

quinn emanuel trial lawyers | los angeles

865 South Figueroa Street, 10th Floor, Los Angeles, California 90017-2543 | TEL (213) 443-3000 FAX (213) 443-3100

July 8, 2019

By ECF

Hon. Cathy L. Waldor
U.S. District Court for the District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07101

Re: Conforti v. St. Joseph's Healthcare System, Inc., et al., No. 2:17-cv-00050-CCC-CLW

Dear Judge Waldor:

Pursuant to this Court's text order, dated June 20, 2019 (Dkt. 91), counsel for Plaintiff Jionni Conforti ("Mr. Conforti") and Defendants St. Joseph's Health, Inc., St. Joseph's University Medical Center, Inc. (d/b/a St. Joseph's Regional Medical Center), and Father Martin D. Rooney (collectively, "Defendants," and together with Mr. Conforti, the "Parties") write to provide an update to the Court on the Parties' discussions regarding a proposed amended discovery scheduling order. Although the Parties have reach agreement on most discovery deadlines, we have been unable to resolve one outstanding issue in our joint proposal, and respectfully request the Court's assistance.

Accordingly, the Parties propose the following amended discovery scheduling order, with the Parties' differing proposals noted below and highlighted in yellow for the Court's convenience:

1. Defendants are to file their motion for a medical and/or mental examination of Mr. Conforti pursuant to Federal Rule of Civil Procedure 35(a) by **July 22, 2019**.
2. Mr. Conforti's Rule 30(b)(6) deposition of Defendants St. Joseph's Health, Inc. and St. Joseph's University Medical Center is to be completed by **September 13, 2019**. Mr. Conforti will serve an amended Rule 30(b)(6) deposition notice **no later than seven (7) days** after the Court enters an Amended Discovery Scheduling Order.
 - Defendants will serve any responses and objections to the amended notice **no later than seven (7) days after service**. Defendants expressly reserve all rights and objections to the amended notice, including without limitation on the grounds of timeliness.

- i. The Parties will meet and confer as soon as reasonably possible thereafter to attempt to resolve any issues raised by Defendants. In the event the Parties are unsuccessful, the Parties will file a joint letter and proposed expedited briefing schedule with the Court.
3. To the extent the Court denies, in whole or in part, Mr. Conforti's pending motion to quash (Dkt. 69), Defendants' depositions of Mr. Conforti's medical providers are to be completed by the later of **September 13, 2019, or forty-nine (49) days** following the Court's Order on the motion to quash.
4. Upon issuance of a decision by the Court on Mr. Conforti's pending motion to quash and for a protective order, (Dkt. 69), Defendants will arrange for attempted service of any additional notices of depositions and/or subpoenas for deposition testimony not addressed by the Court's decision on Mr. Conforti's pending motion, if any, **no later than seven (7) days thereafter**.
 - Mr. Conforti will serve any responses and objections to such additional notices and/or subpoenas, if any, **no later than seven (7) days after service**. Mr. Conforti expressly reserves all rights and objections to such additional notices and/or subpoenas, including without limitation on the grounds of timeliness.
 - i. The Parties will meet and confer as soon as reasonably possible thereafter to attempt to resolve any issues raised by Mr. Conforti. In the event the Parties are unsuccessful, the Parties will file a joint letter and proposed expedited briefing schedule with the Court.
5. All factual discovery is to be completed by the later of **September 13, 2019, or forty-nine (49) days** following the Court's Order on Mr. Conforti's pending motion to quash.
6. Affirmative expert reports are due thirty (30) days after the close of factual discovery [or **sixty (60) days** following the Court's decision on Defendants' motion for a medical and/or mental examination of Mr. Conforti pursuant to Federal Rule of Civil Procedure 35(a).]

Expert schedule will be set at oral argument on Defendants' forthcoming motion for a medical examination.

- **Mr. Conforti's Proposal:** Mr. Conforti believes that, consistent with the parties' initial proposed discovery plan (Dkt. 13), 30 days after the close of factual discovery is sufficient time to finalize and serve expert reports. Mr. Conforti disagrees that expert discovery should be effectively stayed pending a decision on Defendants' motion, and that, even if granted, the Parties will have sufficient time under Mr. Conforti's Proposal to complete any outstanding discovery prior to serving affirmative and/or rebuttal expert reports.
- **Defendants' Proposal:** Defendants have agreed to file their Rule 35 motion by July 22, with an August 19 motion return date. Plaintiff's counsel's proposal for fixed deadlines for expert discovery will not provide Defendants' expert with adequate time to examine Mr. Conforti (on a date convenient to both Mr. Conforti and Defendants' expert) and submit a report even if the Court grants the motion shortly after the

~~August 19 return date. Accordingly, Defendants have reasonably proposed a deadline for submission of affirmative expert reports of 60 days after the Court's decision on Defendants' Rule 35 motion.~~

- ~~7. Rebuttal expert reports are due within thirty (30) days following the deadline for serving affirmative expert reports pursuant to the preceding paragraph of this Order.~~
- ~~8. Expert discovery (including expert depositions) are to be completed within sixty (60) days following the deadline for serving rebuttal expert reports pursuant to the preceding paragraph of this Order.~~
- 9. Dispositive motions to be served within thirty (30) days of completion of discovery.

Respectfully submitted,

DATED: July 8, 2019

By: /s/ Christopher S. Mayer
 Christopher S. Mayer, Esq.
 Thomas F. Doherty, Esq.
 McCARTER & ENGLISH, LLP
 Four Gateway Center 100 Mulberry
 Street
 Newark, NJ 07102
 t: (973) 622-4444
 f: (973) 624-7070

Attorneys for Defendants

By: /s/ Jaclyn M. Palmerson
 Jaclyn M. Palmerson, Esq.
 Jane M. Byrne, Esq.
 Todd Anten, Esq.
 Tom Barnes, Esq.
 QUINN EMANUEL URQUHART
 & SULLIVAN, LLP
 51 Madison Avenue, 22nd Floor
 New York, New York 10010-1601
 t: (212) 849-7000
 f: (212) 849-7100

Omar Gonzalez-Pagan, Esq.
 LAMBDA LEGAL DEFENSE AND
 EDUCATION FUND, INC.
 120 Wall Street, 19th Floor
 New York, New York 10005
 t: (212) 809-8585
 f: (212) 809-0055

Attorneys for Plaintiff Jionni Conforti

SO ORDERED

s/Cathy L. Waldor
 Cathy L. Waldor, U.S.M.J.

Date: 7/10/19