

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

T.R. , P.R., K.W. and A.M. on behalf of)
themselves and others similarly situated;)
and Protection and Advocacy for People)
with Disabilities, Inc.,)

Plaintiffs,)

vs.)

State of South Carolina; South Carolina)
Department of Corrections; and Jon)
Ozmint, as Director of the South)
Carolina Department of Corrections,)

Defendants.)

Civil Action No. 2005-CP-40-02925

ORDER AMENDING JANUARY 8,
2006 PROTECTIVE ORDER AND
ESTABLISHING PROCEDURE FOR
DISSEMINATION OF DISCOVERY
INFORMATION

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JEANETTE C. BRIDE

RICHLAND COUNTY
FILED

The Plaintiffs have moved to amend the January 8, 2006 Protective Order in several respects. Each amendment sought by Plaintiffs is considered in turn below, as is Corrections Defendants' response.

1. The Plaintiffs move to include guardians *ad litem* among the list of persons identified in section 8 of the Protective Order of January 8, 2006 to whom Confidential Information may be disclosed. The Defendants do not object. Thus, I find that the Protective Order should be and hereby is amended including guardians *ad litem* among the list of persons identified in the above section and Order to whom Confidential Information may be disclosed. The Confidential Information may not be disseminated beyond the guardians *ad litem* to the inmates. Further, I hereby deny Plaintiffs' oral motion to allow inmates access to any or all of their Confidential files.

2. Plaintiffs propose to add a provision to the Protective Order by which a party may designate Confidential Information as "Confidential – For Attorneys' Eyes Only," including among those within this designation counsel of record and counsels' employees, as well as in-house counsel of any party. The Department does not object to the authorization of the designation as such, but observes that occasions may arise in which the designation "Confidential – For Attorneys' and Experts' Eyes Only" may be more appropriate. The Plaintiffs do not object to the addition of the alternative designation. Thus, I find that the Protective Order should be and hereby is amended by authorizing a party to designate Confidential Information in either of the following ways: " Confidential – For Attorneys' Eyes Only" or "Confidential – For Attorneys' and Experts' Eyes Only." If any party objects to the application of either designation, the party may raise the matter with the Court as provided by the terms of the Protective Order.

3. The Plaintiffs also have moved the Court for permission to disseminate information obtained during discovery in this case. Specifically, Plaintiffs' counsel requests to be allowed to provide photographs of Plaintiff inmates, portions of inmate interviews, and supporting SCDC documentation concerning the plight of seriously mentally ill inmates within the Corrections system to advocacy groups, media outlets, and the public in general.¹ The Corrections Defendants have objected, arguing that this case should not be tried in the media, the public release of inmate information does not further the ends of this litigation, and SCDC operations and individual inmates may be endangered thereby. After a hearing, the Court took this matter under advisement for analysis and review.

¹ By Order dated August 25, 2010, the Court authorized Plaintiffs to photograph and record interviews of inmates. The Department asserted that Plaintiffs should be restricted in the use of the photograph and recordings. Plaintiffs contested the Department's position. The Court took the question under advisement and incorporates its decision in this Amended Protective Order.

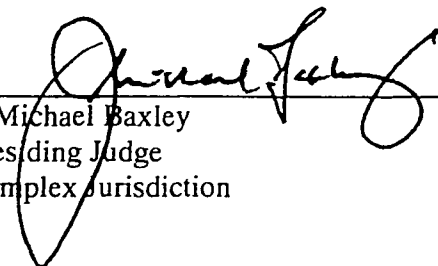
Our judicial branch of government is a public entity. One of the significant benefits derived by society from our litigation system is the provision of an open forum where issues are debated and contested. In making this decision, the Court is cognizant of the concerns of the Corrections Defendants that they will be unilaterally attacked in the media without an opportunity to respond. In an effort to achieve a balance, the Court will allow the following procedures for the dissemination of discovered materials:

a. Prior to disseminating any discovered material, the Plaintiffs must first notify the Defendants and provide a full copy of the material to be released, including any explanation or release that may accompany the material. After service of the information on counsel for the Defendants, the Defendants shall be given ten (10) days to provide a response to the Plaintiffs. Thereafter, Plaintiffs shall be required to include the Defendants' response in any dissemination of any such material to any and all outlets. If Defendants do not reply within 10 days, Plaintiffs may proceed unilaterally.

b. If Defendants have a specific objection that the release of the information violates Court rules or the confidentiality Order already issued in this case, poses a threat to SCDC operations, or jeopardizes the safety of certain inmates or personnel, the Defendants may apply to the Court by motion to prevent the release. Once such motion is filed, Plaintiffs shall not release the information until the Court has ruled on the matter.

c. These restrictions shall remain in place until the trial of this case, but shall no longer be in effect once the actual trial begins.

IT IS SO ORDERED.



J. Michael Baxley
Presiding Judge
Complex Jurisdiction

Hartsville, South Carolina

November 10, 2010