

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

Civil Action No: 09-cv-00915-WJM-KMT
Courtroom Deputy: Sabrina Grimm

Date: June 10, 2013
FTR: Courtroom C-201

MELISSA R. SCHWARTZ, as personal
representative and administrator of the Estate of
Chandler Grafner, deceased,
CHRISTINA GRAFNER, and
JOSHUA NORRIS,

Jere Kyle Bachus
Zach Elsner

Plaintiffs,

v.

MARGARET BOOKER, in her individual and
official capacity, and
MARY PEAGLER, in her individual and official
capacity,

Andrea Kershner
Robert Wolf

Defendants,

JEFFERSON COUNTY DEPARTMENT OF
HUMAN SERVICES,
DENVER COUNTY DEPARTMENT OF
HUMAN SERVICES,
ARAPAHOE COUNTY DEPARTMENT OF
HUMAN SERVICES ,

Writer Mott
Rebecca Klymkowsky
Andrea J. Kershner
Robert A. Wolf
Michael Valentine

Petitioners,

COLORADO DEPARTMENT OF PUBLIC
HEALTH AND ENVIRONMENT,

Joan Smith

Interested Party.

COURTROOM MINUTES

1:32 p.m. Court in session.

Court calls case. Appearances of counsel.

Court states its understanding of the issues.

Discussion regarding protective order, subpoena in relation to Chandler Grafner (not all children), phase 1 discovery (status of child), burden of producing documents requested in subpoena, depositions, and production of case files.

1:38 p.m. Argument by Ms. Kershner.

1:43 p.m. Argument by Mr. Wolf.

1:46 p.m. Argument by Mr. Bachus.

Further discussion regarding production of case files (redacted), costs, privilege information, policies and procedures, and deliberative process.

1:54 p.m. Argument by Mr. Valentine.

2:06 p.m. Argument by Mr. Mott.

2:16 p.m. Argument by Mr. Bachus.

2:35 p.m. Statement by Ms. Smith.

2:37 p.m. Continued argument by Mr. Bachus.

2:39 p.m. Rebuttal argument by Mr. Mott.

2:48 p.m. Rebuttal argument by Mr. Valentine.

2:51 p.m. Argument by Ms. Smith.

2:58 p.m. Further argument by Mr. Bachus.

3:04 p.m. Rebuttal argument by Ms. Smith.

ORDERED: Araphoe County Department of Human Services' Motion to Quash Subpoena Duces Tecum [131] is TAKEN UNDER ADVISEMENT.

ORDERED: Jefferson County Human Services' Partial Motion to Quash Plaintiffs' Subpoena Duces Tecum [134] is TAKEN UNDER ADVISEMENT.

ORDERED: Colorado Department of Public Health and Environment's Motion to Quash the Non-Party Subpoena to Produce Documents, Information, Or Objects or to Permit Inspection of Premises in a Civil Action, or, in the Alternative,

Motion for Protective Order [139] is TAKEN UNDER ADVISEMENT.

3:10 p.m. Court in recess.

3:24 p.m. Court in session.

Discussion with Mr. Bachus and Ms. Kershner regarding personnel files of named Defendants with respect to performance, discipline, education, and training. Continued discussion regarding production of Denver policies and procedures, emails, undue burden of production, compensation, narrowing the scope of the email requests, and sharing costs.

3:59 p.m. Argument by Ms. Kershner.

4:01 p.m. Argument by Mr. Bachus.

ORDERED: City and County of Denver, Department of Human Services' Motion to Quash and Modify Plaintiffs' Subpoena Duces Tecum [136] is GRANTED IN PART AND DENIED IN PART; issues regarding production of Chandler Grafner's files, as redacted, are moot as the file has been produced without further court findings. Denver County Department of Human Services shall produce the requested documents, as stated on record. The documents related to policies and procedures shall be limited to those otherwise relevant and responsive policies and procedures which were in effect during January 1, 2006 through May 7, 2007. Given that the parties are in phase 1 of the discovery process wherein the status of Chandler Grafner during the relevant period is the primary issue, the otherwise relevant and responsive emails requested in the subpoena will be produced only for the time period January 2007 through November 7, 2007, without prejudice to the Plaintiff to request emails for later periods if necessary and also without prejudice to the City and County's ability to object to such production if raised.

4:06 p.m. Court in recess.

Hearing concluded.

Total in-court time 02:20

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