

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
AUGUSTA DIVISION

FILED  
U.S. DISTRICT COURT  
AUGUSTA, GA  
2009 JUL 28 A 10:23

CLERK *Jana Burt*  
SOUTH GEORGIA

TYAKEIA COLEMAN, As Surviving )  
Mother and as Administratrix of the )  
ESTATE OF JAMES WRIGHT, JR., )  
Deceased Minor Child of JAMES )  
WRIGHT, SR., As Surviving Father of )  
JAMES WRIGHT, JR., Deceased Minor )  
Child, )  
)  
Plaintiffs, )  
)  
vs. )  
)  
NARGIS H.S. HUSAINY, M.D., )  
)  
Defendant )

CIVIL ACTION FILE  
NO. CV 109 044

**QUALIFIED PROTECTIVE ORDER**

Plaintiffs filed the above-captioned medical malpractice lawsuit against pediatrician Nargis H.S. Husainy, M.D. ("Dr. Husainy") following the death of Plaintiffs' four month old child, James Wright, Jr. ("Wright"). A brief explanation of the parties' contentions is in order.

Plaintiffs allege that Wright died on May 13, 2007 from interstitial pneumonitis which went undiagnosed and untreated by Dr. Husainy. According to their complaint, Plaintiffs claim that despite their concerns about Wright's cough and cold like symptoms, for which he was last seen by Dr. Husainy on April 18, 2007, she should have ordered lab work, radiologic evaluation, pulse oximetry, appropriate medical treatments, and/or referred the infant to a specialist under the circumstances. Plaintiffs contend that had such measures

been taken, Wright would not have died.

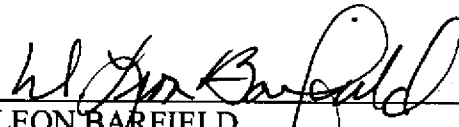
Dr. Husainy, on the other hand, denies Plaintiffs' allegations, specifically that lab work, radiologic evaluation, pulse oximetry, other medical treatment, and/or referral to a specialist were indicated under the circumstances on or before April 18, 2007. Dr. Husainy contends that all the care she provided to Wright was within the applicable standard of care, that his death was not the result of any negligent act on her part, and she disputes all of Plaintiffs' other allegations.

Presently before the Court is Defendant's request for a qualified protective order allowing her to conduct *ex parte* interviews with Tyakeia Coleman and James Wright, Jr.'s health care providers, first responders, EMS crew, and individuals involved in the postmortem investigation and examination of James D. Wright, Jr. On June 19, 2009, the Court granted Defendant's request. (Doc. no. 33). Pursuant to that decision, the Court hereby issues the following qualified protective order.

Defense counsel may conduct *ex parte* interviews with the health care providers, first responders, EMS crew, and individuals involved in the postmortem investigation and examination of James D. Wright, Jr. Defense counsel may also conduct *ex parte* interviews with Plaintiff Tyakeia Coleman's pre-natal OB/Gyn physician, Dr. William Lavigne. The following conditions shall apply to any such interviews conducted pursuant to this Order: (1) defense counsel may only discuss with these individuals issues relevant to the infant decedent's prenatal, delivery, or postnatal health, circumstances involving the infant's death, and his mother's health during her pregnancy and delivery of the infant decedent; (2) Defendant is prohibited from using or disclosing the protected health information for any

purpose other than this litigation; (3) Defendant must either return to the medical provider or destroy the protected information at the end of the litigation; (4) defense counsel must inform the interviewee that the purpose of the disclosure is not at the request of the patient, however, the patient has been put on notice of the order; (5) defense counsel must inform the interviewee of their right to decline any request for an *ex parte* communication; (6) within seven days after conducting the *ex parte* communication, defense counsel shall inform Plaintiff's counsel in writing of the person(s) with whom counsel spoke, the location of the meeting, and the date of the conference; and (7) defense counsel shall produce to Plaintiff's counsel or make available for inspection documentation or tangible evidence obtained pursuant to the *ex parte* communication that has not already been exchanged between the parties.

SO ORDERED this 28<sup>th</sup> day of July, 2009.

  
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W. LEON BARFIELD  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF GEORGIA