

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

IN THE MATTER OF THE CONSERVATION OF NEXTLEVEL HEALTH PARTNERS,
INC.

Jacqueline Stevens, Intervenor, Pro Se

2020 CH 04431

INTERVENOR MOTION FOR ORDER TO OBLIGATE PARTIES TO NOTICE ALL MOTIONS TO
INTERVENOR AND TO DECLARE PUBLIC ALL RECORDS FOR 2020 CH 04431 PREVIOUSLY
RELEASED BY CHANCERY DIVISION

Pursuant to 735 ILCS 5/2-408(f) intervenor respectfully requests the Court order attorneys for NextLevel Health Partners, Inc. (“NextLevel”), the Department of Insurance (“DOI”), and the People of the State of Illinois, give intervenor party Jacqueline Stevens (“intervenor”) all notices and motions filed with the Court for 2020 CH 04431. Pursuant to the first amendment and inherent judicial powers, intervenor further requests that the Court declare public all records of the proceeding for 2020 CH 04431 released to intervenor or the public by the Chancery Division, the Court, or parties, including those that were ordered sealed or redacted and released inadvertently.

**MOTION TO SECURE INTERVENOR RIGHTS UNDER ILLINOIS COURT RULES AND
735 ILCS 5/2-408(F)**

On December 6, 2021, Judge Pamela McLean Meyerson, pursuant to 735 ILCS 5/2-408(a)(2) granted Jacqueline Stevens’ petition to intervene in 2020 CH 04431 for the “limited purpose of making arguments regarding the public nature of the proceeding.” Exhibit 1, p. 2. According to Cook County, Illinois Circuit Court Rules of the Court 2.1-3 (“Rules), written notice of hearings “shall be given to all parties...” Exhibit 2. The Rules also state, “If the motion is presented in writing, a copy of the motion or a statement that it previously has been served, shall be served with the notice.” Exhibit 2.

According to 735 ILCS 5/2-408(f), “An intervenor shall have all the rights of an original party...” Exhibit 2. 735 ILCS 5/2-408(f) includes exceptions, none of which apply to the right to be noticed. Exhibit 3. Pursuant to this Court’s order, the official Cook County, Illinois Chancery Division interface for filings states intervenor is a party to 2020 CH 04431. Exhibit 4.¹ Intervenor thus has a right to all notices and motions to this proceeding.

On March 21, 2022, NextLevel attorney Matthew Freilich sent an email to the Court and parties to this proceeding, including intervenor. The email states in part, “The court in the claim action [2021L002873], entered the attached order [Exhibit 5] transferring the case to this Court as related to the conservation action.” Exhibit 6. The case transferred involves a lawsuit by Kindred THC Chicago (“Kindred Hospital”) seeking payment from NextLevel.

On March 29, 2022 attorneys for NextLevel and the Department of Insurance (“DOI”) informed intervenor that they will not send her all notices and motions submitted for 2020 CH 04431, and maintained this position even after intervenor provided legal authority supporting her position. Exhibit 6.

Attorney Daniel Guberman on behalf of the DOI wrote in an email responding to an inquiry on the status of motions associated with Kindred Hospital, “You may recall that your petition for leave to intervene was granted for the limited purpose of your pursuing the relief sought in your [amended] motion. You are not a party to the proceedings for all purposes. Accordingly, you are not entitled to notice of motions involving matters other than your amended motion.” Exhibit 7, p. 6.

In her reply, intervenor stated in part, “I am asking only that the Attorney General, NextLevel, DOI, and Kindred copy me on all filings, and that I be noticed on all hearings and

¹ Documentation is provided in Exhibit 4 via a screenshot from April 1, 2022.

orders in a proceeding of which I am an intervening party. There are obvious substantive reasons for this request, especially in light of parties filing motions under seal even after the sequestration order was lifted.” Exhibit 7, p. 5.

