

FILED

2005 MAY 12 P 3:53

GERALD E. FUERST
IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

JANE DOE
c/o of STEUER, ESCOVAR, BERK &
BROWN Co., L.P.A.
55 Public Square, Suite 1828
Cleveland, Ohio 44113

Plaintiff,

vs.

**PLANNED PARENTHOOD
OF GREATER CLEVELAND**

c/o Statutory Agent
BETSEY C. KAUFMAN
3135 Euclid Avenue, Ste. 102
Cleveland, Ohio 44115

AND

AMY KLOOZ
5911 Laverne Ave.
Parma, Ohio 44129

Defendants.

CASE NO.:

JUDGE:

CV 05 562636 Complaint
33805340

COMPLAINT
(Trial by Jury Requested)

CV05562636



33816446

Now comes Plaintiff, Jane Doe, by and through counsel, and hereby refiles her claims for relief pursuant to law after a dismissal without prejudice in the matter bearing case number CV 04 534568. For her claims for relief, Plaintiff states the following:

\$100.00 DEPOSITED
MAY 12 2005
SECURE COSTS
GERALD E. FUERST, Clerk of Courts
PER [Signature] DEPUTY

COUNT I
(Inducing the Unauthorized Disclosure of Non-Public Medical Information by Defendant Amy Klooz)

1. Plaintiff, Jane Doe, is an individual and resides in the Jacksonville, North Carolina and at all times pertinent hereto was a resident of the City of Middleburg Heights, County of Cuyahoga, State of Ohio.
2. Defendant, Amy Klooz is an individual and resides in the City of Parma, County of Cuyahoga, State of Ohio.
3. Defendant, Amy Klooz, was an employee of Planned Parenthood at all times pertinent to this action.
4. On or about November 19, 2002, Plaintiff visited Planned Parenthood, for the purpose of receiving confidential, highly sensitive medical treatment, the details of which were recorded in Plaintiff's non-public medical record.
5. On or about July 9, 2003, Plaintiff again visited an office of Planned Parenthood to receive medical treatment. During the course of that visit, Defendant, Amy Klooz, had access to and did view Plaintiff's non-public medical record.
6. On or about the dates of July 6th through the 13th, Defendant, Amy Klooz, disclosed and or caused Plaintiff's treating physician to disclose highly confidential medical information about the Plaintiff to third parties without Plaintiff's consent. These third parties had no legitimate interest in receiving such information.

7. This disclosure by Defendant, Amy Klooz, gave publicity to non-public information and would be highly offensive to a reasonable person. The disclosure was without privilege or justification.
8. At the time when Defendant, Amy Klooz, induced the disclosure of this non-public information, Defendant knew of the physician-patient relationship that existed between Plaintiff and her treating physicians at Planned Parenthood.
9. Defendant, Amy Klooz, knew that looking into Plaintiff's confidential medical files would thereby induce disclosure of the highly sensitive information contained therein.
10. Defendant, Amy Klooz, did not reasonably believe that Plaintiff's physician could disclose the non-public information to her without violating the duty of confidentiality between physician and patient.
11. At the time when the Defendant, Amy Klooz, induced the disclosure of the mentioned information, the Defendant knew or should have known that the information was obtained from personal records being maintained as non-public medical records for the purpose of treatment from Planned Parenthood.
12. As a result of inducing the unauthorized disclosure of Plaintiff's non-public information, Plaintiff sustained injury in the form of damaged reputation, humiliation, emotional anguish, shame and public ridicule. Plaintiff has suffered and continues to suffer scorn, contempt, and ridicule by neighbors, family members, and others, and has lost reputation and standing in the community, all of which has caused Plaintiff humiliation, embarrassment, hurt feelings, mental anguish, pain and suffering, all to Plaintiff's damage.

Count II
(Invasion of Privacy by Defendant Amy Klooz)

13. Plaintiff incorporates the allegations contained in Count I as if fully stated herein.
14. Defendant's public disclosure of Plaintiff's confidential medical information was to a number of people who had no legitimate interest in obtaining such knowledge.
15. Defendant's disclosure of the information was intentional.
16. The facts disclosed were private matters which Plaintiff was entitled to keep private. Plaintiff sought medical treatment from Planned Parenthood with the expectation that the sensitive information would be kept confidential.
17. The invasion of Plaintiff's privacy was offensive and objectionable to Plaintiff and to a person of ordinary sensibilities. An ordinary person maintains an expectation that private medical information entrusted to a medical care facility will remain private.
18. Defendant, Amy Klooz, acted with reckless disregard for the fact that a person of ordinary sensibilities would find the invasion highly offensive. Defendant disclosed the information knowing that such disclosure would be highly damaging to Plaintiff's reputation and made the disclosure out of malice and spite.

Count III
(Intentional Infliction of Emotional Distress by Defendant Amy Klooz)

19. Plaintiff incorporates the allegations of Counts I and II as if fully stated herein.
20. The acts of Defendant, Amy Klooz, as described in Count I of this complaint were done willfully, maliciously, outrageously, deliberately and purposely with the intention to inflict emotional distress upon Plaintiff. Such acts were done in reckless disregard of the

probability of causing Plaintiff emotional distress. These acts did in fact result in severe and extreme emotional distress.

21. The Defendant's conduct was so extreme and outrageous as to go beyond all possible bounds of decency and was utterly intolerable in civilized society.
22. As a direct and proximate result of the Defendant's acts alleged above, Plaintiff was caused to incur severe and grievous mental and emotional suffering, anguish, shock, nervousness, anxiety. Plaintiff continues to suffer severe mental distress as a result of the wrongful disclosure of non-public medical information.
23. The mental anguish suffered by Plaintiff was serious and of a nature that no reasonable person could be expected to endure.
24. As a direct and proximate result of the Defendant's acts alleged above, Plaintiff required medical and psychiatric treatment. Such medical and psychiatric treatment will continue for an indeterminable length of time.

Count IV
(Unauthorized Disclosure of Non-Public Medical Information to a Third Party Against Defendant Planned Parenthood)

25. Plaintiff incorporates Counts I, II, and III as if fully rewritten herein.
26. Defendant, Planned Parenthood, is a medical care facility and non-profit corporation licensed to do business under the laws of the State of Ohio.
27. On or about November 19, 2002, Plaintiff consulted Defendant, Planned Parenthood, for the purpose of receiving confidential medical treatment.

28. As a result of Planned Parenthood providing Plaintiff with this medical treatment, the details were recorded in Plaintiff's non-public medical record.
29. In connection with Defendant's treatment of Plaintiff, Plaintiff advised Defendant that the information disclosed in her medical file was confidential in nature and not to be disclosed under any circumstances without Plaintiff's authorization.
30. Defendant, Planned Parenthood, promised Plaintiff that all information obtained in the course of examining and treating Plaintiff would be treated as confidential, both orally and by giving Plaintiff a copy of Defendant's "Notice of Privacy Practices," a copy of which is attached hereto as 'Exhibit A' and incorporated herein by reference. Defendant also gave Plaintiff a copy of their "Authorization Form For Release Of Health Information," a copy of which is attached hereto as 'Exhibit B' in which Plaintiff indicated medical information was to be released only to herself.
31. On or about July 9, 2003 Defendant, Planned Parenthood, wrongfully disclosed the Plaintiff's confidential patient information by permitting their employee, Amy Klooz, access to the confidential information which she then disclosed.
32. Defendant's, Planned Parenthood, disclosure served to give publicity to confidential information and would be highly offensive to a reasonable person.
33. Plaintiff did not at any time consent to a disclosure of confidential information by Defendant, Planned Parenthood. Defendant's disclosure was without privilege or justification.

34. As a direct and proximate result of Defendant's wrongful, unauthorized disclosure of non-public medical information, Plaintiff sustained injury in the form of emotional suffering, damaged reputation, public embarrassment, disapproval, and humiliation. Plaintiff suffered and continues to suffer scorn, contempt, and ridicule by neighbors, family members, and others, and has lost reputation and standing in the community.
35. Defendant's wrongful disclosure was made with reckless disregard for Plaintiff's rights. Plaintiff is therefore entitled to an award of punitive damages.

Count V
(Negligent Supervision against Defendant Planned Parenthood)

36. Plaintiff incorporates Counts I through IV as if fully rewritten herein.
37. Pursuant to the employee training procedures in force at the time Plaintiff was injured, the Defendant, Planned Parenthood had a duty to act prudently and reasonably in their supervision of employee Amy Klooz to insure the safety of Plaintiff from the wrongful disclosure of medical records that Amy Klooz, committed as described above.
38. The Defendant, Planned Parenthood, breached its duty of supervision over employee, Amy Klooz, to the Plaintiff by not supervising her adequately and permitting her to access the details of Plaintiff's non-public medical file.
39. The Defendant's breach of its supervisory duty to Plaintiff was a proximate cause of the injuries and loss suffered by the Plaintiff.

Count VI
(Negligent Retention Against Defendant Planned Parenthood)

40. Plaintiff incorporates Counts I through V as if fully rewritten herein.

41. The Defendant, Planned Parenthood, had a duty to retain only competent, qualified, and safe employees.
42. The Defendant breached its duty of retention to the Plaintiff by retaining Amy Klooz in its employ who they knew to be an incompetent employee.
43. The Defendant's actions in failing to exercise its duty to the Plaintiff in retaining an incompetent, unfit, and dangerous employee was a proximate cause of the injuries and loss suffered by the Plaintiff.
44. The Defendant's actions and omissions were willful and wanton behavior, with complete and gross disregard for the Plaintiff's safety and well-being.

Count VII
(Breach of Contract Against Defendant Planned Parenthood)

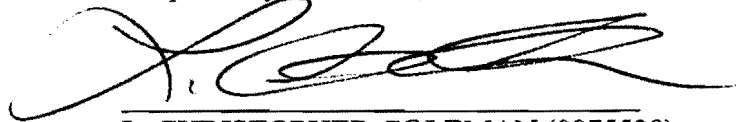
45. Plaintiff incorporates Counts I through VI as if fully rewritten herein.
46. Upon Plaintiff's treatment at Planned Parenthood, Plaintiff and Defendant entered into a written contract, a copy of which is attached and is comprised of Planned Parenthood's "Notice of Privacy Practices" (Exhibit A), "Authorization Form for Release of Health Information" (Exhibit B), and "Acknowledgment of Receipt of Notice of Health Information Privacy Practices," attached at 'Exhibit C' which are signed by Plaintiff. By the terms of the contract, Defendant, Planned Parenthood, agreed to use protected health information for purposes of treatment, payment, and healthcare operations and any other use of the information shall be made only with the consent of the Plaintiff.

47. Plaintiff at all times performed all the stipulations, conditions, and agreements stated in the contract.

48. Defendant, Planned Parenthood, failed and neglected to protect Plaintiff's protected health information as required by the terms of their privacy practices causing Plaintiff emotional suffering, humiliation, embarrassment, loss of reputation and standing in the community, and other irreparable harm.

WHEREFORE, Plaintiff, Jane Doe, prays for judgment against Defendants jointly and severally, for compensatory damages in an amount in excess of Twenty Five Thousand Dollars (\$25,000) and punitive damages in an amount of Five Million Dollars (\$5,000,000) together with the costs incurred herein.

Respectfully Submitted,



L. CHRISTOPHER COLEMAN (0075528)
WILLIAM D. BROWN (0055433)
Steuer, Escovar, Berk & Brown, L.P.A.
55 Public Square, Suite 1828
Cleveland, Ohio 44113
(216) 771-8121

ATTORNEYS FOR PLAINTIFF

OPP
2-10

FILED

2005 JAN 20 P 2:45

CV04534568

GERALD E. FUERST
CLERK OF COURTS
CUYAHOGA COUNTY



IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

32107565

JANE DOE,	)	CASE NO. CV 04 534568
)	
Plaintiff,	)	JUDGE BRIDGET MCCAFFERTY
)	
v.	)	<u>DEFENDANT PLANNED PARENTHOOD</u>
	)	<u>OF GREATER CLEVELAND'S MOTION</u>
PLANNED PARENTHOOD OF GREATER	)	<u>FOR PROTECTIVE ORDER</u>
CLEVELAND, et al.,	)	<u>(ORAL ARGUMENT REQUESTED)</u>
)	
Defendants.)	

