

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION**

WILLIAM THORPE, *et al.*,

Plaintiffs,

v.

VIRGINIA DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendants.

Civil Case No. 2:20-cv-00007-JPJ-PMS

**PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION TO
COMPEL THE PRODUCTION OF DOCUMENTS**

TABLE OF CONTENTS

INTRODUCTION	1
BACKGROUND	1
A. The Discovery At Issue.....	1
B. The Parties Agree the Discovery Sought is Relevant	2
C. VDOC Blocks Production Based On the Absence of Medical Waivers	2
D. VDOC Blocks Additional Discovery Based On the Absence of Medical Waivers	4
ARGUMENT	5
A. Federal Law Governs Discovery in this Case and Permits Discovery of the Requested Health Materials.....	5
B. The Virginia Health Records Privacy Act Does Not Prevent Production of the Requested Health Materials	6
C. Even if the Virginia Health Records Privacy Act Applies, Good Cause Exists for the Production of the Requested Health Materials	8
CONCLUSION.....	11

TABLE OF AUTHORITIES

Page(s)

CASES

<i>Cappetta v. GC Servs. Ltd. P'ship</i> , 266 F.R.D. 121 (E.D. Va. 2009)	7
<i>Eramo v. Rolling Stone LLC</i> , 314 F.R.D. 205 (W.D. Va. 2016)	5
<i>Herbert v. Lando</i> , 441 U.S. 153 (1979)	5
<i>Nw. Mem'l Hosp. v. Ashcroft</i> , 362 F.3d 923 (7th Cir. 2004)	7
<i>Pearson v. Miller</i> , 211 F.3d 57 (3d Cir. 2000)	6, 7
<i>Shriner v. Annapolis City Police Dep't</i> , 2012 WL 959380 (D. Md. Mar. 19, 2012)	7
<i>Stewart v. VCU Health Sys. Auth.</i> , Civil No. 3:09cv738-HEH, 2011 U.S. Dist. LEXIS 172357 (E.D. Va. Aug. 22, 2011)	10
<i>United States v. Sutherland</i> , 143 F. Supp. 2d 609 (W.D. Va. 2001)	10
<i>Vannoy v. FRB of Richmond</i> , 2014 WL 2601765 (E.D. Va. June 10, 2014)	8, 9, 10
<i>W.S. v. Daniels</i> , 258 F. Supp. 3d 640 (D.S.C. 2017)	7, 9
<i>Watson v. Lowcountry Red Cross</i> , 974 F.2d 482 (4th Cir. 1992)	9

STATUTES AND RULES

45 C.F.R. § 164.512(e)	5
Fed. R. Civ. P. 26	7, 11
Va. Code Ann. § 32.1-127.1:03 (2023)	3

INTRODUCTION

Plaintiffs seek an order directing Defendant Virginia Department of Corrections (“VDOC”) to produce documents concerning putative class members’ health records. Although VDOC agrees that the requested discovery is relevant, VDOC objects to production because it claims that Virginia Code Annotated § 32.1-127.1:03 (the “Virginia Health Records Privacy Act”) prohibits such discovery absent either (i) consent from each putative class member whose health records are at issue, or (ii) a court order compelling their production for good cause. But the Virginia Health Records Privacy Act does not apply here and, even if it does, there is good cause to order the production of these highly relevant documents, and there are procedures in place—such as the operative Protective Order—which ensure that any sensitive health information will not be disclosed publicly and will be used only for the purposes of this case.

Plaintiffs should not be required to bear the inordinate burden of requesting and obtaining additional Medical Waivers (described further below) to obtain discovery that VDOC concedes is relevant. Plaintiffs request that the Court issue an order finding that the Virginia Health Records Privacy Act is not applicable to this federal question case and directing production of the requested records. In the alternative, should the Court find the Virginia Health Records Privacy Act applies, Plaintiffs request an order directing the discovery on the grounds that Plaintiffs satisfied the good cause requirement under the statute.

