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**IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAII**

JARED JAMES,	) CIVIL NO. 1CCV-21-0000683 (SMK)
	) (Other Civil Action)
Plaintiff,	)
	) PLAINTIFF JARED JAMES'S JOINDER
vs.	) IN AND MEMORANDUM IN SUPPORT
	) OF MOVANT PUBLIC FIRST LAW
PATRICK J. O'DONNELL, M.D.;	) CENTER'S MOTION TO UNSEAL
SUSAN TAN, M.D.; SELENA PETERS,	) [DKT. 547]; DECLARATION OF
M.D.; MERLA TAKENAKA, R.N.;	) JARED JAMES; CERTIFICATE OF
KAPI'OLANI MEDICAL SPECIALISTS;	) SERVICE
KAPI'OLANI MEDICAL CENTER FOR	)
WOMEN AND CHILDREN; and HAWAII	) Hearing: July 14, 2026, 9:30 a.m.
PACIFIC HEALTH,	) Judge: Hon. Shirley M. Kawamura
	)
Defendants.	)

PLAINTIFF JARED JAMES'S JOINDER IN AND MEMORANDUM IN SUPPORT OF

MOVANT PUBLIC FIRST LAW CENTER'S MOTION TO UNSEAL [DKT. 547]

I. JOINDER

Plaintiff Jared James, pro se, hereby joins in and supports Movant Public First Law Center's Motion to Unseal, filed May 8, 2026 [Dkt. 547], and the relief requested therein. Plaintiff adopts the grounds set forth in the Motion and submits the following memorandum in support, together with his sworn declaration expressly waiving his privacy interest in the sealed

records, and respectfully requests that the scope of unsealing also encompass Docket Numbers 269, 353, 354, and 360.

MEMORANDUM IN SUPPORT

II. INTRODUCTION

The records at issue are not ancillary discovery materials. They are the memoranda and exhibits on which this Court granted summary judgment and terminated this action in its entirety. The public’s constitutional and common-law right of access is at its zenith where, as here, a court resolves the merits of a dispute on sealed papers. The sealing was accomplished through *ex parte* motions, without the adversarial process, the particularized findings, or the narrow tailoring that Hawai‘i law requires. And the sole interest ever asserted in support of that sealing—the protection of Plaintiff’s own medical privacy—has now been confirmed by the KMS Defendants themselves to belong to Plaintiff, who expressly waives it by the sworn declaration accompanying this joinder. *See* Dkt. 579 at 5 (KMS Defendants “recognize that the privacy rights at issue here belong to Plaintiff” and “take no position” on unsealing). With that waiver on the record, no compelling interest remains, and the Motion should be granted.

III. FACTUAL BACKGROUND

A. The sealed merits materials.

The records on which this Court resolved the case were filed under seal or *in camera*. The Defendants filed their summary-judgment motions publicly but submitted the memoranda in support and the supporting exhibits under seal: Dkt. 353 and Dkt. 387 (the sealed memoranda in support of the O’Donnell/Tan/KMS motion for summary judgment); Dkt. 354 and Dkt. 388 (the sealed exhibits thereto, including Exhibits B, C-2, D-2, E, I, J, and K); Dkt. 358 (the sealed memorandum in support of the Takenaka/KMCWC/HPH motion for summary judgment); and

Dkt. 360 (an *in camera* exhibit thereto). The memorandum, declaration, and Exhibits D and F submitted in opposition to Plaintiff’s cross-motion for partial summary judgment were likewise sealed. Dkt. 474. Additional memoranda were sealed in connection with the Defendants’ discovery motions. *See* Dkt. 269; Dkt. 347.

B. The sealing was accomplished by *ex parte* motion.

Each operative sealing order was entered without adversarial briefing or an opportunity for the public to be heard—three upon *ex parte* motions, and one on the same day the underlying motion to seal was filed. *See* Dkt. 368; Dkt. 382; Dkt. 483 (*ex parte*); Dkt. 273 (same-day). The record reflects that the *ex parte* posture was adopted at the direction of the Court’s staff. *See* Dkt. 579, Ex. A. Whatever the procedural route, the record does not reflect the notice, the opportunity to be heard, or the particularized, document-specific findings of a compelling interest that must precede any sealing.

