

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 15-cv-20782-MARTINEZ/GOODMAN

DENNIS MONTGOMERY,

Plaintiff,

v.

JAMES RISEN et al.,

Defendants.

DEFENDANTS' UNOPPOSED MOTION TO SEAL

In accordance with Local Rule 5.4 and the Protective Order Concerning Confidential Information, ECF No. 89, Defendants request that the Court enter an order sealing—through December 17, 2015—three documents (the “Proposed Sealed Documents”) that Defendants will file in connection with their motion for summary judgment. In support of this request, Defendants state as follows:

1. On July 13, 2015, Judge Goodman entered a Protective Order Concerning Confidential Information (the “Protective Order”). ECF No. 89. Among other things, the Protective Order permits parties to designate certain material that they produce as confidential, *see* Protective Order ¶¶ 1–3, and establishes procedures for filing confidential information under seal, *see id.* ¶¶ 8–9.

2. In accordance with the Protective Order, Plaintiff designated as confidential the Proposed Sealed Documents, which are medical records that contain information about Plaintiff’s medical condition in May 2014.

3. As part of Defendants' motion for summary judgment, Defendants will cite the the Proposed Sealed Documents.

4. Defendants take no position on whether the Proposed Sealed Documents should remain under seal. Before filing this request, Defendants' counsel conferred with Plaintiff's counsel about whether Plaintiff wanted the Proposed Sealed Documents to be filed under seal, and Plaintiff's counsel said yes.

5. According to the Protective Order, "the party seeking to preserve the secrecy of the document"—here, Plaintiff—"will have three (3) calendar days from the date [that the proposed sealed filing] is filed in which to make the showing required by law in order to maintain the Protective Order as to such document." Protective Order ¶ 8.

6. Thus, the proposed duration of the requested sealing of the Proposed Sealed Documents should be through three calendar days from today—or December 17, 2015. But if by December 17, 2015, Plaintiff does not make the showing required by law in order to maintain the Protective Order as to the Proposed Sealed Documents, then the Proposed Sealed Documents should be unsealed.

7. A proposed order is attached.

WHEREFORE, Defendants request that the Court enter an order sealing—through December 17, 2015—the Proposed Sealed Documents.

Dated: December 14, 2015

Respectfully submitted,

s/Brian W. Toth
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CERTIFICATE OF SERVICE

I certify that on December 14, 2015, I filed this document with the Clerk of Court using CM/ECF, which will serve this document on all counsel of record. I further certify that on December 14, 2015, I will serve the Proposed Sealed Documents by e-mail on all counsel of record in this action.

s/Brian W. Toth