

IN THE STATE COURT OF COBB COUNTY
STATE OF GEORGIA

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JENNIFER E. WILSON
STATE COURT CLERK-02

JENNIFER WILSON,

Plaintiff,

v.

WALTON COMMUNITY SERVICES,
INC., and JANE DOES 1-5,

Defendant.

CIVIL ACTION, FILE
NUMBER: 2010A2719-1

QUALIFIED PROTECTIVE ORDER

IT IS HEREBY ORDERED that counsel for Defendant Walton Community Services, Inc. ("WCS") may conduct informal interviews with Plaintiff's health care providers without counsel for Plaintiff being present as set forth herein.

Controlling federal and state law clearly allows defense counsel to conduct *ex parte* interviews with a Plaintiff's treating health care providers. See Health Insurance Portability and Accountability Act of 1996, 42 U.S.C.S. § 1320 *et seq.* (2008); 45 C.F.R. § 103 *et seq.* (2008); 45 C.F.R. § 164.500 *et seq.* (2008); O.C.G.A. § 24-9-40 (2008); Moreland v. Austin, 284 Ga. 730 (2008); Orr v. Sievert, 162 Ga. App. 677 (1982); Baker v. Wellstar Health Systems, Inc., 2010 WL 2159372 (Ga. June 1, 2010); Baker v. Wellstar Health Systems, Inc., 2010WL4272843 (Nov. 1, 2010).

Pursuant to federal and state law, counsel for Defendant is hereby authorized to speak informally with Plaintiff's treating physicians and other health care providers without counsel for Plaintiff being present or participating therein. Specifically, the treating physicians who may be interviewed include: Michelle Huggins, M.D.; Marvin E. Nix, M.D.; Yaacob Ghebremeskel, M.D.; Priti Pandya, M.D.; Vivek Gupta, M.D.; Gregory Sachs, M.D.; Gordon Gephardt, M.D.;

and Mark Silverstein, M.D. These health care providers may provide records and discuss with counsel for Defendant, the medical care and/or treatment rendered to Plaintiff, which is limited to matters relevant to the care and treatment and medical conditions at issue in this proceeding, namely Plaintiff's gastroesophageal reflux disease, first-degree burn to Plaintiff's oropharyngeal mucosa, epiglottitis, esophagitis and gastritis. Plaintiff's health information, which includes any oral communication that is/was created or received by a health care provider that is relevant to the care and treatment and medical conditions at issue in this proceeding, may be disclosed to defense counsel, their legal associates, paralegals, investigators, and office staff.

These interviews are conducted at the request of the Defendant, not the patient-Plaintiff, and are for the purpose of assisting defense counsel in this litigation. The decision to engage in such communications lies with the treating health care providers, and they are not compelled by this Order to do so, may choose not to be interviewed, and are not required to engage in *ex parte* communication with defense counsel. ~~Their participation in such meetings is considered~~ voluntary. Defense counsel, however, is not required to produce any notes or memorandum associated with these interviews, which constitute attorney work product. The use or disclosure of any protected health information obtained by defense counsel during *ex parte* interviews is limited to uses and disclosures for purposes of this litigation. At the conclusion of this litigation, defense counsel must either return to the treating health care providers or destroy the protected health information of Plaintiff, including all copies made thereof.

Plaintiff's counsel hereby is prohibited from communicating with Plaintiff's treating health care providers, orally or in writing, in an effort to prevent or thwart the requested *ex parte* interviews. Plaintiff's counsel shall not act in a manner which would tend to intimidate the

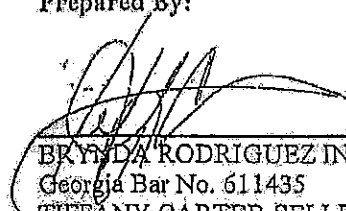
health care providers or cause them any fear of repercussions should they agree to defense counsel's request for the interviews permitted herewith.

SO ORDERED this 14 ^{January, 2011} day of ~~November~~, 2010.



THE HONORABLE MELODIE H. CLAYTON
JUDGE, STATE COURT OF COBB COUNTY

Prepared By:



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