C. The Court terminated the case on the sealed materials.

On May 27 and May 29, 2026, the Court granted summary judgment against Plaintiff in favor of the O’Donnell/Tan/KMS Defendants [Dkt. 565] and the Takenaka/KMCWC/HPH Defendants [Dkt. 567], resting on the memoranda and exhibits filed under seal and *in camera* identified above. In opposing Plaintiff’s cross-motion for partial summary judgment, the Defendants likewise submitted sealed materials [Dkt. 474], and the Court denied the cross-motion [Dkt. 573]. Together with the summary judgment in favor of Defendant Peters [Dkt. 563], the order striking Plaintiff’s expert declarations [Dkt. 571], and the earlier partial judgment on the pleadings [Dkt. 333], these rulings disposed of the entire action. The public thus has no means of evaluating the basis for a judgment that resolved every claim in this case.

D.The KMS Defendants take no position on unsealing and confirm that the privacy rights at issue belong to Plaintiff.

On July 6, 2026, the O'Donnell/Tan/KMS Defendants filed a Position Statement regarding the Motion. Dkt. 579. In it, they state that the documents “were sealed to safeguard Plaintiff’s medical and protected health information,” that they “recognize that these privacy rights belong to Plaintiff,” and that they accordingly “take no position with regard to the relief requested” in the Motion. Dkt. 579 at 1, 5. They further represent that they filed publicly accessible versions of their filings “with limited redactions to protect Plaintiff’s confidential PHI, while simultaneously filing unredacted versions under seal.” Dkt. 579 at 3. No party has defended the sealing on the merits. The Motion itself seeks the unsealing of Docket Numbers 115, 347, 358, 387, 388, and 474. Dkt. 547 at 1-2, 10. Indeed, each Rule 9 confidentiality-designation cover sheet accompanying the sealed filings identifies the type of information at issue solely as the health and medical information of Plaintiff Jared James, citing HCRR Rules 2.19 and 9 and HIPAA as the authority for confidentiality. *See, e.g.*, Dkt. 84 (cover sheet; the Court granted the unsealing of the Answer by ruling of April 7, 2026). No other interest—no third-party patient information, trade secret, personnel record, or proprietary material—has ever been asserted on the record in support of the sealing.

IV. LEGAL STANDARD

The public enjoys a qualified right of access to court records grounded in the First Amendment to the United States Constitution, article I, section 4 of the Hawai‘i Constitution, and the common law. *See Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 606-07 (1982); *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597-98 (1978); *Oahu Publications Inc. v. Ahn*, 133 Hawai‘i 482, 331 P.3d 460 (2014); *Grube v. Trader*, 142 Hawai‘i 412, 420 P.3d 343

(2018). That presumption of openness applies with equal force in civil proceedings. *Ahn*, 133 Hawai‘i at 496 & n.18, 331 P.3d at 474 & n.18; *In re Estate of Campbell*, 106 Hawai‘i 453, 462-63, 106 P.3d 1096, 1105-06 (2005).

The right of access may be overcome only upon findings that “the closure is essential to preserve higher values” and that the closure is “narrowly tailored” to serve that interest. *Grube*, 142 Hawai‘i at 424, 420 P.3d at 355; *Ahn*, 133 Hawai‘i at 507, 331 P.3d at 485; *accord Globe Newspaper*, 457 U.S. at 606-07. The asserted interest must be of sufficient gravity to overcome the strong presumption in favor of openness, and preserving the comfort or reputation of a party is not sufficient. *Moana v. Wong*, 141 Hawai‘i 100, 405 P.3d 536 (2017). To justify sealing, the court must address specifically whether the closure serves a compelling interest, whether there is a substantial probability that, in the absence of closure, that compelling interest would be harmed, and whether there are alternatives to closure that would adequately protect the compelling interest. *Grube*, 142 Hawai‘i at 424, 420 P.3d at 355; *Ahn*, 133 Hawai‘i at 498, 331 P.3d at 476. Sealing must be supported by specific facts rather than conclusory assertions, and the court must provide notice and an opportunity to be heard and must articulate its reasoning in findings. *Grube*, 142 Hawai‘i 412, 420 P.3d 343.

