**IN THE UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**
**NORTHERN DIVISION**

**MARY TROUPE, et al.** **PLAINTIFFS**

**VS.** **CIVIL ACTION NO. 3:10-cv-153-HTW-MTP**

**HALEY BARBOUR, et al.** **DEFENDANTS**

**MEMORANDUM OF AUTHORITIES SUPPORTING DEFENDANTS' RESPONSE IN OPPOSITION TO RENEWED MOTION TO VACATE PROTECTIVE ORDER**

Nearly a year ago, the Court rejected *The Clarion-Ledger*'s attempt to undo the Court's Protective Order governing confidentiality of an expert report created expressly to facilitate settlement negotiations regarding disputed claims before the Court. At this time, a settlement agreement has not been reached, and the parties are not currently engaged in further settlement negotiations. But the current status of the negotiations – by itself, as the newspaper contends – is not grounds for the Court to reverse course regarding the Protective Order at this juncture. The expert report remains, as the Court confirmed in denying *The Clarion-Ledger*'s original motion, a document expressly generated for the purpose of facilitating the parties' settlement negotiations, and confidential pursuant to Local Rule 83.7. All of the principles the Court relied on in denying the newspaper's original motion to vacate still exist, and those principles' application in this matter still justify maintaining the Protective Order.

There is no reason to believe the parties will not return to the settlement table at some point to attempt to resolve this complex litigation. If the parties

reach a negotiated settlement, or the claims here are otherwise resolved, it might be appropriate to explore whether the Protective Order should remain in place. In the meantime, however, *The Clarion-Ledger*'s renewed motion should be denied.

**FACTS**

***Background***. The Court may recall the essential facts and background leading to the entry of the Protective Order at issue [Dkt. 70], and its Order denying *The Clarion-Ledger*'s original attempt to vacate it. [Dkt. 77]. On April 8, 2011, DOJ appeared as an interested party in this private class action lawsuit regarding the State's children's mental health services by filing a "Statement of Interest of the United States of America," pursuant to 28 U.S.C. § 517, supporting plaintiffs' claims. [Statement of Interest, Dkt. 41]. DOJ subsequently invited the State to enter into "voluntary compliance negotiations" [December 22, 2011 Letter at p. 33, Dkt. 48-1], and the parties did in fact enter into considerable alternative dispute resolution efforts to resolve the overlapping claims asserted by DOJ and the plaintiffs. Negotiations continued into 2014, culminating in a structured agreement between DOJ and defendants governing the settlement efforts. The agreement addressed certain remedial measures the State would implement immediately, and established a process for the parties to assess and negotiate the settlement of all DOJ's and plaintiffs' claims. [August 29, 2014 Agreement, Dkt. 71-2].

Significantly, the August 2014 agreement provided the State would engage the Technical Assistance Collaborative ("TAC") organization, a well-recognized expert in the provision of mental health services and compliance with federal law,

to provide assessments of the State's existing services, guidance on program development, and recommendations related to program improvements. [*Id.*, at pp. 3-4]. Defendants and DOJ agreed "TAC will provide assistance to both parties during negotiations to find a global resolution." [*Id.*, at p. 4]. With respect to the claims in this lawsuit, they agreed to "engage in intensive negotiations for the purpose of reaching a comprehensive settlement agreement to resolve the United States' claims relating to service for children with mental health conditions," and to "include counsel for the *Troupe* plaintiffs in negotiations and attempt to resolve the *Troupe* claims within the agreement." [*Id.*]. To facilitate the voluntary alternative dispute resolution process, they agreed

> the State will contract with an independent consultant from TAC with system expertise in successfully serving children with significant mental health needs in community settings. The consultant will assist the parties during settlement discussions by assessing the State's existing service array, quality, and availability, and make recommendations for necessary improvements in order to address the issues raised in the *Troupe* litigation.

[*Id.*, at p. 5 (emphasis added)]. Further, the settlement discussions were deemed confidential, including information and reports furnished by TAC designed to facilitate the negotiations:

> [d]ocuments created for use in the parties' negotiations, including reports provided by or to TAC, and statements made between the parties and/or TAC regarding this matter are not admissible as evidence because they are confidential and protected by Rule 408 of the Federal Rules of Evidence unless the State and the Department of Justice agree otherwise. In order to ensure the parties may work candidly with TAC, neither party will call TAC as a witness or seek discovery from TAC in the event litigation is necessary.

