

STATE OF RHODE ISLAND  
PROVIDENCE, SC.

SUPERIOR COURT

St. Joseph Health Services of Rhode  
Island, Inc.

Vs.

PC 2017-3856

St. Joseph Health Services of Rhode  
Island Retirement Plan, as amended

**PROTECTIVE ORDER**

In the above-captioned case, Stephen Del Sesto, Esq. in his capacity as Receiver of St. Josephs Health Services of Rhode Island Retirement Plan, as amended (“Receiver”), Max Wistow, Esq. in his capacity as Special Counsel to the Receiver (“Special Counsel”), and St. Joseph Health Services of Rhode Island, Inc. (“SJHSRI”)<sup>1</sup>, having agreed to the entry of a protective order on the terms set forth below, and the Court finding that good cause has been shown for the entry of such protective order, it is hereby:

**ORDERED, ADJUDGED AND DECREED:**

1. In the above-captioned case, Special Counsel served three subpoenas (collectively the “Subpoenas”) on the registered agent for SJHSRI.
2. SJHSRI has identified documents that are responsive to the Subpoenas, but contain personally identifiable information (including but not limited to social

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<sup>1</sup> References to SJHSRI herein shall also include CharterCare Health Partners, CharterCare Community Board, Roger Williams Medical Center, and Roger Williams Hospital.

security numbers, bank account numbers, and other information of a non-public nature of present and former employees of SJHSRI and bank account numbers of SJHSRI )(hereinafter “Confidential Information”). Such documents include, but are not limited to, bank account statements, tax records, election of benefits forms, and claims records.

3. Because of the sensitivity of the information in these documents, SJHSRI, the Receiver, and Special Counsel agree that these documents should be produced pursuant to a protective order.

4. Accordingly, SJHSRI may produce any responsive documents containing Confidential Information (as defined in this order) by stamping such materials as “Confidential.”

5. The Confidential Information stamped “Confidential” may only be disclosed to the following persons or entities, in each case in accordance with the terms of this Order:

- a. The Court and court personnel;
- b. The Receiver, Special Counsel, counsel to SJHSRI, and employees of such counsel;
- c. Any person who authored or previously received the Confidential Information through lawful means other than from SJHSRI through the discovery process in these proceedings;
- d. Court reporters and videographers engaged for depositions;
- e. Witnesses and deponents;

- f. Experts or consultants (and the necessary staff thereof), to the extent deemed necessary by counsel;
  - g. Support vendors retained for e-discovery, photocopying, bates labeling, indexing of documents, or similar services; and
  - h. Any other person SJHSRI agrees in writing may view the Confidential Information, or upon order of the Court.
6. Prior to reviewing, seeing, or receiving Confidential Information, all persons specified in Paragraphs 5(e) through 5(g) and the Receiver will read a copy of this Order and execute an Acknowledgement in the form of Exhibit 1 annexed hereto, except that persons specified in Paragraph 5(g) need not do so if agreed to by SJHSRI. If a witness or deponent in any proceeding where Confidential Information may be disclosed to them refuses to sign the Acknowledgment, they may be shown documents with Confidential Information unless counsel for SJHSRI asks to suspend the deposition or hearing and promptly seeks a protective order prohibiting such disclosure. SJHSRI shall be provided reasonable notice by Special Counsel in advance of any deposition or hearing where Confidential Information may be disclosed to the deponent or witness. Counsel of record shall retain in their possession all executed Acknowledgements until final disposition of these proceedings.

7. **Declassification.** In the event that Special Counsel seeks to disclose Confidential Material in a manner outside of what is provided in Paragraph 5 or 6, Special Counsel may file a motion with the Court for a ruling that the document designated as Confidential Material is not or should not be entitled to such status

and protection. Such motion may be heard upon no less than fourteen (14) days' notice to SJHSRI. SJHSRI shall have ten (10) days from the date such petition is filed to file an opposition to the petition defending the designation as Confidential Material. Special Counsel shall have five (5) days in which to file a reply.

8. Special Counsel shall not place in the record in any proceeding any item containing Confidential Information without first redacting any Confidential Information or without agreement of SJHSRI as to reasonable procedures to protect Confidential Information, unless permitted by order of the Court. To the extent that Special Counsel seeks to disclose or identify Confidential Information, Special Counsel will confer with SJHSRI to establish a protocol acceptable to the Court for filing an on-the-record discussion of that Confidential Information that will not publicly disclose the content of that Confidential Information.

9. No pleadings or other documents that contain Confidential Information are to be filed with the clerk without first redacting the Confidential Information or filing a motion to seal requesting that the Confidential Information be maintained under seal pursuant to Rule 8 of the Supreme Court Rules Governing Electronic Filing.

10. At the conclusion of these proceedings, including any appeal of a final order by the Court or the complete settlement of all claims that may be asserted, Special Counsel and/or SJHSRI may move the Court for an order addressing the post-conclusion treatment of Confidential Material.

