

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

HEIDI STEPHENS, M.D.,

Plaintiff,

v.

Case No.: 8:17-cv-53-T-23AAS

**UNIVERSITY OF SOUTH FLORIDA
BOARD OF TRUSTEES,**

Defendant.

ORDER

Before the Court is Defendant's Motion for Order Compelling Production of Documents from Catherine Hodge, LMHC, and Requesting Her to Show Cause Why She Should Not be Held in Contempt of Court and/or Made to Reimburse Defendant for Its Reasonable Attorneys' Fees Associated with the Filing of this Motion (Doc. 26), Response of Non-Party Catherine Hodge, LMHC, to Defendant's Motion for Order Compelling Production of Documents (Doc. 27), and Defendant's Reply to Non-Party Catherine Hodge, LMHC, to Defendant's Motion for Order Compelling Production of Documents (Doc. 31).

Plaintiff, Heidi Stephens, M.D., filed this discrimination action against Defendant Board of Trustees of the University of South Florida. (Doc. 30). On August 16, 2017, Defendant served a subpoena duces tecum for the production of certain documents and medical records on Catherine Hodge, LMHC. (Doc. 26, Ex. B). Ms. Hodge responded with a letter to defense counsel stating that the requested medical records were confidential. (Doc. 26, Ex. D). After much back and forth between counsel for Defendant and counsel for Ms. Hodge, Defendant filed the instant motion to compel production of the documents requested in the subpoena duces tecum. (Doc. 26, Exs. E-J).

Ms. Hodge filed a response to Defendant's motion, stating that she was not attempting to obstruct the proceedings or willfully fail to comply with the subpoena, but believed that the documents requested contained confidential patient information. (Doc. 27). After requesting and receiving leave to do so, Defendant filed a reply to Ms. Hodge's response in opposition to its motion. (Doc. 31). In its reply, Defendant reiterates its position that the documents and medical records sought are discoverable and should be produced. (*Id.*).

On October 5, 2017 and October 9, 2017, Defendant and Ms. Hodge, respectively, filed Notices with the Court. (Docs. 32, 33). According to the Notices, all documents and medical records subject to the subpoena duces tecum at issue have been provided. (Docs. 32, 33). Therefore, the motion to compel is moot. In addition, as Ms. Hodge had a reasonable basis for her belief that the documents and medical records requested were confidential, an award of attorneys' fees is not warranted. *See* Fed. R. Civ. P. 37(a)(5)(A)(ii).

According, after due consideration, it is **ORDERED**:

Defendant's Motion for Order Compelling Production of Documents from Catherine Hodge, LMHC, and Requesting Her to Show Cause Why She Should Not be Held in Contempt of Court and/or Made to Reimburse Defendant for Its Reasonable Attorneys' Fees Associated with the Filing of this Motion (Doc. 26) is **DENIED as moot**. Each side shall bear their own attorneys' fees and costs incurred as a result of the instant motion.

DONE AND ORDERED in Tampa, Florida on this 12th day of October, 2017.



AMANDA ARNOLD SANSONE
United States Magistrate Judge