[*Id.*, at p. 6].

After executing the August 2014 agreement, defendants and DOJ proceeded with settlement negotiations facilitated through TAC's assistance and assessments, exchanged draft agreements, scheduled future settlement meetings involving the parties, and made plans to include plaintiffs' counsel in the negotiations. On February 12, 2015, TAC produced a "draft report" regarding Mississippi children's mental health issues. Later, in March 2015, TAC issued its final report on that subject (hereinafter the "TAC Report") to facilitate subsequent settlement negotiations.

On March 23, 2015, a former *Clarion-Ledger* reporter requested that the Mississippi Department of Mental Health produce a copy of TAC's March 2015 Report pursuant to the Mississippi Public Records Act. [March 23, 2015 Email, Dkt. 71-5]. On March 26, 2015, the Department denied the request. [March 26, 2015 Letter, Dkt. 71-6]. The Department's response explained that TAC's March 2015 Report, and other information exchanged in the ongoing settlement negotiations, are specifically exempted from the Public Records Act under Mississippi Code Section 25-61-11,[1] integral to the parties' confidential settlement

[1] Section 25-61-11 provides that the Act "shall not be construed to conflict with, amend, repeal or supersede any constitutional or statutory law or decision of a court of this state or the United States which at the time of this chapter is effective or thereafter specifically declares a public record to be confidential or privileged, or provides that a public record shall be exempt from the provisions of this chapter." The Legislature obviously, and expressly, enacted the provision to ensure privileged or confidential documents deemed as such under any courts' rules, decisions, and/or orders do not fall within the Act. *See* ***Estate of Cole v. Ferrell***, 163 So. 3d 921, 925 (Miss. 2012) (Section 25-61-11 makes clear "the Act does not conflict with the court's authority to declare a

negotiations subject to this Court's local alternative dispute resolution rules, and did not have to be disclosed on those and numerous other grounds. [*Id.*].

On April 6, 2015, the *Clarion-Ledger* sued the Department of Mental Health in Hinds County Chancery Court over the Department's public records response. [*Clarion-Ledger* Complaint, Dkt. 68-1 & 71-1]. Among other things, the newspaper claimed an entitlement to TAC's March 2015 Report because "a protective or confidentiality order covering the TAC Report has not been entered in the *Troupe* case." [*Id.* at ¶ 14]. On April 24, 2015, defendants moved this Court for a protective order in light of the *Clarion-Ledger*'s admission. [Motion for Protective Order, Dkt. 68]. Defendants fully explained why the parties needed a protective order and attached a copy of the *Clarion-Ledger*'s state court complaint. [*See* Motion for Protective Order at Ex. "1," Dkt. 68-1]. Plaintiffs responded to the motion, consented to be bound by the confidentiality provisions of this Court's Local Rule 83.7, and expressly agreed that

> statements made, and documents generated or exchanged by one of the parties to negotiations or the Technical Assistance Collaborative ("TAC") in the course of settlement negotiations, including, but not limited to, the March 2015 TAC Mississippi Children's Behavioral Needs Assessment, shall not be disclosed by any of the parties to anyone who is not a party, counsel, or an expert participating in the confidential settlement negotiations unless all parties agree otherwise in writing.

[Motion Response at ¶¶ 9-10, Dkt. 69]. On May 6, 2015, after carefully reviewing the parties' written submissions, and conducting a telephonic conference with

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public record confidential or privileged").

counsel, the Court entered an agreed Protective Order, finding and mandating that

> This matter is before the Court on a Motion for Protective Order regarding documents exchanged between the Plaintiffs, Defendants, and the United States Department of Justice, appearing in this litigation pursuant to 28 U.S.C. § 517, in the course of confidential settlement negotiations through which the parties to the negotiations are attempting to settle this lawsuit and related claims asserted by the United States.
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> IT IS HEREBY ORDERED:
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> 1. There are ongoing confidential settlement negotiations governed by this Court's rules;
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> 2. Statements made, and documents generated or exchanged by one of the parties to the negotiations or the Technical Assistance Collaborative ("TAC") in the course of the settlement negotiations, including, but not limited to, the March 2015 TAC Mississippi Children's Behavioral Health Needs Assessment, shall not be disclosed by any of the parties to the negotiations to anyone who is not a party, counsel, or an expert participating in the confidential settlement negotiations, unless the parties to the negotiations expressly agree otherwise in writing; and
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> 3. Counsel for the defendants shall provide counsel for plaintiffs with a copy of the March 2015 TAC Mississippi Children's Behavioral Health Needs Assessment, and said document shall be subject to the foregoing terms of the Court's order.

