

**FILED**

**APR 09 2020**

**JOHN C. PORTO, J.S.C.**

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: ATLANTIC COUNTY  
MASTER DOCKET NO. ATL-L-173-20

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MCL CASE NO. 633

Civil Action

**CASE MANAGEMENT ORDER NO. 6  
(Records Collection)**

This matter having been opened to The Court by the parties; and the parties having indicated they have no objection to the form and entry of the within Order; and good cause appearing;

IT IS on this *9<sup>th</sup>* day of *April*, 2020,

**ORDERED:**

This Order establishes the procedures for the Plaintiffs to access the records the Defendants collect pursuant to any signed authorizations provided by Plaintiffs to the Defendants' counsel to obtain from third parties certain medical records. This Order is not intended to and does not create any obligation for any Plaintiff to access any of the records collected by Defendants.

This Order shall apply to each member related case previously transferred to or filed in this Court. In cases subsequently filed in this Court, it shall be the responsibility of the Parties to review and abide by all pretrial Orders previously entered by the Court, as amended. The Orders may be assessed through the New Jersey State Court Electronic Filing System.

**A. PLAINTIFFS' ACCESS TO RECORDS THE DEFENDANTS COLLECT**

1. Plaintiffs' counsel shall have the opportunity to receive notice, and to review and obtain copies of records collected by the Defendants, by the means specified in Section B below,

through the use of an assigned record collection service vendor. Two record collection vendors have been retained by Defendants Johnson & Johnson and Ethicon, Inc, as the record collection service vendors to perform the services: *The Marker Group, Inc. ("Marker")* and *Litigation Management, Inc. ("LMI")*.

2. For currently pending cases in this MCL, the vendor assignments for each case are set forth in Exhibit "A" attached hereto. Cases later filed in or transferred to this MCL after the date of this Order will be assigned to *LMI* as the record collections vendor.

3. Upon establishment of a *User Account* (with the assigned record collection vendor) by counsel representing a particular plaintiff(s), as set forth in Section B below, the authorized user will receive E-mail alerts on each date that new records for the Plaintiff(s) associated with that account are posted to the on-line repository for access by the counsel representing such Plaintiff(s).

4. The E-mail alert will identify Plaintiff(s)' name(s), and the name(s) of the records provider(s), the type of record, and the bates label range for the records.

5. Plaintiffs shall have the ability, but not the obligation, to obtain copies of the records that are retrieved by Defendants through the assigned record collection vendor. The Fees related to the record collection vendor services are set forth on Exhibit "B" attached hereto, and shall not increase during the course of this litigation.

**B. ESTABLISHMENT OF USER ACCOUNTS**

1. Plaintiff(s)' counsel may establish *User Accounts* with the assigned vendor by contacting:

- *LMI* at [LMIHerniamesh.LMI@Lmiweb.com](mailto:LMIHerniamesh.LMI@Lmiweb.com)
- *Marker* at [GoMarker@marker-group.com](mailto:GoMarker@marker-group.com)

2. Plaintiff(s)' counsel will be required to provide the assigned vendor the following:

- a. A list of the name(s) and E-mail address(es) of each individual in the law firms representing Plaintiff(s) who are authorized to access the Record Repository, so that *User Accounts* can be established for the law firm;
- b. A valid credit card [MasterCard, Visa, or American Express] to be used for the purchase of any plaintiff(s)' records. The credit card will be charged in accordance with the fee schedule in the attached Exhibit B;
- c. A listing of the Plaintiff(s) for whom those counsel are attorneys of record, including for each individual person the following information: last name, first name, middle name and maiden name if applicable, docket number, case caption, and jurisdiction where the case is currently pending. If a Plaintiff is representing an estate, the decedent as well as the estate administrator/representative must be identified. If the Plaintiff has a common name, an additional identifier may be requested to ensure access is granted only to that specific person. This list must be updated by Plaintiffs' counsel with the assigned record collection vendor during the first week of each month with respect to any cases newly filed during the prior month and/or any corrections that may need to be made;
- d. The name, title, and E-mail address of the primary contact person for Plaintiffs' counsel for interactions with the assigned record collection vendor; and,
- e. The name and E-mail address of the person to whom receipts for credit card charges should be directed.
- f. Establishing a user account with the assigned record collection vendor does not obligate Plaintiffs' counsel to obtain any records through the assigned record collections vendor.