BACKGROUND

A. The Discovery At Issue

Plaintiffs seek the production of documents/communications concerning the below categories of information as to both named Plaintiffs and putative class members:

- Medical and mental health evaluations, treatments, services, or transfers, including assignments of mental health codes (Ex. 1, Plaintiffs’ First Set of Requests for Production Nos. 35, 36, 37, 39, 41, 43; Ex. 2, Plaintiffs’ Third Set of Requests for

Production Nos. 1, 2, 8, 10, 13; Ex. 3, Plaintiffs' Fifth Set of Requests for Production No. 3);

- Disability assessments (Ex. 2, Plaintiffs' Third Set of Requests for Production Nos. 3, 10);
- Mental health and physical health-care related grievances (Ex. 1, Plaintiffs' First Set of Requests for Production No. 40; Ex. 2, Plaintiffs' Third Set of Requests for Production No. 4);
- Self-harm attempts and behavior (Ex. 1, Plaintiffs' First Set of Requests for Production No. 38; Ex. 2, Plaintiffs' Third Set of Requests for Production No. 6; Ex. 3, Plaintiffs' Fifth Set of Requests for Production Nos. 1, 2);
- Disability accommodations (Ex. 2, Plaintiffs' Third Set of Requests for Production Nos. 11–12).

(the “Requested Health Materials”).

B. The Parties Agree the Discovery Sought is Relevant

The Requested Health Materials are relevant to Plaintiffs' Eighth and Fourteenth Amendment claims that Defendants are aware of and, in fact, exacerbate the substantial risk of harm that Plaintiffs suffer in the Step-Down Program, and that Defendants' failure to provide adequate process or review of whether there is a valid reason for an individual to remain in solitary confinement has caused Plaintiffs' injuries. *See, e.g.*, Compl., ECF No. 1 ¶¶ 231–35, 248–49. The Requested Health Materials are also relevant to Plaintiffs' claims that VDOC discriminates against putative class members with mental disabilities on the basis of their disabilities, in violation of the Americans with Disabilities Act of 1990 (the “ADA”) and Section 504 of the Rehabilitation Act of 1973 (the “RA”). *See, e.g., id.* ¶¶ 253–254, 258, 263–64. VDOC did not object to production of the Requested Health Materials as to putative class members on the basis of relevance.

C. VDOC Blocks Production Based On the Absence of Medical Waivers

VDOC objects to producing the Requested Health Materials as to putative class members absent an executed Consent for Release of Confidential Health and/or Mental Health Information

Form (“Medical Waiver”) based on the Virginia Health Records Privacy Act, which provides that “except when permitted or required by this section or by other provisions of state law, no health care entity, or other person working in a health care setting, may disclose an individual’s health records.” Va. Code Ann. § 32.1-127.1:03(A) (2023); *see, e.g.*, Ex. 4, Defendants’ Objections and Responses to Plaintiffs’ First Set of Requests for Production, Nos. 35, 36, 38–40; Ex. 5, Defendants’ Objections and Responses to Plaintiffs’ Third Set of Requests for Production, Nos. 1, 2, 4, 6, 8, 10–12; Ex. 6, Defendants’ Objections and Responses to Plaintiffs’ Fifth Set of Requests for Production, Nos. 1, 2, 3.¹ Because the Virginia Health Records Privacy Act permits disclosure of medical records “pursuant to [] written authorization” from the individual to whom the records belong, VDOC agreed to produce such records if Plaintiffs affirmatively reached out to the putative class members and obtained Medical Waivers. *See, e.g.*, Ex. 7 at 28–29 (Sept. 21, 2021 email from D. Fairbanks to R. Hartung).

The Virginia Health Records Privacy Act is not applicable here because federal law governs discovery in federal question lawsuits brought in federal court. Nonetheless, to move discovery forward expeditiously, Plaintiffs agreed to attempt to collect Medical Waivers from the

¹ VDOC does not contest that the types of information in the Requested Health Materials—such as medical evaluations or treatments, incidents of self-harming behavior, or disability assessments—are relevant to Plaintiffs’ claims. It has merely objected that certain aspects of the Requests for Production seeking the Requested Health Materials are overbroad—*e.g.*, “related to screening and appraisal” and “placement in any special housing unit” in Plaintiffs’ Third Set of Requests for Production, Nos. 1 and 2. Ex. 5, Defendants’ Objections and Responses to Plaintiffs’ Third Set of Requests for Production; *accord* Ex. 8 at 5–10 (Dec. 16, 2022 email from M. Letourneau-Belock to D. Fairbanks), 2–5 (Dec. 29, 2022 email from M. Letourneau-Belock to D. Fairbanks). Any objections based on overbreadth or proportionality as to the Requested Health Materials can be readily addressed through negotiations as to specific search terms and custodians. To the extent that Defendants framed their objection to producing information for individuals who were not designated at the Level S or Level 6 Security Level and subject to the Step-Down Program between August 1, 2012 and present in response to Plaintiffs’ Third Set of Requests for Production, No. 13 as one of relevance, Plaintiffs agree that this Request for Production can be restricted to those individuals.

