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and Father Martin D. Rooney

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

JIONNI CONFORTI,

Plaintiff,

v.

ST. JOSEPH’S HEALTHCARE SYSTEM,
INC.; ST. JOSEPH’S HOSPITAL AND
MEDICAL CENTER D/B/A ST. JOSEPH’S
REGIONAL MEDICAL CENTER; and
FATHER MARTIN D. ROONEY,

Defendants.

Honorable Claire C. Cecchi, U.S.D.J.
Honorable Cathy L. Waldor, U.S.M.J.

Case No. 2:17-cv-00050 (CCC/CLW)

**NOTICE OF DEFENDANTS’ MOTION FOR
RECONSIDERATION OF THE COURT’S
OPINION AND ORDER DENYING
DEFENDANTS’ MOTION TO COMPEL
MENTAL EXAMINATION OF PLAINTIFF**

TO: Tom Barnes, Esq.
Jaclyn Palmerson, Esq.
Quinn Emanuel Urquhart & Sullivan, LLP
51 Madison Avenue, 22nd Floor
New York, NY 10010-1601

Omar Gonzalez-Pagan, Esq.
Lambda Legal Defense and Education Fund, Inc.
120 Wall Street, 19th Floor
New York, New York 10005

PLEASE TAKE NOTICE that on March 2, 2020, at 9:00 a.m., or as soon thereafter as
counsel may be heard, Defendants St. Joseph’s Health, Inc., St. Joseph’s University Medical

Center, Inc., and Father Martin D. Rooney (collectively, “Defendants”), shall move this Court pursuant to Fed. R. Civ. P. 60(b) and L. Civ. R. 7.1(i), for entry of an order reconsidering the Court’s January 22, 2020, Order and Opinion denying Defendants’ motion to compel the mental examination of Plaintiff Jionni Conforti pursuant to Fed. R. Civ. P. 35(a) and 37.

PLEASE TAKE FURTHER NOTICE that in support of this motion Defendants will rely on the Declaration of Christopher S. Mayer, Esq., Declaration of Donald Raymond Reeves, Jr., M.D., and Brief submitted in Support of the Motion for Reconsideration.

PLEASE TAKE FURTHER NOTICE that a proposed form of Order accompanies this Notice of Motion.

Respectfully submitted,

McCARTER & ENGLISH, LLP
Attorneys for Defendants St. Joseph’s Health,
Inc., St. Joseph’s University Medical Center,
Inc., and Father Martin D. Rooney

By: s/Christopher S. Mayer
Christopher S. Mayer
Thomas F. Doherty

Dated: February 5, 2020

transcript of the hearing held before the Court on June 20, 2019.

I declare under penalty of perjury that the foregoing is true and correct.

s/Christopher S. Mayer
Christopher S. Mayer, Esq.

Dated: February 6, 2020

EXHIBIT A

**FILED UNDER SEAL PENDING
ORDER OF THE COURT**

EXHIBIT B

**FILED UNDER SEAL PENDING
ORDER OF THE COURT**

EXHIBIT C

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CONFORTI, .
 .
 Plaintiff, .
 . Case No. 17-cv-00050
 vs. .
 . Newark, New Jersey
 ST. JOSEPH'S HEALTHCARE . June 20, 2019
 SYSTEM, INC., et al., .
 .
 Defendants. .

TRANSCRIPT OF HEARING
BEFORE THE HONORABLE CATHY L. WALDOR
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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1 (APPEARANCES continued)

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1 also listed as an infectious disease specialist. He's not
2 listed as a psychotherapist. I didn't see any indication
3 that that's what he does. But he did diagnose Mr. Conforti
4 with gender dysphoria, so he is the doctor who diagnosed
5 Conforti with gender dysphoria, which was the reason for the
6 request to St. Joseph's.

7 He also, in making that diagnosis, it looks like,
8 took a complete psychiatric history or a psychological
9 history of -- of Mr. Conforti, including preexisting
10 conditions prior to 2014.