**MOTION FOR PROTECTIVE ORDER REGARDING TESTIMONY CONCERNING
OTHER LAWSUITS OR SETTLEMENTS**

Pursuant to Rule 26 (C) of the Ohio Rules of Civil Procedure, Defendant Planned Parenthood of Greater Cleveland (hereafter "PPGC") respectfully requests that this Court enter a protective order preventing Plaintiff from obtaining any discovery regarding lawsuits filed against or settlements made by PPGC for the alleged unauthorized disclosure of confidential medical information or any other breach of privacy policies.

The dispositive inquiries under Plaintiff's claims are whether PPGC appropriately hired, trained and supervised its employee, co-defendant Amy Klooz, and whether PPGC took reasonable steps to safeguard patient privacy by promulgating and enforcing confidentiality-related policies, practices and procedures in the workplace. Ample evidence of this has already been produced in the form of employee background checks, a HIPAA employee-training video,

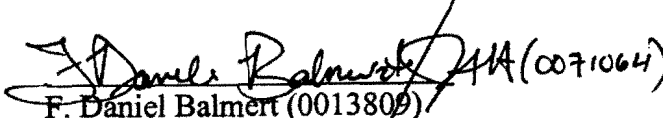
supervisory reviews of employee performance, and numerous privacy-related policies, practices and procedures.

To the extent that they may exist, any prior lawsuits against or settlements by PPGC are not in any way relevant to Plaintiff's claims and such information is not likely to lead to the discovery of admissible evidence. Furthermore, any such disclosure will be highly prejudicial to PPGC, will jeopardize the privacy and confidentiality of PPGC patient information, and will cause third parties unnecessary embarrassment.

The parties have unsuccessfully attempted to resolve this controversy without the Court's assistance. The grounds for this Motion for Protective Order are set forth in greater detail in the attached Memorandum in Support which is incorporated herein.

Due to the nature of the issue presented, PPGC requests, pursuant to Local Rule 11(A), that the Court schedule this Motion for an oral argument/hearing.

Respectfully submitted,


F. Daniel Balmert (0013809)

VORYS, SATER, SEYMOUR AND PEASE LLP
2100 One Cleveland Center
1375 East Ninth Street
Cleveland, Ohio 44114
Phone: 216-479-6100
Fax: 216-937-3710

Attorney for Defendant
Planned Parenthood of Greater Cleveland

MEMORANDUM IN SUPPORT

PPGC respectfully requests that this Court prevent Plaintiff's "fishing expedition" by prohibiting discovery of highly sensitive and confidential information related to any lawsuits filed against or settlements made by PPGC for the alleged unauthorized disclosure of confidential medical information or any other breach of privacy policies. Any such information is totally irrelevant to Plaintiff's claims and will not lead to the discovery of relevant, admissible evidence. Disclosure of prior lawsuits or settlements will be highly prejudicial to PPGC, will jeopardize the privacy of third parties who are not involved in this litigation, and will unnecessarily and improperly disseminate confidential patient information that is not pertinent to resolution of Plaintiff's claims.

BACKGROUND

Plaintiff's claims against PPGC stem from her allegations that PPGC did not appropriately hire, train and supervise its employee, co-defendant Amy Klooz, and that PPGC failed adequately to safeguard the confidentiality of its patient information by promulgating and enforcing privacy-related policies, procedures and practices in the workplace.

PPGC has convincingly refuted these allegations through its production of employee training materials, criminal background checks, supervisory reviews of employee performance, and multiple written confidentiality-related policies and procedures, which have been acknowledged by co-defendant Amy Klooz to have been received and reviewed by her. Despite this substantial, uncontroverted evidence that PPGC appropriately hired, trained and supervised Ms. Klooz and took reasonable steps to protect its patients' privacy, Plaintiff is now fishing for information as to the existence of any claims made against PPGC for the unauthorized disclosure

of confidential medical information or any other breach of privacy policies. Such disclosures are completely unwarranted as they do not in any way affect PPGC's liability under Plaintiff's purported assertions.

In her Complaint, Plaintiff alleges against PPGC the unauthorized disclosure of non-public medical information to a third party, negligent infliction of emotional distress, negligent hiring, negligent supervision, negligent retention, and breach of contract. Prior claims against PPGC do not bear on the resolution of these allegations whatsoever since such evidence could not be used to establish any of the requisite elements of proof for any of Plaintiff's causes of action against PPGC. Further, the Ohio Rules of Evidence prohibit using such evidence to insinuate PPGC's liability in the present matter. To the extent that any such claims even exist, such information must be deemed not to be properly discoverable since it is wholly irrelevant and highly prejudicial to PPGC.

LAW AND ARGUMENT

Rule 26 (C) of the Ohio Rules of Civil Procedure states that upon motion by a party from whom discovery is sought, and for good cause shown, the Court "may make any order that justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense," including an order "that certain matters not be inquired into or that the scope of the discovery be limited to certain matters."

"In exercising its discretion in discovery matters, the court balances the relevancy of the discovery requested, the requesting party's need for the discovery, and the hardship upon the party from whom the discovery was requested." Stegawski v. Cleveland Anesthesia Group, Inc., 37 Ohio App. 3d 78, 85, 523 N.E.2d 902, 910, (Cuyahoga Cty. 1987). The courts are

appropriately empowered to prevent misuse of the discovery process by parties engaging in “fishing expeditions.” Bland v. Graves, 85 Ohio app. 3d 644, 659, 620 N.E.2d 920, 930, (Summit Cty. 1993).

Any information regarding PPGC’s prior lawsuits or settlements is irrelevant to Plaintiff’s claims against PPGC as set forth in her Complaint. In order to defeat Plaintiff’s claims against PPGC all that is necessary is a determination that PPGC appropriately hired, trained and supervised its employees and took reasonable steps to safeguard the confidentiality of its patients’ private medical information. PPGC has met this bar by producing ample evidence of such action, and Plaintiff knows it. Indeed, the wholly uncontroverted evidence on these points is so overwhelming that it is surprising that PPGC has not been voluntarily dismissed from this action.

The information about prior lawsuits and settlements that Plaintiff requests does not go to any of the elements of her claims against PPGC. Any disclosure of sensitive and confidential information related to third parties uninvolved in this litigation has no bearing whatsoever on the Plaintiff’s claims against PPGC. Such information is wholly irrelevant and not likely to lead to the discovery of admissible evidence against PPGC. Moreover, Plaintiff cannot use information regarding other claims to draw any inferences about PPGC’s actions relative to Plaintiff’s specific medical information. To the extent that it may exist, any information regarding other alleged wrongs or acts that might be culled from prior lawsuits or settlements involving PPGC “is not admissible to prove the character of a person in order to show that he acted in conformity therewith.” Ohio R. Evid. 404(B). Thus, whether any prior claims or settlement exist and, if so, the substance of any such claims or settlements simply has no bearing on whether PPGC is liable

for Plaintiff's claims. Any such disclosures are irrelevant and not likely to lead to the discovery of admissible evidence.

Further, Plaintiff's claims relate to a purported disclosure of confidential information by Ms. Klooz that allegedly occurred on or about July 9, 2003. Yet, Plaintiff's blanket request is for any lawsuits filed or settlements against PPGC for the unauthorized disclosure of confidential medical information or any other breach of privacy policies by any person at any time. To the extent that they may exist, *at a minimum*, this Court should protect from discovery information about any claims, lawsuits or settlements that occurred after July 9, 2003 that do not involve Ms. Klooz. Even under the most strained logic, there are no circumstances under which any of PPGC's subsequent acts not involving Ms. Klooz would support a claim that PPGC is liable under Plaintiff's specific claims. Evidence of subsequent acts is simply not relevant to whether PPGC appropriately hired, trained and supervised Ms. Klooz and whether it took reasonable steps to safeguard its patients' privacy at the time of Plaintiff's alleged injury.

The Supreme Court of Ohio has expressly held that subsequent acts are not relevant and may not be admitted to establish an ongoing pattern of misconduct. Cappara v. Schibley (1999), 85 Ohio St.3d 403, 407, 709 N.E.2d 117, 120. In Cappara, the Court held that the defendant's actions "that occurred subsequent in time...are clearly not relevant...". Id. at 406, 120. The Court stated: "To hold that [the defendant's] subsequent driving record is relevant and admissible to establish an ongoing 'pattern of vehicular misconduct' would essentially allow a complaining party to use a person's subsequent crimes and bad actions 'in order to show that he acted in conformity therewith'.... This is precisely what Evid. R. 404(B) is designed to prevent." Id. at 407, 120. The Court succinctly pronounced that it "is implausible that one's record of subsequent [acts] would have any relevance upon...an earlier, unrelated event." Id. See also

State v. Thompson (1981), 66 Ohio St.2d, 496, 422 N.E.2d 855 (holding that evidence of subsequent actions was improperly allowed since it was not relevant and was highly inflammatory and prejudicial in nature).

Plaintiff's request for disclosures about any claims, lawsuits or settlements involving PPGC is nothing more than "fishing" for confidential information and unflattering disclosures. Rather than leading to admissible evidence against PPGC in this action, discovery of this information can only provide Plaintiff with an opportunity for mischief and prejudicial innuendo. Public policy is served by encouraging parties to resolve their disputes in a nonlitigious manner without fear of disclosure or attempted imputation of liability by future claimants. Because it will serve no valid purpose in this litigation, PPGC should not be subjected to the real or potential misuse of these disclosures.

Moreover, PPGC has repeatedly addressed the issue of whether other similar lawsuits or settlements exist in PPGC's responses to Plaintiff's discovery requests. Plaintiff's Request Number 11 in her Request for the Production of Documents included a request for "A list of any and all other lawsuits filed or settlements against Planned Parenthood for the unauthorized disclosure of confidential medical information or any other breach of privacy practices." PPGC responded under oath with the following statement: "PPGC specifically objects on the basis that the request is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections as well as the general objections above, PPGC states that it is unaware of any lawsuit or settlement involving a situation where a PPGC clinical employee has been alleged to have disclosed confidential medical information."

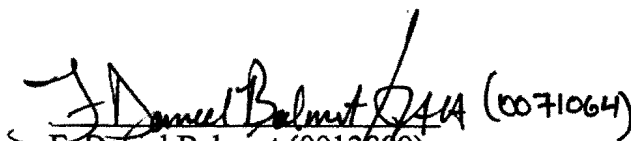
Additionally, Plaintiff's First Set of Interrogatories included as Interrogatory Number 14 the following request for information: "In the last five years, if Planned Parenthood has ever been the subject of a lawsuit or had a complaint against it for the unauthorized release of confidential information or any other substantially similar violation, please state the date and parties involved." Again, PPGC answered under oath with the following statement: "PPGC objects to this interrogatory on the basis that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Further, it seeks confidential information that is not relevant to this cause of action. Subject to and without waiving these objections as well as the general objections above, PPGC answers that it is unaware of any lawsuit or settlement involving a situation where a PPGC clinical employee has been alleged to have disclosed confidential medical information."

Given PPGC's direct and honest responses to this very issue, Plaintiff's continued exploration of this subject is harassing, repetitive and redundant so as to clearly qualify as an "annoyance" under Rule 26(C) of the Ohio Rules of Civil Procedure. As a result, PPGC's Motion for Protective Order should be granted to preclude Plaintiff from engaging in further "fishing expeditions."

CONCLUSION

The information sought by Plaintiff is not relevant to this lawsuit and is not reasonably calculated to lead to the discovery of admissible evidence. Therefore, PPGC respectfully requests that this Court prohibit discovery of any information regarding prior claims, lawsuits or settlements against PPGC for the unauthorized disclosure of confidential medical information or any other breach of privacy policies.

