Vermont Superior Court
Filed 10/13/26
Washington Unit

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

The motion is GRANTED IN PART and DENIED IN PART.

As laid out in the Court's July 9, 2026 preliminary Order on Plaintiff Jordan Houston's motion to compel, the present discovery issues divide into three categories. Following additional argument from the parties at an August 6, 2026 hearing, as well as in-camera review, the Court grants Plaintiff's motion in part and directs Defendants to provide partial and limited discovery as follows and denies the remainder of Plaintiff's motion to compel as explained below.

Gary Gordon Personnel File

The first category of documents that Plaintiff seeks concerns her former co-worker Gary Gordon's personnel file. Both Defendant Washington County Mental Health and Mr. Gordon have objected to the production of his file under 12 V.S.A. § 1691a. At the August 6th hearing, Plaintiff Houston's counsel clarified that she did not seek any portion of Mr. Gordon's file dealing with his personal financial or any private, family information. Instead, Plaintiff only seeks the portions of Mr. Gordon's file that would address any reporting, discipline, or deficiencies in Mr. Gordon's work history with clients, particularly focused on any actions taken or communication around the events of November 13, 14, and 15, 2024.

Defendant has produced Mr. Gordon's files to the Court for an in-camera review on the basis that regardless of relevancy of such incidents, Mr. Gordon's file simply does not contain any of the information that Plaintiff seeks.

The Court has conducted an in-camera review on this basis of discerning if there is any disciplinary/review material that approaches Plaintiff's requests. After reviewing Mr. Gordon's

files, the Court finds that the files lack any document that respond to or fits within Plaintiff's request. Specifically, the Court found no documents that could even loosely fall into the category of raising, addressing, communicating, or addressing either a disciplinary issue or a deficiency in performance. For these reasons, the Court finds that Mr. Gordon's records do not contain relevant or responsive documents, and Plaintiff's request for production of these files is **Denied.**

In light of the completion of this review and denial, Defendant Washington County Mental Health's counsel shall come to the Washington County Superior Courthouse, within 10 days of issuance of this Order, to retrieve these documents for appropriate destruction or re-filing with their client. If counsel does not retrieve these records, the Court will dispose of them through secure shredding.

Medical Records of M.G.

Plaintiff seeks production of a limited number of medical records concerning a patient of Washington County Mental Health that the Court will refer to as M.G. Plaintiff has made a compelling case that she needs access to M.G.'s files with Washington County Mental Health from November 13, 2024 through November 16, 2024. Plaintiff believes that these communications will demonstrate that Washington County Mental Health, directly and through its agents, did not respond properly to the concerns raised and that Plaintiff's subsequent reports are supported by the Defendant's records. This in turn supports would support her contention that she was terminated for either whistleblowing or in retaliation for raising compliance issues.

Defendant's primary objection to production of these limited records is premised on HIPAA and its obligation not to produce such information in the absence of a court order. At the August 6th hearing, Defendants represented that they had contacted M.G.'s counsel after receiving the request and motion to compel. The Court will note that to date M.G. has not sought to intervene or object to the proposed production.

The rules of discovery should be "accorded a broad and liberal treatment to effect their purpose of adequately informing the litigants in civil trials." *Herbert v. Lando*, 441 U.S. 153, 177 (1979). The Vermont Supreme Court has held that Vermont Civil Procedure Rule 34, which requires production of documents in discovery, "should not be subjected to formalistic strictures

which ignore the policy of liberal discovery [.]" *Castle v. Sherburne Corp*., 141 Vt. 157, 166 (1982). In this case, the provisions of HIPAA permit the disclosure of medical information for judicial proceedings "[i]n response to an order of a court or administrative tribunal, provided that the covered entity discloses only the protected health information expressly authorized by such order . . . . or in response to a subpoena, discovery request, or other lawful process . . ." 45 C.F.R. § 164.512 (e)(1)(i) and (ii) (Jun. 25, 2024).

Given the nature of Plaintiff's claims and allegations as well as the limited scope of material sought, the Court, in light of the liberal policy of discovery orders that Defendants produce all medical files associated with M.G. from November 13, 2024 to November 16, 2024 to Plaintiff subject to the following conditions:

1) Defendants shall redact all personal identifying information, specifically, M.G.'s full name (leaving only initials), as well as the full names of any immediate family members or other third parties mentioned in these files. Defendant shall redact any social security numbers or file numbers referring to other medical files.

