

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FLORA KEILCH,
Plaintiff,
v.
SUENIA ROMERO, MARSHELL TERRY-
BATTLE, and DOES 1-10 inclusive,
Defendants.

Case No. 5:15-cv-01526-LHK (HRL)

**ORDER RE DISCOVERY DISPUTE
JOINT REPORT NO. 1**

Re: Dkt. No. 52

In this civil rights action, plaintiff Flora Keilch alleges that defendants wrongfully removed her minor son, R.S.,¹ from her custody, using a warrant obtained through material misrepresentations and omissions. On June 24, the parties filed Discovery Dispute Joint Report (DDJR) No. 1 because they disagree whether defendants should be permitted to depose two physicians: Dr. Mason and Dr. Sarah Hunter. According to defendants, Dr. Mason reports to Dr. Hunter and was the attending psychiatrist who oversaw R.S.’s care on three prior visits. Because the requested testimony concerns psychiatric care, the doctors will not agree to appear for deposition unless plaintiff consents. This court is told that, although plaintiff previously consented to the release of R.S.’s medical records, as well as to the depositions of other doctors and medical staff, plaintiff initially refused to consent to the depositions of Drs. Mason and Hunter on the

¹ In the instant discovery report, the parties also refer to plaintiff’s son as R.J.

1 ground that defendants had exceeded the presumptive 10-deposition limit. Defendants say that
2 they have only taken eight depositions. Nevertheless, plaintiff maintains that the depositions are
3 irrelevant and violates R.S.'s privacy. And, because R.S. is not a party to this suit, plaintiff
4 contends that this court has no authority to permit the depositions to proceed. The matter is
5 deemed suitable for determination without oral argument. Civ. L.R. 7-1(b). Upon consideration
6 of the parties' arguments, this court grants defendants' request for discovery.

7 The scope of pre-trial discovery is broad, and defendants have established that the
8 requested depositions are relevant. They point out that records produced in discovery suggest that
9 Dr. Mason and Dr. Hunter have information that may corroborate alleged misstatements made in
10 the warrant, as well as knowledge of communications with the Department of Family and
11 Children's Services on the day R.J. was removed and placed in protective custody. Compelling
12 the depositions therefore comports with the liberal policy of discovery under the Federal Rules
13 and the truth-seeking function of such discovery. While there are legitimate privacy interests in
14 the testimony sought, the right to privacy is not absolute. Ragge v. MCA/Universal Studios, 165
15 F.R.D. 601, 604 (C.D.Cal.1995). And, under the circumstances presented here, this court agrees
16 that plaintiff's stated concerns about R.S.'s privacy are a red herring. Defendants note that
17 information about R.S.'s medical and psychological status have already been disclosed; his
18 medical records have been produced, with plaintiff's consent; and, as noted above, several doctors
19 and medical staff have already been deposed. Further, defendants have agreed to designate the
20 testimony confidential, and there is a protective order limiting the use and dissemination of such
21 information.

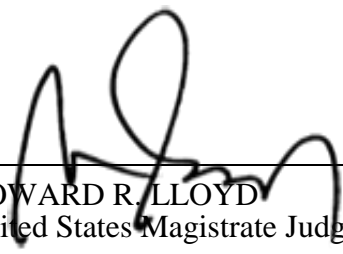
22 Accordingly, defendants' request for discovery is granted. The depositions of Drs. Mason
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and Hunter shall proceed forthwith.²

SO ORDERED.

Dated: June 29, 2016



HOWARD R. LLOYD
United States Magistrate Judge

² The present DDJR having been filed a week before the scheduled July 1, 2016 close of fact discovery, this court addressed it as promptly as possible. If the subject depositions cannot be completed within the time remaining for fact discovery, this court recommends that the fact discovery period be extended for a reasonable time to permit the depositions to be completed.

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5:15-cv-01526-LHK Notice has been electronically mailed to:

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