Respectfully submitted,


F. Daniel Balmert (0013809)

VORYS, SATER, SEYMOUR AND PEASE LLP
2100 One Cleveland Center
1375 East Ninth Street
Cleveland, Ohio 44114
Phone: 216-479-6100
Fax: 216-937-3710

Attorney for Defendant
Planned Parenthood of Greater Cleveland

CERTIFICATE OF SERVICE

A copy of the foregoing was served by regular U.S. mail and facsimile this 20th day of

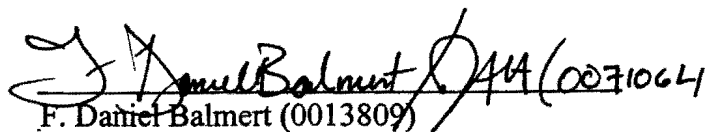
January, 2005 upon the following:

L. Christopher Coleman
William D. Brown
Steuer, Escovar, Berk & Brown, L.P.A.
55 Public Square Suite 1828
Cleveland, OH 44113

Attorneys for Plaintiff

Angela M. Privitera
Wegman, Hessler & Vanderburg
6055 Rockside Woods Boulevard Suite 200
Cleveland, OH 44131

Attorney for Defendant
Amy Klooz


F. Daniel Balmert (0013809)
Attorney for Defendant
Planned Parenthood of Greater Cleveland

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

JANE DOE,

Plaintiff,

vs.

PLANNED PARENTHOOD OF
GREATER CLEVELAND, et al.,

Defendants.

2005 JAN 28 P 4:00 PM
CASE NO. CV 04 534568

) LERALD E. FUERST
) CLERK OF COURT
) JUDGE BRIDGET MCCAFFERTY
) CUYAHOGA COUNTY

**PLAINTIFF'S MEMORANDUM IN
OPPOSITION TO DEFENDANT
PLANNED PARENTHOOD OF
GREATER CLEVELAND'S
MOTION FOR PROTECTIVE
ORDER**

Now comes the Plaintiff, by and through counsel, and hereby submits the following as her Memorandum in Opposition to Defendant Planned Parenthood of Greater Cleveland's Motion for a Protective Order. For the reasons more specifically set forth in the attached Memorandum, the information regarding prior lawsuits, claims against or settlements by PPGC is relevant to the instant action and Plaintiff is entitled to discovery of this information based on the pleadings and testimony in this matter. Thus, Plaintiff respectfully requests that this Honorable Court deny the Defendant Planned Parenthood of Greater Cleveland's Motion for Protective Order.

Respectfully submitted,



L. CHRISTOPHER COLEMAN (0075528)
WILLIAM D. BROWN (0055433)
STEUER, ESCOVAR, BERK & BROWN CO., L.P.A.
55 Public Square, Suite 1828
Cleveland, Ohio 44113
Phone: (216) 771-8121
Fax: (216) 771-8120

ATTORNEYS FOR PLAINTIFF

STEUER, ESCOVAR
BERK & BROWN CO., L.P.A.
ATTORNEYS AT LAW
SUITE 1828
55 PUBLIC SQUARE
CLEVELAND, OHIO 44113
(216) 771-8121

MEMORANDUM IN OPPOSITION

BACKGROUND

On or about November 19, 2002, Plaintiff underwent an abortion procedure at the Bedford location of Planned Parenthood of Greater Cleveland. On July 9, 2003, she went to the Rocky River location of Planned Parenthood of Greater Cleveland for the purpose of obtaining birth control medication. At the July 9, 2003, visit, Defendant Amy Klooz was working at the front desk in the clinic. Ms. Klooz was an acquaintance of Plaintiff's in high school and the two shared mutual friends.

Subsequent to Plaintiff's visit, Ms. Klooz viewed her medical records and observed that Plaintiff had previously underwent an abortion procedure. Ms. Klooz then disclosed this information to mutual acquaintances of both herself and Plaintiff. While Ms. Klooz and PPGC have adamantly denied that any disclosure of Plaintiff's medical records were made, a witness in this matter, Sara Bowers, has testified under oath that Ms. Klooz disclosed this information to her and informed her that Ms. Klooz got the information from Plaintiff's medical records at Planned Parenthood.¹ Plaintiff was informed of the unauthorized disclosure when a friend contacted her and told her that Ms. Klooz had revealed information about her abortion to Ms. Bowers.²

Plaintiff was devastated after this revelation. She was subsequently diagnosed with a material and significant aggravation of a pre-existing panic disorder and adjustment disorder with depressed mood. She was also caused to suffer a generalized anxiety disorder. It is estimated that she will need one year of weekly psychotherapy and

¹ See Deposition of Sara Bowers, P. 37, L. 11-24, previously filed in this matter under seal pursuant to the Protective Order entered on January 27, 2005.

² See Deposition of Danielle Del Guidice, PP. 16- 18, previously filed in this matter under seal pursuant to the Protective Order entered on January 27, 2005.

psychiatric medication to restore her to the level of functioning she possessed prior to the unauthorized disclosure of her abortion.

Plaintiff brought the instant action with a nine count complaint against both PPGC and Ms. Klooz. Claims brought against PPGC are as follows: Count IV- Unauthorized Disclosure of Non-Public Medical Information to a Third Party; Count V- Negligent Infliction of Emotional Distress; Count VI- Negligent Hiring; Count VII- Negligent Supervision; Count VIII- Negligent Retention; and Count IX- Breach of Contract.

During the discovery process, Plaintiff has inquired into past lawsuits against or settlements made by PPGC for the alleged unauthorized disclosure of confidential medical information or any other breach of privacy policies. Given the elements of the claims made against PPGC and the deposition testimony in this matter, this information is highly relevant to Plaintiff's claims and will likely lead to the discovery of relevant, admissible evidence.

Plaintiff understands PPGC's concerns about protecting the privacy of third parties who have received treatment at PPGC. As such, Plaintiff has offered to enter into a confidentiality agreement with PPGC if permitted access to the requested information.

LAW AND ARGUMENT

Ohio Rule of Civil Procedure 26(B)(1) provides in pertinent part:

"Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party...It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence."

Civ. R. 26(B)(1).

As the plain language of Rule 26(B) demonstrates, the discovery rules should be applied liberally "to permit a party to obtain evidence to prove or disprove the determinative issues in the case." Getter v. Getter (1993), 90 Ohio App. 3d 1. See also Tschantz v. Ferguson (1994), 97 Ohio App. 3d 693. Pretrial discovery should only be limited to prevent abuse of the discovery process. Civ. R. 26 (C). The burden is upon the party resisting a discovery request to establish that the requested information would not reasonably lead to the discovery of admissible evidence. State ex rel. Fisher v. Rose Chevrolet, Inc. (1992), 82 Ohio App. 3d 520.

THE DISCOVERY DISPUTE

Counsel for PPGC continues to contend that information concerning past lawsuits against or settlements made by PPGC for the alleged unauthorized disclosure of confidential medical information or any other breach of privacy policies is irrelevant to the matters alleged in Plaintiff's Complaint. This contention is clearly erroneous and contrary to established law surrounding the discovery process. As mentioned above, Civil Rule 26(B)(1) establishes that discovery is permissible "if the information sought appears reasonably calculated to lead to the discovery of admissible evidence." Civ. R. 26(B)(1).

In information sought by the Plaintiff is relevant to several of Plaintiff's claims. The elements of negligent retention or supervision are: (1) an employment relationship; (2) incompetence of the employee; (3) actual or constructive knowledge of the incompetence by the employer; (4) an act or omission by the employee which caused the plaintiff's injuries; and (5) negligent retention or supervision of the employee by the

employer, which action is the proximate cause of the plaintiff's injuries. Steppe v. Kmart (1999), 136 Ohio App.3d 454, 465.

Defendant PPGC would have this Court believe that Plaintiff is on a "fishing expedition". This bald accusation could not be farther from the truth. Deposition testimony in this matter has revealed that several months prior to the unauthorized disclosure at issue in this case, PPGC received an anonymous telephone call complaining that Ms. Klooz had disclosed information about an ex-boyfriend and his girlfriend, who had been seen at PPGC.³ PPGC representatives further testified that they performed no investigation regarding this complaint other than having a conversation with Ms. Klooz about it.⁴

This testimony is especially alarming since Teri Miller, the Associate Medical Director and the Privacy and Client Rights Officer, testified that she was only aware of one telephone call of this nature since she was employed by PPGC in 1996.⁵ Ms. Miller then went on to testify that she was aware of another lawsuit against PPGC alleging an unauthorized disclosure of a patient's medical record before she was instructed by counsel not to answer any further questions on the topic.⁶

Unless she is permitted to inquire into other claims made against PPGC, Plaintiff cannot determine whether PPGC has had similar claims made against it that would or even whether Ms. Klooz or another employee in her position were involved in the other incident(s). The requested information goes directly to the actual or constructive

³ See Deposition of Sunshine Kilbane, P. 27, L. 11-25; P. 28, L. 1-23. See also Deposition of Teri Miller, P. 26, L. 14-25; P. 27, L. 1-25; P. 28, L. 1-3. Depositions have been filed under seal pursuant to Protective Order entered on January 27, 2005.

⁴ Sunshine Kilbane, P. 28, L. 9-16. Teri Miller, P. 27, L. 10-12.

⁵ Teri Miller, P. 35, L. 17-25; P., L. 1-20

⁶ Teri Miller, P. 57, L. 21-25; P. 58, L. 1-16.

knowledge of PPGC of the incompetence of Ms. Klooz. It also goes directly to the breach of PPGC's duty to act reasonably and prudently in the supervision of its employees. Moreover, other instances involving similar problems would certainly serve as notice to PPGC that the training, supervisory and/or investigation practices in place are not sufficient.

CONCLUSION

Plaintiff's counsel has attempted to resolve this matter with counsel for PPGC by offering to enter into a confidentiality agreement concerning this information in an effort to keep these matters as private as possible. The Plaintiff should be permitted access to the information regarding prior lawsuits, claims against or settlements by PPGC. Her request is in accordance with the Ohio Rules of Civil Procedure as well as relevant case law. The requested information is relevant to the claims in the instant action and Plaintiff is entitled to discovery of this information based on the pleadings and testimony in this matter. Thus, Plaintiff respectfully requests that this Honorable Court deny the Defendant Planned Parenthood of Greater Cleveland's Motion for Protective Order.

Respectfully submitted,



L. CHRISTOPHER COLEMAN (0075528)
WILLIAM D. BROWN (0055433)
STEUER, ESCOVAR, BERK & BROWN CO., L.P.A.
55 Public Square, Suite 1828
Cleveland, Ohio 44113
Phone: (216) 771-8121
Fax: (216) 771-8120

ATTORNEYS FOR PLAINTIFF

FILED

Cleod

CV04534568

2005 MAR 25 P 12: 28

THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO



33087968

JANE DOE, D. E. FUERST
GERALD E. FUERST
CLERK OF COURTS
CUYAHOGA COUNTY
Plaintiff,

vs.

PLANNED PARENTHOOD OF
GREATER CLEVELAND, et al.,

Defendants.

) CASE NO.: CV 04 534568

) JUDGE BRIDGET MCCAFFERTY

) **PLAINTIFF'S MEMORANDUM IN**
) **OPPOSITION TO DEFENDANT**
) **AMY KLOOZ' MOTION FOR**
) **SANCTIONS, ATTORNEYS' FEES**
) **AND COSTS**

Now comes the Plaintiff, by and through counsel, Steuer, Escovar, Berk & Brown Co., L.P.A., and hereby submits the following as her Memorandum in Opposition to Defendant Amy Klooz' Motion for Sanctions, Attorneys' Fees and Costs. For the reasons more specifically set forth in the attached Memorandum, Defendant Klooz' Motion is completely groundless and unwarranted under existing law. As such, Plaintiff respectfully requests that this Honorable Court deny the Defendant Klooz' Motion.

