

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**PLEAS, et. al.**

**Plaintiffs,**

**vs.**

**HELEN JONES-KELLEY, in her  
capacity as Director of the Ohio  
Department of Job and Family  
Services, et. al.**

**Defendants.**

**CASE NO. 2:08 CV 421**

**JUDGE GRAHAM  
MAGISTRATE JUDGE KING**

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**PROTECTIVE ORDER**

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**WHEREAS** the parties may produce information or documents during the discovery process that contain sensitive or confidential financial and medical information;

**WHEREAS** the parties are interested in permitting discovery to proceed without delay occasioned by possible disputes regarding the confidential nature of certain information;

**NOW THEREFORE**, upon good cause shown and upon consent of the appearing parties, it is hereby ORDERED that:

1. If a party in good faith believes that any written, recorded or graphic material, tangible item or any other form of information produced in this action pursuant to pre-trial discovery, court order, or agreement of the parties contains sensitive or confidential financial or medical information, the party may designate such material as

"Confidential" either by stamping the word "Confidential" on the document, by any other means provided for in this Protective Order, or by other reasonable method as agreed to by the parties. The designation of documents and information as "Confidential" by any party shall not supersede any federal or state law, including, but not limited to, the Ohio Public Records Act. "Confidential" information includes protected health information, as defined in 45 C.F.R. 160.103 and 164.501, and confidential information concerning Medicaid recipients that must be safeguarded pursuant to R.C. 5101.27 and 42 C.F.R. 431.300-431.306.

2. No confidential financial or medical information or material may be disclosed except to the following:

- a. Counsel of record, "of counsel," and their employees, co-workers (including, but not limited to, secretaries, paralegals, and administrative and support staff), representatives, contractors, and agents;
- b. outside experts and consultants providing assistance in the above-captioned action, as well as their administrative and support staff;
- c. the parties and all potential witnesses;
- d. such officers, directors, partners, employees, co-workers, representatives, contractors, and agents of the parties that are required to provide assistance to counsel in this case;
- e. the Court, all subsequent appellate courts, and their personnel (including, but not limited to, court reporters, stenographers, and other court personnel);

- f. Witnesses in the course of pre-trial and trial proceedings;
- g. Jurors;
- h. Any other person to whom the producing party agrees in writing (or as otherwise provided in the instant Protective Order)
- i. Any other person to whom disclosure is required by federal and state law, including, but not limited to, the Ohio Public Records Act.

3. Before making disclosure of confidential financial or medical information to outside experts and consultants or potential witnesses (other than potential witnesses who are also officers, directors, partners, employees, co-workers, representatives, contractors, and agents of the parties), the party must obtain an agreement in writing from such person reciting that he or she has read a copy of this Protective Order and agrees to be bound by its provisions.

4. If one party has reason to believe that a person to whom confidential financial and medical material has been disclosed has violated the terms of this Protective Order, the party shall provide a signed statement setting forth the basis for such belief. The parties will then make a good faith effort to resolve the dispute. If the parties cannot resolve the dispute, it shall be resolved by the Court pursuant to the Federal Rules of Civil Procedure.

5. Notwithstanding any other provisions of this Protective Order, this Order has no effect upon any party's use of its own confidential material.

6. No party shall be obligated to challenge the propriety of the designation of any information or documents as "Confidential," and a failure to do so shall not preclude

any subsequent objection to such designation, or a motion for authorization to disclose such confidential material to persons not referenced herein or otherwise modify the provisions of this Protective Order.

7. Any party may, at any time, notify another party (or, if applicable, a non-party) in writing (or, in the case of a deposition, either on the record or in a subsequent writing) of its objection to the designation of any information or document as "Confidential." In such event, the parties shall attempt to resolve the dispute in good faith on an expedited and informal basis. If the dispute cannot be resolved in an informal and expeditious manner, either party may, on reasonable notice, apply for a ruling from the Court on such issue. The material in issue shall continue to be treated as confidential until the Court orders otherwise.

8. Inadvertent production of any financial or medical information without a "Confidential" designation shall not be deemed to waive a party's claim to its confidential nature, or estop such party from designating information or documents as "Confidential" at a later date. Disclosure of said document or information by the other party prior to a "Confidential" designation shall not be deemed a violation of this Protective Order.

9. All parties agree to protect personal privacy pursuant to Southern District of Ohio Civil Rule 26.2 by omitting or, where inclusion is necessary, partially redacting from court filings, social security numbers, full dates of birth, bank or other financial account numbers, names of minor children, or other personal information.

10. Any information or document containing confidential financial or medical information or other personal identifying information regarding plaintiffs shall be filed

under seal with the Court. Plaintiffs and their counsel shall have access to these sealed documents.

11. Throughout, and after the conclusion of, this litigation (including any appeals), the restrictions set forth herein shall continue to be binding upon the parties and all other individuals subject to the terms of this Protective Order.

12. Any party designating financial or medical information or documents as "Confidential" may, within sixty (60) days after the final termination of this action and all appeals resulting therefrom, submit a written request to the other party for return of such information or documents. The party who possesses the confidential information shall return such information within sixty (60) days of receipt of such written request, or the party shall destroy all such confidential information (including all copies made) at the end of the litigation. This paragraph shall not apply to attorney work product, any documents or information that are already part of the Court record, or any information or documents that are subject to disclosure, or have already been disclosed, under federal and state law.

13. Nothing in this Order shall prevent any party from seeking amendments broadening or restricting the rights of access to or the use of confidential material or any other modification of this Protective Order.

14. Nothing in this protective order shall prevent Defendants from using or disclosing Confidential Material, or any other information or material, for a purpose related to the administration of a program administered or supervised by ODJFS or any other government entity, including without limitation determining or reviewing a

Plaintiff's eligibility for benefits, items, or services. Defendants shall not be required to destroy any information used for the purposes described in this paragraph.

**IT IS SO ORDERED.**

S/ James L. Graham

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**JUDGE**

**By:/s/ Michelle F. Atkinson**

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**By:/s/ Ara Mekhjian\***

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\* via telephone consent May 14, 2008