The presumptive right of access extends to medical and health records. In *Civil Beat Law Center for the Public Interest, Inc. v. Maile*, 117 F.4th 1200 (9th Cir. 2024), the Ninth Circuit held that Hawai‘i may not categorically seal all medical and health records filed in its courts, because mandatory, categorical sealing is not the least restrictive means of protecting privacy. *Id.* at 1211-12. Motions to seal medical and health records must instead be made and considered by judges on a case-by-case basis, *id.* at 1212-13, with consideration of the specific privacy interest implicated and of less restrictive alternatives such as selective redaction. Although protecting an

individual's privacy may be a compelling interest sufficient to justify sealing a particular record, the medical nature of a record does not exempt it from the strong presumption of openness.

Where the records were filed in connection with a dispositive motion, the showing required is at its most demanding. In *Kamakana v. City & County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006), a case arising from this jurisdiction, the court held that a party seeking to seal records attached to a dispositive motion must “articulate compelling reasons supported by specific factual findings,” because the resolution of a dispute on the merits—whether by trial or by summary judgment—is at the heart of the public's interest in understanding the judicial process. *Id.* at 1178-80. That heightened “compelling reasons” standard applies even where the materials were previously filed under seal or pursuant to a protective order, *id.* at 1179, and reliance on a stipulated protective order is not itself a compelling reason to seal, *id.* at 1183. The court “must base its decision on a compelling reason and articulate the factual basis for its ruling, without relying on hypothesis or conjecture.” *Id.* at 1182.

V. ARGUMENT

A. The right of access is at its apex because the Court adjudicated the entire case on the sealed materials.

Summary judgment adjudicates substantive rights and serves as a substitute for trial. The public's interest in access is therefore strongest as to the records that decide a case. Here, the memoranda and exhibits that the Court relied upon to grant summary judgment against Plaintiff—and thereby to terminate this action—remain sealed. The public has no means of evaluating the factual and legal basis for a judgment that resolved every claim in this case. That is precisely the circumstance in which the strong presumption of openness is at its height, and in

which the heightened “compelling reasons” standard governs. *See Kamakana*, 447 F.3d at 1178-80.

B. Plaintiff’s express waiver extinguishes the only interest ever asserted for the sealing.

The only interest that has ever been offered in support of sealing these records is the protection of Plaintiff’s own medical privacy. *See* Dkt. 579 at 1, 5. That interest belongs to Plaintiff—as the KMS Defendants themselves acknowledge—and Plaintiff hereby waives it. By the sworn declaration accompanying this joinder, Plaintiff knowingly and voluntarily waives any privacy interest in his medical and health information contained in the sealed records at issue and affirmatively requests their public disclosure. Plaintiff placed his medical care at issue by bringing this action, pleaded the relevant facts in his public complaint, repeatedly sought the unsealing of these records, Dkts. 243, 405, and reaffirmed his waiver by publicly filing his own medical records as exhibits, Dkts. 370, 371, 372. A privacy interest that its sole holder has expressly and repeatedly disclaimed cannot constitute a compelling interest, cannot bear the “gravity” required to overcome the presumption of openness, and cannot support closure that must be “essential to preserve higher values.” *Grube*, 142 Hawai‘i at 424, 420 P.3d at 355. The privacy interest that may justify closure is one “asserted by the affected individual,” *Maile*, 117 F.4th at 1210, and where a litigant wishes to make their private information public, sealing “serves to protect no interest at all,” *id.* at 1211. Nor does HIPAA supply an independent barrier: HIPAA governs disclosures by covered entities, expressly permits disclosures in the course of judicial proceedings, *see* 45 C.F.R. § 164.512(e), and in all events yields to the express authorization of the individual whose information is at issue, *see* 45 C.F.R. § 164.508. With the waiver on the record and no party having defended the sealing, the Motion stands effectively unopposed and should be granted.