Respectfully submitted,

L. CHRISTOPHER COLEMAN (0075528)
WILLIAM D. BROWN (0055433)
STEUER, ESCOVAR, BERK & BROWN CO., L.P.A.
55 Public Square, Suite 1828
Cleveland, Ohio 44113
Phone: (216) 771-8121
Fax: (216) 771-8120

ATTORNEYS FOR PLAINTIFF

STEUER, ESCOVAR
& BROWN CO., L.P.A.
ATTORNEYS AT LAW
SUITE 1828
55 PUBLIC SQUARE
CLEVELAND, OHIO 44113
(216) 771-8121

MEMORANDUM IN OPPOSITION

BACKGROUND

On or about November 19, 2002, Plaintiff underwent an abortion procedure at the Bedford location of Planned Parenthood of Greater Cleveland.¹ On July 9, 2003, she went to the Rocky River location of Planned Parenthood of Greater Cleveland for the purpose of obtaining birth control medication.² At the July 9, 2003, visit, Defendant Amy Klooz was working at the front desk in the clinic.³ Ms. Klooz was an acquaintance of Plaintiff's in high school and the two shared mutual friends.

Subsequent to Plaintiff's visit, Ms. Klooz viewed her medical records and observed that Plaintiff had previously underwent an abortion procedure.⁴ Ms. Klooz then disclosed this information to mutual acquaintances of both herself and Plaintiff. While Ms. Klooz has adamantly denied that any disclosure of Plaintiff's medical records was made, a witness in this matter, Sara Bowers, has testified under oath that Ms. Klooz disclosed this information to her and informed her that Ms. Klooz got the information from Plaintiff's medical records at Planned Parenthood.⁵ Plaintiff was informed of the unauthorized disclosure when a friend contacted her and told her that Ms. Klooz had revealed information about her abortion to Ms. Bowers.⁶

Plaintiff was devastated after this revelation. She was subsequently diagnosed with a material and significant aggravation of a pre-existing panic disorder and

¹ See Deposition of Catherine Doe, P. 63-64, previously filed in this matter under seal pursuant to the Protective Order entered on January 27, 2005.

² See Id.

³ Id., P. 128-129.

⁴ See Affidavit of Sara Bowers and Affidavit of Danielle DelGuidice. See also Deposition of Sara Bowers, P. 37; and Deposition of Danielle DelGuidice, PP. 16-18, previously filed in this matter under seal pursuant to the Protective Order entered on January 27, 2005.

⁵ See Deposition of Sara Bowers, P. 37. See also Affidavit of Sara Bowers attached hereto as Exhibit A.

⁶ See Deposition of Danielle Del Guidice, PP. 16- 18. See also Affidavit of Danielle Del Guidice.

adjustment disorder with depressed mood.⁷ She was also caused to suffer a generalized anxiety disorder.⁸ It is estimated that she will need one year of weekly psychotherapy and psychiatric medication to restore her to the level of functioning she possessed prior to the unauthorized disclosure of her abortion.⁹

Plaintiff brought the instant action with a nine count complaint against both PPGC and Ms. Klooz. Upon the close of discovery, Plaintiff amended her Complaint to dismiss two of the counts. Both Defendants filed Motions for Summary Judgment in this matter. Due to the press of several matters and the fact that there were two Motions requiring a response, Plaintiff's counsel requested an additional fourteen days within which to respond to both motions.¹⁰ Plaintiff's request was for an additional fourteen days was denied and Plaintiff had no choice but to voluntarily dismiss the action pursuant to Civil Rule 41(A).

This court can be assured that Plaintiff is not using the voluntary dismissal as a shield from sanctions under Civil Rule 11 and R.C. s 2323.51. Even the assertion that Plaintiff or her counsel's conduct with respect to this matter is sanctionable borders on the ridiculous. Plaintiff and her counsel fully believe that her claims are supported by law and the evidence presented in this matter. In fact, Plaintiff plans to re-file this action pursuant to law and continue her pursuit of these claims. Plaintiff and her counsel are confident that the evidence has shown that genuine issues of material fact remain to be litigated in this matter and that the Motions for Summary Judgment filed by both

⁷ See Report of Dr. Kaplan, previously attached to Klooz Motion for Summary Judgment at Exhibit 8.

⁸ See Id.

⁹ See Id.

¹⁰ Contrary to counsel for Ms. Klooz' assertion, Plaintiff's counsel did not falsely represent to the court that Attorney Privitera consented to the extension. In a telephone conversation with Privitera, she assured Plaintiff's counsel that she did not have an objection to the request for enlargement of time and would file a short response simply requesting that she be given the opportunity to file her Reply Brief. Then, Privitera filed a Reply Brief with the court objecting to the enlargement of time.

Defendants will ultimately be denied. It is hard to fathom how Ms. Klooz and her counsel can in good faith believe that Plaintiff's claims are frivolous when there is little doubt that these claims will reach a jury.

LAW AND ARGUMENT

A. Plaintiff's counsel did not violate Rule 11 and Defendant Klooz is not entitled to sanctions, expenses and attorney fees.

Ohio Rule of Civil Procedure 11 provides in pertinent part:

"The signature of an attorney or pro se party constitutes a certificate by the attorney or party that the attorney or party has read the document; that to the best of the attorney's or party's knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If a document is not signed or is signed with an intent to defeat the purpose of this rule, it may be stricken as a sham and false and the action may proceed as though the document had not been served. For a *willful violation of this rule*, an attorney or pro se party, upon motion of a party or upon the court's own motion, may be subjected to appropriate action, including *an award to the opposing party of expenses and reasonable attorney fees incurred in bringing any motion under this rule.*"

Civ. R. 11. (emphasis added).

As the plain language of Rule 11 demonstrates, only for willful violations of the Rule may an attorney or pro se party be ordered to pay attorney fees and expenses incurred by the opposing party in bringing a motion for sanctions. Civ. R. 11. In order to justify sanctions, the violation of Rule 11 must be willful, not merely negligent. Haubeil & Sons Asphalt & Materials, Inc. v. Brewer & Brewer Sons, Inc. (1989), 57 Ohio App.3d 22, 23. If a court is to award attorney fees, it should determine the actual value of the services performed in moving for Civ. R. 11 sanctions; the time spent by movant's counsel and a reasonable hourly rate for the services. See In re Hinko (1992), 84 Ohio App.3d 89.

A review of the fact and the elements of the claims against Defendant Klooz make abundantly clear that Rule 11 sanctions are not warranted.

1. Inducing the Unauthorized Disclosure of Non-Public Medical Information.

As Defendant Klooz points out in her Motion for Sanctions, an employee of a physician or hospital may be liable if he or she induces the breach of a physician's duty of confidentiality. See Defendant Klooz' Motion for Sanctions, p. 8. By definition, "induce" means "to stimulate the occurrence of; cause"¹¹

In Biddle v. Warren Gen. Hosp. (1999) 86 Ohio St.3d, patients brought suit against both a hospital and a law firm after the hospital employed the law firm to review medical records of patients to determine whether they were eligible for Supplemental Security Income (SSI) for payment of medical bills. In upholding a claim against the law firm, the Ohio Supreme Court held:

"A third party can be held liable for inducing the unauthorized, unprivileged disclosure of nonpublic medical information that a physician or hospital has learned within a physician-patient relationship. To establish liability the plaintiff must prove that: (1) the defendant knew or reasonably should have known of the existence of the physician-patient relationship, (2) the defendant intended to induce the physician to disclose information about the patient or the defendant reasonably should have anticipated that his actions would induce the physician to disclose such information, and (3) the defendant did not reasonably believe that the physician could disclose that information to the defendant without violating the duty of confidentiality that the physician owed the patient."

Biddle, 86 Ohio St.3d at syllabus 3.

In the present case, like the law firm in Biddle, Ms. Klooz was employed by PPGC. As pointed out in Ms. Klooz' testimony in this matter, she certainly knew or should have known of the existence of the physician-patient relationship surrounding the

¹¹ American Heritage Dictionary (1980) at 671.

treatment received a PPGC.¹² As a Family Planning Assistant, Defendant Klooz was not permitted to, and did not have reason to inquire into Plaintiff's previous medical treatment at PPGC.¹³ Defendant Klooz did not play any role in Plaintiff's treatment and should not have known of the treatment received by Plaintiff.¹⁴ Her intentional and unwarranted viewing of the contents of Plaintiff's medical file following Plaintiff's visit "induced" or "caused" the disclosure of Plaintiff's confidential medical information to her. Further, the testimony in this matter has revealed that Ms. Klooz allegedly took part in various training procedures at PPGC regarding the confidentiality of records even among employees at PPGC.¹⁵ Therefore, she knew or should have known that disclosure by a physician to her regarding the details of Plaintiff's treatment would breach the duty of confidentiality.

If Plaintiff's claim against Defendant Klooz for inducing the unauthorized, unprivileged disclosure of nonpublic medical information is not squarely on point with the elements set forth in Biddle, the claim is certainly a reasonable extension of the law set forth by the Ohio Supreme Court. As such, there is certainly good ground to support this cause of action and Defendant Klooz' request for sanctions under Rule 11 is groundless.

2. Invasion of Privacy

To establish a claim for invasion of privacy, Plaintiff must show: (1) a clearly private fact, (2) public disclosure of the private fact, and (3) that the matter made public

¹² See generally depositions of Amy Klooz, Teri Miller and Sunshine Kilbane, previously filed with this court under seal pursuant to the Protective Order entered on January 27, 2005.

¹³ Deposition of Teri Miller, PP. 20-21.

¹⁴ Deposition of Catherine Doe, PP. 124-129.

¹⁵ See generally depositions of Amy Klooz, Teri Miller and Sunshine Kilbane.

is one which could be highly offensive and objectionable to a reasonable person. Greenwood v. Taft, Stettinius & Hollister (1995), 105 Ohio App.3d 295, 303.

First, Plaintiff submits that there can be no doubt that undergoing an abortion procedure is a clearly private in nature. Defendant Klooz has attempted to disprove the first element of the claim by showing that Plaintiff has told other individuals herself. Plaintiff has admitted that she has told, *in confidence*, her parents and closest friends.¹⁶ These individuals were trusted by Plaintiff to keep the information private and Plaintiff believes that they have.¹⁷ Neither Plaintiff nor her counsel is aware of any law stating that Plaintiff could not confide in her close friends and parents without precluding her claim of invasion of privacy. Disclosure of the abortion to these individuals was made in confidence did not make the information public.

Second, Defendant Klooz' disclosure of the information to Sara Bowers, a mutual acquaintance of the parties, is a public disclosure. After that disclosure, the information is no longer held in confidence. In fact, Plaintiff testified that for all she knows, the whole city could know.¹⁸ Interestingly, witness Del Guidice offered testimony that she had received information about several patients of PPGC from Ms. Bowers.¹⁹ She stated that Defendant Klooz had disclosed information about these individuals to Ms. Bowers who, in turn, told her.²⁰ Additionally, testimony has revealed that PPGC received an anonymous telephone call complaining that Defendant Klooz had disclosed medical information about a couple who received treatment at PPGC.²¹ Given the apparent

¹⁶ Deposition of Catherine Doe, PP: 97-98.

¹⁷ Id.

¹⁸ Deposition of Catherine Doe, PP. 65-66.

¹⁹ Deposition of Danielle Del Guidice, PP. 98-99.

²⁰ Id.

²¹ Deposition of Teri Miller, PP 26- 28; Deposition of Sunshine Kilbane, PP 27-29.

fluidity of information regarding PPGC patients, it is certainly reasonable to believe that Ms. Klooz has disclosed Plaintiff's abortion to others besides Ms. Bowers.

Defendant Klooz cites Hobbs v. Lopez (1994), 96 Ohio App.3d 670 for the proposition that the "public disclosure" requirement is not met when disclosure is only to one person. However, Hobbs, is easily distinguishable because the disclosure was to the Plaintiff's mother. Similarly in Alexander v. Culp (1997), 124 Ohio App.3d 13, the disclosure was to the Plaintiff's wife and family. These cases are markedly different from the present case because the disclosure here was to a mutual acquaintance. Once the information regarding Plaintiff's abortion has reached this level, it can be substantially certain to become one of public knowledge. Moreover, further discovery in this matter may well reveal additional individuals informed of Plaintiff's abortion by either Defendant Klooz herself or Ms. Bowers.