**C. MENTAL-HEALTH RELATED RECORDS**

1. The following provisions pertain only to receipt of mental-health related care records, whether by a psychiatrist or psychologist or other readily identifiable mental health specialist. Upon receipt of mental-health related care records, the assigned record collection vendor, shall:

a. Notify both Parties (Defendants and the counsel for that individual Plaintiff by E-mail (not attaching the records)) that mental-health related care records have been received;

b. Quarantine the records for a period of time to afford Plaintiffs' counsel an opportunity to obtain and review the records (using the process and Fees to retrieve copies of the records as set forth on Exhibit "B" attached hereto). During the Quarantine, the assigned record collection vendor shall not release or give access to the Defendants of any of the mental-health related care records;

c. Plaintiffs' counsel shall have ten (10) days to assert a recognized privilege or other legal protection prohibiting the disclosure of the records and notify both the assigned record collection vendor and the requesting Defendants, with an appropriate privilege log;

d. Absent notification within ten (10) days of the assertion of such a privilege, the assigned record collection vendor shall then provide the records to the requesting Defendants.

2. If the Plaintiff provides a notification within ten (10) days of the assertion of such a privilege or other legal protection prohibiting the disclosure of the records, with an appropriate privilege log, the assigned record collection vendor shall maintain the Quarantine until further Order of this Court or agreement of the parties via written agreement signed by counsel for

Plaintiff and Defendants, and/or withdrawal by Plaintiffs' counsel of the assertion of a privilege or other legal protection prohibiting the disclosure of the records.

**D. INADVERTENT OR MISTAKEN DISCLOSURE OF PRIVILEGED DOCUMENTS - "CLAWBACK" PROCEDURE**

Notwithstanding any other provision or paragraph of this Order, the procedure regarding notification and "clawback" of inadvertent or mistaken disclosure of privileged or otherwise protected documents or information set forth in Paragraph 14 of the Confidentiality and Protective Order (CMO No. 2) shall apply equally to the inadvertent or mistaken disclosure of Plaintiffs' records produced to or otherwise obtained by Defendants which are privileged or otherwise legally prohibited from disclosure.

A handwritten signature in blue ink, appearing to read "John C. Porto", is written over a horizontal line.

**HONORABLE JOHN C. PORTO, J.S.C.**

**EXHIBIT A**

<b>Plaintiff</b>	<b>County</b>	<b>ATL Docket No.</b>	<b>Medical Vendor</b>
Alguacil, Leila	Atlantic	ATL-L-000305-20	Marker
Bailey, Kenneth and Lori	Atlantic	ATL-L-000213-20	Marker
Barnes, Robert	Atlantic	ATL-L-000277-20	Marker
Baucom III, Ransom	Atlantic	ATL-L-000539-20	Marker
Bellhouse, Barbara	Atlantic	ATL-L-000322-20	Marker
Bilberry, Jack	Atlantic	ATL-L-000816-20	LMI
Bolyard, Glenn	Atlantic	ATL-L-000181-20	Marker
Boston, Courtney	Atlantic	ATL-L-000178-20	Marker
Bovino, Edwin	Atlantic	ATL-L-000182-20	Marker
Bradford, William	Atlantic	ATL-L-000230-20	Marker
Briscoe, Anthony	Atlantic	ATL-L-000338-20	Marker
Bromley, Mark	Atlantic	ATL-L-000324-20	Marker
Byley, David	Atlantic	ATL-L-000325-20	LMI
Caridi, Dale	Atlantic	ATL-L-00549-20	Marker
Carlson, Richard	Atlantic	ATL-L-000311-20	Marker
Chavira, Juan	Atlantic	ATL-L-000296-20	Marker
Cisneros, Leticia	Atlantic	ATL-L-000643-20	LMI
Coleman-Jefferson, Sarah	Atlantic	ATL-L-000231-20	Marker
Collazo, Vimary	Atlantic	ATL-L-000257-20	LMI
Concepcion, Willie	Atlantic	ATL-L-000279-20	LMI