C. The sealing orders rest on *ex parte* motions and lack the particularized findings the law requires.

Hawai‘i law conditions sealing on notice, an opportunity for interested persons to be heard, and articulated findings demonstrating a compelling interest as to specific documents. *Grube*, 142 Hawai‘i at 423-24, 420 P.3d at 354-55. The operative sealing orders here (Dkts. 273, 368, 382, and 483) were entered upon *ex parte* or same-day motions, without adversarial process, and the record does not reflect document-specific findings of a compelling interest. To the extent the sealing rests on the parties’ protective-order designations, that is not a compelling reason to seal materials submitted with a dispositive motion. *Kamakana*, 447 F.3d at 1183. Nor do generalized interests in reputation, embarrassment, or the avoidance of further litigation suffice. *Moana*, 141 Hawai‘i 100, 405 P.3d 536; *Kamakana*, 447 F.3d at 1179.

D. Wholesale sealing is not narrowly tailored; redaction is the presumptive alternative.

Narrow tailoring requires findings that no less restrictive alternative would protect the asserted interest, and redaction is the classic less-drastic measure. *Grube*, 142 Hawai‘i 412, 420 P.3d 343. The sealing of the substantive summary-judgment memoranda and their exhibits in their entirety cannot be reconciled with that requirement. To the extent any genuinely sensitive material exists—such as personal identifiers—redaction of those discrete items, rather than sealing of the documents in their entirety, is the tailored remedy the law prefers. *Maile*, 117 F.4th at 1211-12.

The Defendants’ own practice confirms that a less restrictive alternative was available and known to them. For their Answer to the Amended Complaint, the Defendants filed the pleading publicly while separately designating discrete information as confidential under Rule 9 of the Hawai‘i Court Records Rules. *See* Dkts. 82-84. The Defendants thus had at their disposal a

targeted alternative to sealing an entire document; yet for the summary-judgment record they withheld the memoranda in support and the supporting exhibits in their entirety. Because a less restrictive alternative was both available and used elsewhere in this very case, the Defendants cannot show that sealing the summary-judgment record as a whole was the least restrictive means of protecting any legitimate interest.

The KMS Defendants' own account confirms the point. They represent that they filed publicly accessible versions of their filings "with limited redactions to protect Plaintiff's confidential PHI, while simultaneously filing unredacted versions under seal." Dkt. 579 at 3. On that account, the only content the sealing withholds from the public is Plaintiff's own medical information—the precise interest Plaintiff waives by the accompanying declaration. On the Defendants' own description, nothing remains for the sealing to protect.

E. The medical and health nature of the records does not justify their wholesale sealing.

To the extent the records were sealed because they contain medical or health information, that is not a sufficient basis for the sealing imposed here. *Maile* forecloses the categorical sealing of medical and health records and requires case-by-case consideration of the specific privacy interest implicated and of less restrictive alternatives. The *ex parte* sealing orders here reflect no such case-by-case analysis of any specific record. The privacy interest in records concerning Plaintiff's own medical care belongs to Plaintiff who—far from seeking to protect it—affirmatively seeks the disclosure of these records. The Defendants, the providers whose conduct is memorialized in those records, may not invoke the patient's privacy to shield the records from the patient and from the public. To the extent any record contains the private information of a non-party, selective redaction is the tailored remedy. *See Maile*, 117 F.4th at 1211-12; *Grube*, 142 Hawai'i at 424, 420 P.3d at 355. Interests in reputation, embarrassment, or

the avoidance of further litigation are not cognizable bases for sealing. *Moana*, 141 Hawai‘i 100, 405 P.3d 536; *Kamakana*, 447 F.3d at 1179. And any privilege asserted as to a specific document must be established with particularized facts and specific linkage to that document, not by categorical assertion. *Kamakana*, 447 F.3d at 1184.