Finally, Defendant Klooz does not dispute that the public disclosure of a patient's abortion procedure could be highly offensive and objectionable to a reasonable person.

Prior to filing suit in this action, Plaintiff and her counsel conducted investigation regarding the disclosure. Specifically, Plaintiff's counsel interviewed two witnesses and had them prepare sworn statements establishing that Defendant Klooz disclosed the fact that Plaintiff had an abortion to Sara Bowers.²² The procurement of these statements alone prior to filing suit easily satisfy the requirements of Rule 11. Additionally, the

²² Attorney Privitera apparently has some belief that Plaintiff's counsel is not permitted to do this or has somehow "spoiled" or withheld evidence by not producing an alleged draft of the statement by Ms. Bowers. As Plaintiff's counsel has pointed out both verbally and via letter to Attorney Privitera, counsel is unaware of the existence or whereabouts of any such draft. Moreover, even if the alleged draft did exist, it would be the work product of Plaintiff's counsel and not discoverable. Nonetheless, Privitera's allegations are moot at this point in these proceedings since Ms. Bowers has testified under oath through cross examination of both Privitera and counsel for PPGC as to the truth of her statements in the statement she gave Plaintiff's counsel prior to filing suit.

deposition testimony of both individuals have corroborated the contents of the statements.

As such, there is no violation of Rule 11.

3. Intentional Infliction of Emotional Distress

“One who by extreme and outrageous conduct intentionally or recklessly causes serious emotional distress to another is subject to liability for such emotional distress.”

Yeager v. Local Union 20 (1983) 6 Ohio St.3d 369, syllabus. In order to recover on a claim for intentional infliction of emotional distress, a plaintiff must prove that:

- “(1) the defendant either intended to cause emotional distress or knew or should have known that its conduct would result in serious emotional distress to the plaintiff;
- (2) defendant’s conduct was outrageous and extreme beyond all possible bounds of decency and was such that it can be considered as utterly intolerable in a civilized community;
- (3) defendant’s conduct was the proximate cause of plaintiff’s psychic injury; and
- (4) plaintiff’s emotional distress was serious and of such a nature that no reasonable person could be expected to endure it.”

Ekunsumi v. Cincinnati Restoration, Inc. (1997), 120 Ohio App.3d 557, 562.

“The outrageousness of a defendant’s conduct in and of itself can demonstrate intent to cause emotional distress.” Meyers v. Hot Bagels Factory, Inc. (1999) 131 Ohio App.3d 82, 93. citing Reamsnyder v. Jaskolski (1984), 10 Ohio St.3d 150. “Serious emotional distress” is defined in terms that “a reasonable person, normally constituted, would be unable to cope adequately with the mental distress engendered by the circumstances of the case.” Meyers, 131 Ohio App.3d at 94. A court must determine as a matter of law “whether there was proof of emotional distress that was more than trifling, mere upset, or hurt feelings.” Id., citing Binns v. Fredendall (1987) Ohio St.3d 244, 246. If such proof exists, the trier of fact then determines whether the “emotional distress actually suffered reached the level of serious or debilitating emotional distress.” Id.

In Meyers v. Hot Bagels Factory, the First District Court of Appeals upheld a jury verdict in favor of Meyers for intentional infliction of emotional distress based upon sexual comments made to her by a restaurant owner. See Meyers, 131 Ohio App.3d 82. Meyers sought counseling and attended five sessions. See Id. Moreover, in Hobbs v. Lopez, the Fourth District Court of Appeals held that a patient could maintain a claim intentional infliction of emotional distress following disclosure of the patient's pregnancy to her mother. See Hobbs, 96 Ohio App.3d 670. The court noted that the violation of the doctor-patient confidence rises to the level of outrageous conduct sufficient to find intentional infliction of emotional distress. Id. at 675.

As noted above, the evidence in this matter has shown that Defendant Klooz looked into Plaintiff's medical records and disclosed the fact that Plaintiff had an abortion to Ms. Bowers. There can be no question that the disclosure is outrageous conduct pursuant to relevant case law. Moreover, Plaintiff also sought psychiatric treatment and was diagnosed with a material and significant aggravation of a pre-existing panic disorder and adjustment disorder with depressed mood. She was also caused to suffer a generalized anxiety disorder. At the time of his diagnosis, Dr. Kaplan believed that Plaintiff would need weekly therapy for at least one year in order to return to the same level of functioning she enjoyed prior to the disclosure. Further there is no evidence conflicting Dr. Kaplan's opinion that these conditions were proximately caused by the disclosure of Plaintiff abortion by Defendant Klooz.²³

A review of the facts in this matter and the relevant case law shows that Plaintiff has actually met her burden of proof to ultimately prevail on this claim. A jury could reasonably find in Plaintiff's favor and against Defendant Klooz. As such, there is no

²³ There was no independent medical exam performed by Defendants in this matter.

possibility that Plaintiff or her counsel have violated the provisions of Rule 11 or R.C. 2323.51.

B. Plaintiff's claims are warranted under Ohio law and not "frivolous" as defined in R.C. 2323.51.

Pursuant to R.C. 2323.51(B)(1), the court may award court costs, reasonable attorney fees and other reasonable expenses incurred in connection with a civil action to a party who was adversely affected by frivolous conduct. "Frivolous conduct" is defined in R.C. 2323.51(A)(2) as:

- (a) conduct of *** party to a civil action, ***party's counsel or record that satisfies either of the following:
 - (i) It obviously serves to merely harass or maliciously injure another party to the civil action or appeal.
 - (ii) It is obviously not warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law.

R.C. 2323.51(A)(2).

Revised Code 2323.51(B)(2) provides that an award may be made pursuant to R.C. 2323.51 *only* after the court conducts an evidentiary hearing to determine whether particular conduct was frivolous, whether any party was adversely affected by it, and to determine, if an award is to be made, the amount of that award. The Eighth District Court of Appeals has determined that the hearing is mandatory only when sanctions are imposed and is not necessary when the court determines, upon consideration of the motion for attorney fees and in its discretion, that the motion lacks merit. Pisani v. Pisani (1995) 101 Ohio App.3d 83.

For purposes of Rule 11 and R.C. 2323.51, a "frivolous claim" is a claim that is not supported by facts in which a complainant has a good-faith belief and which is not

grounded in any legitimate theory of law or argument for future modification of the law. See Jones v. Billingham (1995) 105 Ohio App.3d 8.

In the present case, a hearing should not be necessary because Defendant Klooz' Motion is completely groundless. For the sake of brevity, Plaintiff will not again address in detail the merits of the three counts against Defendant Klooz. As illustrated above, all three claims are warranted by existing law. At the very least, the claims against Ms. Klooz are supported by a good faith argument for an extension, modification or reversal of existing law. See R.C. 2323.51. The bulk of Defendant Klooz' Motion addresses issues of fact that would even preclude summary judgment in this matter. While a motion for summary judgment is not before this court, Plaintiff does not see how Defendant can in good faith believe that these claims are frivolous when nearly all of her arguments for sanctions focus on evidence where there exists conflicting testimony and credibility of witnesses that will have to be evaluated by a jury.

CONCLUSION

As illustrated above, for purposes of Rule 11 and R.C. 2323.51, a "frivolous claim" is a claim that is not supported by facts in which a complainant has a good-faith belief and which is not grounded in any legitimate theory of law or argument for future modification of the law. See Jones v. Billingham (1995) 105 Ohio App.3d 8. There is nothing frivolous about any of Plaintiff's claims against Defendant Klooz. Plaintiff's counsel has demonstrated proper investigation into the claims prior to filing suit. Plaintiff has also shown that all of her claims are still meritorious under existing law. First, Plaintiff has shown that Defendant Klooz induced the unauthorized disclosure of non-public medical information pursuant to the elements set forth in Biddle. Second,

Plaintiff has demonstrated that she has a valid claim for invasion of privacy against Ms. Klooz under the elements in Greenwood. Finally, Plaintiff has shown that her claim for intentional infliction of emotional distress also has merit pursuant to Meyers and Hobbs.

Therefore, Plaintiff respectfully requests that this Honorable Court deny Defendant Klooz' Motion for Sanctions, without the necessity of an evidentiary hearing pursuant to R.C. 2323.51.

Respectfully submitted,



L. CHRISTOPHER COLEMAN (0075528)
WILLIAM D. BROWN (0055433)
STEUER, ESCOVAR, BERK & BROWN CO., L.P.A.
55 Public Square, Suite 1828
Cleveland, Ohio 44113
Phone: (216) 771-8121
Fax: (216) 771-8120

ATTORNEYS FOR PLAINTIFF

- 1.) On the day of July 13, 2003, Sarah Bowers called me and told me that Katie Finnerty had an abortion.
- 2.) I asked Sarah how ~~she~~ she knew about the abortion and she said Amy saw it in Katie's file while Katie was at her Planned Parenthood appointment.
- 3.) The abortion information was divulged between July 6-13, 2003.

D. Del Guidice

Danielle Del Guidice

Sworn to before me this 4th day
of October, 2003.

Ray Cole

LARRY CHRISTOPHER COLEMAN, ATTY. AT LAW
Notary Public, State of Ohio
Resident: Cuyahoga County
My Commission Has No Expiration Date
Section 147.03 R.C.

1. My name is Sarah Bowers I live at 24044 Sprague Rd Olmsted Falls Ohio 44138
2. Amy Klooz was an employee at Planned Parenthood in the Summer of 2003.
3. In early July Amy told me that Katie Finnerty had an abortion
4. Amy told me that after Katie's visit to Planned Parenthood, she was filing away Katie's chart and she saw the information on the back of Katie's file.
5. Amy told me that information a day or two after Katie's visit at Planned Parenthood what she had seen.

X Sarah Z Bowers

10-8-03

Sworn to before me this 8th day of October, 2003

LARRY CHRISTOPHER COLEMAN, ATTY. AT LAW
Notary Public, State of Ohio
Resident: Cuyahoga County
My Commission Has No Expiration Date
Section 147.03 R.C.

Larry Coleman

CV04534568



32225768

FILED

2005 JAN 21 A 8:31

GERALD E. FUERST
CLERK OF COURTS
CUYAHOGA COUNTY
IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

JANE DOE,	)	CASE NO.: CV 04 534568
)	
Plaintiff,	)	JUDGE BRIDGET MCCAFFERTY
)	
vs.	)	<u>PLAINTIFF'S PRETRIAL</u>
	)	<u>STATEMENT</u>
PLANNED PARENTHOOD OF)	
GREATER CLEVELAND, et al.,)	
)	
Defendants.)	

Now comes the Plaintiff, by and through counsel, and hereby submits her Pretrial Statement as follows:

BRIEF DESCRIPTION OF CASE

On or about November 19, 2002, Plaintiff underwent an abortion procedure at the Bedford location of Planned Parenthood of Greater Cleveland. On July 9, 2003, Plaintiff went to the Rocky River location of Planned Parenthood of Greater Cleveland for the purpose of obtaining birth control medication. At that time, Defendant Amy Klooz was employed by Planned Parenthood of Greater Cleveland. Ms. Klooz was an acquaintance of Plaintiff in high school. Subsequent to Plaintiff's visit in July, 2003, Ms. Klooz observed that Plaintiff had previously underwent an abortion procedure and disclosed this information to mutual acquaintances of Plaintiff and Ms. Klooz.

BRIEF DESCRIPTION OF INJURIES OR DAMAGES

Plaintiff has suffered extreme emotional distress, humiliation, embarrassment, and mental anguish. Specifically, Plaintiff suffered a material and significant aggravation of a pre-existing panic disorder and adjustment disorder with depressed mood. She was also caused to suffer a generalized anxiety disorder. It is estimated that she will need one year of weekly psychotherapy and psychiatric medication to restore her to the level of functioning she possessed prior to the unauthorized disclosure of her abortion.

