IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:09-CV-534-F

LISA M. MILLER and her husband, ROBERT ANTHONY MILLER, Plaintiffs, v. UNITED STATES OF AMERICA, Defendant.	)))))))))))))))	**ORDER**

This matter is before the court following the pretrial hearing held in Wilmington, N.C., on Tuesday, August 23, 2011, at 10:00 a.m. This order memorializes and clarifies rulings made during the hearing.

With regard to the motions in limine, the court makes the following rulings:

1. Defendant's First Motion in Limine [DE-71] is ALLOWED.

2. Plaintiffs' Motion in Limine to Strike Any Testimony of Thomas A. Sweasey, M.D. [DE-73] is DENIED for the reasons stated in open court. As the undersigned stated at the hearing, however, Dr. Sweasey will not be allowed to testify as to any texts or literature allegedly supporting his views.

3. Plaintiffs' Motion in Limine to Restrict Testimony of Thomas A. Sweasey, M.D. [DE-74] is DENIED.

4. Defendant's Motion for Release from Subpoena and Use of De Bene Esse Deposition at Transcript at Trial [DE-75] is ALLOWED. For good cause shown, it hereby is ORDERED

that Dr. Charles Goodno is released from the trial subpoena.

5. Defendant's Motion for Consideration of Miscellaneous Matters [DE-76] is ALLOWED in part and DENIED in part. It is ALLOWED to the extent that Defendant seeks the release of Dr. Andrew Peterson from the trial subpoena, and for good cause shown, it hereby is ORDERED that Dr. Andrew Peterson is released from the trial subpoena. To the extent Defendant seeks to prevent Plaintiff from calling two opinion witnesses on the standard of care for emergency medicine, the motion is DENIED. To the extent Defendant objects to live testimony of certain witnesses, the motion is DENIED as moot.

6. Plaintiffs' Motion in Limine to Strike/Prevent Testimony of Thomas A. Sweasey, M.D. on the Standard of Care Applicable to the Defendant Providers [DE-77] is DENIED.

7. Plaintiffs' Motion in Limine to Strike Testimony of Charles C. Goodno, M.D. [DE-78] is DENIED.

The court makes the following rulings regarding the admissibility of exhibits:

1. Defendant's objections to Plaintiffs' Exhibit #16 is OVERRULED as moot.

2. Defendant's objection to Plaintiffs' Exhibits #31, 35, and 36 are WITHDRAWN.

3. Defendant's objection to Plaintiffs' Exhibits #38, 39, 40, and 41 are OVERRULED to the extent the witnesses testify at trial.

4. Defendant's objection to Plaintiffs' Exhibit #42 is OVERRULED.

5. Plaintiffs' objection to Defendant's Exhibit #32 is OVERRULED.

6. Plaintiffs' objection to Defendant's Exhibit #36 is OVERRULED.

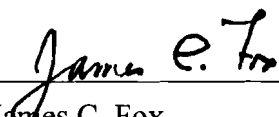The court makes the following rulings regarding the admissibility of pleading and

discovery materials:

1. Defendant's objections to Plaintiffs' Response to Defendant's N.C.G.S. §1A-1, Rule 9(j) Interrogatories; Plaintiffs' Compliance with Rule 26(a)(1) Initial Disclosures; Plaintiffs' Responses to Defendant's First Set of Interrogatories and Request for Production of Documents; Plaintiffs' First Supplemental Responses to Defendant's First Set of Interrogatories and Request for Production of Documents; Plaintiffs' Responses to Defendant's First Set of Interrogatories and Request for Production of Documents; Plaintiffs' First Supplemental Responses to Defendant's First Set of Interrogatories and Request for Production of Documents; Plaintiffs' Second Supplemental Responses to Defendant's First Set of Interrogatories and Request for Production of Documents; Plaintiffs' Third Supplemental Responses to Defendant's First Set of Interrogatories and Request for Production of Documents; Plaintiffs' Fourth Supplemental Responses to Defendant's First Set of Interrogatories and Request for Production of Documents are DENIED as moot.

2. The parties indicated in open court that they had no objections to any of the depositions, or specific portions thereof, designated in the Pretrial Order. Accordingly, the court deems those depositions ADMITTED.

SO ORDERED.

This the 23rd day of August, 2011.

James E. Fox

James C. Fox
Senior United States District Judge