

MOTION FOR PRODUCTION OF SOCIAL  
SECURITY RECORDS AND BRIEF IN SUPPORT

COME NOW Defendants and move this Court for the production of Social Security records as follows:

1.

Plaintiff filed this action, claiming physical and psychological injuries.

2.

Plaintiff has applied for Social Security disability, apparently based upon her physical and psychological claims.

3.

In discovery, Defendants have learned that Plaintiff has had numerous preexisting and unrelated psychological stressors in her life. Various treating physicians have testified that such stressors and conditions could have affected Plaintiff's current alleged condition.

4.

Two of Plaintiff's treating physicians (including a psychiatrist) have testified that Plaintiff's application for Social Security disability benefits can be a source of secondary gain which could affect Plaintiff's truthfulness and accuracy in reporting complaints to her doctors.

5.

Plaintiff has produced limited excerpts from her Social Security disability records but has withheld a number of other documents, asserting privilege.

6.

Plaintiff's medical and psychological history, her statements on her applications and to various individuals, and surrounding facts are clearly relevant in Plaintiff's action for injuries which she alleges resulted from the accident but which Defendants allege were preexisting or caused by unrelated matters. Thus, the various Social Security disability records are relevant and discoverable. O.C.G.A. § 9-11-26.

7.

Documents which were created for the Social Security process, such as applications, statements to interviewing doctors, etc., are not covered by the psychiatric and psychological privileges (O.C.G.A. §§ 29-9-21, 43-39-16), because those privileges attach only to communications with her treating professionals for purposes of treatment. See Fulbright v. State, 194 Ga. App. 827 (1990); Kimble v. Kimble, 240 Ga. 100 (1977). The Social Security records might contain excerpts from Plaintiff's records regarding psychological or psychiatric treatment. As to those particular portions, Defendants incorporate the arguments set forth in their previous Motion for Production of Records.

8.

Social Security records may be disclosed as provided by federal law. 42 USC § 1306(a). Federal law allows the disclosure of such records "pursuant to the order of a court of competent jurisdiction." 5 U.S.C. § 552a(b)(11).

9.

This Court should order the Social Security Administration to produce to Defendants any and all documents pertaining to Plaintiff's request for and receipt of disability benefits.

WHEREFORE, Defendants respectfully request that this Court order the production of the Social Security records.

Respectfully submitted this \_\_\_\_ day of July, 1999.

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By: \_\_\_\_\_

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