

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya**

Civil Action No. 08-cv-02329-RPM-KMT

FTR

Date: October 05, 2009

Debra Brown, Deputy Clerk

ROGER KINCADE

Karen Larson

Plaintiffs.

v.

CENTURA HEALTH CORPORATION

Peter Sabey

Defendants.

COURTROOM MINUTES / MINUTE ORDER

MOTIONS HEARING

Court in Session: 8:58 a.m.

Court calls case. Appearance by counsel.

Opening statements by the Court regarding the various pending motions.

Plaintiff's Amended MOTION for Protective Order [Sealed Document #65, Public Entry Document #67, filed September 01, 2009] at issue.

Argument by Ms. Larson.

ORDERED: Plaintiff's Amended MOTION for Protective Order [Sealed Document [65], Public Entry Document [67], filed September 01, 2009] is **DENIED under Rule 30(d)(4). This citation does not exist. Additional, Rule 30(d)(3)(4) provides only termination or limitation of deposition. This deposition is complete.**

ORDERED: As agreed by Plaintiff, Plaintiff will not present at trial any evidence or reference to the underlying facts concerning the 1999 event reference in the Sealed motions in its case in chief, including any comment or inference characterizing the event except for the fact of the event and the date of the event.

Defendant's MOTION for Sanctions [Sealed Document [37], Public Entry Document [41], filed August 12, 2009] at issue.

Argument by Mr. Sabey.

ORDERED: Defendant's MOTION for Sanctions [Sealed Document [37], Public Entry Document [41], filed August 12, 2009] is **DENIED; however, Defendant is**

granted leave to recall the Defendant for deposition on the limited topic as stated on the record and topics directly derivative thereto.

Plaintiff's Sealed First MOTION to Compel Discovery Responses [Document [32], filed August 04, 2009] at issue.

Argument by Counsel.

ORDERED: Plaintiff's Sealed First MOTION to Compel Discovery Responses [Document [32], filed August 04, 2009] is **GRANTED in part and DENIED in part as follows:**

With respect to Request for Production of Documents Nos. 1d and 5 the Motion is **DENIED pursuant to Rule 26(c) as it is unduly burdensome. And expensive given the negligible relevance of the information.**

With respect to Request for Production of Document No. 2 the Motion is **granted as follows:**

1. Defendant, Centura is required to provide plaintiff information as to who performed the background check of plaintiff, if any, and who was providing background checks for Centura during the relevant time period.
2. Defendant Centura shall produce an Index of the numbers documents, including the source locations provided to plaintiff.
3. Defendant Centura shall produce plaintiffs personnel file for inspection.
4. Defendant Centura shall produce a copy of the Background check policies and procedures for the relevant time period.
5. Defendant Centura shall produce an electronic copy of any application completed by plaintiff and shall allow inspection of all application on a Centura computer if so requested.

ORDERED: The Court will not award costs in connection with the filing of the motion to compel.

Court in recess: 10:21 a.m.

Court in session: 10:31 a.m.

Defendant's MOTION to Strike Plaintiff's First, Second, Third, Fifth and Sixth Supplemental Disclosures [Document [39] filed August 11, 2009] at issue.

Argument by Counsel.

ORDERED: Defendant's MOTION to Strike Plaintiff's First, Second, Third, Fifth and Sixth Supplemental Disclosures [Document [39] filed August 11, 2009] is **GRANTED in part and DENIED in part.**

The Motion to strike is **GRANTED** as to Laurence Reynolds, Rick Wilkes, Judy Goldstein shall be excluded pursuant to Rule 37(c)(1). The Plaintiff will not be allowed to use information from these witnesses to supply evidence on a motion, hearing or trial and will not be called as witnesses at trial. The failure to disclose pursuant to Rule 26 was unexplained, not substantially justified, nor harmless.

The Motion to strike is **DENIED** as to all other disclosures witnesses. Discovery is reopened and extended to **December 04, 2009** as to the discovery directly related to this Court's rulings this date, including discovery relating to the witnesses in Plaintiff's supplemental disclosures except for Reynolds, Wilkes and Goldstein and discovery by Plaintiff directly related to newly disclosed background check information. The dispositive motion deadline is extended to **January 11, 2010**.

Court in recess: 11:17 a.m.

Total In-Court Time 2:19; hearing concluded

*To obtain a transcript of this proceeding, please contact Avery Woods Reporting at (303) 825-6119.