

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SCOTT D. MCCLURG, et al.,)
)
Plaintiffs,)
)
vs.)
)
MI HOLDINGS, INC., et al.,)
)
Defendants.)

No. 4:12CV00361 AGF

Consolidated for Discovery
and Pretrial Proceedings with

PAULETTE M. ADAMS, et al.,)
)
Plaintiffs,)
)
vs.)
)
MH HOLDINGS, INC., et al,)
)
Defendants.)

No. 12CV00641 AGF

MEMORANDUM AND ORDER

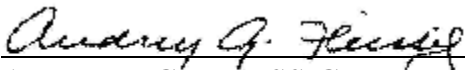
On September 7, 2012, the Court held a telephone conference with Lead Counsel, Liaison Counsel, and certain other defense counsel concerning the parties’ dispute over whether the Medical Release Form to be used by all Defendants and completed by all Plaintiffs in these two toxic tort cases should encompass Plaintiffs’ mental health records, and records regarding any alcohol and/or substance abuse by Plaintiffs.

Upon consideration of the parties’ arguments and review of the complaints and the relevant case law, the Court concludes that in light of Plaintiffs’ allegations of mental and

emotional damage and distress for which they seek to recover damages, the Plaintiffs' mental health records are relevant to the case, and could lead to the discovery of admissible evidence. *See, e.g., Eggering v. MHP, Inc.*, No. 4:10CV01794 AGF, 2011 WL 6029956, at *2 (E.D. Mo. Dec. 5, 2011). Whether Defendants will ultimately be permitted to use any such evidence at trial will be subject to later determination. In addition, Plaintiffs' privacy concerns can be eased somewhat by an appropriate protective order.

The Court concludes, however, that Defendants' argument that records of abuse of alcohol and/or drugs are relevant, is too speculative in light of the diseases claimed to warrant requiring Plaintiffs to disclose records related to any such abuse, at this time. This ruling is subject to reconsideration should Defendants establish the relevance of or need for such evidence at a later time.

IT IS HEREBY ORDERED that the times set forth in the Court's Scheduling Order dated August 20, 2012, for the parties to agree upon a Medical Release Form, for Plaintiffs to provide Defendants with signed copies of the agreed-upon form, and for Lead Counsel and Liaison Counsel to file a joint status report, shall all be extended by ten days.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 11th day of September, 2012.