11 So that's -- that's in the records as well.

12 And those are all -- there's discussion about his
13 psychological condition, setting aside gender dysphoria,
14 which is a diagnosable condition, recognized by the DSM-5,
15 that he had other psychiatric conditions, diagnosable
16 conditions, and that there are other stressors, many other
17 stressors in his life. And he took a history of that. And
18 we would like to talk to him about that. And that's the
19 predicate for the eventual medical exam that we would like to
20 take of Mr. Conforti. So we have -- that's the next step in
21 all this. We haven't gotten to that yet, but this is the
22 predicate for that.

23 So we would like to go through and depose him on
24 those records. And then just as a practical matter -- and I
25 can't tell you every doctor that I couldn't read the

1 | handwriting for.

2 | THE COURT: Right.

3 | MR. MAYER: But with all these doctors, we have
4 | to --

5 | THE COURT: You have to go over some of the notes.

6 | MR. MAYER: Exactly. So it needs somebody to clean
7 | it out.

8 | THE COURT: But the issue with Dr. Tang is that you
9 | can't find him. And even if you can find somebody on his
10 | staff, you're not likely to get the information, unless they
11 | can read his notes; you might get that. But --

12 | MR. MAYER: His staff does appear to have provided
13 | a lot of the treatment as well. So it wasn't just Tang
14 | alone; it was his staff was heavily involved in the
15 | treatment.

16 | So I would -- I would prefer to start with Dr. Tang
17 | and then determine if we needed to depose somebody else --

18 | THE COURT: How were they involved in the
19 | treatment? Like an attending --

20 | MR. MAYER: I think there were a number of -- and I
21 | don't know exactly what -- whether they're nurses or what
22 | they are -- who took information from Mr. Conforti --

23 | THE COURT: Oh.

24 | MR. MAYER: -- to create about a psychiatric
25 | history. They did not diagnose -- Dr. Tang diagnosed the

1 THE COURT: -- we should probably be teeing up that
2 motion.

3 MR. MAYER: We should, although we'd like to take
4 the depositions first, because they are --

5 (Simultaneous conversation)

6 THE COURT: They're going to object --

7 MR. MAYER: -- potentially going to --

8 (Simultaneous conversation)

9 THE COURT: -- and you're going to want to have the
10 medical exam.

11 What else do you need?

12 MR. MAYER: Well, we'd like to take the depositions
13 that if we -- if we're allowed to take the depositions, what
14 we get from those doctors might help support our request for
15 the medical exam. So that's -- that's the only -- I would
16 want to take the depositions first and then make the motion.
17 Otherwise, we're going to have to supplement it and maybe
18 say -- that are going to be inconsistent with what we
19 actually -- those doctors and other healthcare providers.

20 THE COURT: I don't see how the issue of a medical
21 exam is going to be affected. You're going to want it no
22 matter what. You think there is some testimony in some of
23 these depositions that will support that?

24 MR. MAYER: Yes, Your Honor. I do. I mean, if
25 there is -- if we learn more about his psychological history,

1 that supports the reason we are asking for the examination.
2 So if we take these depositions, I think -- and, again, I
3 don't know what we're going to be allowed to take, but if
4 we're allowed to take any of them and we get more information
5 that helps support that request, it is relevant. And
6 that's -- that is how it's ordinarily done, to get that
7 information first and then make the request. Otherwise,
8 we'll just have a supplement it or, I guess, run the risk
9 that it gets decided before we have all of the potentially
10 relevant information.

11 So that -- that would be my only reason to wait.
12 Otherwise, we could tee it up now.

13 THE COURT: I'd like it teed up now.

14 MR. MAYER: Okay.

15 THE COURT: I'll leave you to schedule teeing it
16 up. If supplementation is necessary, then I'll permit you to
17 do that.

18 MR. MAYER: Okay.

19 THE COURT: But I think that the issues are much
20 broader than that. And I'd like to preview that.

21 MR. BARNES: And, Your Honor, to -- if that's --
22 words for defense -- we're -- it up without setting a date --
23 you know, they might --

24 THE COURT: You can meet and confer and --

25 MR. BARNES: -- be worried about --

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JIONNI CONFORTI,

Plaintiff,

v.