[Order, Dkt. 70].

Relying on the Protective Order, and consistent with the terms specified in its paragraph three, defendants provided plaintiffs' counsel with a copy of TAC's March 2015 Report. The parties, including representatives of plaintiffs, defendants and DOJ, thereafter in 2015 participated in further settlement negotiations.

***The Clarion-Ledger's Motion to Intervene and Vacate the Court's Protective Order.*** On June 24, 2015, the *Clarion-Ledger* moved to intervene in

this case and vacate the May 6, 2015 Protective Order. [Motion to Intervene and Vacate Protective Order, Dkt. 71]. After full briefing and consideration of *The Clarion-Ledger*'s and defendants' arguments, the Court granted the newspaper's request to intervene but declined to vacate the Protective Order. [Order, Dkt. 77].

Regarding the denial of *The Clarion-Ledger*'s motion to vacate, first, the Court rejected the newspaper's arguments that the TAC Report is beyond the scope of Local Rule 83.7's confidentiality provisions and the Protective Order. [*Id.* at p. 5]. The Court found *The Clarion-Ledger*'s contentions that the "TAC Report was not prepared for this action and is not part of the settlement negotiations in this action," and "the TAC Report was prepared pursuant to the agreement between the State and DOJ, resulting from DOJ's separate and independent investigation of the State's services" had no merit. Then, specifically, the Court held

> The TAC Report was created for the purpose of addressing the issues presented in this action and assisting in the negotiations between the State and *Troupe* plaintiffs. [fn 3] Thus, the TAC Report is eligible for protection as a confidential document, and the Court previously entered a confidentiality order which covers the TAC Report.
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> [fn 3] Furthermore, the Clarion Ledger's argument that the TAC Report is not part of the settlement negotiations in this action is unpersuasive considering the DOJ's extensive involvement in this action. *See*, *e.g.*, Statement of Interest [41]; October 19, 2011 Minute Entry; Statement of Interest [57].

[*Id.* at p. 6].

The Court next evaluated whether the Protective Order should be modified in light of *The Clarion-Ledger*'s contentions by weighing the need for confidentiality of

the TAC Report against the public's right of access. [*Id.*]. The facts that the lawsuit involves public entities and the TAC Report involves matters of public concern demonstrated a public interest in gaining access to the settlement negotiation-related document. [*Id.*]. But, the Court held that public interest was entitled to little weight since "[t]he TAC Report . . . was created and exchanged for purposes of settlement negotiations. This fact diminishes the public's interest in the report." [*Id.* at p. 7]. Further, after reviewing numerous federal and Mississippi authorities concerning the strong public policy inherent in encouraging the voluntary settlement of complex civil cases, the Court concluded

> At this stage of litigation, while the parties are immersed in settlement negotiations, maintaining the Protective Order [70] is "likely in the long run to best serve the interest of the public and the parties alike: '[W]hatever the value of disclosure it should not obscure the strong public interest in, and policy objectives furthered by, promoting settlement.'" ***Grove Fresh Disbrib., Inc. v. John Labbatt Ltd.***, 888 F.Supp. 1427, 1441 (N.D. Ill. 1995) (quoting Arthur R. Miller, *Confidentiality, Protective Orders, and Public Access to the Courts*, 105 Harv. L. Rev. 427, 486-87 (1991)). The Court finds that the parties should be given a reasonable opportunity to settle this case. This complex case has been ongoing for more than five years and the need for a fair and efficient resolution outweighs the public's interest in accessing the TAC Report at this time. [fn 6].
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> [fn 6] Additionally, the Clarion Ledger has not demonstrated disclosure is necessary for any of the reasons set forth in L.U. Civ. R. 83.7(j)(4) (to prevent a manifest injustice, enforce a settlement, help establish a violation of criminal law, or prevent harm to the public health or safety).

[*Id.* at p. 8]. The Court denied *The Clarion-Ledger*'s motion to vacate "to the extent it seeks to have the Court vacate or modify the Protective Order [70]. This ruling, however, is without prejudice to The Clarion Ledger's right to request the Court to

vacate or modify the Protective Order [70] once settlement negotiations are concluded." [*Id.* at pp. 8-9].

