

MAR - 9 2015

**THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
SUPERIOR COURT**

Strafford Superior Court  
259 County Farm Road, Suite 301  
Dover NH 03820

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**NOTICE OF DECISION**

**Michael J. Tierney, ESQ  
Wadleigh Starr & Peters PLLC  
95 Market Street  
Manchester NH 03101**

**New Hampshire Right to Life, et al v New Hampshire Director of Charitable**

Case Name: **Trusts Office, et al**

Case Number: **219-2014-CV-00386**

Enclosed please find a copy of the court's order of March 01, 2015 relative to:

Court Order re: In Camera Review

March 05, 2015

Karen A. Gorham  
Clerk of Court

(273)

C: Lynmarie C. Cusack, ESQ; Megan A. Yapple, ESQ

THE STATE OF NEW HAMPSHIRE  
SUPERIOR COURT

STRAFFORD, SS.

219-2014-CV-00386

NEW HAMPSHIRE RIGHT TO LIFE  
&  
JACKIE PELLETIER

v.

NEW HAMPSHIRE DIRECTOR OF CHARITABLE TRUST OFFICE  
&  
NEW HAMPSHIRE ATTORNEY GENERAL'S OFFICE  
&  
NEW HAMPSHIRE STATE BOARD OF PHARMACY  
&  
NEW HAMPSHIRE DEPARTMENT OF HEALTH & HUMAN SERVICES

**ORDER**

Plaintiffs New Hampshire Right to Life and Jackie Pelletier (collectively referred to as "NHRTL") have brought a Right to Know action pursuant to RSA 91-A against defendants New Hampshire Director of Charitable Trusts Office, New Hampshire Attorney General's Office, New Hampshire State Board of Pharmacy and New Hampshire Department of Health & Human Services (collectively referred to as "the State"). NHRTL assert that they have submitted

certain Right to Know requests to the State, but that the State's responses have been inadequate, have been impermissibly redacted, and have otherwise failed to comply with the Right to Know Law. The State responds that it has provided all required information and documentation in compliance with the Right to Know Law, and that any information that has been withheld or redacted is privileged or exempt from disclosure.

In a Right to Know proceeding, when a party opposing disclosure of records or documents raises a claim of exemption or privilege under that law, the Court reviews the requesting party's right to access to the information and the agency's assertion of exemption from disclosure or confidentiality. The Court may do so with an *in camera* review of the records at issue. "[T]he trial court after conducting an *in camera* review of either the documents or a *Vaughn* index of them, should weigh the public's interest in disclosure against the government's interest in non-disclosure to determine whether the documents should be disclosed." Goode v. New Hampshire Office of the Legislative Budget Assistant, 145 N.H. 451, 454 (2000); Professional Firefighters of New Hampshire v. Health Trust, Inc., 151 N.H. 501, 506 (2004).

The Court has been provided with copies of the materials as furnished to plaintiffs. Therefore, the materials as provided to the Court reflect the various redactions or other omissions that are contested by NHRTL. The State has set forth its asserted bases for the redacting of the furnished documents and the withholding of certain materials in its pleadings filed with this Court. NHRTL has responded to those assertions of privilege and confidentiality in its pleadings.

The materials as furnished to the Court are those as have been furnished to plaintiffs. It would be of assistance to the Court for the Court to receive the complete and unredacted versions of the materials for purposes of review. Therefore, the Court requests that complete and unredacted materials be furnished to the Court, sealed.

The Court will conduct an *in camera* review of the materials and documents. That review will be done without the attendance of any party or any party's counsel. As noted by the New Hampshire Supreme Court in the context of *in camera* reviews of discovery requests and potentially confidential materials: "To protect the confidentiality of privileged records, and because the trial court does not require the aid of counsel to recognize discoverable evidence, the review is conducted by the trial court without the presence of counsel." State v. Hilton, 144 N.H. 470, 476 (1999).

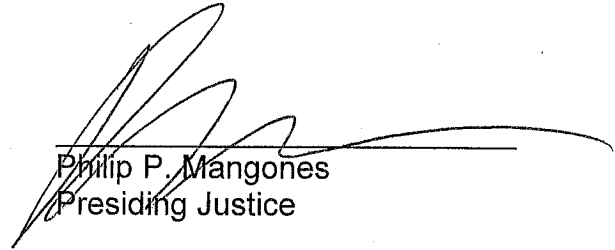
The following orders are entered:

1. The State shall provide the Court with complete and unredacted versions of the materials that have been previously furnished to the Court. Those materials shall be furnished to the Court, sealed, within five (5) days of the date of the Clerk of Court's notice of this order.
2. The unredacted documents and related materials as furnished sealed to the Court by the State shall remain sealed until and unless the Court enters a determination otherwise on the plaintiffs' Right-to-Know petition.

3. All pleadings, records or proceedings, sealed or otherwise, shall be preserved for appellate review.

SO ORDERED.

3-1-15  
Date

  
Philip P. Mangones  
Presiding Justice