

FILED

2013 MAR -8 PM 3:49
CLERK OF SUPERIOR COURT
DEKALB COUNTY GA

IN THE SUPERIOR COURT OF DEKALB COUNTY
STATE OF GEORGIA

KELVIN TAYLOR and
JACKIE TAYLOR,

Plaintiffs,

v.

DECATUR HEALTH RESOURCES, INC.

Defendant.

CIVIL ACTION

FILE NO. 12CV4595-1

QUALIFIED PROTECTIVE ORDER

IT IS HEREBY ORDERED that Counsel for Defendant **DECATUR HEALTH RESOURCES, INC.** may communicate *ex parte* with Kelvin Taylor's healthcare providers.

Federal and state law allows defense counsel to conduct *ex parte* interviews with a patient's treating healthcare providers. See Health Insurance Portability and Accountability Act of 1996, 42 U.S.C.S. § 1320 *et seq.* (2012); 45 C.F.R. §103 *et seq.* (2011); 45 C.F.R. § 164.500 *et seq.* (2012); O.C.G.A. § 24-9-40 (2012); Moreland v. Austin, 284 Ga. 730 (2008); Orr v. Sievert, 162 Ga. App. 677 (1982); Baker v. Wellstar Health Systems, Inc., 2010 Ga. LEXIS 413 (June 1, 2010); Baker v. Wellstar Health Systems, Inc., 2010 Ga. LEXIS 821 (Nov. 1, 2010).

Counsel for Defendant are hereby authorized to communicate informally with Mr. Taylor's treating healthcare providers *without Counsel for Plaintiffs being present or participating therein and without prior notice* to Plaintiffs and/or their Counsel.

These interviews are at the request of Defendant, not Plaintiffs, and are for the purpose of assisting Defendant's Counsel in the present litigation.

The individuals who may be interviewed include Kelvin Taylor's treating healthcare providers identified by name or referenced in his medical records and only after Defendant has obtained those medical records via a request for records pursuant to O.C.G.A. §9-11-34(c) or from Plaintiffs' Counsel. These individuals specifically include the following:

- The following physicians who cared for Mr. Taylor's at Emory University Hospital during his March 16, 2010-April 6, 2010 hospitalization before he was transferred to LTAC:
 - Attending physician (name currently unknown)
 - Cardiologists (names currently unknown)
 - Pulmonologists (names currently unknown)

- The following physicians who cared for Mr. Taylor at LTAC from April 6, 2010-January 20, 2011:
 - Abhay Trivedi, MD (cardiologist)
 - Terri TenHoor, MD (attending physician/pulmonologist)
 - Anson Wurapa, MD (infectious diseases)
 - Qammar Rashid, MD (general surgery)
 - Samuel Charukhchian, MD (gastroenterology)
 - Todd Antin, MD (psychiatry)
 - Lisa DiFrancesco, MD (plastic surgery)
 - Milton Boden, MD (infectious diseases)
 - Adam Bressler, MD (infectious diseases)
 - Hieu Nguyen, MD (infectious diseases)

- The following physicians who cared for Mr. Taylor at DeKalb Medical Center's acute care hospital from January 20, 2011-February 10, 2011:
 - Chuansheng Wu, MD (pulmonology)
 - Melvin Bullock, MD (internal medicine)
 - Harold Jackson, MD (pulmonology)
 - Abhay Trivedi, MD (cardiologist)
 - Rob Dretler, MD (infectious diseases)
 - Mark Freeman, DO (physiatry)
 - Solomon Tafari, MD (internal medicine)

- The following physicians who cared for Mr. Taylor at Select Specialty LTAC during his hospitalization there beginning on January 20, 2011 after he was transferred from DeKalb Medical Center's acute care hospital:
 - Attending physician (name currently unknown)
 - Cardiologists (names currently unknown)