ST. JOSEPH'S HEALTHCARE SYSTEM,
INC.; ST. JOSEPH'S HOSPITAL AND
MEDICAL CENTER D/B/A ST. JOSEPH'S
REGIONAL MEDICAL CENTER; and
FATHER MARTIN D. ROONEY,

Defendants.

Honorable Claire C. Cecchi, U.S.D.J.
Honorable Cathy L. Waldor, U.S.M.J.

Case No. 2:17-cv-00050 (CCC/CLW)

**[PROPOSED] ORDER GRANTING
DEFENDANTS' MOTION FOR
RECONSIDERATION OF THE
COURT'S OPINION AND ORDER
DENYING DEFENDANTS' MOTION
TO COMPEL MENTAL
EXAMINATION OF PLAINTIFF**

THIS MATTER having been opened to the Court by McCarter & English, LLP, counsel for Defendants St. Joseph's Health, Inc., St. Joseph's University Medical Center, Inc., and Father Martin D. Rooney (collectively, "Defendants"), and the Court having considered submissions in support of and in opposition to Defendants' Motion for Reconsideration of the Court's January 22, 2020, Opinion and Order Denying Defendants' Motion to Compel the Mental Examination of Plaintiff Jionni Conforti ("Plaintiff") pursuant to Fed. R. Civ. P. 35(a) and 37, and for good cause shown:

IT IS on this ____ day of _____, 2020

ORDERED that Defendants' Motion for Reconsideration of the Court's January 22, 2020, Opinion and Order Denying Defendants' Motion to Compel the Mental Examination of Plaintiff pursuant to Fed. R. Civ. P. 35(a) and 37 is GRANTED; and it is further

ORDERED that Plaintiff shall appear for a mental examination to be conducted by Donald Raymond Reeves, Jr., M.D., at Dr. Reeve's medical office (located at Hydrangea Hill

Psychiatric Associates, Inc., 112 Raymond Ave., South Orange, New Jersey 07079) within thirty (30) days of the entry of this Order; and it is further

ORDERED that the scope of the examination may include: a Mental Status Examination, including developing Plaintiff's family, education and work histories, as well as Plaintiff's developmental and psychiatric histories (including treatments for psychiatric and psychological conditions, such as Plaintiff's claimed gender dysphoria, depression, and anxiety); an evaluation of Plaintiff's alleged emotional distress, depression, and anxiety that purportedly were caused by Defendants' conduct described in the Complaint, including the extent and duration of same, other potential causes of Plaintiff's alleged distress, depression, and anxiety, and the treatment Plaintiff has undergone (including medications) for same; and Plaintiff's claimed gender dysphoria and the impact on the dysphoria symptoms of the hysterectomy that Plaintiff underwent in or about September 2015.

HON. CATHY L. WALDOR, U.S.M.J.

____ Opposed
____ Unopposed

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

JIONNI CONFORTI,

Plaintiff,

v.

ST. JOSEPH’S HEALTHCARE SYSTEM,
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FATHER MARTIN D. ROONEY,

Defendants.

Honorable Claire C. Cecchi, U.S.D.J.
Honorable Cathy L. Waldor, U.S.M.J.

Case No. 2:17-cv-00050 (CCC/CLW)

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of February, 2020, a true and correct copy of Defendants’ Brief in Support of their Motion for Reconsideration of the Court’s Opinion and Order Denying Defendants’ Motion to Compel Mental Examination of Plaintiff, Declaration of Christopher S. Mayer, Esq., including annexed exhibits, Declaration of Donald Raymond Reeves, Jr., M.D., including exhibits, Notice of Motion, Proposed Form of Order, and this Certificate of Service was filed with the Court using the Court’s electronic filing system, which will send notice of electronic filing to all participants, resulting in service upon all counsel of record.

s/Katerina R. Mantell
Katerina R. Mantell, Esq.