

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

 RICHARD NUNES, CARL COE,)
 JOHN DOE, PETER POE, and RICHARD)
 ROE, on behalf of themselves and all others)
 similarly situated,)
 Plaintiffs,)
)
 v.)
)
 UMASS CORRECTIONAL HEALTH,)
 MASSACHUSETTS DEPARTMENT OF)
 CORRECTION, LEONARD MCGUIRE,)
 WARREN FERGUSON, JUDITH)
 STEINBERG, THOMAS GROBLEWSKI,)
 and PETER HEFFERNAN,)
 Defendants.)

CIVIL ACTION
NO: 1:10-CV-12013-RWZ

PROTECTIVE ORDER

After due consideration of the parties' Stipulation For Entry of a Protective Order For The Protection of Confidential Information ("Stipulation"), and upon good cause shown, it is hereby Ordered and Adjudged:

1. **Background:** The plaintiffs, Richard Nunes, Carl Coe, John Doe, Peter Poe, and Richard Roe filed this suit on behalf of themselves and others similarly situated¹ (hereafter the "plaintiffs" or "prisoners"). The plaintiffs are prisoners incarcerated under the control of the Massachusetts Department of Correction ("DOC"). The plaintiffs are incarcerated at various DOC facilities throughout the Commonwealth. The plaintiffs' claims against the defendants surround a change in policy regarding the administration of certain medications at the DOC facilities. In their Complaint, with the exception of Richard Nunes, the names of the plaintiffs are not identified. Instead, the plaintiffs are listed as Carl Coe, John Doe, Peter Poe, and Richard Roe.

¹ The plaintiffs seek class action certification, but a class has not been certified as of the time of this filing.

Defendants have requested that the names of Carl Coe, John Doe, Peter Poe, and Richard Roe be disclosed. In an effort to resolve the plaintiffs' privacy and confidentiality concerns, and the defendants' claimed entitlement to know the names of the prisoners pursuant to the mandatory disclosure provisions of Fed. R. Civ. P. 26(a)(1), as well as the discovery procedures contained in Fed. R. Civ. P. 26(b)(1), the parties have filed a Stipulation. The Stipulation requests that the Court issue an order governing the parties' handling of the prisoners' names in connection with this litigation.

2. **Production of Confidential Material:** Upon the execution of this order, the plaintiffs' counsel will produce a confidential list showing the true names for Carl Coe, John Doe, Peter Poe, and Richard Roe listed in the Complaint.

3. **Use of Confidential Material:** The confidential material and information described in paragraphs 1 and 2 shall be used solely for the purpose of litigating this matter or for the purposes of providing medical or mental health treatment as clinically indicated unless the person who is the subject of such confidential material, or that person's legal guardian or other authorized legal representative, if any, authorizes its use for any other particular purpose. A party may, subject to the rules of evidence, the Federal Rules of Civil Procedure, and orders of the Court, use any confidential material, without disclosing any personally identifying information, for any purpose in a pleading, filing, hearing, trial, or other proceeding in this matter. Wherever possible, a party should use the plaintiffs' pseudonyms rather than their true names. All pleadings and other materials containing personally identifying information of any prisoner or former prisoner who is the subject of this Protective Order shall be filed under seal pursuant to the procedures set forth in Local Rule 7.2. Any confidential material used in any

court document or proceeding shall not lose its confidential status through such use, unless the Court orders otherwise.

4. **Disclosure of Confidential Material:** The confidential material and information described in paragraphs 1 and 2 shall be controlled and maintained by the parties and the Court in a manner that precludes access by any person not entitled to access under this Order.

Confidential material shall be disclosed only to the following persons:

- (a) Counsel, including paralegal, investigative, secretarial, and clerical personnel who are engaged in assisting such counsel in the above-entitled action;
- (b) Any independent outside expert or consultant, and employees and assistants under the control of such an expert or consultant, who is engaged by counsel in this litigation, whether or not such expert is paid directly by a party;
- (c) Any employee of a party or employee of a vendor of a party who is requested by counsel for such party to work directly on the above-entitled action, except that, defendants' attorneys shall disclose the names of the prisoners identified in the confidential list produced in accordance with paragraph 2 and/or sealed pleading(s) only to those employees for whom such disclosure is necessary for the defense and litigation of this case or for the purposes of providing medical or mental health treatment as clinically indicated. Such disclosure shall be only to the extent necessary for the purposes of this case. The confidential list of prisoners described in paragraph 2 shall not be disclosed to correctional officers except as is necessary for the defense and litigation of this case;
- (d) Any deposition or trial witness, unless objected to by a party and the objection is sustained by the Court;

- (e) Any person who authored or received the particular confidential material sought to be disclosed to that person;
- (f) Court reporters and persons operating video and/or audio recording equipment at depositions; or
- (g) The Court and its support personnel.

The confidential material and information described in paragraphs 1 and 2 shall not be disclosed to persons described in Paragraphs 3(b), (c), or (d), unless or until such persons have been provided with a copy of this Order and have agreed to abide by and comply with the terms and provisions therein.


5. **Treatment of Prisoners:** Nothing in this Stipulation shall be construed so as to limit the ability of the Department of Correction through its vendors to provide medical and mental health treatment to all prisoners in its custody, including these prisoners.

6. **Right to object to discovery requests:** Nothing in this order shall limit any party's right to object to discovery pursuant to the Federal Rules of Civil Procedure or other relevant law.

7. **Modification of the Protective Order:** This Order shall not prevent a party from applying to the Court for relief therefrom, or from applying to the Court for further or additional protective orders, or from agreeing to modification of this Order.

8. **Continuation of the Protective Order:** Upon conclusion of the above entitled action the provisions of this Order shall continue to be binding. This Order shall remain in force and effect until modified, superseded, or terminated by consent of the parties or by Order of this Court.

SO ORDERED:



Judge Rya W. Zobel
United States District Judge

DATED: April 8, 2011