



William Knopf, M.D.  
Searle Videlefsky, M.D.  
Michael Waller, M.D.  
Corinne Quinn, M.D.  
Howard Cohen, M.D.  
Martha Crenshaw, M.D.  
Demir Baykal, M.D.  
Michelle Ross, M.D.  
Sean Delaney, M.D.  
Jeffrey Gould, M.D.  
Gregory Mauldin, M.D.  
David Rausher, M.D.  
Steven Dunton, M.D.  
Avery Nathanson, M.D.  
Paul Kirschbaum, M.D.  
Michael Schneider, M.D.  
Sybil Dotson, M.D.  
David Suh, M.D.  
David Olson, M.D.  
Biren Joshi, M.D.  
Hieu Nguyen, M.D.  
Worawute Supaongprapa, M.D.  
Stephen Lexow, M.D.  
Warren Botnick, M.D.  
Mark Pollock, M.D.  
Ruthia Balfour-Dorsey, M.D.  
Diane Jarrett, M.D.  
Mary Jo Eline, M.D.  
Steve Szabo, M.D.  
Jacob Levy, M.D.  
Rafael Jurado, M.D.  
Kathryn Elmore, M.D.  
Karen Muro, M.D.  
Camille Nelson, M.D.  
Milton Boden, M.D.  
Michael Champney, M.D.  
Michael Press, D.O.  
Christopher Krebs, M.D.  
John Reid, M.D.  
Gordon Hixson, M.D.  
Pramod Kaila, M.D.  
Gary Laskey, M.D.  
Jay Coffsky, M.D.  
Linton Eberhardt, M.D.  
Steven Storey, M.D.  
Robert Davies, M.D.

Thomas Daly, M.D.  
Michael Press, M.D.  
Richard Coralli, M.D.

(2) At least seven (7) days prior to any interview, counsel for Defendants shall provide a copy of this Qualified Protective Order to the healthcare provider whom they plan to interview. By receipt of a copy of this Order, the healthcare providers to be interviewed shall be made aware of the fact that the interview is at the request of the Defendants, not the Plaintiffs; and it is for the purpose of assisting counsel for Defendants in this litigation. **The healthcare providers are not required to consent to such meetings; their decision to participate is on a voluntary basis.** Further, the healthcare providers may condition such interview on the presence of their own attorney or Plaintiffs' attorney. Counsel for Plaintiffs is prohibited from attempting to prevent or thwart such interviews.

(3) Counsel for Defendants have specifically requested that the Court issue a Qualified Protective Order allowing them to conduct *ex parte* interviews with Mr. Dalzotto's healthcare providers relative to the medical care and treatment rendered to Mr. Dalzotto at DeKalb Medical Center from November 19, 2007, until his death on December 23, 2007; and relative to Mr. Dalzotto's medical conditions from November 19, 2007, through December 23, 2007.<sup>2</sup>

---

<sup>2</sup> On November 19, 2007, Jorge E. Dalzotto presented to DeKalb Medical Center, Inc., where he was diagnosed with acute appendicitis. An emergency appendectomy was performed. Plaintiffs allege that Defendants' violations of the standard of care were contributing factors to the hypovolemic shock and ultimate cardiac arrest of Mr. Dalzotto, which caused his injuries and death. Life support was withdrawn on December 23, 2007.

Counsel for Defendants may conduct informal interviews with the healthcare providers for the purpose of ascertaining records, documentation, information, and opinions related to the condition, treatment, diagnosis, prognosis, and medical causation, based on the healthcare provider's medical records and personal involvement in the care and treatment of Mr. Dalzotto from November 19, 2007, through December 23, 2007, at DeKalb Medical Center with respect to his medical condition(s); appendectomy; hypovolemic shock; cardiac arrests; life support; and death, unless the condition, treatment, diagnosis, prognosis, or medical causation is unrelated to Plaintiffs' claims in this case.