Nor can the sealing be justified as compelled by the Hawai‘i Court Records Rules “in place at the time.” Dkt. 579 at 3. *Maile* struck the mandatory sealing of medical and health records under those rules on August 28, 2024. Every contested sealing of the merits materials in this case occurred in 2026—well over a year later. *See* Dkts. 269, 347, 353, 354, 358, 360, 387, 388, 474 (all filed January through April 2026). Whatever force a rule-compliance rationale might carry for earlier filings, it cannot justify the categorical sealing of medical information after the categorical rule had been held unconstitutional.

F. The scope of unsealing should include the remaining sealed merits materials: Docket Numbers 269, 353, 354, and 360.

The Motion seeks the unsealing of Docket Numbers 115, 347, 358, 387, 388, and 474. Dkt. 547 at 1-2, 10. Plaintiff supports the unsealing of each of those records and respectfully requests that the Court also unseal the remaining sealed merits materials, which are subject to the same presumption and the same absence of findings: Dkt. 269 (the sealed supplemental memorandum and exhibits in support of the KMS Defendants’ motion to compel); Dkt. 353 and Dkt. 354 (the sealed memorandum and exhibits filed March 27, 2026 in support of the KMS Defendants’ motion for summary judgment; the versions designated unredacted were subsequently filed under seal at Dkts. 387 and 388); and Dkt. 360 (the exhibit submitted *in camera* in support of the Takenaka/KMCWC/HPH Defendants’ motion for summary judgment). The *in camera* exhibit is particularly consequential: the Court granted summary judgment on that

motion [Dkt. 567], and no record submitted in support of a case-dispositive ruling should remain wholly outside public view while its companion materials are opened. The same waiver, the same apex presumption, and the same procedural defects apply to every one of these records.

G. At a minimum, the Court should conduct an *in camera* review and make the findings the law requires.

Plaintiff supports Movant's request that these records be unsealed. In the alternative, and at a minimum, the Court should conduct an *in camera* review of the sealed materials and, as to any document it declines to unseal, articulate specific findings of a compelling interest and consider redaction as a less restrictive alternative, consistent with *Maile*, *Grube*, and *Kamakana*.

VI. CONCLUSION

For the foregoing reasons, Plaintiff Jared James respectfully joins in and supports Movant Public First Law Center's Motion to Unseal [Dkt. 547] and requests that the Court grant the Motion, unseal the records identified therein (Dkts. 115, 347, 358, 387, 388, and 474), and further unseal the remaining sealed merits materials (Dkts. 269, 353, 354, and 360).

DATED: Honolulu, Hawai'i, July 6, 2026.

/s/ JARED JAMES

JARED JAMES
Plaintiff Pro Se

DECLARATION OF JARED JAMES

I, Jared James, declare as follows:

1. I am the Plaintiff in this action and appear pro se. I make this declaration of my own personal knowledge, and if called as a witness I could and would competently testify to the matters set forth herein.

2. The medical and health information contained in the sealed court records at issue—the records identified in Movant’s Motion to Unseal [Dkt. 547] and Docket Numbers 269, 353, 354, and 360—is my own medical and health information.

3. I hereby knowingly, voluntarily, and expressly WAIVE any and all privacy interest I may have in my medical and health information contained in those records, including any interest arising under the Hawai‘i Court Records Rules, article I, section 6 of the Hawai‘i Constitution, HIPAA, or any other source, solely for the purpose of the public unsealing of those court records. I affirmatively request that those records be unsealed and made available to the public.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 6, 2026, at Honolulu, Hawai‘i.

/s/ JARED JAMES

JARED JAMES

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, a true and correct copy of the foregoing was duly served upon the following parties through the Judiciary Electronic Filing System (JEFS), and/or by electronic mail and U.S. mail as indicated, at their last known addresses:

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DATED: Honolulu, Hawai'i, July 6, 2026.

/s/ JARED JAMES

JARED JAMES
Plaintiff Pro Se