<b>Plaintiff</b>	<b>County</b>	<b>ATL Docket No.</b>	<b>Medical Vendor</b>
Conley, Tony and Cindy	Atlantic	ATL-L-000550-20	Marker
Connell, Paul and Pia	Atlantic	ATL-L-000249-20	Marker
Cooper, Nicolas	Atlantic	ATL-L-000313-20	Marker
Corgan, Travis	Atlantic	ATL-L-000303-20	Marker
Dawson, William and Edith	Atlantic	ATL-L-000618-20	LMI
Day, Joseph	Atlantic	ATL-L-000199-20	Marker
Dobe, Michael	Atlantic	ATL-L-000260-20	LMI
Dodd, Kristen and Dustin	Atlantic	ATL-L-000222-20	Marker
Dodd, Timothy	Atlantic	ATL-L-000206-20	Marker
Edwards, Robert	Atlantic	ATL-L-000370-20	LMI
Ehlers, Mary	Atlantic	ATL-L-000409-20	LMI
Eiben, Christopher and Barbara	Atlantic	ATL-L-000198-20	Marker
Ellis, Scott	Atlantic	ATL-L-000540-20	LMI
Espinoza, Elisa	Atlantic	ATL-L-000439-20	LMI
Ettner, Erick	Atlantic	ATL-L-000251-20	Marker
Evans, Roderick	Atlantic	ATL-L-000212-20	Marker
Fine, Hollie	Atlantic	ATL-L-000538-20	LMI
Flores, Teresa	Atlantic	ATL-L-3130-19	LMI
Flynn, Richard	Atlantic	ATL-L-000594-20	LMI
Galbut, Daniel	Atlantic	ATL-L-000783-20	LMI



<b>Plaintiff</b>	<b>County</b>	<b>ATL Docket No.</b>	<b>Medical Vendor</b>
Galvez, Michael	Atlantic	ATL-L-000263-20	Marker
Gelpi, Shawn and Jennifer Gelpi	Atlantic	ATL-L-000336-20	LMI
Gioia, William	Atlantic	ATL-L-000204-20	Marker
Godfrey, Holly	Atlantic	ATL-L-000236-20	Marker
Grant, Vincent	Atlantic	ATL-L-000255-20	LMI
Graves, Ernest	Atlantic	ATL-L-000254-20	Marker
Graves, Randall	Atlantic	ATL-L-000227-20	Marker
Greenklepper, Rochelle	Atlantic	ATL-L-000197-20	Marker
Guerrero, Victor	Atlantic	ATL-L-000369-20	LMI
Guy, Louise and Raymond	Atlantic	ATL-L-000301-20	Marker
Hager, Karen	Atlantic	ATL-L-000314-20	Marker
Hanton, Peter and Ruthie Mae	Atlantic	ATL-L-000211-20	Marker
Harris, James	Atlantic	ATL-L-000217-20	Marker
Hausman, Robert	Atlantic	ATL-L-000312-20	Marker
Henley, James	Atlantic	ATL-L-000195-20	Marker
Henne, Mary	Atlantic	ATL-L-000818-20	LMI
Henry, Tracy	Atlantic	ATL-L-000306-20	Marker
Hernandez, Kathy	Atlantic	ATL-L-000221-20	Marker
Hickey, Barbie and John	Atlantic	ATL-L-000309-20	LMI
Hill, Harley and Olga	Atlantic	ATL-L-000269-20	Marker



<b>Plaintiff</b>	<b>County</b>	<b>ATL Docket No.</b>	<b>Medical Vendor</b>
Jackson, Lewis and Doris	Atlantic	ATL-L-000316-20	Marker
Johnson, Heather	Atlantic	ATL-L-000175-20	Marker
Jones, George	Atlantic	ATL-L-000833-20	LMI
Josephs, Delores	Atlantic	ATL-L-000276-20	Marker
Lind, Dale	Atlantic	ATL-L-000226-20	Marker
Lindly, James	Atlantic	ATL-L-000291-20	Marker
Loschen, Shirley	Atlantic	ATL-L-000218-20	Marker
Lotridge, Robin	Atlantic	ATL-L-000292-20	Marker
Maestas, Joseph	Atlantic	ATL-L-000293-20	Marker
Maggard, Sandra	Atlantic	ATL-L-000224-20	Marker
Marcus, Arlene	Atlantic	ATL-L-000270-20	Marker
Martinez, Toby and Cathy	Atlantic	ATL-L-000537-20	Marker
Mata, Raul	Atlantic	ATL-L-000294-20	Marker
Matta, Robert and Angela	Atlantic	ATL-L-000740-20	LMI
McDuffie, Gregory	Atlantic	ATL-L-000248-20	Marker
McGrew, Keith and Watkins, Jessica	Atlantic	ATL-L-000317-20	Marker
Medina, Rogelio	Atlantic	ATL-L-000250-20	Marker
Melvin, Scott and Rebecca	Atlantic	ATL-L-000228-20	LMI
Mendoza, Anthony	Atlantic	ATL-L-000233-20	LMI
Miller, Ronald	Atlantic	ATL-L-000295-20	Marker
Mitchell, Peggy	Atlantic	ATL-L-000253-20	Marker

