

IN THE STATE COURT OF GWINNETT COUNTY  
STATE OF GEORGIA

MARY LEE, Individually, and )  
DORIS LEE, as legal representative and )  
Power of attorney for Mary Lee, individually) )  
And on behalf of others similarly situated, )

Plaintiffs, )

v. )

CIVIL ACTION

FILE NUMBER: 10C-06313-2

AMERICAN RENAL CARE, INC., )  
KIDNEY CARE GROUP, INC., )  
LOGANVILLE DIALYSIS CENTER, )  
DR. ABID BASHIR, NORTH GEORGIA )  
NEPHROLOGY CONSULTANTS, LLC, )  
DR. STUART HANDELSMAN, NORTH )  
ATLANTA KIDNEY SPECIALISTS, PC, )  
METRO ATLANTA KIDNEY )  
SPECIALISTS, PC, STUART )  
HANDELSMAN, MD, PC, and )  
DEKALB MEDICAL CENTER, )

Defendants. )

**QUALIFIED PROTECTIVE ORDER**

IT IS HEREBY ORDERED that counsel for Defendants American Renal Care, Inc., Kidney Care Group, Inc., Loganville Dialysis Center, Dr. Abid Bashir, North Georgia Nephrology Consultants, LLC, Dr. Stuart Handelsman, North Atlanta Kidney Specialists, PC, Metro Atlanta Kidney Specialists, PC, Stuart Handelsman, MD, PC, and DeKalb Medical Center (collectively "Defendants") may conduct informal interviews with Ms. Lee's health care providers without counsel for Plaintiffs 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).

Pursuant to federal and state law, counsel for Defendants is hereby authorized to speak informally with Ms. Lee's treating physicians and other health care providers without counsel for Plaintiffs being present or participating therein. These health care providers may provide records and discuss with counsel for Defendants, the medical care and/or treatment rendered to Ms. Lee, which is limited to matters relevant to the care and treatment and medical conditions at issue in this proceeding. Ms. Lee'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.

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 Ms. Lee, including all copies made thereof.

Plaintiffs' counsel hereby is prohibited from communicating with Ms. Lee's treating health care providers, orally or in writing, in an effort to prevent or thwart the requested *ex parte* interviews. Plaintiffs' 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.


A copy of this Order will be given to each treating healthcare provider.

SO ORDERED this \_\_\_\_\_ day of August, 2010.

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THE HONORABLE RANDOLPH RICH  
JUDGE, STATE COURT OF GWINNETT COUNTY

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