ASCERTAINABLE DAMAGES

Medical Expenses	\$1,200.00
Total:	\$1,200.00

STATUS

Depositions: Depositions of Plaintiff, Defendant Klooz, Representatives of Defendant Planned Parenthood, and a witness taken. Depositions of a Representative of Planned Parenthood and another witness are scheduled on 1/24/05.

Physical Examinations: None.

Exchange of Medical Reports: Plaintiff to Defendant.

Exchange of Expert Witness Reports: None at this time.

Special Problems with Respect to Trial of Case: None

LOWEST DEMAND No negotiations.

HIGHEST OFFER No negotiations.

Respectfully submitted,



L. CHRISTOPHER COLEMAN (0075528)
WILLIAM D. BROWN (0055433)
STEUER, ESCOVAR, BERK & BROWN Co., L.P.A.
55 Public Square, Suite 1828
Cleveland, Ohio 44113
Phone: (216) 771-8121
Fax: (216) 771-8120

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

A copy of the foregoing Pretrial Statement has been served up F. Daniel Balmert, Esq., Attorney for Defendant, Planned Parenthood of Greater Cleveland, and Angela Privitera, Esq., Attorney for Defendant, Amy Klooz, via hand delivery, this 21st day of January, 2005.



L. CHRISTOPHER COLEMAN (0075528)

ATTORNEY FOR PLAINTIFF



32663184

LN

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

JANE DOE
Plaintiff

Case No: CV-04-534568

EDP
N.I.

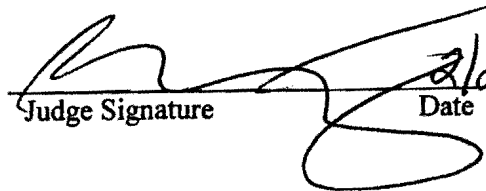
Judge: BRIDGET M MCCAFFERTY

PLANNED PARENTHOOD OF GREATER
CLEVELAND, ET AL
Defendant

JOURNAL ENTRY

87 DIS. W/O PREJ - FINAL

CASE IS DISMISSED WITHOUT PREJUDICE. OSJ. FINAL.
COURT COST ASSESSED TO THE PLAINTIFF(S).


Judge Signature 2/28/05 Date

RECEIVED FOR FILING

MAR 02 2005

GERALD E. FUERST, CLERK

BY  DEP.



Gerald E. Fuerst, Clerk of Courts Court of Common Pleas - Cuyahoga County, Ohio



Case Summary Listing

[Docket](#)
[Case Parties](#)
[Costs](#)
[Service](#)
[All](#)
[New Search](#)
[Main Menu](#)

Case Number:	CV-05-562636
Case Title:	JANE DOE vs. PLANNED PARENTHOOD OF GREATER CLEVELAND
Case Designation:	TORT-MISCELLANEOUS
Filing Date:	5/12/2005
Judge:	BRIDGET M MCCAFFERTY
Magistrate:	N/A
Room:	N/A
Next Action:	N/A
File Location:	PEND.FILE
Last Status:	ACTIVE
Last Status Date:	5/12/2005
Last Disposition:	RE-ASSIGNED
Last Disposition Date:	6/29/2005
Prayer Amount:	\$ 5025000.00

CMSW504

[Print Page](#) | [Close Window](#) | [Disclaimers](#)

Information on this Web site is updated every 30 minutes. Only the official court records available from the Cuyahoga County Clerk of Courts, available in person, should be relied upon as accurate and current.

For questions/comments please contact cpdock@www.cuyahoga.oh.us



Gerald E. Fuerst, Clerk of Courts

Court of Common Pleas - Cuyahoga County, Ohio



Case Docket Listing

Case Summary

Case Parties

Costs

Service

All

Printer Friendly

Print Docket

New Search

Main Menu

Case Number: CV-05-562636

Case Title: JANE DOE vs. PLANNED PARENTHOOD OF GREATER CLEVELAND

Tiff Viewer: AlternatIFF

From Date	Sort	Type	Type	Type	Type	Search
	<input checked="" type="radio"/> Ascending <input checked="" type="radio"/> Descending					<input type="button" value="Start Search"/>

Date	Side	Type	Description	Image
07/18/2005	N/A	OT	PLTF'S. BRIEF IN OPPOSITION TO DEFT. AMY KLOOZ' MOTION FOR SUMMARY JUDGMT.....(FILED UNDER SEAL).....	N/A
07/13/2005	P1	MO	P1 JANE DOE MOTION TO DISMISS COUNTERCLAIM OF DEFT. AND MOTION FOR RULE 11 SANCTIONS L. CHRISTOPHER COLEMAN 0075528	N/A
07/12/2005	D1	SR	CERTIFIED MAIL RECEIPT NO. 6867708 RETURNED BY U.S. MAIL DEPARTMENT 07/12/2005 PLANNED PARENTHOOD OF GREATER CL EVELAND MAIL RECEIVED AT ADDRESS 07/11/2005 SIGNED BY OTHER.	N/A
07/08/2005	D1	SR	SUMS COMPLAINT(6867708) SENT BY CERTIFIED MAIL. TO: PLANNED PARENTHOOD OF GREATER CL EVELAND 3500 LORAIN AVE CLEVELAND, OH 44113-0000	N/A
07/07/2005	D1	MO	D1 PLANNED PARENTHOOD OF GREATER CL EVELAND MOTION FOR SUMMARY JUDGMENT FILED UNDER SEAL F DANIEL BALMERT 0013809	N/A
07/07/2005	D1	OT	D1 PLANNED PARENTHOOD OF GREATER CL EVELAND NOTICE OF FILLING MOTIONS FOR SUMMARY JUDGMENT. F DANIEL BALMERT 0013809	N/A
07/07/2005	D1	OT	D1 PLANNED PARENTHOOD OF GREATER CL EVELAND DEPOSITION TRANSCRIPT OF AMY KLOOZ FILED UNDER SEAL..... F DANIEL BALMERT 0013809	N/A
07/07/2005	D1	OT	D1 PLANNED PARENTHOOD OF GREATER CL EVELAND NOTICE OF FILING DEPOSITION TRANSCRIPT OF AMY KLOOZ..... WITH JURY DEMAND F DANIEL BALMERT 0013809	N/A
07/07/2005	D1	AN	D1 PLANNED PARENTHOOD OF GREATER CL EVELAND SEPARATE ANSWER TO PLTF'S COMPLAINT..... F DANIEL BALMERT 0013809	N/A
07/05/2005	D1	CS	WRIT FEE	N/A
07/01/2005	D1	SR	INSTRUCTION FOR SERVICE ON COMPLAINT VIA CERT MAIL TO PLANNED PARENTHOOD FILED.	N/A
06/30/2005	N/A	JE	CASE MANAGEMENT CONFERENCE IS SET FOR 8/12/05 AT 8:45 AM IN COURTROOM 21-C WITH JUDGE MCCAFFERTY. THIS IS RE-FILED CASE NO. 04-534568. BOOK 3358 PAGE 0737 06/30/2005 NOTICE ISSUED	N/A
06/29/2005	N/A	JE	PURSUANT TO SUPERINTENDENCE RULE 36, THIS MATTER IS REASSIGNED TO THE DOCKET OF JUDGE BRIDGET M MCCAFFERTY (331) (MANUAL). BOOK 3357 PAGE 0398 06/29/2005 NOTICE ISSUED	N/A
06/27/2005	N/A	SC	CASE MGMNT CONFERENCE SCHEDULED FOR 08/10/2005 AT 02:00 PM IS CANCELLED. (NOTICE SENT)	N/A
			CERTIFIED MAIL RECEIPT NO. 6806796 RETURNED 06/24/2005 FAILURE	

06/24/2005	D1	SR	OF SERVICE ON DEFENDANT PLANNED PARENTHOOD OF GREATER CL EVELAND - FORWARDING TIME EXPIRED NOTICE MAILED TO PLAINTIFF (S) ATTORNEY	N/A
06/22/2005	D1	SR	SUMS COMPLAINT(6806796) SENT BY CERTIFIED MAIL. TO: PLANNED PARENTHOOD OF GREATER CL EVELAND 3135 EUCLID AVENUE, STE 102 CLEVELAND, OH 44115-0000	N/A
06/21/2005	N/A	SC	CASE MGMNT CONFERENCE SET FOR 08/10/2005 AT 02:00 PM.	N/A
06/20/2005	D1	CS	WRIT FEE	N/A
06/17/2005	D1	SR	INSTRUCTION FOR SERVICE ON PLANNED PARENTHOOD OF GREATER CLEVELAND SENT BY CERTIFIED MAIL FILED.	N/A
06/15/2005	D2	MO	D2 AMY KLOOZ MOTION FOR SJ AS TO PLTF'S COMPLAINT ONLY FILED UNDER SEAL ANGELA M PRIVITERA 0069604	N/A
06/15/2005	D2	OT	D2 AMY KLOOZ NOTICE OF FILING DEPOSITIONS OF CATHERINE DOE, SARAH BOWERS, DANIELLE DEL GUIDICE, SUNSHINE DAWN KILBANE AND TERI MILLER FILED UNDER SEAL. ANGELA M PRIVITERA 0069604	N/A
06/15/2005	P1	OT	NOTICE OF FILING DEPOSITIONS OF CATHERINE DOE, SARAH BOWERS, DANIELLE DEL GUIDICE, SUNSHINE DAWN KILBANE AND TERI MILLER FILED UNDER SEAL	N/A
06/14/2005	D2	AN	D2 AMY KLOOZ SEPARATE ANSWER AND COUTNERCLAIM OF DEFT. AMY KLOOZ TO PLFTS. COMPLAINT. WITH JURY DEMAND ANGELA M PRIVITERA 0069604	N/A
05/25/2005	D1	SR	CERTIFIED MAIL RECEIPT NO. 6648939 RETURNED 05/25/2005 FAILURE OF SERVICE ON DEFENDANT PLANNED PARENTHOOD OF GREATER CL EVELAND - NOT DELIVRBL AS ADDR NOTICE MAILED TO PLAINTIFF(S) ATTORNEY	N/A
05/20/2005	D2	SR	CERTIFIED MAIL RECEIPT NO. 6648940 RETURNED BY U.S. MAIL DEPARTMENT 05/19/2005 KLOOZ/AMY/ MAIL RECEIVED BY ADDRESSEE 05/18/2005.	N/A
05/17/2005	D1	SR	SUMS COMPLAINT(6648939) SENT BY CERTIFIED MAIL. TO: PLANNED PARENTHOOD OF GREATER CL EVELAND 3135 EUCLID AVENUE, STE 102 CLEVELAND, OH 44115-0000	N/A
05/17/2005	D2	SR	SUMS COMPLAINT(6648940) SENT BY CERTIFIED MAIL. TO: AMY KLOOZ 5911 LAVERNE AVENUE PARMA, OH 44129-0000	N/A
05/13/2005	D2	CS	WRIT FEE	N/A
05/13/2005	D1	CS	WRIT FEE	N/A
05/12/2005	N/A	SF	JUDGE NANCY R MCDONNELL ASSIGNED (RANDOM)	N/A
05/12/2005	P1	SF	LEGAL RESEARCH	N/A
05/12/2005	P1	SF	LEGAL NEWS	N/A
05/12/2005	P1	SF	LEGAL AID	N/A
05/12/2005	P1	SF	COMPUTER FEE	N/A
05/12/2005	P1	SF	CLERK'S FEE	N/A
05/12/2005	P1	SF	DEPOSIT AMOUNT PAID STEUER ESCOVAR BERK & BROWN	N/A
05/12/2005	N/A	SF	CASE FILED	N/A
05/12/2005	P1	SR	COMPLAINT WITH JURY DEMAND FILED. SERVICE REQUEST - SUMMONS BY CERTIFIED MAIL TO THE DEFENDANT(S).	N/A

CMSW506

Print Page | Close Window | Disclaimers

Information on this Web site is updated every 30 minutes. Only the official court records available from the Cuyahoga County Clerk of Courts, available in person, should be relied upon as accurate and current.