<b>Plaintiff</b>	<b>County</b>	<b>ATL Docket No.</b>	<b>Medical Vendor</b>
Montero, Michael	Atlantic	ATL-L-000216-20	LMI
Morley, Keith	Atlantic	ATL-L-000219-20	Marker
Mosby, Russell	Atlantic	ATL-L-000239-20	Marker
Moskowitz, Scott	Atlantic	ATL-L-000237-20	Marker
Mullins, James	Atlantic	ATL-L-000245-20	Marker
Murphy, Joseph and Linda	Atlantic	ATL-L-000252-20	Marker
Nease, Willie	Atlantic	ATL-L-000210-20	Marker
Newman, Stephen	Atlantic	ATL-L-000238-20	Marker
Nomikos, Michael	Atlantic	ATL-L-000242-20	Marker
O'Leary, Shannon	Atlantic	ATL-L-000258-20	LMI
Olsgard, GAnn	Atlantic	ATL-L-000320-20	Marker
Parsons, James and Michelle	Atlantic	ATL-L-000225-20	LMI
Pepper, Timothy and Cynthia	Atlantic	ATL-L-000308-20	Marker
Perez, Nora	Atlantic	ATL-L-000267-20	Marker
Porter, Willie	Atlantic	ATL-L-000440-20	LMI
Poston, Paul	Atlantic	ATL-L-000332-20	Marker
Rakers, Debra	Atlantic	ATL-L-000646-20	LMI
Reed, James	Atlantic	ATL-L-000310-20	Marker
Rhoades, Rick & Deanne	Atlantic	ATL-L-000515-20	LMI
Rigney, Jonetta and Darell	Atlantic	ATL-L-000307-20	Marker

<b>Plaintiff</b>	<b>County</b>	<b>ATL Docket No.</b>	<b>Medical Vendor</b>
Ritter, Mark	Atlantic	ATL-L-000326-20	Marker
Rivas, Angelina	Atlantic	ATL-L-000283-20	Marker
Robb, Terrence and Debra	Atlantic	ATL-L-000877-20	LMI
Robertson, Lenny	Atlantic	ATL-L-000327-20	Marker
Roggow, Joleen	Atlantic	ATL-L-000247-20	Marker
Rood, Russell L., Jr.	Atlantic	ATL-L-000513-20	LMI
Schnetzer, Christopher	Atlantic	ATL-L-000205-20	Marker
Self, Joel	Atlantic	ATL-L-000232-20	Marker
Senkel, William	Atlantic	ATL-L-000235-20	Marker
Shaw, Jerry	Atlantic	ATL-L-000240-20	Marker
Shelley, Mark	Atlantic	ATL-L-000924-20	LMI
Siddall, James	Atlantic	ATL-L-000318-20	Marker
Singer, Herbert and Joan	Atlantic	ATL-L-000200-20	Marker
Slaczka, Stanley	Atlantic	ATL-L-000215-20	Marker
Smith, Terrence and Lucy	Atlantic	ATL-L-000180-20	Marker
Snyder, Rick	Atlantic	ATL-L-000243-20	Marker
Soutner, Ronald and Janelle	Atlantic	ATL-L-000414-20	Marker
Stone, Lewis	Atlantic	ATL-L-000203-20	Marker
Strauss, Nathan	Atlantic	ATL-L-000275-20	Marker
Swieconek, Melanie	Atlantic	ATL-L-000280-20	LMI
Szaroleta, Christopher	Atlantic	ATL-L-000171-20	Marker