Stephen Schwab (“Schwab”) on behalf of NextLevel affirmed his agreement with the position taken by the DOI. Exhibit 7, pp. 3-4.

Intervenor replied, quoting from the relevant portions of Circuit Court of Cook County Rules of the Court, 2.1, Notice of Hearing Motions:

All parties must be noticed - 2.1 Notice of Hearing of Motions

(a) Notice required - Except in actions appearing on the daily trial call or during the course of trial, written notice of the hearing of all motions shall be given to all parties who have appeared and have not theretofore been found by the court to be in default for failure to plead, and to all parties whose time to appear has not expired on the date of notice. Notice that additional relief has been sought shall be given in accordance with Supreme Court Rule 105.

2. Intervenor has the rights of an original party (735 ILCS 5/2-408) (from Ch. 110, par. 2-408) Sec. 2-408. Intervention....

“(f) An intervenor shall have all the rights of an original party, except that the court may in its order allowing intervention, whether discretionary or a matter of right, provide that the applicant shall be bound by orders or judgments, theretofore entered or by evidence theretofore received, that the applicant shall not raise issues which might more properly have been raised at an earlier stage of the proceeding, that the applicant shall not raise new issues or add new parties, or that in other respects the applicant shall not interfere with the control of the litigation, as justice and the avoidance of undue delay may require.” Exhibit 5, pp. 2-3.

(735 Illinois Compiled Statutes 5/2-408(f) is included here in its entirety as Exhibit 2.)

Schwab on behalf of NextLevel replied, stating in part, “You are not a ‘party’ and do not have the rights of a ‘party’ to this proceeding. Only the Director of Insurance and Next Level are ‘parties’ to this proceeding.” Exhibit 7, p. 2.

In addition to the black letter rule obligating parties to mutually distribute all notices and motions, claims in the lawsuit filed by Kindred Hospital against NevelLevel underscore the need for public access to how Kindred's claims will be handled in this proceeding.² Especially in light of ongoing efforts by NextLevel to file documents under seal, the only means of guaranteeing she is apprised of filings about Kindred or other creditors or parties brought into 2020 CH 04431 is by parties giving notice and motions to intervenor as a party to 2020 CH 04431.

MOTION FOR ORDER DECLARING ALL RECORDS RELEASED BY CHANCERY
DIVISION FOR 2020 CH 04431 ARE PUBLIC RECORDS

On information and belief, information ordered redacted and records sealed in an order of November 29, 2021 (Exhibit 8) have been released to the public by the Chancery Division.

On December 6, 2022, Judge Pamela Meyerson issued an order granting Jacqueline Stevens the right to intervene in 2020 CH 04431. Exhibit 1. Based on information shared by the Court about logistical snafus the Chancery Division faced due to new software, and an ensuing vacation, intervenor in early January, 2022 sought from the Cook County Chancery Division all public records for 2020 CH 04431. On January 6, 2022, an official of the Chancery Division told intervenor's assistant that the order indicating which records were to be sealed or redacted was issued on November 2, 2021 and was not public. Exhibit 9, pp. 1-2. Intervenor sent an email to Mohammed Rathur ("Rathur"), staff attorney to Judge Meyerson, forwarding screen shots indicating discrepancies between the Chancery Division docket information for 2020 CH 04431 and the actual records of the proceeding, including the date of the court order ending

² "Since Next Level [sic] received payments from the government each month, one way in which it was able to increase its revenue was to delay payment (or deny payment entirely) to the medical and hospital providers that cared for its insureds and thereby earn money on the 'float.' The longer Next Level [sic] could hold on to these amounts before it paid those providers, the greater the returns from investing those funds." *Kindred THC Chicago, LLC d/b/a Kindred Hospital – Chicago North and Kindred – Chicago- Central Hospital v. NextLevel Health Partners, Inc.* 2021L002873, Complaint, Circuit Court of Cook County, Law Division, filed March 16, 2021, ¶14.

sequestration. Exhibit 9, p. 3. Rathur replied and attached a copy of the order of November 29, 2021 that was not publicly available. Exhibit 9. The order lists records that were to remain sealed or released with redactions. Exhibit 9, p. 2, and Exhibit 8.