Gerald E. Fuerst, Clerk of Courts Court of Common Pleas - Cuyahoga County, Ohio



Case Summary Listing

[Docket](#)[Case Parties](#)[Costs](#)[Service](#)[All](#)[New Search](#)[Main Menu](#)

Case Number:	CV-04-534568
Case Title:	JANE DOE vs. PLANNED PARENTHOOD OF GREATER CLEVELAND, ET AL
Case Designation:	TORT-MISCELLANEOUS
Filing Date:	6/24/2004
Judge:	BRIDGET M MCCAFFERTY
Magistrate:	N/A
Room:	N/A
Next Action:	N/A
File Location:	RET.45 JDG.
Last Status:	INACTIVE
Last Status Date:	3/8/2005
Last Disposition:	DIS. W/O PREJ
Last Disposition Date:	3/2/2005
Prayer Amount:	\$ 5025000.00

CMSW504

[Print Page](#) | [Close Window](#) | [Disclaimers](#)

Information on this Web site is updated every 30 minutes. Only the official court records available from the Cuyahoga County Clerk of Courts, available in person, should be relied upon as accurate and current.

For questions/comments please contact cpdock@www.cuyahoga.oh.us



Gerald E. Fuerst, Clerk of Courts

Court of Common Pleas - Cuyahoga County, Ohio



Case Docket Listing

[Case Summary](#)
[Case Parties](#)
[Costs](#)
[Service](#)
[All](#)
[Printer Friendly](#)
[Print Docket](#)
[New Search](#)
[Main Menu](#)
Case Number: CV-04-534568

Case Title: JANE DOE vs. PLANNED PARENTHOOD OF GREATER CLEVELAND, ET AL

Tiff Viewer: AlternaTIFF

From Date
Sort
Type
Type
Type
Type
Search
 Ascending

 Descending

Date	Side	Type	Description	Image
06/14/2005	P1	\$\$	PAYMENT ON ACCOUNT MADE ON BEHALF OF JANE DOE IN THE AMOUNT OF \$95.00	N/A
06/01/2005	N/A	CS	COURT COST ASSESSED JANE DOE BILLED C/O ATTY BILL AMOUNT 195.00 PAID AMOUNT 100 AMOUNT DUE 95.00	N/A
03/29/2005	N/A	JE	DEFENDANT AMY KLOOZ' MOTION FOR SANCTIONS, ATTORNEYS' FEES AND COSTS, FILED 3/16/05, IS DENIED. BOOK 3300 PAGE 0547 03/29/2005 NOTICE ISSUED	N/A
03/25/2005	P1	OT	P1 JANE DOE MEMORDANUM IN OPPOSITION TO DEFENDANT AMY KLOOZ' MOTION FOR SANCTIONS, ATTORNEYS' FEES AND COSTS. L. CHRISTOPHER COLEMAN 0075528	N/A
03/16/2005	D2	MO	D2 AMY KLOOZ MOTION FOR SANCTIONS, ATTORNEYS' FEES AND COSTS..... ANGELA M PRIVITERA 0069604 03/28/2005 - DENIED	N/A
03/02/2005	N/A	JE	CASE IS DISMISSED WITHOUT PREJUDICE. OSJ. FINAL. COURT COST ASSESSED TO THE PLAINTIFF(S). BOOK 3283 PAGE 0011-0013 03/02/2005 NOTICE ISSUED	N/A
02/28/2005	D1	OT	D1 PLANNED PARENTHOOD OF GREATER CLEVELAND DEFENDANT PLANNED PARENTHOOD OF GREATER CLEVELAND'S NOTICE OF FILING MOTION FOR SUMMARY JUDGMENT AS TO PLAINTIFF'S AMENDED COMPLAINT. F DANIEL BALMERT 0013809	N/A
02/28/2005	D2	OT	D2 AMY KLOOZ DEFENDANT AMY KLOOZ' FINAL PRETRIAL STATEMENT...FILED UNDER SEAL...ANGELA M PRIVITERA 0069604	N/A
02/28/2005	P1	OT	P1 JANE DOE NOTICE OF VOLUNTARY DISMISSAL..... L. CHRISTOPHER COLEMAN 0075528	N/A
02/22/2005	N/A	JE	PLAINTIFF'S MOTION FOR ENLARGEMENT OF TIME TO RESPOND TO DEFENDANT PLANNED PARENTHOOD OF CLEVELAND AND AMY KLOOZ' MOTION FOR SUMMARY JUDGMENT, FILED 2/15/05, IS DENIED. BOOK 3277 PAGE 0104 02/22/2005 NOTICE ISSUED	N/A
02/22/2005	N/A	JE	CONFERENCE CALL HELD. SC/PT IS CANCELLED. MOTION TO CONTINUE SETTLEMENT CONFERENCE, FILED 2/15/05, IS MOOT. ALL OTHER DATES REMAIN SET. BOOK 3277 PAGE 0107 02/22/2005 NOTICE ISSUED	N/A
02/17/2005	D2	AN	D2 AMY KLOOZ SEPARATE ANSWER OF DEFT. TO PLTF. AMENDED COMPLAINT...JURY DEMAND ENDORSED HEREON. ANGELA M PRIVITERA 0069604	N/A
02/17/2005	D2	MO	D2 AMY KLOOZ DEFT. MOTION FOR SUMMARY JUDGMENT AS TO PLTF. AMENDED COMPLAINT ANGELA M PRIVITERA 0069604 03/14/2005 -	N/A

			UNKNOWN	
02/17/2005	D2	OT	D2 AMY KLOOZ DEFT. RESPONSE TO PLTF'S. MOTION FOR ENLARGEMENT OF TIME. ANGELA M PRIVITERA 0069604	N/A
02/15/2005	P1	MO	P1 JANE DOE MOTION FOR ENLARGEMETN OF TIME TO RESPOND TO DEFTS. PLANNED PARENTHOOD OF GREATER CLEVELAND AND AMY KLOOZ MOTIONS FOR SUMMARY JUDGMENT L. CHRISTOPHER COLEMAN 0075528 02/18/2005 - DENIED	N/A
02/15/2005	P1	MO	P1 JANE DOE MOTION FOR CONTINUANCE SETTLEMENT CONFERENCE L. CHRISTOPHER COLEMAN 0075528 02/18/2005 - MOOT	N/A
02/15/2005	D1	AN	D1 PLANNED PARENTHOOD OF GREATER CLEVELAND SEPARATE ANSWER OF DEFT. PLANNED PARENTHOOD OF GREATER CLEV. TO PLTF'S. AMENDED COMPLAINT....(JURY DEMAND ENDORSED HEREON). WITH JURY DEMAND F DANIEL BALMERT 0013809	N/A
02/10/2005	N/A	JE	PLAINTIFF'S MOTION FOR LEAVE TO FILE AMENDED COMPLAINT, FILED 1/28/05, IS GRANTED. PLAINTIFF HAS UNTIL 2/23/05 TO FILE AN AMENDED COMPLAINT. NOTICE VIA FACSIMILE. BOOK 3270 PAGE 0131 02/10/2005 NOTICE ISSUED	N/A
02/09/2005	P1	AC	PLAINTIFF, JANE DOE AMENDED COMPLAINT (TRIAL BY JURY REQUESTED).....FILED BY. L. CHRISTOPHER COLEMAN (0075528)	N/A
02/07/2005	D1	OT	D1 PLANNED PARENTHOOD OF GREATER CLEVELAND DEFT. PLANNED PARENTHOOD OF GREATER CLEVELAND'S REPLY TO PLTF. MEMORANDUM IN OPPOSITION TO DEFT'S MOTION FOR PROTECTIVE ORDER. F DANIEL BALMERT 0013809	N/A
02/07/2005	D1	OT	D1 PLANNED PARENTHOOD OF GREATER CLEVELAND DEFT. PLANNED PARENTHOOD OF GREATER CLEVELAND'S MEMORANDUM IN OPPOSITION TO PLTF. MOTION FOR LEAVE TO FILE AN AMENDED COMPLAINT. F DANIEL BALMERT 0013809	N/A
02/01/2005	N/A	JE	PLAINTIFF'S MOTION FOR LEAVE TO FILE AMENDED COMPLAINT, FILED 1/28/05, IS GRANTED. PLAINTIFF MAY ELIMINATE COUNT V AND COUNT VI FROM HER ORIGINAL COMPLAINT. BOOK 3263 PAGE 0545 02/01/2005 NOTICE ISSUED	N/A
02/01/2005	N/A	JE	DEFENDANT PLANNED PARENTHOOD'S MOTION FOR PROTECTIVE ORDER REGARDING TESTIMONY CONCERNING OTHER LAWSUITS OR SETTLEMENTS, FILED 1/20/05, IS GRANTED. BOOK 3263 PAGE 0550 02/01/2005 NOTICE ISSUED	N/A
01/28/2005	P1	MO	P1 JANE DOE MOTION FOR LEAVE TO FILE AMENDED COMPLAINT L. CHRISTOPHER COLEMAN 0075528 02/08/2005 - GRANTED	N/A
01/28/2005	D2	MO	D2 AMY KLOOZ MOTION FOR SUMMARY JUDGMENT BY DEFENDANT, AMY KLOOZ (FILED UNDER SEAL) ANGELA M PRIVITERA 0069604 03/14/2005 - UNKNOWN	N/A
01/28/2005	D2	OT	D2 AMY KLOOZ NOTICE OF FILING DEPOSITION OF CATHERINE DOE, SARAH BOWERS AND DANIELLE GUDICE (FILED UNDER SEAL). ANGELA M PRIVITERA 0069604	N/A
01/28/2005	P1	OT	P1 JANE DOE PLTF. MEMORANDUM IN OPPOSITION TO EFT PLANNED PARENTHOOD OF GREATER CLEVELAND'S MOTION FOR PROTECTIVE ORDER. L. CHRISTOPHER COLEMAN 0075528	N/A
01/28/2005	P1	OT	P1 JANE DOE NOTICE OF FILING DEPOSITION. L. CHRISTOPHER COLEMAN 0075528	N/A
01/28/2005	D1	OT	D1 PLANNED PARENTHOOD OF GREATER CLEVELAND DEPOSITION FOR DEFT. PLANNED PARENTHOOD OF GREATER CLEVELAND'S MOTION FOR SUMMARY JUDGMENT FILED UNDER SEAL. F DANIEL BALMERT 0013809	N/A
01/28/2005	D1	OT	D1 PLANNED PARENTHOOD OF GREATER CLEVELAND DEPOSITION TRANSCRIPT OF THERESE MILLER FILED UNDER SEAL. F DANIEL BALMERT 0013809	N/A

