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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION

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ASHLEY DIAMOND, Plaintiff : Case No. 5:20-CV-453  
VS. : December 8, 2021  
TIMOTHY WARD, ET AL. : Macon, Georgia  
Defendants

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STATUS CONFERENCE HEARING

(Conducted via Zoom)

BEFORE THE HONORABLE MARC T. TREADWELL,  
UNITED STATES COURT DISTRICT JUDGE

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1 Macon, Georgia

2 December 8, 2021

3 10:30 A.M.

4 COURTROOM DEPUTY: Good morning everyone.

5 MR. MCCOY: Good morning.

6 COURTROOM DEPUTY: We have a different court  
7 reporter today so if you each can identify yourselves. I'll  
8 just call your name and if you can identify yourselves for the  
9 court reporter. Mrs. Ezie.

10 MS. EZIE: Chinyere Ezie for Plaintiffs. Good  
11 morning.

12 COURTROOM DEPUTY: Thank you. Ms. Littrell. She's  
13 the one in the middle.

14 MR. MCCOY: Beth, you need to unmute yourself.

15 COURTROOM DEPUTY: That's okay. Bottom left.

16 Ms. Rajaratnam.

17 MS. RAGARATNAM: Maya Rajaratnam for Plaintiff.

18 COURTROOM DEPUTY: Okay. Mr. McCoy.

19 MR. MCCOY: Yes, good morning. Scott McCoy for SPLC  
20 for Plaintiff, Ashley Diamond.

21 COURTROOM DEPUTY: Okay. And then we have  
22 Mr. Chalmers.

23 MR. CHALMERS: I'm Roger Chalmers.

24 THE COURT: Good morning, everybody.

25 I have reviewed the e-mails concerning the discovery

1 dispute. I don't think this will take long.

2           Essentially but not -- essentially the dispute  
3 involves Ms. Diamond's medical history and specifically any  
4 treatment for gender dysphoria when she was not in GDC  
5 custody.

6           Mr. Chalmers explains in some detail his concern  
7 about his inability to get that information and his  
8 frustration. I tend to agree that that information is  
9 discoverable. So here is how we're going to proceed.

10           MR. MCCOY: Your Honor, I'm sorry to interrupt you,  
11 but we actually, I think, have met and conferred and resolved  
12 much of this and we're happy to tell you that Mr. Chalmers, I  
13 think, is still -- we're waiting -- we offered to provide  
14 information and amend our responses, et cetera and we just  
15 haven't heard from Mr. Chalmers whether or not those things we  
16 discussed over the last two days in meeting and conferring are  
17 acceptable. So, I mean, in a way we may not even need the  
18 Court's assistance anymore.

19           THE COURT: Mr. Chalmers.

20           MR. CHALMERS: Thank you, Your Honor. I am using my  
21 colleagues desk and he is left-handed so I'm a bit slow on the  
22 mouse.

23           We have met and conferred. After e-mails,  
24 Plaintiff's counsel agreed to get on the phone with me. We  
25 talked last Friday and we had a long discussion. And then we

1 agreed to talk again this week to see if we could reach  
2 agreement and if they would agree to produce the information I  
3 have sought.

4           We talked again yesterday afternoon at 2:00 o'clock  
5 and they essentially did agree. I would like to go through  
6 what the agreement is as I understood it because we talked at  
7 about 2:00 and we got off the phone, I think, close to 3:00  
8 yesterday afternoon and I told counsel I needed to think  
9 through their response and the timing before I confirmed that  
10 this would be a resolution.

11           But I believe, in substance, we have reached an  
12 agreement that they are going to supplement, but I would just  
13 like to explain on the conference how that is so there is no  
14 disagreement.

15           THE COURT: Well, for what it's worth, I will go  
16 ahead and tell you what my resolution would be and that may or  
17 may not help you to finalize your resolution.