***The Parties' Settlement Negotiations and Subsequent Proceedings.*** In 2015, during and after *The Clarion-Ledger*'s initial effort to set aside the Protective Order, the parties and DOJ continued their extensive settlement discussions and exchanged drafts of settlement proposals. However, as reported to the Court on December 17, 2015, the parties were unable to reach an agreement by that time. [Pl. Notice, Dkt. 82; Dec. 17, 2015 Minute Entry]. The Court held a telephone conference and advised the parties that a ruling on certain motions would be forthcoming. [Dec. 17, 2015 Minute Entry]. The plaintiffs filed a motions to resolve pending motions before the Court in May 2016, and to transfer the case to a different judge in July 2016. [Dkts. 88, 90].

Subsequently on August 3, 2016, nearly eight months after the December 17 conference, *The Clarion-Ledger* filed its instant renewed motion to vacate the Court's May 6, 2015 Protective Order. [Dkt. 92]. Then, a week later, DOJ filed a new, separate lawsuit against the State of Mississippi concerning many of the issues and claims under the Americans with Disabilities Act involved in the defendants' prior settlement negotiations with DOJ. *See* ***United States v. Mississippi***; Civil Action No. 3:16cv622-CWR-FKB. As of this writing, the Court has not issued any rulings with respect to any of the outstanding motions in this action, and no substantive proceedings have yet taken place in DOJ's separate lawsuit.

## *The Clarion-Ledger*'s RENEWED MOTION SHOULD BE DENIED

The newspaper's entire renewed argument to set aside the Protective Order as to the TAC Report, and effectively compel disclosure of that settlement negotiation-related document, proceeds from a single mistaken premise that "[t]he sole basis for both the State's lone opposition to the Clarion Ledger's original motion to vacate and the Court's denial of that motion was the parties' ongoing settlement negotiations." [Mem. at p. 4, Dkt. 93]. The defendants did not contend, and the Court did not simply hold, that the TAC Report should only be treated as a confidential settlement document during the parties' "active" settlement negotiations.

In denying *The Clarion-Ledger*'s motion to vacate, the Court held that the TAC Report is a confidential settlement related document protected by Local Rule 83.7(j) and the Court's Protective Order, and balanced the need for confidentiality of that settlement related document against the public's right of access to it. [Order at pp. 5-6, Dkt. 77]. In conducting that balancing test, the Court did find "the TAC Report involves matters of legitimate public concern." [*Id.* at p. 6]. But, as the defendants contended, the Court also determined the fact that the document "was created and exchanged for the purposes of settlement negotiations . . . diminishes the public's interest in the report." [*Id.* at p. 7]. Furthermore, the Court expressly found public policy supports the courts' encouragement of settlements, that interest is particularly pronounced in the context of complex and expensive litigation involving public concerns such as this case, failing to preserve confidentiality in

settlement negotiations would discourage settlements, and those considerations outweighed the newspaper's diminished interest in obtaining the TAC Report. [*Id.* at pp. 7-8]. Considering all those factors, while recognizing the fact that the parties' were "immersed in settlement negotiations" when *The Clarion-Ledger* moved to vacate the Protective Order, the Court preserved the TAC Report's confidentiality. [*Id.* at p. 8].

The Court did leave open the issue of revisiting its Protective Order ruling "once settlement negotiations conclude." [*Id.* at p. 9]. And, the parties and DOJ did reach an impasse in settlement negotiations by December 2015, and are not currently engaged in settlement negotiations. But that fact, standing alone as *The Clarion-Ledger* contends, does not justify vacating the Protective Order and thereby essentially requiring defendants to make the TAC Report immediately publicly available.

As the Court found in denying *The Clarion-Ledger*'s original motion to vacate, the TAC Report was created "to assist in negotiations between the State and the DOJ and to assist in the negotiations between the State and *Troupe* plaintiffs" and subject to Local Rule 83.7(j)'s confidentiality provisions. [*Id.* at p. 5]. The TAC Report is still a confidential document subject to Local Rule 83.7(j)'s confidentiality provisions, and *The Clarion-Ledger*'s renewed motion makes no attempt to demonstrate otherwise.[2]

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[2] Likewise, the newspaper's renewed motion makes no attempt to prove any exception to Local Rule 83.7's confidentiality provisions apply. The Court should easily