- Mr. Taylor's wound care providers, including nurses and physicians (names currently unknown)
- The following physicians who cared for Mr. Taylor at South Fulton Medical Center during his hospitalization there in June 2012 related to his sacral wound:
 - Attending physician (name currently unknown)
 - Cardiologist (name currently unknown)
 - Mr. Taylor's wound care providers, including nurses and physicians (names currently unknown)
- Kingsley Agbeyegbe, MD: Mr. Taylor's primary care physician, who treated him in 2011 and 2012 for congestive heart failure, hypertension, and diabetes, as well as provided follow-up wound care to Mr. Taylor in 2012
- (First name currently unknown) Lane, MD: Mr. Taylor's primary care physician with Kaiser Permanente
- Vetra Gipson, MD: Mr. Taylor's plastic surgeon who treated him in June 2011 related to his sacral wound

These individuals may provide records and discuss with Counsel for Defendant information that is relevant to Mr. Taylor's medical conditions which are at issue in this proceeding. The medical conditions at issue in this proceeding are as follows:

- Mr. Taylor's cardiac/hypertension/diabetes care with his community physicians prior to his admission to Emory University Hospital on March 16, 2010
- Mr. Taylor's cardiac/hypertension/diabetes/sacral skin care during his hospitalization at Emory University Hospital beginning on March 16, 2010
- Mr. Taylor's cardiac/hypertension/diabetes status following his discharge from DeKalb Medical Center's acute care hospital on February 10, 2011 through the present
- The medical care and treatment of Mr. Taylor from April 6, 2010 through February 10, 2011 while a patient at LTAC concerning following medical conditions and care *only*: respiratory/ventilation/weaning; sacral wound; cardiac; hypertension; diabetes; and psychiatric care related to these conditions

- The medical care and treatment of Kelvin Taylor from January 20, 2011-February 10, 2011 while a patient at DeKalb Medical Center's acute care hospital concerning the following medical conditions and care only: respiratory/ventilation/weaning; sacral wound; cardiac; hypertension; diabetes; and psychiatric care related to these conditions

- Mr. Taylor's cardiac/pulmonary/diabetes/hypertension/sacral wound care at Select Specialty LTAC once he was transferred there from DeKalb Medical Center's acute care hospital on February 10, 2011;
- Mr. Taylor's cardiac/pulmonary/diabetes/hypertension/sacral wound status and progression at South Fulton Medical Center during his June 2012 hospitalization;

The decision to engage in such *ex parte* communications lies with the treating healthcare providers, and they are not compelled by this Order to do so and may choose not to be interviewed. Their participation in such meetings is voluntary. They may also condition such communications upon the presence of personal counsel and/or Plaintiffs' Counsel. Counsel for Defendant shall so advise the healthcare providers and furnish them a copy of this Order prior to any such communication.

Defendant's Counsel shall notify Plaintiffs' Counsel of the provider's name and date of the *ex parte* communications within ten (10) days of any such communication.

Defendant's Counsel is prohibited from using or disclosing the protected health information for any purpose other than the litigation or proceeding for which such information was requested.

At the conclusion of this litigation, Defendant's Counsel must either return to the treating healthcare providers or destroy the protected health information of Kelvin Taylor, including all copies made thereof.

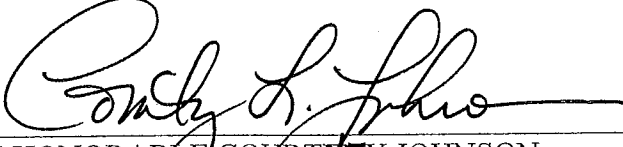
Plaintiffs' Counsel hereby is prohibited from communicating with Kelvin Taylor's treating healthcare providers, orally or in writing, in an effort to prevent or thwart *ex parte* communications with Defendant's Counsel. Plaintiffs' Counsel shall not act in a manner which would tend to intimidate the healthcare providers or cause them any fear of repercussions should they agree to Defendant's Counsel's request to communicate *ex parte* permitted herewith.

Defendant's Counsel is not required to produce any notes or memorandum associated with these interviews, which constitute attorney work product. However, Defendant's Counsel will provide to Plaintiffs' Counsel any documents provided to them by the healthcare provider within ten (10) days of obtaining the same.

Nothing in this Order shall be deemed to relieve any party or attorney of the requirements of the Georgia Civil Practice Act.

Defendants' Counsel may amend the list of healthcare providers identified herein as discovery proceeds.

SO ORDERED this 8th day of March, 2013.



THE HONORABLE COURTNEY JOHNSON
SUPERIOR COURT OF DEKALB COUNTY