

VERMONT SUPERIOR COURT
Washington Unit
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CIVIL DIVISION
Case No. 25-CV-01871

Jordan Houston v. Washington County Mental Health Services, Inc.

ENTRY REGARDING MOTION

Title: Motion to Compel Discovery Responses (Motion: 3)
Filer: Joshua L. Simonds, Esq.
Filed Date: April 09, 2026

A motion hearing shall be scheduled

Plaintiff Jordan Houston has filed a wrongful termination action alleging that she was discharged from her employment with Defendant Washington County Mental Health Services, Inc. on January 13, 2025. Plaintiff alleges that she was fired because she insisted on reporting accurate information about actions related to a double homicide and a patient that was receiving services from Defendant.

Plaintiff has filed the present motion to compel a variety of information that she claims is relevant to her claims. Under Rule 26(b), Plaintiff is entitled to a broad array of information so long as it is relevant to her claim, proportionate to the nature and needs of the claim and not otherwise subject to privilege. V.R.C.P. 26(b).

The parties discovery disputes concern three specific areas: medical records of a third-party patient; employment records of a third-party co-worker; and information that Defendants have not produced under the work-product privilege doctrine.

As noted below, the Court finds that there are a mixture of concerns in each of these categories with whether the information sought is relevant to the claims. There are also issue of protective orders, and finally there is a substantial question as to whether the material withheld from Plaintiff regarding her termination is properly work product and whether Plaintiff has a compelling need for this information.

The Court finds that the parties have left a substantial amount of material in dispute and that both sides need to have further discussions and consultations to narrow and focus the nature

of their dispute. To that end, the Court has offered some initial rulings in this decision and will schedule a hearing to allow the parties to present further argument and to work through the details of the objections. In between this decision and the hearing, the parties are obligated to meet and consult at least one more time to narrow and focus the dispute in light of the Court's decision and expected approach.

Medical Records

Plaintiff's first area in her motion to compel concerns the production of medical records related to the patient whose issues sparked the November incident that Plaintiff claims led to her termination when she tried to record her incident notes. The Court is not entirely persuaded that either the proposed demand for this information is necessary or that the proposed protective order terms is sufficient to protect the privacy of the individual. Looking at Plaintiff's complaint, she claims that her proposed intake notes resulted in her termination. Apart from these notes, it is not clear what other parts of the individual's treatment are necessary for discovery. Plaintiff's complaint does not allege a specific professional relationship with the individual. Plaintiff was an emergency call responder. She handled at least one set of calls in November involving the individual, but she was not an on-going treatment provider to the individual. It is not clear from Plaintiff's argument what relevance the individual's larger records with Defendant would produce relevant to her wrongful termination claim.

The Court will allow Plaintiff to present further argument on this issue as well as further argument regarding proposed protective order provisions that do more than reduce the individual's name to initials and offer some protections from uninvited scrutiny in the public forum of a civil court action.

Gary Gordon's Personnel Records

Plaintiff seeks discovery of various personnel records concerning her supervisor, Gary Gordon. Plaintiff has clarified that she does not seek any portions of Mr. Gordon's records that would contain his social security number, home address, information on his family members, his earnings, or any benefit elections that he has made. While she has not specified what portions of Mr. Gordon's records she seeks, the thrust of Plaintiff's motions concern allegations that she made reports of Mr. Gordon's performance that preceded and prompted her termination.

Mr. Gordon has filed an objection to producing any portion of his employment records. He grounds his objection on two points. First, he contends that there is nothing in his personnel record that concerns Plaintiff or her termination and that nothing relevant would arise from even the limited discovery of her personnel record. Second, he contends that any discovery would result in embarrassment or annoyance to him because his files, which dates back to his initial hire in 1992, has a great deal of personal information.

Under 12 V.S.A. § 1691a, requests for personnel records from other employees is subject to a process where the employee, who is usually a non-party to the civil litigation, has an opportunity to voice any concerns about the discovery and to seek a protective order to minimize any exposure where the discovery of such records are deemed relevant. 12 V.S.A. § 1691a(h); see also *Gay v. Roman Catholic Diocese of Burlington*, Dckt. No. S0748-04 Cncv (Jan. 31, 2006) (“The statute extends existing discovery protections to employees who would otherwise not have standing to seek a protective order under the Vermont Rules of Civil Procedure.”).

In this case, the issue of embarrassment and annoyance are limited by the proposed scope of discovery. Plaintiff has clarified that she does not seek personal information that would extend into either Mr. Gordon’s benefits and salary or to his address and social security information. From the motions, Plaintiff seeks information on any disciplinary action that Defendants have ever taken against Mr. Gordon or a record of any complaints received about Mr. Gordon. Plaintiff appears to be casting a fairly wide net with this request, but it would, at a minimum, include any discipline or records from either her complaints or from the information that she claims supports an allegation that Mr. Gordon failed to follow up on calls that he received. The Court finds that much of the potential embarrassment and annoyance can be addressed through a protective order as discussed below.

