

2. As used in this Order, the following terms are defined as follows:

a) "document" shall refer to any written, printed, typed, recorded or graphic matter, however produced or reproduced, of any kind or description.

b) "health care professionals" shall refer to all persons who are responsible for the diagnosis, treatment, and care of persons who seek medical, dental, mental health, and related counseling services, including, but not limited to, the following: physicians; dentists; therapists; counselors; social workers; clinicians; hospital, infirmary, laboratory, and hospice personnel; and to all such persons who work under the supervision of any of the above-named persons.

c) "AIDS service providers" shall refer to all persons who provide services specifically to persons who are HIV-positive or who have AIDS, including but not limited to clergy and pastoral caregivers; personnel associated with AIDS support and legal assistance groups; and to all such persons who work under the supervision of any of the above-named persons.

3. Counsel for either party in producing or obtaining any document falling within the scope of paragraph 1, above, may designate it as containing confidential material. Such designation shall be made by labeling the document "CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER" and may be made by counsel prior to or at the time that a document is produced or thereafter.

4. If counsel for either party wishes to inquire by way of deposition or interrogatory into the contents of a document falling within the scope of paragraph 1 of this Order, that portion of the deposition transcript and/or the interrogatory and interrogatory answers relating to that document (and/or information therein) shall also be designated and labeled as "CONFIDENTIAL -SUBJECT TO PROTECTIVE ORDER" and shall be subject to the provisions of the Order.

5. It shall not be necessary for counsel to designate specific testimony as confidential during the course of any deposition. Rather, counsel may, within five days of the completion of the deposition, notify opposing counsel that the deposition testimony contains confidential material, in which case the entire deposition transcript shall be confidential material for fifteen days following receipt by counsel of the deposition transcript. During this period, counsel shall designate specific portions of the transcript as confidential and only such designated portions shall be confidential material at the conclusion of the fifteen-day period.

6. In the event that any confidential material is included with, or the contents thereof are in any way disclosed in any pleadings, motions, deposition transcripts, exhibits, discovery responses, memoranda, or other paper filed or lodged with the Court, such confidential material shall be kept under seal by the Clerk of the Court until further order of the Court; provided, however, that counsel shall furnish a copy of such paper to the

Court and to opposing counsel, and a duplicate copy thereof (with the confidential material deleted therefrom) may be placed in the public record.

7. The parties shall refrain from referring in open court to confidential information contained in the documents and any testimony regarding confidential information derived pursuant to this Order shall be heard by the Court in camera, either in chambers or in the courtroom in the presence of the jury after the exclusion of all spectators.

8. Prior to the production of any documents falling within the scope of paragraph 1, the parties shall redact from those documents any reference to or information regarding the sexual history of any individual, including any references to that person's sexual orientation, sexual practices, and/or sexual abuse.

9. Prior to the production of any documents falling within the scope of paragraph 1, the parties shall redact from those documents any reference to or information regarding the HIV status of any individual other than Mr. Pena, xxxxxxxx, any aggrieved person subsequently named in this lawsuit, or any other persons who expressly waive their right to maintain the confidentiality of their HIV status.

10. The parties shall refrain from inquiring into the sexual history of any witness or deponent in this matter, including any inquiries into that person's sexual orientation, sexual practices, and/or sexual abuse.

11. The parties shall refrain from inquiring into the HIV status of any witness or deponent in this matter except with respect to Mr. Pena, xxxxxxxx, any aggrieved person subsequently named in this lawsuit, or any other persons who expressly waive their right to maintain the confidentiality of their HIV status.

12. Prior to the production of any documents falling within the scope of paragraph 1, counsel for the parties shall redact from those documents the names of or any personally identifying information about present, past, or attempted patients of Dr. Morvant contained in those records and shall refer to the person or patient by a number unique to that individual for purposes of this litigation, except with respect to Mr. Pena, xxxxxxxx, any aggrieved person subsequently named in this lawsuit, or any other persons who expressly waive their right to maintain the confidentiality of their identities.

13. Nothing in this Order shall prevent or restrict any party or other person to whom this Order is applicable from using for any purpose, documents and information:

(a) rightfully obtained by some means other than through documents, transcripts, or proceedings in this litigation which have been designated as confidential;

(b) which the court has held not to be confidential;

(c) or which since their designation as confidential have lost their confidentiality, except that if such confidentiality was lost by reason of any act by either

party, their counsel, and any of their employees or agents, then the provisions of this Order restricting the use and disclosure of confidential material shall maintain in full force and effect.

14. With respect to any material which has been designated as confidential by any party, any other party may file a motion with the Court asking that such material should not be deemed confidential. Unless and until otherwise ordered by the Court, however, material designated as confidential hereunder shall be treated as confidential and inspected only by the persons identified in paragraph 17 of this Order.

15. Neither this Order nor the designation of any document as confidential material shall be construed as an admission that such document and its contents, or any testimony in respect of such material in a deposition or otherwise, is admissible as evidence in this litigation or in any other proceedings.

16. The confidential documents, records and any confidential information contained therein shall be used by the parties only for the purpose of the prosecution, defense, or settlement of this action or an action against the United States brought by Dr. Morvant or his professional dental corporation, including any appeal, and not for any other purpose whatsoever.

17. Confidential material and information derived pursuant to this litigation may only be disclosed or made available to "qualified persons" defined as follows: a) parties to this

action; b) counsel of record in this action; c) persons regularly employed by the Department of Justice and by counsel for the Defendants who have a particularized need for such material and information; d) Court personnel; e) court reporters and stenographers; f) any expert or consultant retained by the parties (and persons regularly employed by such expert or consultant) whose review of the material is necessary in the parties' prosecution of or defense of this litigation; and g) upon Order of the Court, any other person showing a particularized need for such material and information.

18. Counsel for each party shall ensure that each person to whom disclosure of confidential material is made reads the terms of this Order and agrees to be bound by its terms by signing a copy of this Order.

19. Within 60 days of the completion of this litigation, including any appeal, counsel for the parties shall return to opposing counsel all copies of confidential documents, or extracts thereof, obtained pursuant to this Order. If an action against the United States is brought by Dr. Morvant or his professional dental corporation within 60 days of the completion of this litigation, then counsel for the parties shall return to opposing counsel all copies of confidential documents, or extracts thereof, pursuant to this Order, within 60 days of the completion of the subsequent action.

20. The Order is binding on the parties to this action, counsel for the parties, and any and all of their employees,

agents, consultants, and experts. All such persons are enjoined from disclosing to any person not directly interested in this action any confidential documents or confidential information obtained pursuant to this Order.

21. Either party may, for good cause, seek leave of court, through contradictory motion, to protect the identity of certain persons in order to avoid embarrassment and/or disclosure of their illness or their sexual orientation, including persons who are HIV-positive or who have AIDS.

Done this _____ day of April, 1994

United States Magistrate