

DOCKET NO.: CV-14-6025333-S : **COMPLEX DOCKET**
ROBIN SHERWOOD and
GREG HOELSCHER : **J.D. OF WATERBURY**
V. : **AT WATERBURY**
STAMFORD HEALTH SYSTEM, INC.
D/B/A STAMFORD HOSPITAL : **NOVEMBER 18, 2016**

STAMFORD HOSPITAL'S MEMORANDUM OF LAW IN SUPPORT OF
MOTION TO FILE UNDER SEAL

Pursuant to Practice Book § 7-4B, defendant, Stamford Hospital, hereby requests that the Court permit it to file under seal certain confidential exhibits which are cited in defendant's Reply in Support of its Motion for Summary Judgment filed on this date. One exhibit consists of a record pertaining to her communications with Ethicon about the Prolift and it is subject to a Joint Stipulated Protective Order and therefore must be filed under seal.

Practice Book § 11-20A governs the sealing and limiting of disclosure of documents in civil cases. In relevant part, § 11-20A provides:

Upon written motion of any party, or upon its own motion, the judicial authority may order that files, affidavits, documents, or other materials on file or lodged with the court or in connection with a court proceeding be sealed or their disclosure limited only if the judicial authority concludes that such order is necessary to preserve an interest which is determined to override the public's interest in viewing such materials. The judicial authority shall first consider reasonable alternatives to any such order and any such order shall be no broader than necessary to protect such overriding interest. An agreement of the parties to seal or limit the disclosure of documents on file with the court or filed in connection with a court proceeding shall not constitute a sufficient basis for the issuance of such an order.

The Court has indicated that it takes a broad view of the public interest and the case law provides little analysis or guidance. Section 11-20A envisions a balancing test between the

litigant's need for secrecy and the undefined public interest. Since the public interest is unknowable, and the documents at issue relate to Ms. Sherwood's medical treatment and are subject to a Joint Stipulated Protective Order, the Court should allow the documents and information to be sealed. Pursuant to the Practice Book, medical records cannot be filed on the docket and must be submitted under seal. "Judges of the Superior Court have found that an individual's privacy interest in his or her medical records may override the public's interest in open judicial proceedings." Provost-Daar v. Merz Aesthetics, Inc., 2016 Conn. Super. LEXIS 243, at *7 (Conn. Super. Ct. Jan. 29, 2016). This Court has granted this type of motion regarding similar documents in the Farrell case presumably for the same reason and should do so here.

Here, the document at issue concerns Plaintiff's medical problems with the Prolift and is subject to the confidentiality obligations according of a Joint Stipulated Protective Order. Thus, these documents should be sealed.

DEFENDANT,
STAMFORD HEALTH SYSTEM, INC.,
D/B/A STAMFORD HOSPITAL

/s/Simon I. Allentuch
SIMON I. ALLENTUCH
NEUBERT, PEPE & MONTEITH, P.C.
195 Church Street, 13th Floor
New Haven, CT 06510
Tel. (203) 821-2000
Juris No. 407996

CERTIFICATION

THIS IS TO CERTIFY THAT a copy of the foregoing was mailed, postage prepaid, by
U.S. Mail, this 18th day of November, 2016, to the following party of record:

Brenden P. Leydon, Esq.
Jackie Fusco, Esq.
Tooher, Woel & Leydon, LLC
80 4th Street
Stamford, CT 06905

/s/Simon I. Allentuch
Simon I. Allentuch
NEUBERT, PEPE & MONTEITH, P.C.