

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

VELETA SMITH

Plaintiff,

v.

SENDERRA RX PARTNERS, LLC,

Defendant.

Case No. 16-10131

SENIOR UNITED STATES DISTRICT
JUDGE ARTHUR J. TARNOW

MAGISTRATE JUDGE ELIZABETH A.
STAFFORD

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**ORDER OVERRULING PLAINTIFF’S OBJECTIONS AND DENYING PLAINTIFF’S
EMERGENCY MOTION SEEKING EXPEDITED CONSIDERATION FOR AN ORDER
STAYING THE MAGISTRATE JUDGE’S ORDER GRANTING DEFENDANT’S MOTION
TO COMPEL DISCOVERY RESPONSES PENDING THE COMPLETION OF THIS
COURT’S REVIEW OF THE OBJECTIONS TO SAID ORDER [24]**

INTRODUCTION AND PROCEDURAL HISTORY

Before the Court is Plaintiff’s Emergency Motion Seeking Expedited Consideration for an Order Staying the Magistrate Judge’s Order Granting Defendant’s Motion to Compel Discovery Responses Pending the Completion of this Court’s Review of the Objections to Said Order. This matter was initiated when

Plaintiff filed a Complaint on January 14, 2016 [1]. Defendant filed an Answer on February 24, 2016 [5].

Since the commencement of this action, Defendant has filed two Motions to Compel Discovery Responses. The first Motion was filed on April 25, 2016 [12]. This Court entered an Order Referring Defendant's Motion to Magistrate Judge Elizabeth A. Stafford on May 4, 2016 [15]. After Plaintiffs agreed to provide discovery responses, Defendant withdrew the Motion on May 5, 2016 [17].

Defendant filed the second Motion to Compel Discovery Responses on July 20, 2016 [18]. Plaintiff filed a Response to Defendant's Motion on August 3, 2016 [19]. This Court referred Defendant's Motion to Compel Discovery Responses to Magistrate Judge Elizabeth A. Stafford on August 8, 2016 [20]. After the Motion Hearing, Judge Stafford issued an Order Granting Defendant's Motion to Compel [23]. Judge Stafford ordered Plaintiff to produce signed releases for the medical records by September 26, 2016.

Plaintiff filed an Objection to Judge Stafford's Order [25] and the Instant Motion [24] on September 23, 2016. Defendants filed a Response to the Instant Motion [26] on September 26, 2016.

DISCUSSION

A district court may set aside a magistrate judge's order on a non-dispositive, pre-trial matter if it is clearly erroneous or contrary to law. *See* 28 U.S.C. § 636(b)(1)(A); *United States v. Curtis*, 237 F.3d 598, 603 (6th Cir. 2001).

The Court agrees with the Magistrate Judge's decision granting Defendant's Motion to Compel. The requested medical records are discoverable under Federal Rule of Evidence 26(b)(1) because they are relevant to Ms. Smith's claims and to Senderra's defenses, and are central to resolving the issues. Furthermore, although the Sixth Circuit has recognized equitable estoppel in the FMLA context, it is usually applied "only in particularly compelling circumstances." *See, e.g., Dobrowski v. Jay Dee Contractors, Inc.*, 571 F.3d 551, 554 (6th Cir. 2009); *Woodford v. Community Action of Greene County, Inc.*, 268 F.3d 51, 57 (2d Cir. 2001). Here, Ms. Smith has not shown that she relied on Defendant's approval of her intermittent FMLA leave, nor has she presented evidence that she made any decisions that were contingent on her understanding that FMLA leave was approved. Accordingly,

IT IS ORDERED that Plaintiff's Emergency Motion to Stay [24] and Plaintiff's Objections to the Magistrate Judge's Order to Compel are **DENIED**. Plaintiff will produce the signed medical records releases by Tuesday, September 27, 2016.

IT IS FURTHER ORDERED that the parties will enter into a stipulated protective order regarding the medical records of Plaintiff's daughter. The parties will submit a proposed order to the Court by Tuesday, September 27, 2016.

SO ORDERED.

Dated: September 26, 2016

s/Arthur J. Tarnow

Arthur J. Tarnow

Senior United States District Judge

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 26, 2016, by electronic and/or ordinary mail.

s/Julie Owens acting in the absence of Michael Lang
Case Manager