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Elizabeth A. Brown
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IN THE SUPREME COURT OF THE STATE OF NEVADA

UNITED HEALTHCARE
INSURANCE COMPANY, a
Connecticut corporation; UNITED
HEALTHCARE SERVICES, INC.,
d/b/a UNITEDHEALT CARE, a
Minnesota corporation; UMR, INC.,
d/b/a UNITED MEDICAL
RESOURCES, a Delaware corporation;
SIERRA HEALTH AND LIFE
INSURANCE COMPANY, INC., a
Nevada corporation; and HEALTH
PLAN OF NEVADA, INC., a Nevada
corporation,

Appellants,

vs.

FREMONT EMERGENCY
SERVICES (MANDAVIA), LTD., a
Nevada professional corporation;
TEAM PHYSICIANS OF NEVADA-
MANDAVIA, P.C., a Nevada
professional corporation; CRUM
STEFANKO AND JONES, LTD.,
d/b/a RUBY CREST EMERGENCY
MEDICINE, a Nevada professional
corporation,

Respondents.

Supreme Court No. 85525
District Court No. A7292978

**OPPOSITION TO UNITED'S
MOTION TO FILE PORTIONS
OF APPENDIX UNDER SEAL**

**OPPOSITION TO UNITED’S MOTION TO FILE PORTIONS OF
APPENDIX UNDER SEAL**

United has not made a showing justifying sealing the appendix as required by SRCR 3. United’s sole basis for sealing the appendix is that “sealing of these volumes is warranted by the present district court orders and in furtherance of the protective order entered into by the parties.” Motion at 2. Neither of these grounds (district court orders or the protective order) justifies sealing the appendix.

In order for documents to be sealed, SRCR 3(4) requires the court to enter written findings that the specific sealing or redaction is justified by identified compelling privacy or safety interests that outweigh the public interest in access to the court record. SRCR 3(4). It further provides that the parties’ agreement alone does not constitute a sufficient basis for the court to seal court records. *Id.* Permitted grounds to find that the public interest in privacy or safety outweigh the public interest in open court records include that the sealing or redaction furthers a protective order entered under NRCP 26(c); the sealing or redaction is necessary to protect intellectual proprietary or property interests such as trade secrets as defined in NRS 600A.030(5); or the sealing or redaction is justified or required by another identified compelling circumstance. SRCR 3(4)(b), (g), (h).

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1 United appears to rely solely on SRCR 3(4)(b), and specifically the
2 protective order attached to its motion, as the ground for sealing here.¹ Yet the
3 protective order provides no support for United’s motion. Its only mentions of
4 sealing are at pages 6, 12, and 13. *See* Motion Exh. 1. At page 6, the parties
5 agreed that Protected Health Information (PHI) might be filed under seal. Here,
6 no PHI is at issue because the parties agreed to redact PHI. 1 App 2. At pages
7 12–13, the parties recognize that a Party seeking to file Confidential or Attorneys’
8 Eyes Only information shall file a motion to file it under seal, but the order does
9 not provide any independent basis for that motion to be granted. Thus, the
10 Protective Order does not support United’s motion.

11 United’s other asserted basis is the “present district court orders.” But in
12 fact, the district court ordered that the disputed material should *not* be sealed,
13 which is the basis of United’s appeal of the order. 1 App 151–52 (Order Denying
14 “Motion to Redact Portions of Trial Transcript”); 1 App 161–66 (Order Granting
15 in Part and Denying in Part Defendants’ Motion to Seal Certain Confidential Trial
16 Exhibits).

17 Finally, SRCR 3(4)(g) and (h) do not support United’s motion, because
18 United does not assert them or make any showing of why they justify sealing
19

20 ¹ There is no NRCP 12(f) order at issue here, and JCRCP 12(f) and 26(c) do not
apply.

1 here. In addition, United does not meet the standard of SRCR 3(5)(b), which
2 provides that a “court record shall not be sealed under these rules when
3 reasonable redaction will adequately resolve the issues before the court under
4 subsection 4 above.”

5 Because United has not provided the justification necessary for this Court
6 to make the required findings under SRCR 3(4), Plaintiffs/Respondents Health
7 Care Providers request this Court to deny the motion. If the Court does grant the
8 motion, the Health Care Providers request that the Court clarify that any such
9 order provides no independent basis for the underlying documents to remain
10 sealed, since no showing justifying their sealing has been made.

11 Dated this 18th day of November, 2022.

12 BAILEY ♦ KENNEDY

13 By: /s/ Dennis L. Kennedy

DENNIS L. KENNEDY

14 SARAH E. HARMON

15 AHMAD, ZAVITSANOS & MENSING PC

16 By: /s/ Jane Langdell Robinson

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18 Joseph Y. Ahmad (*pro hac vice*)

19 *Attorneys for Respondents*

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 18th day of November, 2022, service of the foregoing **OPPOSITION TO UNITED'S MOTION TO FILE PORTIONS OF APPENDIX UNDER SEAL** was made by electronic service through Nevada Supreme Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

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