11. This Order shall be applicable to and binding upon any individual or entity who agrees in writing to be subject to the terms of this Order.

12. Nothing in the foregoing shall control or govern the use of evidence at trial or prejudice in any way the rights of any party to object to the authenticity or admissibility into evidence of any document, testimony or other evidence that is subject to this Order.

13. This Order may be subject to further modification by order of the Court, on the Court's own initiative, or upon motion by any party or person having an interest affected by this Order for good cause shown.

14. If Confidential Information in the possession of Special Counsel is subpoenaed or otherwise requested by any court, administrative or legislative body, or any other person purporting to have authority to subpoena or request such information, Special Counsel shall give written notice of the subpoena or request to counsel for SJHSRI at least ten (10) days prior to the time when production of the information is required. In the event that the subpoena/request purports to require production of such Confidential Information on less than ten (10) business days' notice, Special Counsel shall give immediate telephonic and email notice of the receipt of such subpoena or request, and forthwith deliver a copy thereof, to counsel for SJHSRI. Absent a further Court order to the contrary, Special Counsel may comply with the subpoena or request.

15. If SJHSRI discovers from any source that it produced a document that should have been designated as "Confidential" but was not, then SJHSRI may

thereafter designate and produce that document as “Confidential” in accordance with Paragraph 4.

16. In the event that Confidential Information is disclosed to someone not authorized under the terms of this Order to receive such information after the time at which such information is designated as Confidential Information, Special Counsel shall (i) immediately inform counsel for SJHSRI describing the circumstances surrounding the unauthorized disclosure and (ii) make every reasonable effort to retrieve the Confidential Information and to prevent disclosure by each unauthorized person who received or possesses such Confidential Information. In the event that SJHSRI, after initial production or disclosure, subsequently designates information as Confidential Information, Special Counsel shall make reasonable efforts to request that all copies of any such subsequently designated Confidential Information that has already been disclosed to persons not enumerated in paragraph 5 be returned to Special Counsel or destroyed.

17. Special Counsel shall maintain documents and other materials containing Confidential Information in secure and safe locations, e.g. secure and safe electronic discovery platforms.

18. The binding effect of this Order shall survive the termination of these proceedings and the Court shall retain jurisdiction to enforce or modify this Order.

ORDERED:

  
Brian P. Stern  
Associate Justice

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Stern, J.

Dated: February 28, 2018

ENTERED:

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*/s/ Carin Miley*

Clerk

Dated: February 28, 2018

Agreed to:

/s/ Stephan P. Sheehan  
Stephan P. Sheehan, Esq.  
Wistow, Sheehan & Loveley, PC  
61 Weybosset Street  
Providence, RI 02903  
[spsheehan@wistbar.com](mailto:spsheehan@wistbar.com)  
Dated: February 16, 2018

Agreed to:

/s/ George E. Lieberman  
George E. Lieberman, Esq. (#3860)  
Of Counsel  
Gianfrancesco & Friedmann  
214 Broadway  
Providence, RI 02903  
[george@gianfrancescolaw.com](mailto:george@gianfrancescolaw.com)  
Dated: February 16, 2018

Agreed to:

Stephen F. Del Sesto, Esq.  
Pierce Atwood LLP  
72 Pine Street, 5th Floor  
Providence, RI 02903  
[sdelsesto@pierceanwood.com](mailto:sdelsesto@pierceanwood.com)  
Dated: February 16, 2018

CERTIFICATE OF SERVICE

I hereby certify that, on February 16, 2018, I caused to be filed and served this document through the electronic filing system. The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ George E. Lieberman



**EXHIBIT 1**

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**ACKNOWLEDGEMENT**

The undersigned, declares and states as follows:

1. I have read the attached Order, dated February \_\_\_, 2018, concerning documents defined as confidential information (the “Confidential Information”),
2. I understand its contents and hereby agree to comply therewith and to be bound thereby. In addition, I consent to the exclusive jurisdiction of the Rhode Island Superior Court for the purposes of enforcement of the Order.
3. I agree to use the Confidential Information only for purposes of assisting in these proceedings, including claims asserted in connection with the above-captioned case, and for no other purpose.
4. I agree to retain all of the Confidential Information in a secure manner and in accordance with the terms of the Order. I also agree not to make copies of any of the Confidential Information except in accordance with the Order. I further agree not to communicate the Confidential Information to any person or entity not qualified to receive it under the terms of the Order.

5. Upon request of counsel for the party that retained me, I agree to promptly return, or certify that I have destroyed, all of the Confidential Information and all copies of the same at the conclusion of these proceedings.

6. I agree to comply with all other provisions of the Order.

7. I acknowledge that failure on my part to comply with the provisions of the Order may be punishable by contempt of court and may render me liable to any party, person, or entity damaged thereby.

Name: \_\_\_\_\_

Signed: \_\_\_\_\_

Dated: \_\_\_\_\_