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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Antonio Navarro-Covert Jr.,
Plaintiff,
v.
R.J. Reynolds, Inc., and DOES 1-30,
inclusive,
Defendant.

Case No. C 09-06086 EMC
~~PROPOSED~~ ORDER AFTER CASE
MANAGEMENT CONFERENCE
Judge: The Hon. Edward M. Chen

A further Case Management Conference was held on August 12, 2011. Ellinor Coder appeared for Defendant R.J. Reynolds Tobacco Company (“Reynolds”) (incorrectly named as R.J. Reynolds, Inc.). Plaintiff Antonio Navarro-Covert appeared by telephone.

The Court has ordered Plaintiff on three occasions to serve complete responses to R.J. Reynolds Tobacco Company’s First Set of Requests for Production of Documents to Plaintiff (“Reynolds’ First RFPs”) – first by February 7, 2011 (Docket No. 31), then by May 18, 2011 (Doc. No. 37), and then by June 22, 2011 (Docket No. 41). Plaintiff has not made any response to Reynolds’ First RFPs beyond his January 31, 2011 production of approximately eight (8) documents. Therefore, Plaintiff is not permitted to introduce into evidence or otherwise use in connection with this action any documents that are responsive to Reynolds’ First RFPs other than those which were produced on January 31, 2011. *See* Fed. R. Civ. P. 16(f)(1)(C) and

1 37(b)(2)(A)(ii).

2 The Court has ordered Plaintiff on three occasions to produce a complete list of his
3 treating physicians and their contact information. First, the Court ordered Plaintiff to file a
4 supplemental Rule 26 disclosure with the names and contact information for all of Plaintiff's
5 treating physicians by February 7, 2011 (Docket No. 31). Plaintiff did not file a supplemental
6 Rule 26 disclosure, but he provided a list of certain treating physicians on March 1, 2011.
7 Second, the Court ordered Plaintiff to produce the name, address, and telephone number of
8 treating physician Dr. E. McGee by May 18, 2011 (Docket No. 37). Third, the Court ordered
9 Plaintiff to produce the complete list of his treating physicians including the name, address, and
10 telephone number of Dr. E. McGee by June 22, 2011 (Docket No. 41). Plaintiff did not
11 supplement his March 1, 2011 list of treating physicians nor did he produce Dr. E. McGee's full
12 name, address, or telephone number by June 22, 2011. Therefore, Plaintiff is not permitted to
13 introduce into evidence or otherwise use in connection with this proceeding any evidence of
14 treatment by any treating physician, ^(other than Dr. Abramo) including Dr. E. McGee, whose name, address and telephone
15 number were not provided by Plaintiff to Defendant in his March 1, 2011 list. *See* Fed. R. Civ. P.
16 16(f)(1)(C) and 37(b)(2)(A)(ii). *Re Court reserves judgment as to Dr. Abramo.*

17 The Court has ordered Plaintiff on two occasions to fully sign and return all medical
18 records authorizations to Reynolds – first by April 27, 2011 (Docket No. 37) and then by June 22,
19 2011 (Docket No. 41). Plaintiff has not signed a medical records authorization for Physicians
20 Choice Medical Group. Plaintiff has not provided complete authorizations for release of medical
21 records from Mercy Hospital (Buffalo, New York) or Dr. Abramo (Hamburg, New York). When
22 this failure was discussed at the August 12, 2011 CMC hearing, Plaintiff represented to the Court
23 that he had provided those authorizations via facsimile to counsel for Reynolds and he had proof
24 of that delivery. Reynolds' counsel said that they did not receive any such fax. The Court
25 ordered Plaintiff to file and serve proof of fax of these authorizations by August 19, 2011.
26 Plaintiff did not file any proof of fax with the Court as ordered. Therefore, Plaintiff is not
27 permitted to introduce into evidence or otherwise use in connection with this proceeding any
28 evidence of treatment by Physicians Choice Medical Group, Mercy Hospital, or Dr. Abramo. *See*

1 Fed. R. Civ. P. 16(f)(1)(C) and 37(b)(2)(A)(ii).

2 IT IS SO ORDERED.

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4 Dated: a/19/11



The Hon. Edward M. Chen
United States District Judge

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1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 Antonio Navarro-Covert, Jr.,
5 Plaintiff,

Case Number: CV09-6086 EMC

CERTIFICATE OF SERVICE

6 v.

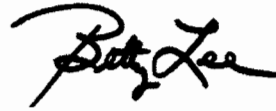
7 R.J. Reynolds, Inc., et al.,
8 Defendants.

9
10 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court,
Northern District of California.

11 That on September 19, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located
in the Clerk's office.

14 Antonio Navarro-Covert, Jr.
6618 Old Plank Road
15 Fredericksburg, VA 22407
16 (540) 412-2018

17 Dated: September 19, 2011



Richard W. Wieking, Clerk
By: Betty Lee, Deputy Clerk