70 putative class members for whom VDOC agreed to produce institutional files, medical and mental health records, and certain exports from VDOC’s “VACORIS” database.² *See id.* at 26 (Oct. 15, 2021 email from D. Fairbanks to R. Hartung), 24 (Nov. 1, 2021 email from R. Hartung to D. Fairbanks). These 70 “class sample members” were selected from a VDOC-produced chart of all VDOC prisoners placed in security level S or 6 status on or after August 1, 2012. Despite Plaintiffs’ diligent efforts, it has been difficult to locate and burdensome to communicate with the 70 class sample members. Certain of them have died, been released from custody, or been deported from the United States. Even those that continue to be housed by VDOC can be difficult to contact to obtain Medical Waivers, given the usual challenges of communicating with incarcerated persons. Plaintiffs communicated these difficulties to VDOC, but VDOC maintained its objections and refused to produce Requested Health Materials without signed Medical Waivers, effectively blocking the production of highly relevant documents. *See, e.g., id.* at 17–22 (emails between D. Fairbanks and R. Hartung); Ex. 8 at 2–5 (Dec. 29, 2022 email from M. Letourneau-Belock to D. Fairbanks).

D. VDOC Blocks Additional Discovery Based On the Absence of Medical Waivers

To make matters worse, on the purported grounds that VDOC does not want to run duplicative searches, VDOC also refuses to search its electronically stored information (“ESI”) for information regarding the health of the class sample members until Plaintiffs confirm they have collected all of the Medical Waivers. *See, e.g., Ex. 8* at 2–5 (Dec. 29, 2022 email from M. Letourneau-Belock to D. Fairbanks). Given the difficulty of obtaining additional medical waivers, VDOC is effectively asking Plaintiffs to agree to reduce the negotiated and agreed-upon 70-

² The “VACORIS” database is an electronic offender information management system used by VDOC.

member class sample to 40 individuals for purposes of producing institutional records, medical and mental health files, and the results of health-related ESI searches.³ VDOC also objects to producing certain computerized data pulls from its VACORIS database as to all putative class members as unduly burdensome because, according to VDOC, it would have to review the outputs to redact certain fields containing medical information for individuals who have yet to provide Medical Waivers.⁴ *See, e.g.,* Ex. 8 at 5–10 (Dec. 16, 2022 email from M. Letourneau-Belock to D. Fairbanks), 2–5 (Dec. 29, 2022 email from M. Letourneau-Belock to D. Fairbanks).

ARGUMENT

A. Federal Law Governs Discovery in this Case and Permits Discovery of the Requested Health Materials

In a federal question case, Federal Rule of Civil Procedure 26(b)(1) requires the production of “any nonprivileged matter that is *relevant* to any party’s claim or defense and proportional to the needs of the case[.]” Fed. R. Civ. P. 26(b)(1) (emphasis added); *see also Eramo v. Rolling Stone LLC*, 314 F.R.D. 205, 209 (W.D. Va. 2016) (citing *Herbert v. Lando*, 441 U.S. 153, 177 (1979) (“[T]he discovery rules are to be accorded broad and liberal construction.”)). Additionally, the federal rules governing the discovery of patient records and health information, the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), permit the disclosure of patient medical records in a judicial or administrative procedure where, as here, there is a HIPAA-qualified protective order in place. 45 C.F.R. § 164.512(e)(ii)(B). For a protective order to be

³ Through extensive efforts, Plaintiffs have obtained 40 of 70 Medical Waivers.

⁴ Before these VACORIS searches can be run and produced, VDOC also needs to update VADOC-00037970. Plaintiffs confirmed that they wanted VADOC-00037970 to be updated on December 13. During a meet and confer on January 5, VDOC confirmed it asked for the chart to be updated and would ask for an update as to timing. To date, VDOC has not produced the updated file or provided an update as to when VDOC expects to be in a position to produce it.

