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E-FILED 09-17-2010

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LAILA BATTS,

No. C08-00286 JW (HRL)

Plaintiff,

**ORDER (1) DEFERRING A RULING ON
PLAINTIFF’S MOTION FOR
ENFORCEMENT OF DISCOVERY
ORDER AND (2) DENYING
PLAINTIFF’S MOTION RE RENEWAL
OF DISCOVERY REQUESTS**

v.

COUNTY OF SANTA CLARA, PETER
CRANDALL, CHRISTINA ARQUERO, and
DOES 3-20,

[Re: Docket No. 101]

Defendants.

Plaintiff Laila Batts claims that during her 10-day incarceration at the Elmwood Women’s Facility (“Elmwood”) from January 5-14, 2007, defendants failed to diagnose and provide appropriate medical care for her ectopic pregnancy. She seeks damages for alleged violation of her civil rights (42 U.S.C. § 1983) and professional negligence.

Batts moves for an order enforcing this court’s August 27, 2009 discovery order (Docket No. 88). She also seeks rulings on her prior discovery motions. Defendants oppose the motion. Upon consideration of the moving and responding papers,¹ as well as the arguments of counsel, this court issues the following order:

¹ After briefing on the instant motion closed, Batts submitted an unauthorized supplemental reply brief in contravention of Civil Local Rules 7-3 and 7-7. This court has accepted and considered her supplemental reply brief. Nevertheless, the court does not condone plaintiff’s failure to abide by the court’s rules and warns against future noncompliance.

1 1. Plaintiff’s Workers’ Compensation Records

2 Plaintiff seeks an order enforcing a prior discovery order with respect to certain records
3 subpoenaed by defendants. This portion of plaintiff’s motion raises issues which dovetail with
4 those in defendants’ separate motion to compel nonparty Sigal Medical Group to produce
5 documents (Docket No. 130). Accordingly, this court will deal with this particular issue in a
6 separate order together with the issues raised in defendants’ discovery motion.

7 2. Plaintiff’s Employment Records

8 Plaintiff renews her request for limits on her employment records subpoenaed by
9 defendants. She argues that—other than her earning histories, positions held, and dates of
10 employment—information in her employment records is private and irrelevant. Defendants
11 argue that plaintiff’s employment records are directly relevant to her claimed damages. While
12 plaintiff may have a privacy interest in her personnel records, that interest “may, nevertheless,
13 be invaded for litigation purposes.” *Ragge v. MCA/Universal Studios*, 165 F.R.D. 601, 604
14 (C.D. Cal. 1995). Here, Batts claims lost wages and contends that she needs vocational
15 rehabilitation as a result of defendants’ alleged conduct (Harris Decl. Ex. C). This court agrees
16 that plaintiff’s employment records are relevant or reasonably calculated to lead to the
17 discovery of admissible evidence under Fed. R. Civ. P. 26(b)(1) and that plaintiff’s privacy
18 rights do not outweigh defendants’ interests in discovery of her complete employment records.
19 *See McNulty v. Huf*, No. CIV. A. 98-5942, 2000 WL 230352 (E.D. Pa., Feb. 22, 2000)
20 (permitting discovery of plaintiff’s complete prior employment records where plaintiff claimed
21 that continuing physical and psychological injuries resulted in lost earnings and adversely
22 affected her earning capacity). Plaintiff’s motion is denied.

23 3. Third-Party Records

24 Plaintiff previously moved for an order compelling the County to give her a free copy of
25 all subpoenaed records it had obtained or would obtain prior to trial. This court denied that
26 request, but nonetheless directed the County to provide plaintiff (at plaintiff’s expense) copies
27 of all subpoenaed records it had obtained up to that point in time. (*See* Docket No. 88). As for
28 records that the County would subpoena in the future, plaintiff was directed to either request her

1 own set of copies from the non-parties or subpoena the records herself. (*Id.*). Plaintiff now
2 renews her request and seeks an order compelling defendants to tell her which documents they
3 have subpoenaed and which subpoenaed records they actually have obtained. Plaintiff has
4 presented no compelling reason to revisit this court's prior ruling. Her motion is denied.

5 4. Defendants' Document Production

6 Plaintiff requests a ruling on her prior motion to compel the production of documents
7 (Docket No. 44). Her motion is denied as moot. (*See* Docket Nos. 88 and 119).

8 5. Defendants' Interrogatory Responses

9 Plaintiff seeks an order ruling on her prior motion to compel the County to provide
10 supplemental interrogatory answers (Docket No. 44). Her motion is denied as moot. (*See*
11 Docket No. 119).

12 6. Deposition Conduct

13 Plaintiff requests a ruling on her prior motion for sanctions with respect to defendants'
14 alleged deposition misconduct (Docket No. 43). Her motion is denied as moot. (Docket No.
15 117).

16 7. Employee-Expert Report

17 Plaintiff requests a ruling on her prior motion to compel a written expert report from
18 defendants' designated employee-expert Nurse Horn (Docket No. 45). Her motion is denied as
19 moot. (Docket No. 116).

20 8. Deposition Limits

21 Plaintiff's motion for an order eliminating the presumptive 10-deposition limit under
22 Fed. R. Civ. P. 30(a)(2)(A)(i) is denied. To the extent plaintiff seeks leave to conduct more
23 than 10 depositions, that issue has been addressed and resolved in a separate order (Docket No.
24 274).

25 SO ORDERED.

26 Dated: September 17, 2010

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HOWARD J. LLOYD
UNITED STATES MAGISTRATE JUDGE

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5:08-cv-00286-JW Notice has been electronically mailed to:
Aryn Paige Harris aryn.harris@cco.sccgov.org, anna.espiritu@cco.sccgov.org
Barry Clement Marsh bmarsh@hinshaw-law.com, csimmers@hinshaw-law.com
Blaise S. Curet bcuret@spcclaw.com
Gregory Joseph Sebastinelli gregory.sebastinelli@cco.sccgov.org,
marylou.gonzales@cco.sccgov.org
Jeremy L. Friedman jlfried@comcast.net
Stephen Ryan Wong swong@spcclaw.com
Counsel are responsible for distributing copies of this document to co-counsel who have not
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