, whether the expert is considered retained for compensation or non-retained,

In compliance with both HIPAA regulations and any applicable state law not pre-empted by HIPAA, the authorization and order set forth in this paragraph expressly includes protected health information concerning psychological and mental health records, disability status and records, substance abuse and treatment history, and HIV status, as well as records concerning other sexually transmitted diseases if so requested. The command of the Court in this paragraph is a separate authorization for use or disclosure of protected health information that is in addition to, and potentially inclusive of, the use and disclosures authorized under the HIPAA Qualified Protective Order set forth above.

Depositions

In addition to the foregoing, pursuant to 45 C.F.R. §164.512 (e) (1) (I) and for purposes of compliance with HIPAA, without waiver of any right to prepayment of costs, fees and expenses, or any other appropriate objection or privilege that may be timely asserted, each deponent duly

noticed for deposition in the above-style litigation, including but not limited to a party, a fact witness, a records custodian, an expert, a treater, or a health care provider of any type, is expressly and specially **AUTHORIZED** and **ORDERED** to use or to disclose to the attorneys, employees, agents, and designees of each party or each party's legal counsel in this case the protected health information of a party that is responsive to deposition questions or a valid duces tecum at such duly noticed deposition with both HIPAA regulations and any applicable state law not pre-empted by HIPAA, the authorization and order set forth in this paragraph expressly includes protected health information concerning psychological and mental records, disability status and records, substance abuse and treatment history, and HIV status, as well as records concerning other sexually transmitted diseases. The command of the Court in this paragraph is a separate authorization for use or disclosure of protected health information that is in addition to, and potentially inclusive of, the use and disclosures authorized under the HIPAA Qualified Protective Order set forth above.

Judicial Proceedings

In addition to the foregoing, pursuant to 45 C.F.R. §164.512 (e) (1) (i) and for purposes of compliance with HIPAA, without waiver of any right to prepayment of costs, fees, and expenses or any other appropriate objection or privilege that may be timely asserted, all witnesses duly appearing at, or subpoenaed for, any judicial proceeding related to this litigation, including but not limited to trial, are specifically and expressly **AUTHORIZED** and **ORDERED** to use and disclose the PHI of a party at such judicial proceeding. In compliance with both HIPAA regulations and any applicable state law not pre-empted by HIPAA, the authorizations and order set forth in this paragraph expressly includes protected health information concerning psychological and mental health records, disability status and records, substance abuse and treatment history, and HIV status, as well as records concerning other sexually transmitted diseases. The command of the Court in this paragraph is a separate authorization for use or disclosure of protected health information that is in addition to, and potentially inclusive of, the use and disclosures authorized under the HIPAA Qualified Protective Order set forth above.

Court Reporter, Photocopying & Other Designated Service Providers of a Party

In addition to the foregoing, pursuant to 45 C.F.R. §164.512 (e) (1) (I) and for purposes of compliance with HIPAA, without waiver of any right to prepayment of costs, fees and expenses, or other appropriate objection or privilege that may be timely asserted, any person or entity authorized or ordered above to use or disclose PHI is expressly and specifically **AUTHORIZED** and **ORDERED** to do so with, to, or before any court reporter service, videography service, translation service, photocopy service, document management service, records management service, graphics service or other such litigation service, designated by a party or a party's legal counsel in this case. The protections and requirements above specifically apply to any such service so designated. Each party or the party's legal counsel is charged with giving notice of the obligations imposed by this Order to any such service the party or counsel so designates, and is further charged with obtaining advance consent of such service to comply fully with this paragraph. Upon such consent, the service will be deemed to have voluntarily submitted to the Court's jurisdiction during the pendency of this litigation for purposes of enforcement of this

paragraph, including but not limited to the imposition of such sanctions, monetary or otherwise, as may be appropriate for any non-compliance.

Business Associate Agreements

Except for business associate agreements (within the meaning of HIPAA regulations) entered into by a party or a party's legal counsel for purposes of satisfying the requirements of this Order, the uses and disclosures of PHI authorized under this Order are separate from, and not to be deemed subject to, any business associate agreement that has been or will be executed by any party, any party's legal counsel, or any disclosing person or entity. No use or disclosure made pursuant to this Order shall be deemed to require execution of a business associate agreement (within the meaning of the HIPAA regulations). The intent of this Order is that the uses and disclosures made pursuant to it should not be subject to such business associate agreements, or to any requirement for such agreements under the HIPAA regulations. Such agreements should be construed as inapplicable to any uses or disclosures made pursuant to this Order and, therefore, as limited only to the uses and disclosures of PHI outside of this Order.

Unless a motion for enforcement of this Order has been filed in this case and remains pending at the time, this Order shall expire upon the conclusion of this litigation by any dismissal or by final judgment, through and including all appellate proceedings, unless the time for commencing such proceedings has expired without an appeal.

This order is self-executing without need of further order of the Court, and it is effective upon entry. A copy of this order shall be valid as an original.

DONE AND ORDERED in Chambers at East St. Louis, Illinois, on this 15 day of May, 2012.

/s/ Stephen C. Williams
UNITED STATES MAGISTRATE JUDGE