01/28/2005	D1	OT	D1 PLANNED PARENTHOOD OF GREATER CLEVELAND DEPOSITION TRANSCRIPT OF SUNSHINE KILBANE FILED UNDER SEAL. F DANIEL BALMERT 0013809	N/A
01/28/2005	D1	OT	D1 PLANNED PARENTHOOD OF GREATER CLEVELAND DEPOSITION TRANSCRIPT OF AMY KLOOZ FILED UNDER SEAL. F DANIEL BALMERT 0013809	N/A
01/28/2005	D1	OT	D1 PLANNED PARENTHOOD OF GREATER CLEVELAND DEFT. PLANNED PARENTHOOD OF GREATER CLEVELAND NOTICE OF FILING MOTION FOR SUMMARY JUDGMENT. F DANIEL BALMERT 0013809	N/A
01/28/2005	D1	OT	D1 PLANNED PARENTHOOD OF GREATER CLEVELAND DEFT. PLANED PARENTHOOD OF GREATER CLEVELAND NOTICE OF FILING DEPOSITION TRANSCRIT OF SUNSHINE KILBANE. F DANIEL BALMERT 0013809	N/A
01/28/2005	D1	OT	D1 PLANNED PARENTHOOD OF GREATER CLEVELAND DEFT. PLANNED PARENTHOOD OF GREATER CLEVELAND NOTICE OF FILING DEPOSITION TRANSCRIPT OF AMY KLOOZ. F DANIEL BALMERT 0013809	N/A
01/28/2005	D1	OT	D1 PLANNED PARENTHOOD OF GREATER CLEVELAND DEFT. PLANNED PARENTHOOD OF GREATER CLEVELAND NOTICE OF FILING DEPOSITION TRANSCRIPT OF THERESE MILLER. F DANIEL BALMERT 0013809	N/A
01/28/2005	N/A	OT	DEPOSITION OF DANIELLE DELGUDICE...SEALED UNDER COURT ORDER	N/A
01/28/2005	N/A	OT	DEPOSITION OF SARAH BOWERS...SEALED UNDER COURT ORDER	N/A
01/28/2005	N/A	OT	DEPOSITION OF TERI MILLER...SEALED UNDER COURT ORDER	N/A
01/28/2005	N/A	OT	DEPOSITION OF AMY MARIE KLOOZ...SEALED UNDER COURT ORDER	N/A
01/28/2005	N/A	OT	DEPOSITION OF SUNSHINE DAWN KILBANE...SEALED UNDER COURT ORDER	N/A
01/27/2005	P1	MO	JOINT MOTION FOR PROTECTIVE ORDER PURSUANT TO CIVIL RULE 26 (C).....(W)... L. CHRISTOPHER COLEMAN (0075528) 01/27/2005 - GRANTED	N/A
01/27/2005	P	JE	THE JOINT MOTION FOR PROTECTIVE ORDER IS HEREBY GRANTED...IT IS ORDERED THAT ALL DEPOSITIONS TAKEN IN THIS CASE BE FILED IN A SEALED ENVELOPE TO BE OPENED ONLY BY THIS COURT AND ...ALL MOTIONS FOR SUMMARY JUDGMENT, MEMORANDUMS IN OPPOSITION THERETO AND REPLIES BE FILED IN A SEALED ENVELOPE TO BE OPENED ONLY BY THIS COURT...OSJ. VOL.3260 PG.0927 NOTICE ISSUED	N/A
01/24/2005	N/A	JE	PT HELD. DISCOVERY ONGOING. DISCOVERY TO CONTINUE PURSUANT TO AGREEMENT. SC/PT HELD FOR 2/28/05 AT 8:45 AM. ALL PARTIES TO BE PRESENT. BOOK 3258 PAGE 0897 01/24/2005 NOTICE ISSUED	N/A
01/21/2005	P1	OT	P1 JANE DOE PLAINTIFF'S PRETRIAL STATEMENT. L. CHRISTOPHER COLEMAN 0075528	N/A
01/20/2005	D1	MO	D1 PLANNED PARENTHOOD OF GREATER CLEVELAND MOTION BY DFDT, "PLANNED PARENTHOOD OF GREATER CLEVELAND" FOR PROTECTIVE ORDER (ORAL ARGUMENT REQUESTED)...[W] F DANIEL BALMERT 0013809 01/31/2005 - GRANTED	N/A
01/11/2005	D1	OT	D1 PLANNED PARENTHOOD OF GREATER CLEVELAND RETURN OF SERVICE FOR SUBPOENA OF SARAH BOWERS....FILED. F DANIEL BALMERT 0013809	N/A
01/06/2005	D1	SR	SUBPOENA FOR: DANIELLE DEL GUIDICE, SERVED JAN. 5, 2005 .	N/A
12/01/2004	D1	SR	SUBPOENA FOR: SARA BOWERS, ISSUED NOV. 30, 2004 .	N/A
11/16/2004	N/A	JE	MOTION FOR EXTENSION OF DISCOVERY DEADLINE AND FOR CONTINUANCE OF FPT AND TRIAL FILED 11/12/2004, IS GRANTED. COURT SET NEW DATES AS FOLLOWS: DISCOVERY CUT-OFF IS 1/21/2005; PT IS 1/21/2005 AT 8:45AM; DISPOSITIVE MOTIONS ARE DUE 1/28/2005; BRIEF IN OPPOSITION IS DUE 2/28/2005; FPT IS RE-	N/A

			SET FOR 3/7/2005 AT 9:00AM, ALL PARTIES TO BE PRESENT; JURY TRIAL IS SET FOR 3/22/2005 AT 10:00AM. ALL OTHER PREVIOUSLY SET DATES ARE CANCELLED. BOOK 3220 PAGE 0134 11/16/2004 NOTICE ISSUED	
11/12/2004	P1	MO	P1 JANE DOE MOTION FOR EXTENSION OF DISCOVERY DEADLINE AND FOR CONTINUANCE FINAL PRETRIAL AND TRIAL. L. CHRISTOPHER COLEMAN 0075528 11/16/2004 - GRANTED	N/A
11/05/2004	D2	OT	D2 AMY KLOOZ NOTICE OF WITHDRAWAL OF DEFT'S MOTION TO HAVE PLTF'S RESPONSES TO REQUESTS FOR ADMISSIONS DEEMED ADMITTED. ANGELA M PRIVITERA 0069604	N/A
11/02/2004	D2	MO	D2 AMY KLOOZ MOTION TO HAVE PLTF'S RESPONSES TO REQUESTS FOR ADMISSIONS DEEMED ADMITTED. ANGELA M PRIVITERA 0069604 11/12/2004 - WITHDRAWN	N/A
10/01/2004	D2	AN	D2 AMY KLOOZ SEPARATE ANSWER. WITH JURY DEMAND ANGELA M PRIVITERA 0069604	N/A
09/30/2004	D2	SR	CERTIFIED MAIL RECEIPT NO. 5415504 RETURNED BY U.S. MAIL DEPARTMENT 09/24/2004 KLOOZ/AMY/ MAIL RECEIVED BY ADDRESSEE 09/23/2004.	N/A
09/16/2004	D	JE	STIPULATED MOTION FOR EXTENSION OF TIME TO ANSWER PLEAD OR OTHERWISE MOVE...(STIPULATION FOR LEAVE TO PLEAD) FILED BY DEFT,...NOW COME PARTIES, BY AND THROUGH THE UNDERSIGNED LEGAL COUNSEL, AND HEREBY REQUEST AN ORDER GRANTING AN ADD'L FIFTEEN (15) DAYS FROM SEPT. 17, 2004 FOR DEFT AMY KLOOZ, TO ANSWER, PLEAD OR OTHERWISE MOVE IN RESPONSE TO THE COMPLAINT FILED BY PLTF IN THIS MATTER, GRTD. OSJ VOL 3185 PGS 518-519. NOTICE ISSUED.	N/A
09/08/2004	D2	MO	D2 AMY KLOOZ STIPULATED MOTION FOR EXTENSION OF TIME TO ANSWER PLEAD OR OTHERWISE MOVE. ANGELA M PRIVITERA 0069604 09/16/2004 - GRANTED	N/A
09/07/2004	D2	SR	SUMS COMPLAINT(5415504) SENT BY CERTIFIED MAIL. TO: AMY KLOOZ VICTORIA PLAZA 26101 COUNTRY CLUB BLVD #825 NORTH OLMSTED, OH 44070-0000	N/A
09/02/2004	D2	SR	CERTIFIED MAIL RECEIPT NO. 5366337 RETURNED BY U.S. MAIL DEPARTMENT 08/25/2004 KLOOZ/AMY/ MAIL RECEIVED BY ADDRESSEE 08/24/2004.	N/A
09/02/2004	D2	CS	WRIT FEE	N/A
08/27/2004	D2	SR	INSTRUCTION FOR SERVICE ON AMY KLOOZ FILED.	N/A
08/25/2004	N/A	JE	CASE MGMNT CONFERENCE HELD ON 08/24/2004. ALL DISCOVERY TO BE COMPLETED BY 11/22/2004. DISPOSITIVE MOTION TO BE FILED BY 11/29/2004. BRIEF IN OPPOSITION DUE 12/29/2004. PRETRIAL SET FOR 11/22/2004 AT 08:45 AM. FINAL PRETRIAL SET FOR 01/06/2005 AT 09:00 AM. ALL PARTIES TO BE PRESENT. JURY TRIAL SET FOR 01/11/2005 AT 10:00 AM. ALL PARTIES ARE TO SUBMIT TO THE COURT TRIAL BRIEF, WITNESS LISTS, JURY INSTRUCTIONS, MOTIONS IN LIMINE, AND STIPULATIONS 7 DAYS BEFORE THE TRIAL. COURTESY COPIES TO BE DELIVERED TO THE COURT UPON FILING. BOOK 3175 PAGE 0504 08/25/2004 NOTICE ISSUED	N/A
08/20/2004	D2	SR	SUMS COMPLAINT(5366337) SENT BY CERTIFIED MAIL. TO: AMY KLOOZ 486 YEARLING DR BERA, OH 44017-0000	N/A
08/19/2004	D2	CS	WRIT FEE	N/A
08/10/2004	D2	SR	INSTRUCTION FOR SERVICE ON COMPLAINT. COPY OF COMPLAINT AND SUMMONS TO BE SENT BY CERTIFIED MAIL TO AMY KLOOZ. FILED.	N/A
08/03/2004	D1	AN	D1 PLANNED PARENTHOOD OF GREATER CLEVELAND SEPARATE ANSWER OF DEFT. F DANIEL BALMERT 0013809	N/A

07/26/2004	D2	SR	CERTIFIED MAIL RECEIPT NO. 5197697 RETURNED 07/26/2004 FAILURE OF SERVICE ON DEFENDANT KLOOZ/AMY/ - NOT DELIVRBL AS ADDR NOTICE MAILED TO PLAINTIFF(S) ATTORNEY	N/A
07/19/2004	N/A	SC	CASE MGMNT CONFERENCE SET FOR 08/24/2004 AT 08:30 AM. (Notice Sent).	N/A
07/12/2004	D1	SR	CERTIFIED MAIL RECEIPT NO. 5197696 RETURNED BY U.S. MAIL DEPARTMENT 07/07/2004 PLANNED PARENTHOOD OF GREATER CLEVELAND MAIL RECEIVED AT ADDRESS 07/06/2004 SIGNED BY OTHER.	N/A
07/01/2004	D2	SR	SUMS COMPLAINT(5197697) SENT BY CERTIFIED MAIL. TO: AMY KLOOZ 27226 CROCKER RD COLUMBIA STATION, OH 44028-0000	N/A
07/01/2004	D1	SR	SUMS COMPLAINT(5197696) SENT BY CERTIFIED MAIL. TO: PLANNED PARENTHOOD OF GREATER CLEVELAND C/O BETSEY C.KAUFMAN-STAT AGT 3135 EUCLID AVENUE STE 102 CLEVELAND, OH 44115-0000	N/A
06/30/2004	D2	CS	WRIT FEE	N/A
06/30/2004	D1	CS	WRIT FEE	N/A
06/24/2004	N/A	SF	JUDGE BRIDGET M MCCAFFERTY ASSIGNED (RANDOM)	N/A
06/24/2004	P1	SF	LEGAL RESEARCH	N/A
06/24/2004	P1	SF	LEGAL NEWS	N/A
06/24/2004	P1	SF	LEGAL AID	N/A
06/24/2004	P1	SF	COMPUTER FEE	N/A
06/24/2004	P1	SF	CLERK'S FEE	N/A
06/24/2004	P1	SF	DEPOSIT AMOUNT PAID STEUER, ESCOVAR, BERK & BROWN CO., L.P.A.	N/A
06/24/2004	N/A	SF	CASE FILED	N/A
06/24/2004	P1	SR	COMPLAINT WITH JURY DEMAND FILED. SERVICE REQUEST - SUMMONS BY CERTIFIED MAIL TO THE DEFENDANT(S).	N/A

CMSW506

Print Page | Close Window | Disclaimers

Information on this Web site is updated every 30 minutes. Only the official court records available from the Cuyahoga County Clerk of Courts, available in person, should be relied upon as accurate and current.

For questions/comments please contact cpdock@www.cuyahoga.oh.us