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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

A.B., C.D., E.F., G.H., I.J., K.L.,
M.N., on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

THE REGENTS OF THE
UNIVERSITY OF CALIFORNIA
and JAMES MASON HEAPS,

Defendants.

Case No. 2:20-CV-09555-RGK (Ex)

**[PROPOSED] ORDER ON JOINT
STIPULATION AND [PROPOSED]
QUALIFIED HIPAA PROTECTIVE
ORDER**

1 **IT IS HEREBY ORDERED**, good cause appearing, that the terms of the Joint
2 Stipulation and [Proposed] Qualified HIPAA Protective Order submitted by the parties
3 meets with the approval of the Court. The Joint Stipulation and [Proposed] Qualified
4 HIPAA Protective Order is hereby adopted as the Order of this Court.

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6 DATE: February 17, 2021

/s/ Charles F. Eick

7 HONORABLE R. GARY KLAUSNER
8 UNITED STATES DISTRICT JUDGE
9 MAGISTRATE JUDGE
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[Additional Counsel on Signature Page]

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15 **UNITED STATES DISTRICT COURT**
 16 **CENTRAL DISTRICT OF CALIFORNIA**

17 A.B., C.D., E.F., G.H., I.J., K.L.,
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 21 UNIVERSITY OF CALIFORNIA
 22 and JAMES MASON HEAPS,
 23

Defendants.

Case No. 2:20-CV-09555-RGK (Ex)

Hon. R. Gary Klausner

24 **JOINT STIPULATION AND**
 25 **[PROPOSED] QUALIFIED HIPAA**
 26 **PROTECTIVE ORDER**

JOINT STIPULATION AND
[PROPOSED] QUALIFIED HIPAA PROTECTIVE ORDER

Pursuant to the Settlement Agreement¹, the Parties have stipulated and agreed, through their respective counsel, to the entry of an Order pursuant to Federal Rule of Civil Procedure 26(c) for the protection of protected health information that may be produced or otherwise disclosed during the course of the Settlement.

Accordingly, pursuant to Rule 26(c) of the Federal Rules of Civil Procedure and 45 C.F.R. § 164.512(e)(1), the Court finds good cause for the issuance of a qualified protective order and ORDERS as follows:

1. “CMIA” is defined herein as the Confidentiality of Medical Information Act, Cal. Civ. Code §§ 56-56.37.

2. CMIA’s primary purpose is to protect an individual’s Medical Information, in electronic or paper format, from unauthorized disclosure.

3. As used in this Order, “Authorization” has the meaning set forth in Cal. Civ. Code § 56.05(a).

4. As used in this Order, “Medical Information” has the meaning set forth in Cal. Civ. Code § 56.05(j).

5. “FERPA” is defined herein as The Family Educational Rights and Privacy Act of 1974, as amended, Pub. L. 93–380, 88 Stat. 1974, 20 U.S.C. § 1232g, and the implementing regulations thereunder, 34 C.F.R. Part 99.

6. FERPA’s purpose is to set out requirements for the protection of privacy of students and prohibit the unauthorized disclosure of personal identifiable information contained in Education Records without the prior written consent of an Eligible Student.

7. As used in this Order, “Education Records” has the meaning set forth in 34 C.F.R. § 99.3.

¹ All capitalized terms herein shall have the same meanings as set forth in the Settlement Agreement.

1 8. As used in this Order, “Eligible Student” has the meaning set forth in 34
2 C.F.R. § 99.3.

3 9. “HIPAA” is defined herein as the administrative simplification provisions
4 of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191,
5 110 Stat. 1936 (1996) and shall incorporate by reference the provisions of the
6 Health Information Technology for Economic and Clinical Health Act (Title XIII of
7 Division A and Title IV of Division B of the American Recovery and Reinvestment
8 Act of 2009, Pub. L. No. 111-5, 123 Stat. 226 (2009)) and the implementing regulations
9 issued thereunder, 45 C.F.R. Parts 160, 162, and 164.

10 10. Confidentiality is required by HIPAA for all medical and mental health
11 records and is necessary to protect private medical information of the Settlement Class
12 Members.

13 11. As used in this Order, “Protected Health Information” has the meaning set
14 forth in 45 C.F.R. § 160.103.

15 12. JND Class Action, Mass Tort & Lien Resolution (“JND”) is serving as the
16 Settlement Administrator under the Settlement Agreement to resolve Settlement Class
17 Members’ health insurance reimbursement claims and/or liens. JND shall implement and
18 administer the Settlement Agreement regarding claim and/or lien identification and
19 resolution for all Settlement Class Members. JND’s duties and functions include (1) the
20 authority to act as agent for Counsel for the benefit of all Settlement Class Members for
21 purposes of claim and/or lien identification and resolution, (2) the authority to receive
22 and release identifiable health information, and (3) the authority to resolve any and all
23 potential recovery claims, either globally or otherwise, for medical items, services, and/or
24 prescription drugs (“medical treatment”) with, but not limited to, Governmental Payors
25 and Medicare Part C and/or Part D Program sponsors, and other healthcare insurance
26 payors (collectively, “Payors”).