There are two questions that are posed by Plaintiff’s request in this area. The first, as Defendant and Mr. Gordon suggest, is that there is not any responsive information in the file that would answer these inquiries. The second is to what extent a protective order is necessary to protect any sensitive information sought.

As to the first issue, Plaintiff has alleged that Mr. Gordon has a history of bad behavior that has gone largely unpunished within Defendant’s organization. Plaintiff’s sources seem to be

premised on second-hand information and belief, rather than specific evidence. More importantly, such behavior has little to do with her termination. Plaintiff alleges that she sought to accurately portray various incidents and accidents that occurred in November 2024. While Mr. Gordon is implicated in those events, Plaintiff's allegations show that the decision to put her on administrative leave was made by Mr. Gordon's supervisor, Karen Kurrle and any decision to terminate came from the organization, which would suggest a decision by either Ms. Kurrle or the Executive Director. Given that he is not a decision-maker regarding her employment, Whether Mr. Gordon does or does not have a history of bad behavior or avoiding negative employment consequences, is not specifically relevant to the present action. It is speculation. The only potentially relevant component of Mr. Gordon's behavior, at this point, is his alleged involvement in the November incidents that are relevant to the events leading up to Plaintiff's suspension and termination. Whether any such records exist relating to this window of relevance is an area that Plaintiff may explore. However, the Court seeks further argument and explanation from Defendants about the alleged absence of any responsive records as well as from Plaintiff regarding the nature and scope of the employment records request.

That brings the Court to the second issue of protective orders. 12 V.S.A. § 1691a (h). Mr. Gordon's relationship to the issues in this case are, at best, tangential. Plaintiff is alleging that Defendant terminated her, at least in part, because she was unwilling to turn a blind eye toward alleged misconduct. Plaintiff's claim, however, lies against Defendant, not Mr. Gordon. Whether he is or is not responsible for any of the events that have been alleged, Mr. Gordon will not have the ability in this litigation to defend his interests. Therefore, there is a risk of embarrassment and annoyance in the discovery of any portion of his employment files that warrant, at this stage, some type of protective order. On this front, the Court seeks input from Mr. Gordon and the parties, but at a minimum, it would be reasonable to envision that any files under this category be disclosed under seal, be limited to use in this litigation, be limited in distribution, and subject to destruction at the end of the litigation.

Work Product Objections

The last general area of discovery raised by Plaintiff concerns materials that have been excluded by Defendant under the work product privilege. V.R.C.P. 26(b)(3). This privilege is

not absolute and is subject to both an analysis of whether the work product fits within the rule (was it prepared by or at the direction of counsel in preparation of litigation) and whether there is a substantial need for the information. *Pcolar v. Casella Waste Systems, Inc.*, 2012 VT 58, ¶¶16–18; see also *Killington, Ltd. v. Lash*, 153 Vt. 628, 641-48 (1990). Additionally, the privilege is limited in substance and not necessarily by the connection with an attorney. As one treatise has noted:

Involvement of counsel is not a guarantee that work-product protection will apply, although it may show that the pertinent documents were prompted by the prospect of litigation. The focus is on whether specific materials were prepared in the ordinary course of business, or were principally prompted by the prospect of litigation. In this regard, “dual purpose” documents may be protected even though a nonlitigation purpose can also be ascertained.

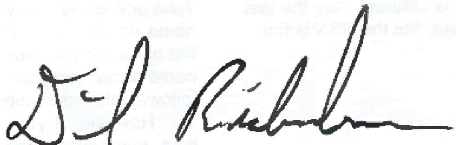
8 Wright & Miller, Fed. Prac. & Proc. Civ. § 2024 (3d ed.) (footnotes omitted).

Plaintiff in the present case alleges a compelling need to understand: (1) what Defendants concluded she did wrong that warranted termination, and (2) why Mr. Gordon was exonerated. While the Court does not fully agree with the relevance of the latter, the former is, indeed potential grounds for disclosure. At the same time, the Court is confronted on both sides with extensive record logs and demands in Plaintiff’s motion to compel. At the hearing, the Court will look to the parties to narrow these issues to specific areas of dispute. Defendants record logs have a sufficient amount of detail, and the Court will look to what portions of these logs are insufficient, in Plaintiff’s view, and what documents she believes to be discoverable.

ORDER

Based on the foregoing, the Court will set this motion for a hearing in the next 30 days to address both the categories of objections and the parties’ arguments regarding them as well as the specific details. The Court will require the parties to consult at one time in light of the briefing and the Court’s Order to narrow the scope of the disputed issues. The Court foresees the hearing as an opportunity for the parties to work through the specifics of their discovery dispute rather than the broader issues, which the Court has sought to address in this decision.

Electronically signed on 7/9/2026 4:46 AM pursuant to V.R.E.F. 9(d)



Daniel Richardson
Superior Court Judge