HIPAA-qualified, it must “(A) prohibit[] the parties from using or disclosing the protected health information for any purpose other than the litigation or proceeding for which such information was requested; and (B) require[] the return to the covered entity or destruction of the protected health information (including all copies made) at the end of the litigation or proceeding.” 45 C.F.R. § 164.512(e)(v)(A)–(B).

The Court has already entered a HIPAA-qualified protective order in this case. *See* Stip. Protective Ord., ECF No. 62 (the “Protective Order”). The Protective Order prohibits the parties from using medical information for purposes other than this lawsuit and requires its destruction at the end of the proceedings. *See* 45 C.F.R. § 164.512(e)(v)(A)–(B) (describing a qualifying protective order as one that bars the use of protected information for purposes other than for which it is requested and requires its destruction at the end of the proceedings); Protective Ord. ¶¶ 5(c), 19 (identifying “[m]aterial containing personal, sensitive, and confidential information of Plaintiffs or Defendants or of a third party to whom Plaintiffs or Defendants reasonably believe is owed an obligation of confidentiality with respect to such documents, including, without limitation, Plaintiffs’ medical and mental health records” as “Confidential Materials,” and ordering their destruction at the end of the proceedings). There are no grounds under federal law for VDOC to withhold the Requested Health Materials.

B. The Virginia Health Records Privacy Act Does Not Prevent Production of the Requested Health Materials

VDOC contends that the Virginia Health Records Privacy Act blocks production of the Requested Health Materials, absent an order from this Court or a waiver from each affected putative class member. VDOC’s position is contrary to settled law. State privacy laws cannot be used to preclude discovery allowed under federal law in federal question litigations. *See, e.g., Pearson v. Miller*, 211 F.3d 57, 61 (3d Cir. 2000) (rejecting the argument that state confidentiality

rules should be recognized under federal law in a federal question jurisdiction case); *Shriner v. Annapolis City Police Dep't*, 2012 WL 959380, at *3 (D. Md. Mar. 19, 2012) (explaining that the state public information act does not bar disclosure of discoverable documents on grounds that “discovery in a federal civil action is governed by Rule 26 of the Federal Rules of Civil Procedure”) (citations omitted). Indeed, several circuit courts have held that state privacy statutes with stricter confidentiality provisions than federal law do not proscribe discovery in federal court litigation when jurisdiction is based on a federal question. *See Nw. Mem'l Hosp. v. Ashcroft*, 362 F.3d 923, 925 (7th Cir. 2004) (holding that a stricter state confidentiality law does not apply in federal question suits, and noting that “HIPAA regulations do not impose state evidentiary privileges on suits to enforce federal law”); *Pearson*, 211 F.3d at 61 (district court erred by considering state confidentiality statutes in crafting protective order because “discovery disputes in federal courts are governed by federal law, especially the Federal Rules of Civil Procedure and the Federal Rules of Evidence”).

Although the Fourth Circuit has not addressed the issue, district courts in this Circuit have followed the consistent direction of other circuit courts, noting, for example, that in a civil rights action, state confidentiality statutes do not create a “privilege” within the meaning of the Federal Rules of Civil Procedure that would afford additional protection from disclosure. *See, e.g., W.S. v. Daniels*, 258 F. Supp. 3d 640, 645–46 (D.S.C. 2017) (finding that “a state statute’s mere assertion the records in question are confidential does not make out a sufficient claim the records are privileged within the meaning of the relevant rules” and holding that federal law does not recognize “a privilege directed at the interests of third parties . . . whose interests may be affected by the release of the information here in dispute”); *see also Cappetta v. GC Servs. Ltd. P’ship*, 266 F.R.D. 121, 125 (E.D. Va. 2009) (rejecting plaintiff’s contention that Virginia state privilege law

applies to discovery in a federal question case). Accordingly, the Virginia Health Records Privacy Act does not bar the production of the Requested Health Materials.

C. Even if the Virginia Health Records Privacy Act Applies, Good Cause Exists for the Production of the Requested Health Materials

Even if the Virginia Health Records Privacy Act applies (and it does not), Plaintiffs satisfy the statutory good cause requirement for a court order directing production of the Requested Health Materials. *See* Va. Code Ann. § 32.1-127.1:03(D)(2) (permitting health care entities to disclose medical records “pursuant to court order upon good cause shown”).

