

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

MICHAEL AMOS, et al.

PLAINTIFFS

V.

NO. 4:20-CV-7-DMB-JMV

TOMMY TAYLOR, et al.

DEFENDANTS

AGREED PROTECTIVE ORDER

HAVING COME before the Court, the Parties, who, after receiving the Court's instructions, request by stipulation that the Court enter its order pertaining to various matters relevant to these proceedings.

IT IS THEREFORE ORDERED AND ADJUDGED that:

1. Inmate affirmations used as exhibits and/or provided to the Court in support of Plaintiffs' Emergency Motion for Temporary Restraining Order and Preliminary Injunction [Dkt. #13] and briefing related thereto will be produced to Defense Counsel of record only, until further order of the Court. Said information shall be held by Defense Counsel in the strictest confidence, and shall not be divulged by same, either verbally or in writing, to any person or entity other than the Court and designated experts retained by Defense Counsel to the extent those experts are not MDOC employees or otherwise affiliated with MDOC in anyway. Said experts will hold the information in the strictest confidence, and shall not divulge the contents of same, either verbally or in writing, to any person or entity other than the Court and counsel of record in this matter.

2. Plaintiffs shall redact inmate affirmations before producing them to Defense Counsel as follows: (a) inmate affirmations by the thirty-three (33) named Plaintiffs in the First Amended Class Action Complaint will be produced unredacted except that names and other

identifying information of other inmates and families contained in the affirmation shall be redacted; and (b) affirmations by inmates who are not one of the thirty-three (33) named Plaintiffs will be redacted to remove all identifying information of the affirming inmate and all other inmates and families referenced therein until further agreement of the parties or order of the Court. Each affirmation by an inmate who is not one of the thirty-three (33) named Plaintiffs will be uniquely numbered prior to production to Defense Counsel, so that each redacted affirmation will be identifiable in further proceedings.

3. The Court contemplates that the Parties' experts will be afforded certain access to the Mississippi State Penitentiary ("MSP") to conduct expert inspections. As part of these inspections, it is contemplated that these experts will have photographs taken, but not video. Any photographs taken as part of the expert inspections shall be for attorneys' and experts' eyes only until the parties agree otherwise or further order of the Court. Nothing in this order, however, shall be construed to prevent the parties from complying with requests from federal law enforcement or federal investigative agencies.

4. Defendants, the MSP, and/or their designee/s including, without limitation, Centurion of Mississippi, LLC ("Centurion"), are authorized to provide to Plaintiffs' Counsel copies of each of the thirty-three (33) named Plaintiff's medical records, including, without limitation, all protected health information ("PHI") and individually identifying health information ("IIHI"). Persons other than Plaintiffs or their counsel obtaining access to unredacted documents containing PHI or IIHI under this Order shall use the information only for purposes of the instant litigation specified by the style above (including appeals and retrials), and shall not use such information for any other purpose. This Order constitutes a "qualified protective order" pursuant to the Privacy Rule, 45 C.F.R. § 164.512(e)(v), promulgated under the

Health Insurance Portability and Accountability Act (“HIPAA”). Nothing in this order, however, prevents the thirty-three (33) named Plaintiffs from utilizing their own medical records for their own benefit, including without limitation, their own health.

5. On February 3, 2020, during a hearing on this matter, the Court requested a digital, aerial map reflecting the premises and units of MSP and a copy of plans showing the layout of units at MSP. Defendants have provided the aerial map to the Court and Plaintiffs’ Counsel for confidential review. Defense Counsel will provide the plans to the Court and Plaintiffs’ counsel for confidential review. The map and plans are for Defendants, Defense Counsel, Plaintiffs’ Counsel, the parties’ experts, and the Court to review, and they shall not be disclosed to any other person or entity without further court order.

6. On February 3, 2020, during a hearing on this matter, the Court requested documentation of all remedial measures taken by Defendants since the filing of this lawsuit. This documentation shall be provided to the Court for *in camera* inspection. The Court will release this documentation, in whole or in part, to Plaintiffs to the extent the Court deems said release appropriate.

7. Finally, the Court ordered Defendants to make available to Plaintiffs at MSP and during Plaintiffs’ experts’ inspection certain documents. *See* Rec. Doc. 48, 49. By agreement of the parties, copies of documents made available during the inspection have been, or will be, provided to Plaintiffs. Those documents are subject to this Protective Order and, other than those documents which are publically available,¹ shall not be provided or shown to anyone other than Plaintiffs’ Counsel, Defendants’ Counsel, the parties’ experts, and the Court until further agreement of the parties or order of the court. Additionally, to the extent they are not already

¹ For example, in accordance with Miss. Code. Ann. §25-61-1, et seq. and MDOC Policy 05-05, et seq. (effective April 1, 2007), the Mississippi Department of Corrections’ policies, standard operating procedures, and forms are, and remain, a matter of public record.

covered herein, any other documents that: (1) are not publically available; (2) are designated as confidential; and, (3) have been produced or will be produced to Plaintiffs as part of this preliminary discovery process are subject to this Protective Order and shall not be provided or shown to anyone other than Plaintiffs' Counsel, Defendants' Counsel, the parties' experts, and the Court until further agreement of the parties or order of the court. Nothing in this order, however, shall be construed to prevent the parties from complying with requests from federal law enforcement or federal investigative agencies.

8. Attached to this Protective Order as Exhibit A is a Non-Disclosure Agreement that must be executed by any expert for Plaintiffs or Defendants who is in receipt of any of the above discussed documents, photographs, or information that is subject to this Protective Order.

SO ORDERED, this 22nd day of April, 2020.

/s/Debra M. Brown
UNITED STATES DISTRICT JUDGE

EXHIBIT A

NON-DISCLOSURE AGREEMENT

I, _____, hereby certify that I have been provided a copy of the Agreed Protective Order entered by the United States District Court for the Northern District of Mississippi in the case styled *Michael Amos, et al. v. Tommy Taylor, et al.*, Case No. 4:20-CV-007-DMB-JMV, and agree to comply with, and be bound by, its terms and conditions. I understand that a violation of the Agreed Protective Order is punishable by contempt of Court.

Date: _____

Signature: _____

Printed Name: _____