1 13. JND shall serve on behalf of Counsel and Settlement Class Members for
2 purposes of claim and/or lien identification and resolution associated with the Settlement.
3 JND shall have the exclusive authority to administer a process with the Centers for
4 Medicare and Medicaid Services (“CMS”) for identification and resolution of Medicare
5 Part A and/or Part B recovery claims on behalf of all Settlement Class Members, either
6 globally or otherwise, who are or were Medicare entitled. JND shall resolve any potential
7 Medicare Part A and/or Part B claim(s) related to the Settlement for those Settlement
8 Class Members who are or were Medicare beneficiaries. Settlement Class Members have
9 been informed that as the agent of their Counsel, JND has the authority to act in such
10 capacity for the benefit of all Settlement Class Members to resolve any and all Medicare
11 reimbursement obligations, consistent with federal law. JND shall provide CMS with a
12 final and verified list of qualified Medicare enrolled beneficiaries.

13 14. This Order shall apply to the use of all information related to Settlement
14 Class Members that JND creates, provides to, or receives from Payors that is or may be
15 protected under CMIA, FERPA, or HIPAA and its amendments, or other applicable
16 federal or state law, including all Protected Health Information,² as defined in 45 C.F.R.
17 §160.103. JND is specifically authorized to provide to and receive from CMS, individual
18 Medicaid Agencies, and all other Payors, as well as the Defendants’ insurers, lists of
19 Settlement Class Members and related information, which identifies those Payors that
20 have or may have asserted against such Settlement Class Members a lien, claim, or right
21 of subrogation for injury-related medical treatment, in lieu of (i) obtaining Authorization
22 from any individual under CMIA; (ii) obtaining the signed, written consent of any
23 Eligible Student under FERPA, if applicable; or (iii) providing copies of individual
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25 ² This includes, but is not limited to, demographic information that could be used
26 to identify Medicare-eligible and/or Medicaid-enrolled Settlement Class Members,
27 information related to Settlement Class Members’ eligibility for and entitlement to
28 benefits under the Medicare program and Medicaid program and information related to
health care services rendered, including the payment of such services.

1 HIPAA authorizations and information on a case-by-case Member basis. Consistent with
2 45 C.F.R. 164.512(e)(1)(i), individual HIPAA authorizations are not required for any
3 disclosure requested or made pursuant to this Order. Any Payor who receives a request
4 from JND, in performance of its functions herein, for a Settlement Class Member’s
5 Protected Health Information is authorized and required to disclose that information to
6 JND, whether in a list or other form.

7 15. JND is also authorized to disclose Settlement Class Members’ Medical
8 Information, Education Records, and/or Protected Health Information to Class Counsel,
9 Defendant’s insurers, and the Special Master and her team in the performance of its
10 functions and duties herein.

11 16. Persons Bound: This Order shall take effect when entered and shall be
12 binding upon all counsel of record and their law firms, the Parties, and persons and
13 entities made subject to this Order by its terms.

14
15 APPROVED AND AGREED TO BY PLAINTIFFS’ CLASS COUNSEL AS
16 AUTHORIZED BY CLASS REPRESENTATIVES:

17
18 BY /s/ Daniel C. Girard DATE: 2/16/2021
19 DANIEL C. GIRARD
20 GIRARD SHARP LLP

21
22 BY /s/ Eric H. Gibbs DATE: 2/16/2021
23 ERIC H. GIBBS
24 GIBBS LAW GROUP

1 BY /s/ Elizabeth A. Kramer DATE: 2/16/2021

2 ELIZABETH A. KRAMER
3 ERICKSON KRAMBER OSBORNE

4
5 APPROVED AND AGREED TO BY COUNSEL AS AUTHORIZED BY THE
6 REGENTS OF THE UNIVERSITY OF CALIFORNIA:

7
8 BY /s/ Jesse Cripps DATE: 2/16/2021

9 JESSE CRIPPS
10 GIBSON, DUNN, & CRUTCHER LLP

11
12 APPROVED AND AGREED TO BY COUNSEL AS AUTHORIZED BY
13 DEFENDANT JAMES MASON HEAPS

14
15 BY /s/ Marc Smith DATE: 2/16/2021

16 MARC SMITH
17 KRANE & SMITH, APC

18
19
20 **ATTESTATION**

21 Pursuant to Local Rule 5-4.3.4(a)(2)(i), the ECF filer attests that the other
22 signatory listed, on whose behalf the filing is submitted, concurs in this filing's content
23 and has authorized this filing.

24 /s/ Daniel C. Girard