

**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.

CASE NO. 2:20-cv-00007-JPJ-PMS

**JOINT MOTION REQUESTING ENTRY OF
STIPULATED PROTECTIVE ORDER AND FED. R. EVID. 502(d) ORDER**

Class Plaintiffs William Thorpe, Frederick Hammer, Dmitry Khavkin, Gerald McNabb, Gary Wall, Vernon Brooks, Brian Cavitt, Derek Cornelison, Christopher Cottrell, Peter Mukuria, Steven Riddick, and Kevin Snodgrass and Defendants Virginia Department of Corrections, Harold Clarke, Randall C. Mathena, H. Scott Richeson, A. David Robinson, Henry J. Ponton, Marcus Elam, Denise Malone, Steve Herrick, Tori Raiford, Jeffrey Kiser, and Carl Manis (collectively, the “Parties”) jointly move this Court for two orders related to the production of privileged, protected, and confidential information during discovery in this matter. First, under Rule 26(c) of the Federal Rules of Civil Procedure, the Parties request this Court enter the Stipulated Protective Order attached hereto as Exhibit A regarding appropriate protocols to protect from further disclosure of private, sensitive, or confidential information exchanged during discovery in this matter. Second, under Rule 502(d) of the Federal Rules of Evidence, the Parties also request this Court enter the Stipulated Fed. R. Evid. 502(d) Order attached hereto as Exhibit B implementing the protection of non-waiver of privilege should one of the Parties produce privileged or protected information.

Pursuant to Rule 26(c), the Court may, for good cause, issue an order to protect a party or person from whom discovery is sought, including designating who may have access to discovery and requiring that confidential information be treated in a certain manner. The Parties, having conferred in good faith, agree that discovery in this matter will result in the exchange of certain types of information, including, among other types, information about Class Plaintiffs' mental health and the Virginia Department of Corrections' security-related protocols and procedures, that provide good cause for entry of the accompanying Stipulated Protective Order to protect that information from harmful disclosure.

Pursuant to Rule 502(d) of the Federal Rules of Evidence, the Court may order that privilege or protection is not waived by disclosure connected with the litigation pending before the Court. The Parties agree that such an order will be useful in this case.

The Parties, therefore, respectfully request that the Court grant this motion and enter the Stipulated Protective Order attached hereto as Exhibit A and the Stipulated Fed. R. Evid. 502(d) Order attached hereto as Exhibit B. The Parties consent to submission of this motion without a hearing.

Dated: May 26, 2020

Respectfully submitted,

By: /s/ Alyson Cox

Alyson Cox (VSB No. 90646)

Daniel Levin (*pro hac*)

Kristen J. McAhren (*pro hac*)

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CERTIFICATE OF SERVICE

I hereby certify that on May 26, 2020, a copy of the foregoing document was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF system.

Dated: May 26, 2020

Respectfully submitted,

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