2) Plaintiff may only use materials produced under this portion of the Order for the purpose of the present litigation.

3) Plaintiff may not share these materials beyond her legal team and any expert witnesses retained or in depositions, motions, or trial.

4) Plaintiff shall not publish or make the materials public or circulate copies to individuals beyond those identified or reasonably included under the prior paragraph (3) and shall file any material produced under this portion of the Order under seal if included as an exhibit to a motion, hearing, or trial.

5) The Parties may raise additional privacy concerns, and the Court may impose additional conditions if there is a risk of loss of privacy or embarrassment to any of the non-party individuals within the materials that are not otherwise addressed or protected by these provisions.

6) At the end of the litigation, Plaintiff and counsel shall safely and securely dispose of any documents produced in response to this portion of the Court's Order.

In compliance with these conditions, Plaintiff's request for materials related to M.G. held by Defendant dating from November 13, 2024 to November 16, 2024 shall be produced, and Plaintiff's motion is **Granted** for these records.

Work Product Objections

The last category of material sought by Plaintiff concerns documents, communication, and other materials created or received by Defendant with any termination or review of her termination from Washington County Mental Health. As the Court has previously ruled, the work product doctrine applies to the post-termination investigations and the work that Washington County Mental Health conducted with legal counsel after Plaintiff's termination. This necessarily includes any investigation Defendants may have performed at the behest or direction of counsel regarding her allegations against Mr. Gordon or Defendant's alleged mishandling of M.G.'s mental health crisis during November 13th to 16th, 2024 period.

Following oral argument at the August 6, 2026 hearing, the Court is not persuaded that there is presently a basis to pierce the work product protection that Washington County Mental Health enjoys around any internal review or investigation as this process is largely outside the scope of the specific termination process that led directly to Plaintiff's dismissal from employment. *Pcolar v. Casella Waste Systems, Inc*., 2012 VT 58, ¶¶ 16-18.

This said, Plaintiff has established that she has a right to the following material, which shall be produced as not part of any investigation or review: (1) any documents or communication by or involving Washington County Mental Health or its employees concerning Ms. Houston's employment from November 15, 2024 until January 13, 2025 when she was terminated. This would include any emails to Mr. Houston but also any communications within the organization or to third-parties, unless the material is subject to attorney-client privilege or part of the review/investigation subject to work product protections. (2) any documents or communication by or involving Washington County Mental Health or its employees discussing any of the statements, actions, or filings by Mr. Jordan or Mr. Gordon regarding M.G. from November 15, 2024 until January 13, 2025, unless the material was produced for the work product review/investigation and subject to the work product exemption or attorney-client privilege.

On this last point, the Court clarifies that any communication or document that was produced or received outside of the work product investigation is not exempt from production merely because it later became part of the investigation. In this respect, such material must be produced as the work product protection does not protect the substantive materials simply because they were reviewed or examined as part of any review/investigation.

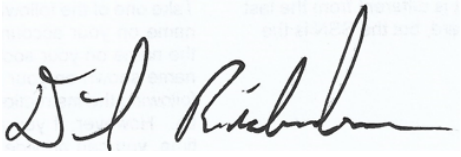
Defendant shall produce all material consistent with this portion of the Order in 30 days or sooner, and Plaintiff's motion is **Granted in part and Denied in part** consistent with this analysis.

ORDER

The Motion to compel is **Granted in part** to the limited production of M.G.'s files from November 13, 2024 to November 16, 2024 and any material concerning Plaintiff, her comments regarding M.G., and her employment produced or received by Defendant and its employees, except as such material may be subject to attorney-client privilege or was produced as part of an attorney work product investigation. The remainder of Plaintiff's motion to compel is **Denied** at this time.

The Court awards no attorney's fees to either party at this time as it finds the dispute to be in good faith and driven by the complicated nature of the parties' discovery circumstances. Given the Court's delay, for which it apologizes, the parties may submit a revised discovery schedule as necessary, which the Court will review and adopt.

Electronically signed on 10/9/2026 6:58 PM pursuant to V.R.E.F. 9(d)



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Daniel Richardson
Superior Court Judge