On January 13, 2022, the Chancery Division, on payment of \$272.00, released to Intervenor's assistant a USB flash drive with 80 files. The assistant reported 197 files listed when she viewed at the public terminal. Exhibit 10. Intervenor has no information as to the reason for the discrepancy and remains concerned that she has not received all records filed in this proceeding.

In reviewing files, intervenor noticed that files ordered sealed or redacted on November 29, 2021 (Exhibit 8) appeared to have been released to the public: Exhibits A and B to the Giese Declaration (Exhibit 11), the Complaint of June 3, 2020 in its entirety (Exhibit 12), and the order of June 9, 2020, without apparent redactions (Exhibit 13).³ In light of the omission of the order of November 29, 2021 from the record and also the confusion as to when it was issued (Exhibit 9), intervenor was unsure as to whether subsequent orders had been issued that unsealed these records (and sealed others), or whether Exhibits 11 - 13 had been released inadvertently.⁴ In her FAIM of January 31, 2022 intervenor stated, "As of January 23, 2022, there is no list of documents filed in this proceeding available on the Cook County Circuit Court website and no clear and authoritative record has been released to intervenor." FAIM at ¶77. Intervenor also noted in a status hearing on February 7, 2022 that the record of proceedings was in disarray and

³ Intervenor is filing Exhibits 11 – 13 under seal even though she believes they are part of the public record and the First Amendment would protect a journalist from penalties for publishing the information (*Smith v. Daily Mail Publishing Co.*, 443 U.S. 97 (1979); *Bartrnicki v. Vopper*, 532 U.S. 514 (2001)). Further, Exhibit 13 appears to have been released in its entirety and not in a redacted form, nor as an exhibit.

⁴ NextLevel's motion of March 14, 2022 to file under seal the order of November 29, 2021 shows intervenor's concerns about ongoing efforts to file sealed records and even orders in this proceeding are well-grounded. During the hearing of March 29, 2022, the DOI did not indicate opposition to NextLevel's motion to file public records under seal.

it appeared that records order sealed had been released. On March 29, 2022, intervenor asked if any party to the proceeding had an accurate record of the documents and orders filed.

Based on statements in the opposition motions and statements made by Judge Pamela McLean Meyerson on March 29, 2022, intervenor now believes that the court's order of November 29, 2021 was not superseded by any other orders and that the documents ordered sealed were in fact released. Based on the first amendment and to avoid Orwellian misnomers, intervenor requests the court declare that all documents released by the Chancery Division to the public are public records, pursuant to which those records ordered redacted or sealed will be declared public and all records in the proceeding to date will be open to the public.

Intervenor will address separately in her reply brief due April 11, 2022 the reasons why an order to declare public the records sealed or redacted by the order of November 29, 2021 does not moot intervenor claims in her FAIM, including but not limited to her claims in pursuit of "public access to any documents or portions thereof filed with this court in Matter of Conservation of NextLevel Health, Inc..." and a declaration that "215 ILCS 5/188.1 (b) (4,5) is unconstitutional and unenforceable, and further that all proceedings and oversight initiated by the Illinois Department of Insurance pursuant to 215 ILCS 5/188.1 be subject instead to 705 ILCS 105/16." FAIM, p. 1.

Respectfully Submitted,
/s/ Jacqueline Stevens
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April 4, 2022

VERIFICATION

I, the undersigned, swear under penalty of perjury, as provided by law under Section I-109 of the Illinois Rule of Civil Procedure, that the statements contained in this motion are true and correct to the best of my knowledge and belief, except where I lack sufficient knowledge to form a belief of the truth of the allegations, where so stated.



Jacqueline Stevens