

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

LISA G. MYERS and CHARLES S.)
MEYERS, JR.,)
)
Plaintiffs,)
) CIVIL ACTION FILE
v.) NO. 2008-EV-005395D
)
WARD V. HOUCK, M.D., THORACIC)
SURGERY ASSOCIATES, P.C., STUART)
J. SIMON, M.D., SRIRAMI PARAMESH,)
M.D., GEORGIA LUNG ASSOCIATES,)
P.C., BARBARA E. SIMLER, R.N.,)
COMFORT A. GBADEBO, R.N.,)
WELLSTAR HEALTH SYSTEM, INC.,)
)
Defendants.)

QUALIFIED PROTECTIVE ORDER

WHEREAS this case comes before the Court on Defendants Barbara E. Simler, R.N., Comfort A. Gbadebo, R.N. and Wellstar Health System, Inc.'s Renewed Motion for a Qualified Protective Order, and having considered all matters of record, relevant law, and for other good cause shown;

IT IS HEREBY ORDERED AND ADJUDGED that Defendants and/or their attorneys (hereinafter collectively "Defendants") are hereby permitted to engage in *ex parte* communications with the treating physicians of Plaintiff Lisa G. Myers and other healthcare providers identified on Exhibit A hereto (hereinafter "Healthcare Providers") concerning medical issues relevant to the past, present or future medical condition(s) Plaintiffs have placed in issue in this civil proceeding. The medical conditions at issue in this litigation include the development of, diagnosis, and treatment of the hip fracture sustained by Lisa Myers in an automobile accident on or about June 7, 2007. The parties may further discuss the medical treatment which Ms. Myers received for this fracture, as

well as the development of adult respiratory distress syndrome and the sequelae from that condition, including but not limited to sepsis, hypotension, hypovolemia, and exsanguination. Medical conditions which may be discussed also include her rehabilitation, neurologic and cognitive sequelae, and any pre-existing medical conditions she had which caused, contributed to cause, predisposed, or aggravated the conditions for which she currently seeks damages, including physical and mental disability, depression, and other similar problems.

Prior to engaging in any *ex parte* communication with Plaintiff Lisa Myers's Healthcare Providers, Defendants must provide reasonable written notice to the Plaintiffs to include the name of the Healthcare Provider and date and time of the communication.

Prior to engaging in any *ex parte* communications with any of Plaintiff's Healthcare Providers, Defendants must provide a copy of this Qualified Protective Order to the Healthcare Provider and:

1. Advise the Healthcare Provider that participation in *ex parte* communications with Defendants is voluntary;
2. Identify which Defendant counsel represents;
3. Advise that the communication is for the purpose of assisting the Defendants in their investigation of this litigation;
4. Disclose that the communication is not at the request of the patient; and
5. Advise that the Healthcare Provider may only discuss Plaintiff's Medical Conditions with Defendants.

It is recommended, but not required, that Defendants obtain an Acknowledgement and Election Form from the Healthcare Provider. A proposed Acknowledgement and Election Form is attached hereto as Exhibit B.

Within fifteen days after concluding an *ex parte* communication with a Healthcare Provider, Defendants must file with the Court a signed certification, in the form attached hereto as Exhibit C, certifying compliance with the terms of this Qualified Protective Order.

IT IS FURTHER ORDERED that Defendants are forbidden from using Plaintiff Lisa G. Myers's protected health information for any purpose other than this litigation.

IT IS FURTHER ORDERED that Defendants shall return any protected health information to the Healthcare Providers or destroy the protected information, including all copies made, at the end of the litigation.

SO ORDERED this 21st day of June, 2011.

/s/ Susan E. Edlein
Susan E. Edlein
Judge, State Court of Fulton County

Exhibit A

Plaintiff's Healthcare Providers

1. Robert Kelly, MD
2. Douglas Lundy, MD
3. Marvin Tark, MD
4. Chris Anderson, MD
5. Aasim Sheikh, MD
6. Robert Holcomb, MD
7. Akinkunmi Ogundipe, MD
8. Steven Oweida, MD
9. Jeffrey Schwab, MD
10. Alan Maloon, MD
11. John E. Jones, MD
12. Gary Jacobson, MD
13. Ritesh Shah, MD
14. Dietrick L. Cox, MD
15. John Lin, MD
16. Rhonda Taubin, MD
17. Norman Lee Ph.D.
18. Fayeza Ahmed, M.A. neuropsych eval/psychometric eval for Norman Lee Ph.D.
19. Kevin Rozas, MD
20. Arthur J. Simon, MD
21. Raymond Rubin, MD
22. Richard Donadio, MD
23. Himanshu Patel, MD
24. John Oliver Pittman, MD
25. Ritu Khurana, MD
26. Gary E. Voccio, MD
27. John S. Hostetler, MD
28. G. Marc Wetherington, MD
29. Robert Naguszewski, MD
30. Paul B. Brock, MD
31. Kate Osterloh, DO
32. John Paul, MD
33. Suzanne Alsayed, MD
34. Farooq Ashraaf, MD
35. Alan Hanley, MD
36. Christopher Robinson, MD
37. Dr. Horton/Harbin Clinic
38. Mary Beauchamp, MD
39. Hugo Ribot, MD
40. Fareed Kadum, MD
41. Sharon Amaya, MD

