

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WESTBORN PHYSICAL THERAPY,
LLC, et al.,

Plaintiffs,

Case No. 16-13940

vs.

HON. GEORGE CARAM STEEH

CORE HEALTH, LLC, et al.,

Intervening Plaintiffs,

vs.

ESURANCE INSURANCE CO.

Defendant.

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ORDER

This matter came before the court on the Rule 16 scheduling conference, held December 20, 2016. This case was removed from Wayne County Circuit Court by defendant Esurance Insurance Co. on November 7, 2016, after more than eight months of litigation in state court. The plaintiffs oppose any further discovery inasmuch as the case in state court was well past the discovery cut-off by the time it was removed. In addition,

defendant's summary disposition motion had been heard and denied.

Plaintiffs complain that, at best, defendant is seeking to relitigate the entire case after participating in the state court right up to the eve of trial in that forum. Intervening plaintiffs' counsel, Mr. Bloomberg, opined that the case is not worth in excess of \$75,000. Given that at least one intervening plaintiff has claims totaling only about \$16,000, and others are likewise very limited in damages, the court was asked to limit or bar discovery and motion practice in order to effectively address what plaintiffs believe are abusive litigation tactics employed thus far by defendant.

Accordingly, the court indicated at the conference that it would allow discovery for a period of 45 days, limited to permit defendant to depose plaintiff's accountant and to seek tax returns. Plaintiffs may depose defendant's claims adjuster during the same period if they wish. Discovery addressed in the state court proceeding shall be permitted full use in this case.

After the conference, counsel for the parties discussed a possible agreement to remand with a cap on damages of \$75,000. The court's allowance of discovery in this case shall not preclude potential sanctions if

evidence of an abusive litigation strategy by defendants is presented to the court.

Dated: December 27, 2016

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on December 22, 2016, by electronic and/or ordinary mail.

s/Marcia Beauchemin
Deputy Clerk