

# Exhibit D

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

PHILLIP THOMAS,	)	
	)	
Plaintiff,	)	No. 18 C 5132
	)	
v.	)	Magistrate Judge Sheila M. Finnegan
	)	
CITY OF CHICAGO, <i>et al.</i> ,	)	Coordinated with:
	)	
Defendants	)	<i>In Re: WATTS COORDINATED PRETRIAL</i>
	)	<i>PROCEEDINGS</i> (Judge Wood and Magistrate
	)	Finnegan, 19 C 1717)

**AGREED QUALIFIED HIPAA AND MHDDCA PROTECTIVE ORDER**

Pursuant to Fed. R. Civ. P. 26(c), the Health Insurance Portability and Accountability Act of 1996, codified primarily at 18, 26 and 42 U.S.C., 45 C.F.R. §§ 160 & 164, and 740 ILCS 110/1-17, the parties to this action, by and through their respective counsel, have represented the following to the Court, and the Court finds:

A. The following words and terms are defined for purposes of this agreed, qualified protective order:

1. “Parties” shall mean Plaintiff Phillip Thomas, the City of Chicago, the individual defendants, and any additional party that this court may subsequently recognize as subject to this qualified protective order, and their attorneys.

2. “HIPAA” shall mean the Health Insurance Portability and Accountability Act of 1996, codified primarily at 18, 26 and 42 U.S.C. (2002).

3. “MHDDCA” shall mean the Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/1-17.

4. “Privacy Standards” shall mean the Standards for Privacy of Individually Identifiable Health Information. *See* 45 C.F.R. §§ 160 & 164 (2000).

5. “PHI” shall mean protected health information, as that term is used in HIPAA and the Privacy Standards.

6. “Mental Health Communication” shall mean “communication” as that term is defined in MHDDCA.

7. “Mental Health Record” shall mean “record” as that term is defined in MHDDCA.

B. This Order governs all discovery related to the exchange or dissemination of information or the production of documents designated as PHI.

1. The Parties are familiar with HIPAA, MHDDCA, and the Privacy Standards.

2. The Parties recognize that it may be necessary during the course of the above-captioned litigation (the “Litigation”) to produce, disclose, receive, obtain, subpoena, and/or transmit PHI, Mental Health Communication, and/or Mental Health Record of plaintiff.

C. The Parties agree to the following terms and conditions:

1. The Parties agree to assist each other in the release of PHI, Medical Health Communication, and/or Mental Health Record by waiving all notice requirements necessary under HIPAA, MHDDCA, and the Privacy Standards, but the Parties do not waive notice requirements of Federal Rule of Civil Procedure 45, which addresses the issuance of subpoenas.

2. The Parties and their attorneys are hereby authorized to receive, subpoena, and transmit PHI, Mental Health Communication, and/or Mental Health Record pertaining to Plaintiff Bruce Powell, subject to the conditions outlined herein. All “covered entities” (as defined

by 45 C.F.R. §160.103) are hereby authorized to disclose PHI, Mental Health Communication, and/or Mental Health Record pertaining to Plaintiff to attorneys representing the Parties in the Litigation.

3. The Parties agree to seek, obtain, or disclose Plaintiff's PHI, Mental Health Communication, and/or Mental Health Record only pursuant to formal discovery requests, subpoenas, depositions, or other lawful discovery tools.

4. The Parties agree not to use or disclose the PHI, Mental Health Communication, and/or Mental Health Record released in this proceeding for any other purpose or in any other proceeding. Permitted disclosure includes disclosure to the Parties' attorneys, experts, consultants, court personnel, court reporters, copy services, and/or trial consultants.

5. Prior to disclosing PHI, Mental Health Communication, and/or Mental Health Record to the persons identified in paragraph 4, counsel shall inform each such person that PHI, Mental Health Communication, and/or Mental Health Record may not be used or disclosed for any purpose other than this Litigation. Counsel shall take all other reasonable steps to ensure that persons receiving PHI, Mental Health Communication, and/or Mental Health Record do not use or disclose such PHI, Mental Health Communication, and/or Mental Health Record for any purpose other than this Litigation.

6. The Parties agree to store all PHI, Mental Health Communication, and/or Mental Health Record while it is in their possession according to the Privacy Standards.

7. The Parties agree that after the termination of this Litigation, they shall return all PHI, Mental Health Communication, and/or Mental Health Record (including all copies made) obtained during the course of this Litigation to the attorney representing the person whose PHI, Mental Health Communication, and/or Mental Health Record was released during the course

of this Litigation, and/or to destroy the PHI, Mental Health Communication, and/or Mental Health Record obtained during the course of this Litigation pursuant to the Privacy Standards.

8. Nothing in this protective order shall be deemed a waiver of the right of any party to object to a request for discovery on the basis of relevance, materiality, privilege, overbreadth, or any other recognized objection to discovery.

DATE: \_\_\_\_\_

\_\_\_\_\_  
SHEILA M. FINNEGAN  
Magistrate Judge