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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

SAINT ALPHONSUS MEDICAL CENTER - NAMPA, INC., et al.,

Plaintiffs,

vs.

ST. LUKE'S HEALTH SYSTEM, LTD.,

Defendant.

Case No. 1:12-CV-00560-BLW
(Lead Case)

GOVERNMENT PLAINTIFFS' MOTION REGARDING IMPLEMENTATION OF COURT'S JULY 3, 2014 ORDER (DKT. 511) CONCERNING ATTORNEY EYES ONLY DESIGNATIONS

FEDERAL TRADE COMMISSION and STATE OF IDAHO,

Plaintiffs,

vs.

ST. LUKE'S HEALTH SYSTEM, LTD. and SALTZER MEDICAL GROUP, P.A.,

Defendants.

Case No. 1:13-CV-00116-BLW

On July 3, 2014, this Court ruled on hundreds of "attorney eyes only" (AEO) designations asserted by the private parties to this litigation as well as various third parties (Dkt. No. 511). Those designations cover trial testimony, deposition testimony,

and exhibits admitted in the case. The Court ordered that the parties, within 30 days of its order, contact the Clerk's Office to arrange for the public disclosure of any evidentiary material that was previously sealed pursuant to a designation which the Court has now denied. In so doing, the Court assumed that it still has jurisdiction to manage the logistics of the public disclosure, notwithstanding the pending appeal.

Because they act in the public interest, the Federal Trade Commission and the Attorney General's Office (government plaintiffs) also wish to ensure that the public has access to non-confidential evidentiary materials relevant to this case. Indeed, during the trial, the government plaintiffs assisted the private parties and the Court in making redacted, public versions of trial and deposition testimony available to the public as soon as practicable. To implement the Court's Order efficiently and effectively, the government plaintiffs therefore request the Court:

(1) Rule on the AEO designations listed below. While the Court ruled on hundreds of such designations, it appears that a number of designations have not yet been ruled upon. The list below at the end of this motion identifies the trial transcript, deposition transcript, or exhibit for which a ruling is still needed, as well as the identity of the party that made the AEO designation.

(2) Order the affected parties and third parties to file, by August 1, 2014, any motions for reconsideration or redaction related to the Court's Order.

(3) Order the affected parties and third parties, within seven days of the Court's ruling on the AEO designations listed below and any

motion for reconsideration or redaction, to provide the government plaintiffs with electronic copies of all of their exhibits that have been ruled not to be AEO or have been redacted to remove AEO, where appropriate and as ordered by the Court. The government plaintiffs then shall assemble and provide the Clerk's Office with a thumb drive of all of these exhibits for inspection by the public.

(4) Order the government plaintiffs, within ten days of the Court ruling on the AEO designations set forth below and any motion for reconsideration or redaction, to file on CM/ECF updated trial transcripts and deposition transcripts, taking into account the Court's Order and any rulings on the AEO designations below as well as any motions for reconsideration or redaction.

(5) Order that all materials which the Court has previously ordered unsealed, and which are not the subject of a motion for reconsideration or redaction, will no longer be subject to the restrictions in this Court's Order Governing the Production and Exchange of Confidential Information dated January 16, 2013 (Dkt No. 64), and may be freely disclosed, effective August 2, 2014.

The AEO Designations still requiring ruling are as follows:

Imagine's deposition testimony designated AEO, on which the Court has not yet ruled:

Butterbaugh 83:5-25
Butterbaugh 84:24-25
Butterbaugh 85:11-18
Butterbaugh 102:1-102:22

Butterbaugh 103:16-25
Butterbaugh 104:1-23
Butterbaugh 106:7-10
Butterbaugh 108:14-24
Butterbaugh 109:5-25
Butterbaugh 110:2-10
Butterbaugh 111:19-112:1
Butterbaugh 112:7-12
Butterbaugh 113:22-114:11
Butterbaugh 137:7-8
Butterbaugh 150:17-24

Exhibits designated AEO by Imagine, on which the Court has not yet ruled:

1002
1003
1004
1005
1006
1416
2203

Exhibit IPN designated AEO, on which the Court has not yet ruled:

2214

Micron's trial testimony designated AEO, on which the Court has not yet ruled:

604:17-615:4

Exhibits designated AEO by Micron, on which the Court has not yet ruled:

1169
1172
2203
2241
2260

Exhibits Regence designated AEO, on which the Court has not yet ruled:

1483
1484
1485

2218
2220
2259

St. Al's trial testimony designated AEO, on which the Court has not yet ruled:

767:4-6
883:12-16, 25
902:22-24
903:7-8
903:19-21
950:3
981:12-982:24
1249: 1-5, 17-21
1256:1-8, 10-15
1269:1-1273:2
2894:18-20
2894:22-2895:6
2895:9-19
2895:21-2896:10
3190:9-3192:1
3192:7-3196:1
3200:20-3203:17
3203:20-3204:8
3204:10-3208:24
3209:7-12
3209:17-3211:9
3211:14-3212:9
3212:18-3213:25
3276:1-3277:6

St. Al's deposition testimony designated AEO, on which the Court has not yet ruled:

Brown 191:17-25
Jeffcoat 169:18-22
Petersen 225:21-226:16
Roach 226:6-14

Exhibits St Al's designated AEO, on which the Court has not yet ruled:

2188
2190
2202
2211
2212
2213
2216
2233
2234

St Luke's trial testimony designated AEO, on which the Court has not yet ruled:

267:17-268:7
268:13-22
304:2-306:15
368:15-369:8
371:4-10
735:16-736:14

St Luke's deposition testimony designated AEO, on which the Court has not yet ruled:

Billings 95:7-25
Billings 102:5-8
Billings 102:12-103:2
Billings 103:4, 6-8
Billings 103:9-19
Billings 104:3-17
Billings 104:18-105:1
Billings 105:15-106:16
House 143:3-144:2
Page 53:1-3
Reiboldt 136:7-137:4
Reiboldt 137:10-138:5
Reiboldt 138:22-140:6
Reiboldt 147:22-148:25
Reiboldt 156:19-157:8
Reiboldt 157:19-158:5
Reiboldt 158:10-159:4
Roth 114:1-25
Roth 115: 2-7
Roth 158: 8-25

Stright 214:25-215:7
Stright 215:9-216:19
Stright 219: 16-20
Swanson 254:18-255:3

Saltzer's trial testimony designated AEO, on which the Court has not yet ruled:

3285:15-16

Demonstrative exhibits designated AEO by Saltzer, on which the Court has not yet ruled:

Demo, et al.

Treasure Valley Hospital's trial testimony designated AEO, on which the Court has not yet ruled:

3195:25-3196:1

Respectfully submitted July 25, 2014

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25th day of July, 2014, I electronically filed the foregoing document with the U.S. District Court. Notice will automatically be electronically mailed to the following individuals who are registered with the U.S. District Court CM/ECF System.

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