

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior District Judge Richard P. Matsch**

Date: April 3, 2013
Courtroom Deputy: J. Chris Smith
FTR Technician: Kathy Terasaki

Civil Action No. 12-cv-03351-RPM-KMT

GRETCHEN GRESHAM,
SPENCER GRESHAM,
Individually and as Parents and Natural Guardians of
GRAYSON GRESHAM, a minor,

Derry B. Adams

Plaintiffs,

v.

THOMAS E. LOBE, M.D.

Patrick Q. Husted
Christopher D. Yvars

Defendant.

COURTROOM MINUTES

Scheduling Conference

11:00 a.m. Court in session.

Counsel answer questions and state their respective positions on case facts.
Mr. Husted states the hospital did a limited investigation and the report has been kept confidential.
Ms. Adams describes Spencer Gresham's current condition.

Discussion regarding experts.

Ms. Adams states plaintiffs' expert has not produced a report because the deposition of doctors Lobe and Sweeney are necessary.

Court instructs counsel to take the deposition of Dr. Lobe in Colorado Springs (no video) first then Doctor Sweeney's, so that plaintiffs' expert Dr. Simon can complete his report.

ORDERED: Plaintiffs' Motion to Strike Defendant Thom E. Lobe M.D.'s Designation of Nonparties [22], is granted.

Discussion regarding outrageous conduct claim with respect to damages.

Court and counsel agree that emotional damages are not recoverable under Colorado medical malpractice law.

Court and Ms. Adams clarify that the claims by the parents are on the tort claim for outrageous conduct and not on the medical malpractice.

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Discussion regarding disputed issues.

Court states school records are not discoverable and questions concerning social media (topics related to the case) can be asked during Ms. Gresham's deposition.

Court further states parties may file motions to designate non parties at fault or to amend pleading to add a party, if determined necessary during discovery, based on good cause.

ORDERED: Deadline for Joinder of Parties and Amendment of pleadings shall remain May 13, 2013.

Court clarifies to counsel that treating physicians are not subject to expert report.

ORDERED: Counsel are to file a revised proposed scheduling order.

11:33 a.m. Court in recess.

Hearing concluded. Total time: 33 min.