42. Mark Cruz, MD
43. Chintu Shah, MD
44. Xiuxiang Blayney, MD
45. Mahsheed Khajavi, MD
46. Aman, Mongia, MD

Exhibit B

**HEALTHCARE PROVIDER'S ACKNOWLEDGMENT &
ELECTION AS TO *EX PARTE* COMMUNICATION**

I have read the Qualified Protective Order dated _____ and I understand the following:

1. A request for *ex parte* communication is being made by counsel for Defendant(s) _____ in this litigation against Lisa G. Myers;
2. The attorneys making this request do not represent my patient Lisa G. Myers;
3. The request is not being made by Lisa G. Myers or her attorney;
4. The purpose of the request for an *ex parte* communication is to assist the Defendant(s) in litigation against Lisa G. Myers;
5. My participation in the requested *ex parte* communication is completely voluntary.
6. The *ex parte* communication *must* be limited to Lisa G. Myers's medical conditions at issue in this litigation, which include the development of, diagnosis, and treatment of the hip fracture sustained by Lisa Myers in an automobile accident on or about June 7, 2007. In addition to the medical treatment which Ms. Myers received for this fracture, the parties may also discuss her development of adult respiratory distress syndrome and the sequelae from that condition, including but not limited to sepsis, hypotension, hypovolemia, and exsanguination. Medical conditions which may be discussed also include her rehabilitation, neurologic and cognitive sequelae, and any pre-existing medical conditions she had which caused, contributed to cause, predisposed, or aggravated the conditions for which she currently seeks damages, including physical and mental disability, depression, and other similar problems.

PLEASE INITIAL YOUR CHOICE BELOW:

(____) I **agree** to engage in the requested *ex parte* communication with counsel for Defendants Barbara E. Simler, R.N., Comfort A. Gbadebo, R.N. and Wellstar Health System, Inc.

(____) I **do not agree** to engage in the requested *ex parte* communication.

Signature: _____

Printed Name: _____

Date: _____

Exhibit C

**IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA**

LISA G. MYERS and CHARLES S.)	
MYERS,)	
)	
Plaintiffs,)	
)	CIVIL ACTION FILE
v.)	NO. 2008-EV-005395D
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WARD V. HOUCK, M.D., THORACIC)	
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P.C., BARBARA E. SIMLER, R.N.,)	
COMFORT A. GBADEBO, R.N.,)	
WELLSTAR HEALTH SYSTEM, INC.,)	
)	
Defendants.)	

CERTIFICATION OF COUNSEL

I hereby certify that that on _____, 20___, I conducted an *ex parte* communication with _____ (“Healthcare Provider”) and that I advised the Healthcare Provider of the following prior to the communication:

1. That the request was made on behalf of Defendant(s) _____ in litigation against Lisa G. Myers;
2. That I did not represent the patient Lisa G. Myers;
3. That the request was not made by Lisa G. Myers or her attorney;
4. That the purpose of the request for an *ex parte* communication was to assist the Defendants in litigation against Lisa G. Myers;
5. That the Healthcare Provider’s participation in the *ex parte* communication was completely voluntary.
6. That the *ex parte* communication was to be limited to Lisa G. Myers’s medical conditions at issue in this litigation, which include (1) the development of, diagnosis, and treatment of the hip fracture sustained by Lisa Myers in an

automobile accident on or about June 7, 2007, (2) her development of adult respiratory distress syndrome and the sequelae from that condition, including but not limited to sepsis, hypotension, hypovolemia, and exsanguination, (3) her rehabilitation, neurologic and cognitive sequelae, and (4) any pre-existing medical conditions she had which caused, contributed to cause, predisposed, or aggravated the conditions for which she currently seeks damages, including physical and mental disability, depression, and other similar problems.

I further certify that, with regard to Lisa G. Myers, the *ex parte* communication was limited to matters relevant to her medical conditions at issue in this litigation, which include: (1) the development of, diagnosis, and treatment of the hip fracture sustained by Lisa Myers in an automobile accident on or about June 7, 2007, (2) her development of adult respiratory distress syndrome and the sequelae from that condition, including but not limited to sepsis, hypotension, hypovolemia, and exsanguination, (3) her rehabilitation, neurologic and cognitive sequelae, and (4) any pre-existing medical conditions she had which caused, contributed to cause, predisposed, or aggravated the conditions for which she currently seeks damages, including physical and mental disability, depression, and other similar problems.

This _____ day of _____, _____

Counsel for Defendant