It would undermine Rule 83.7's express purpose of encouraging and facilitating settlement to hold, as *The Clarion-Ledger* essentially requests here, its confidentiality provisions apply while the parties are actively negotiating, but do not apply if one side walks away from the negotiating table. In any case, without confidence that confidential settlement negotiation related documents will remain confidential when settlement negotiations break down, parties would have little incentive to agree to create and exchange them. In this case, the defendants never would have agreed to engage TAC to create the TAC Report, or to act as an intermediary to facilitate settlement negotiations regarding its findings, if the expert report would not be treated as confidential. Defendants relied on confidentiality of the report in participating in settlement talks, and particularly relied on the fact that the report would not lose its confidential character when negotiations cease short of a consummated settlement. Rule 83.7(j)'s application to the expert report has not changed just because settlement negotiations have stalled, and neither has the defendants' reliance on the rule's application. That, in and of itself, justifies denying *The Clarion-Ledger*'s renewed motion.

Furthermore, in addition to Rule 83.7, the policy principles the Court gleaned from relevant legal authorities and applied in denying *The Clarion-Ledger*'s original motion to vacate remain the same. Their application to the newspaper's renewed

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conclude, as it did in its August 28, 2015 Order, that "[t]he Clarion Ledger has not demonstrated that disclosure is necessary for any of the reasons set forth in L.U. Civ. R. 83.7(j)(4) (to prevent a manifest injustice, enforce a settlement, help establish a violation of criminal law, or prevent harm to the public health or safety)." [Order at p. 8 n.6, Dkt. 77].

motion should not yield a different result merely because, at present, plaintiffs and DOJ have walked away from the negotiation table.

The TAC Report is still a confidential settlement negotiation related document, expressly prepared for the purpose of facilitating settlement negotiations. The newspaper's, or the public's, interest in the report remains "diminished," just as the Court previously found. [Order at p. 7, Dkt. 77 (citing ***United States v. Glen Falls Newspapers, Inc.***, 160 F.3d 853, 857 (2nd Cir. 1998); ***Landco Equity Partners, LLC v. City of Colorado Springs***, 259 F.R.D. 510, 513-14 (D. Colo. 2009))]. It still holds true, whether settlement negotiations are "actively ongoing" in this case or not, that "access to settlement discussions and documents has no value to those monitoring the exercise of Article III juridical power by the federal courts." ***Glen Falls***, 160 F.3d at 857; *see also* ***Landco***, 259 F.R.D. at 514 (finding the public's interest in obtaining settlement negotiation related documents prior to a consummated settlement "negligible," and any presumption of access "practically nonexistent").[3]

[3] The newspaper apparently attempts to distinguish ***Glen Falls*** and ***Landco***, both of which were lawsuits involving public entities where media outlets' attempts to gain access to settlement negotiation related documents, by insinuating those courts reached their results merely based upon the facts that "pending" settlement negotiations were "ongoing." [Mem. at p. 4, Dkt. 93]. The opinion in each case was decided at a time when settlement negotiations were ongoing. But neither court held the settlement negotiation related documents' confidentiality turned exclusively on the status of the parties' negotiations. Instead they both recognized virtually no interest in requiring disclosure of confidential settlement negotiation related documents exists before the cases concluded. In ***Glen Falls***, the Second Circuit held "opening settlement negotiations in this case prior to the crafting of a tentative agreement would not be in the public interest, nor required by the Constitution or laws." 160 F.3d at 856. And, ***Landco*** preserved the confidentiality of the documents at issue "until all obligations necessary to accomplish the settlement of this

It also remains the case here, regardless of the current status of the parties' negotiations, that public policy dictates federal courts should encourage settlements. *See* ***Glen Falls***, 160 F.3d at 856-57. Particularly so "'[w]here a case is complex and expensive, and resolution of the case will benefit the public, the public has a strong interest in settlement.'" [Order at p. 7, Dkt. 77 (quoting ***Glen Falls***, 160 F.3d at 856-57))]. As the Court found, "[t]he public and the parties have an interest in the settlement of this case." [*Id.*]. The parties could always, and likely will, return to the negotiation table in this matter. The strong policy interest in encouraging settlement of this case (and DOJ's new related action) remains in play whether the parties are currently actively negotiating or not.

