

COBB COUNTY, GA  
CLERK OF SUPERIOR COURT

**IN THE STATE COURT OF COBB COUNTY**

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**STATE OF GEORGIA**

DAVID B. WEBB  
STATE COURT CLERK-02

JAMES B. JORDAN, as Surviving Spouse )  
and as Executor of the Estate of MARILYN )  
KAY ADAMS JORDAN, )

Plaintiff, )

v. )

CIVIL ACTION NO. 10A5557-7

WELLSTAR KENNESTONE OB-GYN, )  
LLC, WELLSTAR KENNESTONE OB- )  
GYN 2, LLC, and JAMES A. )  
SUTHERLAND, )

Defendants. )

**QUALIFIED PROTECTIVE ORDER**

Defendants having moved for a qualified protective order, the motion is GRANTED to the extent permitted by Baker v. Wellstar Health Systems, Inc., 2010 Ga. LEXIS 821 (Ga., November 1, 2010). Specifically, and in accordance with the requirements set forth in Baker:

1. Defendants' counsel is hereby permitted to engage in ex parte communications with the following of Marilyn Kay Adams Jordan's treating physicians and healthcare providers only: W. Michael Strain, M.D., E.P. Earl Pennington, M.D., Benedict B. Benigno, M.D., Selvic Palamiappan, MS, CGC, Steven Wells, M.D., James M. Smith, M.D., Donald P. Finnerty, M.D., R. Martin York, M.D., Janet Gerard, M.D., Edward Willy Killorin, M.D., Ann P. D'Adamo, M.D., George M. Ballantyne, M.D., Michael V. Cushing, M.D., Glenn M. McAlpin, M.D., James D. Sloderbeck, M.D., and Ann Pamar Kunes, M.D.

2. The medical condition at issue in this litigation, regarding which the healthcare providers listed above may be interviewed, is cancer. To elaborate, the development of, diagnosis of, and treatment of the cancerous condition which caused or contributed to the death of Marilyn Kay Adams Jordan is included in the medical condition “cancer.”

Plaintiff seeks recovery for the full value of the life of Marilyn Kay Adams Jordan. For this reason, defendants wish to discover from the healthcare providers information regarding any conditions from which Mrs. Jordan suffered “which caused or contributed to cause a diminishment of her life expectancy or the enjoyment of her life.” Because this request does not name a specific medical condition or conditions, it appears too open-ended to comport with the “carefully crafted/precise parameters” requirements for qualified protective orders set forth in Baker.

As a remedy, plaintiff shall disclose to defendants in writing within 10 days of the date of this order information regarding any conditions (besides cancer) from which Mrs. Jordan suffered which arguably caused or contributed to cause a diminishment of her life expectancy or the enjoyment of her life. Defendants may then interview the above-named healthcare providers about those specific medical conditions listed by plaintiff.

3. Any interview which is conducted with any of the above-listed healthcare providers is conducted at the request of the defendants, not the plaintiff. The purpose of any such interview is for assisting defense counsel in this litigation.

4. Participation in any interview by any of the above-listed healthcare providers is voluntary.

5. This Court has considered whether or not there are any circumstances which warrant requiring defense counsel to provide the plaintiff with prior notice of, and the

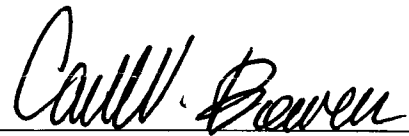
opportunity to appear at, scheduled interviews. There appear to be no circumstances warranting such measures at this point. However, and alternatively, the Court does require the transcription of the interview by a court reporter should plaintiff make a written request for transcription.

6. Defense counsel is forbidden from using or disclosing Marilyn Kay Adams Jordan's protected health information for any purpose other than this litigation.

7. Defense counsel shall return any protected health information to the physicians and other healthcare providers or destroy the protected healthcare information, including all copies made, at the end of this litigation.

8. Defendants shall provide each healthcare provider listed above with a copy of this order prior to conducting any ex parte interview pursuant to this qualified protective order.

SO ORDERED, this 3<sup>rd</sup> day of February, 2011.



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Carl W. Bowers  
Judge, State Court of Cobb County

**CERTIFICATE OF SERVICE**


I hereby certify that I have this date mailed a copy of the within and foregoing *QP*

*Order* to the following via regular U.S. Mail:

Henry D. Green, Jr., Esq.  
Green & Sapp, LLP  
1827 Powers Ferry Road, Bldg 4  
Atlanta, GA 30339

Tommy Wm. Malone, Esq.  
Meri K. Benoit, Esq.  
Malone Law Office  
Two Ravinia Drive, Suite 300  
Atlanta, GA 30346

This 3rd day of February, 2011.

  
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Becky Conley, Judicial Assistant  
Judge Carl W. Bowers  
Cobb State Court  
(770) 528-8001