



**GRANTED**

*Jay M. Roth* RT OF FULTON COUNTY  
CLERK OF GEORGIA

YVETTE CROSBY,

Plaintiff,

v.

ERROLL JEROME BAILEY, M.D.,  
ATLANTA ORTHOPAEDIC FOOT &  
ANKLEINSTITUTE, LLC,  
and JOHN DOE (1-2),

Defendants.

Civil Action File No.  
2008EV004868A

**QUALIFIED PROTECTIVE ORDER**

WHEREAS this matter comes before this Court on Defendant Erroll Jerome Bailey, M.D. and Atlanta Orthopaedic Foot and Ankle Institute, LLC's Motion for a Qualified Protective Order;

WHEREAS this Court has considered Defendant's motion, all responsive pleadings, and all matters of record;

IT IS HEREBY ORDERED that Defendants and/or Defendants' counsel are hereby permitted to engage in ex parte communications with Yvette Crosby's healthcare providers. Yvette Crosby's healthcare providers are ONLY permitted to discuss "information [that] is relevant to the medical condition[s] the litigant has placed in issue in the legal proceeding."<sup>1</sup> "Relevant" information is strictly limited to the following:

<sup>1</sup> See Baker v. Weillstar Health Systems, Inc., S10A0994, 2010 Ga. LEXIS 821 (November 1, 2010).

- Medical care provided to Yvette Crosby from the date of her admission at Piedmont Hospital and Piedmont Hospital-Fayette on July 5, 2006, through the date of her discharge on August 3, 2006.
- Medical care and/or treatment provided to Yvette Crosby by Dr. Robert Powers from July 3, 2006, through October 8, 2008.
- Medical care and/or treatment provided to Yvette Crosby in June 2006 at Atlanta Outpatient Surgery Center.
- Medical care and/or treatment received by Yvette Crosby at the Emory Clinic from October 21, 2008, through May 29, 2009.
- Medical care and/or treatment provided to Yvette Crosby at Peachtree Orthopaedic Clinic from July 26, 2006, through September 5, 2007.
- Medical care and/or treatment provided to Yvette Crosby for systemic lupus erythematosus and active lupus nephritis.

IT IS HEREBY ORDERED, pursuant to HIPAA<sup>2</sup> and Baker, supra, that:

- Defendants and Defendants' counsel are forbidden from using or disclosing Yvette Crosby's protected health information for any purpose other than this litigation.
- Defendants and Defendants' counsel shall return any protected health information to the physicians and other healthcare providers, or destroy the protected health information, including all copies made, at the end of this litigation.
- The identities of the healthcare providers that may be interviewed by Defendants' counsel are limited to those treating medical providers identified by name or

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<sup>2</sup> The Health Insurance Portability and Accountability Act of 1996 is commonly referred to as HIPAA.

reference in Plaintiff's medical records, and only after Defendants have obtained those medical records via either: 1) a request for records pursuant to O.C.G.A. §9-11-34(c); or 2) production of records to Defendants by Plaintiff.

- The medical condition(s) at issue in the litigation regarding which the health care provider(s) may be interviewed are limited to those "relevant" issues described above in this Order.
- By receipt of a copy of this Qualified Protective Order, the medical provider to be interviewed shall be made aware of the fact that the interview is at the request of the Defendants, not the patient-Plaintiff, and is for the purpose of assisting defense counsel in the litigation.
- By receipt of a copy of this Qualified Protective Order, the medical provider to be interviewed shall be made aware of the fact that the health care provider's participation in the interview is voluntary.

IT IS ALSO HEREBY ORDERED that the medical provider to be interviewed shall be provided with a copy of this Qualified Protective Order no later than the time of the proposed interview, and prior to any discussion of Protected Health Information as defined by HIPAA.

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Honorable Jay M. Roth  
Judge State Court of Fulton County

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