<b>Plaintiff</b>	<b>County</b>	<b>ATL Docket No.</b>	<b>Medical Vendor</b>
Tabor, Steve	Atlantic	ATL-L-000830-14	Marker
Tavian, Michael	Atlantic	ATL-L-000176-20	Marker
Taylor, Karrie	Atlantic	ATL-L-000503-20	LMI
Taylor, Mark	Atlantic	ATL-L-000821-20	LMI
Taylor, Richard	Atlantic	ATL-L-000330-20	LMI
Teunissen, Emily	Atlantic	ATL-L-000333-20	Marker
Thaxton, Pamela	Atlantic	ATL-L-000259-20	LMI
Torres, Richard S., Sr.	Atlantic	ATL-L-000371-20	LMI
Towner, Michael	Atlantic	ATL-L-000256-20	LMI
Tuell, Glenda	Atlantic	ATL-L-000321-20	Marker
Ucovich, Miguel	Atlantic	ATL-L-000541-20	LMI
Vinas, Daniel	Atlantic	ATL-L-000450-20	Marker
Volquardsen, Jamie	Atlantic	ATL-L-000202-20	Marker
Walker, Latricia	Atlantic	ATL-L-000261-20	LMI
Walker, Linda	Atlantic	ATL-L-000223-20	Marker
Watson, Mark	Atlantic	ATL-L-000319-20	Marker
Weldon, Terry	Atlantic	ATL-L-000328-20	Marker
Whipple, Candice	Atlantic	ATL-L-000244-20	Marker
Wilhelm, Deanna	Atlantic	ATL-L-000229-20	LMI
Williams, Stanley and Seneca	Atlantic	ATL-L-000315-20	Marker
Williams, Wilton	Atlantic	ATL-L-000334-20	Marker

<b>Plaintiff</b>	<b>County</b>	<b>ATL Docket No.</b>	<b>Medical Vendor</b>
Wilson, Donald and Bernadette	Atlantic	ATL-L-000297-20	Marker
Wilson, Jennifer	Atlantic	ATL-L-000214-20	Marker
Wojcik, Darrell	Atlantic	ATL-L-000323-20	Marker
Wolma, Jeffrey	Atlantic	ATL-L-000281-20	LMI
Wunrow, Jamie	Atlantic	ATL-L-000278-20	Marker
Yost, Jeffrey	Atlantic	ATL-L-000209-20	Marker
Zamorano, Juan	Atlantic	ATL-L-000331-20	Marker
Zwiebel, Jeffrey and Ellen	Atlantic	ATL-L-000268-20	Marker

**EXHIBIT B**

<b>LMI PRICING</b>	
<b>OPPOSING COUNSEL REPOSITORY</b>	
Email notification of records received is included and will be issued nightly. A per record fee for each record downloaded will be assessed to the credit card on file as the time of purchase.	
<b>User Set-Up Fee</b>	No Cost
<b>Records Received Notification Email Fee</b>	No Cost
<b>Record Review/Download Fee – Large</b> Fee is assessed per record set over 100 pages	\$10.00
<b>Record Review/Download Fee-Small</b> Fee is assessed per record set under 100 pages	\$5.00

<b>MARKER PRICING</b>	
<b>OPPOSING COUNSEL REPOSITORY</b>	
Plaintiffs' counsel may establish one (1) User Account without payment of a set up fee. Each additional User Account established by Plaintiffs' counsel will require payment of a one-time set-up fee per User Account. If an account holder has not purchased any records during the year the account has been established, the account will be deactivated. A reinstatement fee will be assessed for each user that requires reactivation. Email notification of records received is included and will be issued nightly. A per record fee for each record downloaded will be assessed to the credit card on file as the time of purchase.	
<b>User Set-Up Fee</b>	No Cost
<b>Records Received Notification Email Fee</b>	No Cost
<b>Subsequent User Set-Up Fee</b>	\$25.00
<b>Record Review/Download Fee – Large</b> Fee is assessed per record set over 100 pages	\$10.00
<b>Record Review/Download Fee-Small</b> Fee is assessed per record set under 100 pages	\$5.00
<b>Account Reinstatement Fee</b> Fee is assessed upon request to reopen account that has been suspended for lack of activity	\$25.00