STATE OF NORTH CAROLINA                            IN THE GENERAL COURT OF JUSTICE

COUNTY OF XXXXXX                                                  SUPERIOR COURT DIVISION

**FILE NO. XXXXXX**

**STATE OF NORTH CAROLINA,** )

                        )

                        )

v.        )    **JOINT** **MOTION IN LIMINE TO**

)**PROTECT RESTORATIVE**

)**JUSTICE DIALOGUE AND PROVIDE**

)**CONFIDENTIALITY**

**XXXXXX,**             )

Defendant                    )

**NOW COMES THE STATE OF NORTH CAROLINA AND COUNSEL FOR THE ABOVE CAPTIONED DEFENDANT,** by and through Assistant District Attorney XXXXXX and Defendant’s Attorney XXXXXX and jointly move the Court for an Order, pursuant to N.C.G.S. 8C-403, prohibiting all parties from using information gained solely during a Restorative Justice Process at any future court proceedings not involving the Restorative Justice Process.

**In support of this Motion, the Parties shows the following:**

1. The date of offense is XXXXXX.
2. The XXXXXX Police Department obtained a warrant for Defendant’s arrest on XXXXXX.
3. The Defendant was served on XXXXXX.
4. The Defendant was indicted on XXXXXX.
5. The Defendant’s charges are XXXXXX.
6. The attorneys for the parties have initiated a Restorative Justice Process.  This Process is to be facilitated by XXXXXX, and XXXXXX (“the Facilitators”).
   1. The Facilitators do not work for the State or the Defense and do not represent any parties.

* 1. The Facilitators will guide the Restorative Justice Process through a nationally recognized model that has been used in other North Carolina counties and focuses on creating Restorative Justice Dialogues.

1. The alleged Victim is interested in participating in this Restorative Justice Process and her rights have been explained to her.
2. The Defendant is interested in participating in this Restorative Justice Process and his rights have been explained to him.
3. XXXXXX County Superior Court does not have local rules governing Restorative Justice or confidentiality for this process.
4. The parties agree that confidentiality is a critical component of the Restorative Justice Process.
5. The purpose of the Motion is to limit any information gleaned during the facilitated Restorative Justice Dialogues from later being used in court during a proceeding unrelated to the Restorative Justice Process without the consent of all participants (to include the State, the Defense, the alleged Victim, and the Facilitators).

**WHEREFORE, THE PARTIES JOINTY PRAY THAT THIS COURT** make the following orders.

1. The Restorative Justice Process agreed upon by the parties is intended to be confidential for all participants and parties.
2. A Facilitator shall not disclose, directly or indirectly, to any party or attendee to the Restorative Justice Dialogue Conference, information communicated to the Facilitator in confidence by any other party or attendee, unless that party and attendee give permission to do so.
   1. A Facilitator may encourage a party or attendee to permit disclosure, but absent such permission, the Facilitator shall not disclose.
   2. Facilitators include the persons named above or their designees and trainees who may participate in the process.
3. Evidence of statements made and conduct occurring in a Restorative Justice Dialogue Conference shall not be subject to discovery and shall not be admissible in any proceeding in the case or other cases arising out of the same occurrence.
4. No Facilitator shall be compelled to testify or produce evidence concerning statements made and conduct occurring during a Restorative Justice Dialogue Conference, unless agreed upon by both the State and the Defense.
5. No information gleaned solely during the Restorative Justice Dialogue Conference may be used against the Defendant at a later proceeding related to this case, unless consented to by both the State and the Defense.
6. No information gleaned about the alleged Victim may be disclosed to any person outside of the Restorative Justice process without express consent of the alleged Victim.
7. Should the Restorative Justice Process result in an agreed upon plea with sentence conditions, the process may be disclosed in open court during the sentencing hearing as agreed upon in advance by the State, the Defense, the alleged Victim, and the Restorative Justice Facilitators.

This, the     day of             , 20\_\_.

STATE OF NORTH CAROLINA                            IN THE GENERAL COURT OF JUSTICE

COUNTY OF XXXXXX                                                  SUPERIOR COURT DIVISION

**FILE NO. XXXXXX**

**STATE OF NORTH CAROLINA,** )

                        )

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v.        )    **ORDER GRANTING JOINT MOTION IN**

)**LIMINE TO PROTECT RESTORATIVE**

)**JUSTICE DIALOGUE AND PROVIDE**

)**CONFIDENTIALITY**

**XXXXXX,**             )

Defendant                    )

**THIS CAUSE** came to be heard upon a joint motion of Assistant District Attorney XXXXXX and the above captioned Defendant’s XXXXXX.  The parties jointly moved this Court for an Order, pursuant to N.C.G.S. 8C-403, prohibiting all parties from using information gained solely during a Restorative Justice Process at any future court proceedings not involving the Restorative Justice Process.

**FOR GOOD CAUSE SHOWN**, this Court makes the following Findings of Fact:

1. The parties have agreed to enter into a Restorative Justice Process.

1. This process will be facilitated by XXXXXX and XXXXXX (“the Facilitators”).
2. The alleged Victim has been advised of her rights and is interested in participating in this Restorative Justice Process.
3. The Defendant has been advised of his rights by his attorney and is interested in participating in this Restorative Justice Process.
4. Confidentiality is a critical component of the Restorative Justice Process.

**THE COURT HEREBY MAKES THE FOLLOWING ORDERS**:

1. A Facilitator shall not disclose, directly or indirectly, to any party or attendee to the Restorative Justice Dialogue Conference, information communicated to the Facilitator in confidence by any other party or attendee, unless that party and attendee give permission to do so.
   1. A Facilitator may encourage a party or attendee to permit disclosure, but absent such permission, the Facilitator shall not disclose.
   2. Facilitators include the persons named above or their designees and trainees who may participate in the process.
2. Evidence of statements made and conduct occurring in a Restorative Justice Dialogue Conference shall not be subject to discovery and shall not be admissible in any proceeding in the case or other cases arising out of the same occurrence.
3. No Facilitator shall be compelled to testify or produce evidence concerning statements made and conduct occurring during a Restorative Justice Dialogue Conference, unless agreed upon by both the State and the Defense.
4. No information gleaned solely during the Restorative Justice Dialogue Conference may be used against the Defendant at a later proceeding related to this case, unless consented to by both the State and the Defense.
5. No information gleaned about the alleged Victim may be disclosed to any person outside of the Restorative Justice process without express consent of the alleged Victim.
6. Should the Restorative Justice Process result in an agreed upon plea with sentence conditions, the process may be disclosed in open court during the sentencing hearing as agreed upon in advance by the State, the Defense, the alleged Victim, and the Restorative Justice Facilitators.

This, the     day of             , 20\_\_.

                                \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

                                Superior Court Judge Presiding