(4) Counsel for Defendants have also requested that the Court issue a Qualified Protective Order allowing them to conduct *ex parte* interviews relative to Mr. Dalzotto's medical conditions existing prior to November 19, 2007, that may be relevant to causation and/or damages claimed by Plaintiffs in this case. With respect to inquiry into Mr. Dalzotto's prior medical conditions, the Court has considered whether the *ex parte* interviews are expected to stray beyond their proper bounds.<sup>3</sup> Counsel for Defendants have not disclosed which of the named treating healthcare providers may have information about Mr. Dalzotto's prior medical conditions or in what way the healthcare providers were involved in the care and/or treatment of Mr. Dalzotto. The Court must consider the potential for unwarranted probing into matters irrelevant to the litigation, yet highly sensitive and possibly prejudicial to Plaintiffs.<sup>4</sup> The healthcare providers are permitted to

---

<sup>3</sup> See Baker v. Wellstar Health Systems, Inc., 288 Ga. 336, 703 S.E.2d 601 (2010).

<sup>4</sup> See id.

discuss only "information [that] is relevant to the medical condition[s] the litigant has placed in issue in the legal proceeding."<sup>5</sup>

Accordingly, with respect to interviews relating to Mr. Dalzotto's medical conditions existing prior to his admission to DeKalb Medical Center on November 19, 2007, counsel for Defendants must provide Plaintiffs with prior notice of, and the opportunity to appear at, the scheduled interviews or, alternatively, provide a transcription of the interview by a court reporter at the Plaintiffs' request.<sup>6</sup> No less than five (5) business days prior to the occurrence of any and all such interviews, counsel for Defendants shall provide counsel for Plaintiffs with notice of the name of the healthcare provider, the date, place, and time so that Diana J. Dalzotto will have an opportunity to appear at the interview or request a transcription.

(5) The disclosed healthcare information may not be used for any non-litigation purpose and may be disclosed only to counsel and their employees and agents for litigation purposes in this case. If the healthcare provider chooses to disclose the protected health information, HIPAA requires that the provider take reasonable steps to ensure that he or she discloses only the minimum necessary to accomplish the intended purpose of the disclosure. The disclosed healthcare information must be returned to the healthcare providers or destroyed (including all copies made) at the conclusion of this litigation.

(6) Within ten (10) days of conducting any informal meetings or substantive telephone calls with any of the named healthcare providers, counsel

---

<sup>5</sup> See id.

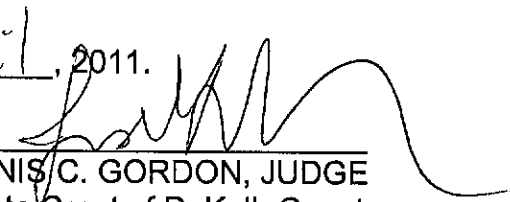
<sup>6</sup> See id.

for Defendants shall inform counsel for Plaintiffs in writing of the persons with whom they spoke and the date of the meeting. Counsel for Defendants are not required to produce any notes associated with the interviews, which constitute attorney work-product. However, should any medical provider produce documentation not previously provided to both parties, copies of this documentation shall also be produced to counsel for Plaintiffs within the aforementioned ten-day period.

(7) The healthcare providers may not disclose to counsel for Defendants any privileged information related to sexually transmitted disease, AIDS, HIV, behavioral or mental health services, psychiatric or psychological conditions or other matters deemed privileged or confidential pursuant to O.C.G.A. §§ 24-9-21, 31-22-9.1 or 43-39-16.

Nothing in this Order shall be deemed to relieve any party or attorney of the requirements of the Georgia Civil Practice Act.

SO ORDERED this 27 day of April, 2011.

  
\_\_\_\_\_  
JANIS C. GORDON, JUDGE  
State Court of DeKalb County

cc: Dennis T. Cathey, Esq.  
Timothy H. Bendin, Esq.  
Kristin L. Hiscutt, Esq.  
Wade Copeland, Esq.  
Ashley Sexton, Esq.  
Daniel J. Huff, Esq.  
Michael G. Frankson, Esq.

FILED IN THIS OFFICE  
THIS 27 DAY OF April, 2011

\_\_\_\_\_  
Clerk, State Court, DeKalb County

TRB