To determine whether good cause exists, courts consider five factors: “(i) the particular purpose for which the information was collected; (ii) the degree to which the disclosure of the records would embarrass, injure, or invade the privacy of the individual; (iii) the effect of the disclosure on the individual’s future health care; (iv) the importance of the information to the lawsuit or proceeding; and (v) any other relevant factor.” Va. Code Ann. § 32.1-127.1:03(H)(6). Once a showing of good cause is made, protected health information shall be released. *See, e.g., Vannoy v. FRB of Richmond*, 2014 WL 2601765, at *6 (E.D. Va. June 10, 2014) (finding good cause and ordering disclosure of protected health information). As explained below, the good cause factors overwhelmingly weigh in favor of production here.

Purpose of discovery central to core issues. The first factor in determining good cause is “the particular purpose for which the information was collected.” Va. Code Ann. § 32.1-127.1:03(H)(6). Plaintiffs seek the Requested Health Materials here to evaluate, *inter alia*, how putative class members were harmed by the Step-Down Program and whether any of the putative class members needed accommodations under the ADA or RA that VDOC failed to provide. Since the purpose of the collection goes directly to core issues in this litigation, this factor weighs in

favor of production. *See Vannoy*, 2014 WL 2601765, at *6 (finding that the first factor is satisfied when the information sought is “relevant and central to [the] litigation”).⁵

No negative effects from production. The second factor is “the degree to which the disclosure of the records would embarrass, injure, or invade the privacy of the individual.” Va. Code Ann. § 32.1-127.1:03(H)(6). Plaintiffs are seeking the Requested Health Materials as a means to assert legal claims seeking redress on behalf of the putative class members, not to embarrass them or invade their privacy. *See Vannoy*, 2014 WL 2601765, at *6 (finding that “there is little risk of injury or embarrassment” when Plaintiff “intend[ed] to use the information related to his medical experts to establish wrongdoing and/or harm on the part of [Defendant]”).

Additionally, the HIPAA-qualified Protective Order already in place in this case ensures that the Requested Health Materials would only be used for purposes of this litigation and that no personally identifying or sensitive health information would be publicly disclosed. *See* Protective Ord. ¶¶ 5(c), 19. Courts in the Fourth Circuit routinely endorse protective orders as a mechanism to address privacy concerns. *See, e.g., Watson v. Lowcountry Red Cross*, 974 F.2d 482, 489–92 (4th Cir. 1992) (allowing discovery of health records of non-party where district court ordered parties to keep confidential any information learned about the non-party); *W.S.*, 258 F. Supp. at 646 (holding that “[privacy] interests can be more appropriately protected by the Court’s issuing a protective order” than withholding records protected by state confidentiality statute); *United*

⁵ *Vannoy* is a federal question case that assessed the disclosure of substance abuse treatment records under the Virginia Health Records Privacy Act because the Public Health Services Act, *i.e.*, the federal statute and implementing regulations protecting substance abuse treatment records, explicitly permit consideration of state privacy law. Not only did the *Vannoy* Court find that there was good cause to produce the substance abuse records under the Virginia Health Records Privacy Act, *see infra* at Section C, it also held that there was good cause to produce the records under the Public Health Services Act in a litigation involving ADA claims because (i) the plaintiff had no other way to obtain the requested substance abuse records, and (ii) the need for disclosure outweighed any potential injury to the patient. So too here. *See infra* at Section C.

States v. Sutherland, 143 F. Supp. 2d 609, 612 (W.D. Va. 2001) (holding that in the absence of an order issued by a court to disclose medical records, “[t]he other option [] is for the party seeking the information to secure a qualified protective order from the court to limit the use of the medical records”).

Here, the parties entered into a joint stipulated Protective Order to protect, among other things, health-related information of Plaintiffs and unnamed third-parties. *See* Protective Ord. ¶¶ 5(c), 19. The Protective Order, thus, adequately addresses any privacy concerns, and the Requested Health Materials should be produced. *See, e.g., Stewart v. VCU Health Sys. Auth.*, Civil No. 3:09cv738-HEH, 2011 U.S. Dist. LEXIS 172357, at *10 (E.D. Va. Aug. 22, 2011) (granting motion to compel production of medical records and noting that designating the materials as “confidential” under the protective order would ensure inadvertent public disclosure).

