

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

JOHN K. HENRICKS,	:	
	:	
Plaintiff	:	Civil Action 2:08-cv-580
	:	
v.	:	Judge Smith
	:	
PICKAWAY CORRECTIONAL INSTITUTION, <i>et al.</i> ,	:	Magistrate Judge Abel
	:	
Defendants.	:	

**ORDER**

Plaintiff, formerly a prisoner at the Pickaway Correctional Institution (“PCI”), filed this lawsuit on June 17, 2008. He alleged that he had, while in custody, suffered an attack of appendicitis, and that he had suffered from improper medical treatment at PCI, improper treatment during transport to Ohio State University Medical Center (“OSUMC”), improper medical treatment at OSUMC, improper post-operative medical treatment while recovering at Corrections Medical Center (“CMC”), and denial of proper medical care upon his return to PCI. Plaintiff named, *inter alia*, three John Doe defendants who were nurses at CMC. The remaining defendants in this case are Dr. Ida Gonzales Lockhart, the medical director at PCI, Corrections Officer Michael Maynard, who transported Plaintiff to OSUMC, and the three John Does. Plaintiff has been attempting to identify and to

serve the John Doe nurse defendants since at least October 29, 2008, when he filed a motion to compel Defendants to identify these persons.

Nearly two years have elapsed since the filing of this case. The Court has previously summarized the tortuous progress of discovery. *See* Doc. 98. Plaintiff has, to date, filed twelve motions relating to his attempts to obtain discovery or to extend his deadline for service upon the John Does. (Docs. 34, 36, 53, 66, 71, 72, 78, 81, 91, 131, 132, 134.) The Court has issued eight orders which extended Plaintiff's deadline for service, stated the Court's expectation that Defendants would timely respond to discovery, or established a timetable for discovery. (Docs. 60, 67, 75, 86, 90, 98, 125, 129.)

On January 5, 2010, the Court ordered that Defendants file a report stating the discovery requests they had received, the discovery responses they had provided, and what information they had requested from Plaintiff that he had failed to yet provide. Plaintiff was ordered to file a response stating with specificity any statement in Defendants' report which he disputed, and any specific discovery request or requests with which Defendants have failed to comply. (Doc. 98 at 5-6.) On January 25, 2010, Defendants filed their report, stating that they had received and responded to three sets of interrogatories propounded upon Maynard and one set of interrogatories propounded upon Lockhart, and that they had, upon Plaintiff's request, sent him 907 pages of medical records from OSUMC. (Doc. 103 at 1-2.) Defendants stated also that they had recently received a second set of interrogatories directed to Lockhart, and a second document request, and that they

would timely respond to both. Furthermore, they intended to take Plaintiff's deposition. On February 3, 2010, Plaintiff responded by stating that he had propounded a set of interrogatories upon CMC to which he had received no response, and that the medical records submitted to him appeared to omit treatment notes from wound care nurses at CMC and PCI. (Doc. 107 at 2-4.)

Defendants then requested and received a series of extensions of time to file their reply to Plaintiff's report. On April 16, 2010, Defendants filed a response stating that they had subsequently discovered, and provided to Plaintiff, additional medical records, and that these records contained entries concerning the wound care nurses who had treated Plaintiff. (Doc. 124 at 1-2.) Plaintiff responded with a new motion to compel and further interrogatories, stating that the illegibility of the CMC records did not permit him to identify particular nurses. On May 3, 2010, the Court issued an order agreeing that the burden upon Defendants to identify the wound care nurses was significantly less than upon Plaintiff, because Defendants had access to CMC's personnel records. However, the Court found that Plaintiff had apparently not sought extrajudicial means to resolve the dispute, and so denied the new motion to compel without prejudice. (Doc. 129.)

Before the Court now are Plaintiff's November 2, 2009, motion to compel (Doc. 91), concerning which the Court requested the parties' discovery reports, Plaintiff's May 12, 2010 motion for an extension of the discovery deadline (Doc. 131), Plaintiff's May 18, 2010 "motion for review of the Court's orders as to

Plaintiff's discovery requests" (Doc. 132)<sup>1</sup>, and a second motion for an extension of the discovery cutoff (Doc. 134). In light of the protracted nature of the discovery dispute at issue, and the necessity for establishing a binding schedule in this case, it is hereby **ORDERED** that a **TELEPHONE HEARING** on these motions **SHALL BE HELD** on **Thursday, July 15 at 9:00 A.M.** Plaintiff, and counsel for Defendant, shall call my chambers at 614.719.3370 at that time. Both parties shall, no later than **Tuesday, July 13, 2010**, send a statement of their position as to any outstanding discovery disputes, including the matter of identifying wound care nurses, and as to whether they are prepared to file case-dispositive motions, to my chambers at [abel\\_chambers@ohsd.uscourts.gov](mailto:abel_chambers@ohsd.uscourts.gov). The parties shall copy each other on their emails, but neither party shall send a response, reply, or rebuttal to the other.

s/Mark R. Abel  
United States Magistrate Judge

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<sup>1</sup> The Court takes this document to be not a request for review by the District Judge of the Magistrate Judge's recent orders on discovery, but a renewal of Plaintiff's motion to compel (Doc. 91).