Additionally, in light of the strong policy principle that federal courts should attempt to foster settlement, particularly in cases like this one, failing to preserve the TAC Report's present confidential status will discourage any future attempts to settle this case. As the Court already specifically recognized, confidentiality helps facilitate settlement, and encourages the parties to engage in frank and open discussions regarding their case's strengths and weaknesses. [*Id.* (quoting ***In re Estate of Cole***, 163 So. 3d 921, 926 (Miss. 2012); ***Landco***, 259 F.R.D. at 514)]. Meanwhile, failing "'to preserve confidentiality could discourage settlement.'" [*Id.* at p. 8 (quoting ***Cole***, 163 So. 3d at 926)]. Indeed, as the Court acknowledged, few cases would settle if the press is privy to all the parties' settlement exchanges, and

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case are completed." 259 F.R.D. at 515.

allowing such access could "'result in no settlement discussions and no settlements.'" [*Id.* at p. 8 n. 5 (quoting ***Glen Falls***, 160 F.3d at 856)].

The current posture of the parties' settlement negotiations in no way diminishes the fact that defendants relied on Local Rule 83.7, their written confidentiality agreement, and the Court's Protective Order in agreeing to negotiate with plaintiffs and DOJ over the TAC Report findings, and otherwise, in the first place. Absent a final settlement, if the Court eliminates the defendants' ability to rely on the established confidentiality of the document based on the temporal status of the settlement negotiations, that will likewise eliminate any incentive the defendants may have to undertake any similar efforts to negotiate a resolution in the future.

It is one thing to require disclosure of documents created and exchanged for purposes of settlement negotiations, and relied on by a party as confidential, when the negotiations ultimately result in a consummated settlement. But it is entirely another to require disclosure of such a document while a case is pending (or, in this scenario, now two related cases are pending), and future settlement discussions remain possible or even likely to occur.[4] Failing to continue to protect the

[4] There is no reason not to expect that the parties will return to the negotiation table regarding this action at some point before or after the Court issues its forthcoming rulings on the parties' outstanding motions. [*See* Dec. 17, 2015 Minute Entry]. Likewise, given that DOJ's new separate lawsuit is only currently in its initial stages, it is certainly likely the parties will engage in further settlement negotiations regarding those claims. And, with respect to either or both cases, the parties could always be encouraged by the court to engage in more settlement negotiations as this Court has required in the past. [*See*, *e.g.*, Order, Dkt. 39].

confidentiality of the TAC Report at this juncture will chill any future settlement discussions between the parties. If the defendants cannot rely on a court rule and an agreement between the parties governing their settlement negotiation related documents, much less a specific Protective Order entered in that regard, they will have no incentive to explore any future settlement discussions or explore any further alternative dispute resolution means in this case.[5]

The effect of vacating the Court's Protective Order at this juncture absent a consummated settlement would likely have far-reaching and untoward effects. Given that the defendants, and other public entities and officials, are frequent litigants in cases before this Court (most of which *The Clarion-Ledger* would undoubtedly claim involve the "public interest"), finding that a mere absence of "ongoing negotiations" negates the established confidentiality of a settlement negotiation related document here would discourage the State from ever undertaking similar efforts to resolve other cases in the future.

## CONCLUSION

For the reasons set forth above, the fact that settlement negotiations between the parties are not currently ongoing does not justify eliminating the confidentiality

[5] The plaintiffs' recent filing supporting *The Clarion-Ledger*'s renewed motion underscores this point. [Pl. Response, Dkt. 96]. Defendants provided plaintiffs the TAC Report and relied on the Protective Order and plaintiffs' agreement that the report would remain confidential. If plaintiffs are permitted to induce the defendants to rely on the TAC Report's confidentiality, walk away from the settlement negotiations, and then reverse their position regarding the report's confidentiality to effectively compel the report's public release, any future similar alternative dispute resolution efforts to resolve plaintiffs' claims will be chilled.

protections applicable to the TAC Report at this time. *The Clarion-Ledger*'s renewed motion to vacate the Court's Protective Order should be denied.

THIS the 22nd day of August, 2015.

Respectfully submitted,

DAVID J. DZIELAK in his official capacity as Director of the Mississippi Division of Medicaid, and DIANA S. MIKULA, in her official capacity as Executive Director of the Mississippi Department of Mental Health

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**CERTIFICATE OF SERVICE**

I, Harold E. Pizzetta, III, Assistant Attorney General for the State of Mississippi, do hereby certify that on this date, I electronically filed the foregoing document with the Clerk of Court using the ECF system which sent notification of such filing to all counsel of record.

THIS the 22nd day of August, 2015.

S/Harold E. Pizzetta, III
Harold E. Pizzetta, III