No adverse effect on future healthcare. The third factor, which weighs the effect of disclosure on the individual’s future health care, *see* Va. Code Ann. § 32.1-127.1:03(H)(6), similarly weighs in favor of disclosure. The Protective Order ensures that there will be no adverse impact here. The putative class members’ health records will not be disclosed outside of this litigation and, accordingly, should have no impact on their care at all. *See Vannoy*, 2014 WL 2601765, at *6 (finding good cause where no party made a showing of any adverse effects to plaintiff’s healthcare). If anything, disclosure will inure to their benefit as it will shed light on the catastrophic mental and physical impacts of extended solitary confinement inherent in the Step-Down Program.

Information is important to the litigation. The fourth factor is the importance of the information to the lawsuit or proceeding. Va. Code Ann. § 32.1-127.1:03(H)(6). There is no real dispute that the Requested Health Materials bear directly on the impact of the Step-Down Program.

If, however, VDOC is not compelled to produce the Requested Health Materials, Plaintiffs will be prejudiced in their ability to show how the Step-Down Program negatively impacts VDOC prisoners who are subjected to indeterminate periods of solitary confinement and discriminates against individuals with mental disabilities. Thus, the fourth factor weighs in favor of disclosure.

Other relevant factors favor production. Finally, the Court may consider any other relevant factor before issuing an order of good cause. Va. Code Ann. § 32.1-127.1:03(H)(6). As described in detail above, the relevance or probative value of the Requested Health Materials is not contested. Furthermore, as described above, the operative Protective Order ensures confidentiality of any mental or physical health records in the Requested Health Materials. *See supra* at Section A. Thus, there is good cause for the medical and mental health records of putative class members to be produced.

CONCLUSION

This case is in federal court and is grounded in federal question jurisdiction. Therefore, Rule 26 and HIPAA, not any state statute, control discovery of the Requested Health Materials. The Requested Health Materials are relevant and should be produced because adequate safeguards in the form of a HIPAA-qualified Protective Order are in place. Plaintiffs' motion to compel production of the Requested Health Materials should be granted on that basis.

In the alternative, if the Court finds that the Virginia privacy laws apply to discovery of medical records in this action, good cause exists for Defendant to produce the Requested Health Materials without executed Medical Waivers or redactions. Plaintiffs thus request the Court issue an order finding good cause exists and granting Plaintiffs' motion to compel.

Dated: February 13, 2023

Respectfully submitted,

/s/ Jared Frisch

Megan A. Crowley (*pro hac vice*)

Jared Frisch (*pro hac vice*)

Paul Wilson (*pro hac vice*)

Covington & Burling LLP

850 Tenth Street, NW

Washington, DC 20001-4956

Telephone: (202) 662-6000

mcrowley@cov.com

jfrisch@cov.com

pwilson@cov.com

William O'Neil (*pro hac vice*)

Matthew Phelps (*pro hac vice*)

Covington & Burling LLP

The New York Times Building

620 Eighth Avenue

New York, NY 10018-1405

Telephone: (212) 841-1000

woneil@cov.com

mphelps@cov.com

Vishal Agraharkar (VSB #93265)

Eden B. Heilman (VSB #93554)

Matthew Callahan (*pro hac vice*)

ACLU of Virginia

701 E. Franklin Street, Ste. 1412

Richmond, VA 23219

Telephone: (804) 644-8022

vagraharkar@acluva.com

eheilman@acluva.com

mcallahan@acluva.com

Kathryn Ali (VSB #97966)

Ali & Lockwood LLP

300 New Jersey Avenue, NW, Ste. 900

Washington, DC 20001

Telephone: (202) 651-2475

katie.ali@alilockwood.com

Tara M. Lee (VSB No. 71594)

WHITE & CASE^{LLP}
701 Thirteenth Street, NW
Washington, DC 20005
Telephone: (202) 626-3600
tara.lee@whitecase.com

Michael J. Gallagher (*pro hac vice*)
Michelle Letourneau-Belock (*pro hac vice*)

WHITE & CASE^{LLP}
1221 Avenue of the Americas
New York, New York 10020
Telephone: (212) 819-8200
mgallagher@whitecase.com
michelle.letourneaubelock@whitecase.com

Counsel for Plaintiffs