

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT LOUISVILLE

CIVIL ACTION NO. 3:10-CV-516-H

MELISSA R. QUIGGINS

PLAINTIFF

V.

LOUISVILLE/JEFFERSON COUNTY  
METRO GOVERNMENT;  
MARK E. BOLTON;  
CORRECTIONAL MEDICAL SERVICES, INC.; and  
UNKNOWN DEFENDANTS

DEFENDANTS

**MEMORANDUM OPINION AND ORDER**

The parties have filed a number of motions concerning expert witnesses. The Court conducted a lengthy conference to discuss these issues in depth.

Defendants have moved to strike Plaintiff's experts because the opinions expressed are speculative. The Court believes that those experts can testify to opinions expressed with a reasonable degree of medical probability. Certainly, Defendants have testimony which call these opinions into question. However, the jury is entitled to hear all expert testimony.

Defendants have moved to strike the supplemental expert disclosures of Dr. Barclay which offers a new opinion of Baptist Hospital's CT scan results. The supplementation does not alter Dr. Barclay's ultimate conclusions, but does seek to support it with a new opinion of the CT scan results. The Court concludes that the new opinion is important enough to be part of the case. The use of the new opinion is unfairly prejudicial to Defendants because the CT scan results have been unchallenged through two years of litigation until only a few months prior to trial. The Court exercises its discretion to allow Dr. Barclay's new opinion, but only under the condition that Defendants be allowed to rebut the new opinion and that trial is continued.

The Court discussed other pending motions as indicated in this order. Being otherwise sufficiently advised,

IT IS HEREBY ORDERED that Defendants' motion to exclude expert testimony is DENIED.

IT IS FURTHER ORDERED that Defendants' motion to exclude reference to "dental abscess" from the medical records is DENIED, but the Court will not allow these references to be used as medical opinions.

IT IS FURTHER ORDERED that Defendants' motion in limine is SUSTAINED and the Court will exclude reference to deliberate indifference, the video of an amputation and the accreditation report.

IT IS FURTHER ORDERED that Defendants' motion to exclude Dr. Barclay's supplemental expert report is DENIED in part and Dr. Barclay may testify as to his opinion of the CT scan. He may not make reference to the opinion of Dr. Allan Farman.

IT IS FURTHER ORDERED that Defendants may retake the depositions of Dr. Barclay and may, within 30 days, submit additional expert disclosure concerning the CT scan results. The Court does not intend to allow further testimony on the subject.

IT IS FURTHER ORDERED that Defendants' motion at conference to continue the trial date is SUSTAINED and the new trial date will be reiterated in a separate order.

cc: Counsel of Record