18           As I say, at least based upon the limited  
19 information I have the information sought appears to be  
20 discoverable.

21           And I was going to give the Plaintiff two options.  
22 They could either provide the information or they could treat  
23 Mr. Chalmers e-mail as a motion to compel and file an  
24 appropriate response. And then Mr. Chalmers could reply.

25           In both events, whichever path would be chosen, the

1 motion for a preliminary injunction would be placed on hold  
2 pending the resolution of that issue.

3 So, if you can't work it out then that is the  
4 fallback.

5 MR. MCCOY: Right.

6 Well, Your Honor, I think that again, you know,  
7 Plaintiffs were ready -- the Plaintiff was ready to meet and  
8 confer with Mr. Chalmers, you know, all along. And even prior  
9 to him seeking assistance from you we were trying to schedule  
10 that meet and confer. In fact, we've had it and it was  
11 productive. I don't think there has been a breakdown in that  
12 process. So I don't think we need to treat this as a motion  
13 to compel.

14 I will simply say that, you know, one of the things  
15 also that is important is I think by your own instruction the  
16 motion for preliminary injunction is about safety issues and  
17 not about medical issues. And every discovery request that  
18 Mr. Chalmers has an issue with is about medical information.

19 MR. CHALMERS: That's not true.

20 MR. MCCOY: That information is not relevant to  
21 responding to the safety issues in the PI motion. But  
22 regardless, we communicated with Mr. Chalmers yesterday  
23 afternoon that even though we still maintain, for purposes of  
24 summary judgment or even a trial in this case, that the  
25 medical records prior to custody at GDC aren't relevant, that

1 we would be willing to supplement our interrogatory responses  
2 to identify the medical providers, send request for the  
3 documents to those medical providers, and produce them to  
4 Mr. Chalmers.

5 We offered to supplement our written discovery  
6 responses by the 17th and to roll production of any documents  
7 to Mr. Chalmers as we receive them from Ms. Diamond's  
8 providers. We have already sent HIPAA release forms to  
9 Ms. Diamond to execute so that we can get those documents and  
10 send them on to Mr. Chalmers.

11 So, frankly, I do not think that there is any longer  
12 a controversy that needs to be either briefed or addressed  
13 with the Court.

14 THE COURT: Well, good. But, you know, if you can't  
15 work it out you know what you have to do.

16 MR. MCCOY: Correct.

17 THE COURT: Mr. Chalmers, you don't have to respond  
18 to that. I'm sure you would take issue with the suggestion  
19 that this information may not be relevant to the issues raised  
20 by the preliminary injunction. So that takes care of that.

21 MR. CHALMERS: Your Honor, I do have -- if you'd  
22 like to go ahead. I would like to get on the record exactly  
23 what our agreement is because it is interrogatory by  
24 interrogatory and there were a number that I raised in my  
25 e-mail and that we discussed in the meet and confer process

1 and I don't want there to be any -- since we're resolving this  
2 short of a motion to compel, I don't want there to be any  
3 disagreement or misunderstanding as to what exactly Plaintiffs  
4 are agreeing to do.

5 THE COURT: I assume you're going to memorialize  
6 your agreement in some way and that's fine.

7 MR. CHALMERS: Yes.

8 MR. MCCOY: We're happy to moralize the agreement in  
9 writing with Mr. Chalmers. I don't think we need to have to  
10 do it in front of the Court --

11 MR. CHALMERS: Scott, I'd like to --

12 MR. MCCOY: -- and ask that you endorse everything  
13 that we have agreed to.

14 MR. CHALMERS: Scott, I'd like to present it, if you  
15 don't mind.

16 MR. MCCOY: Well, we're taking up the Court's time  
17 here and we've told him that we're going to give you the  
18 information. I don't understand why we have to take the  
19 Court's time to explain that.

20 MR. CHALMERS: Well, we do because we are only here  
21 because I asked the Court for its time. You objected with  
22 frivolous objections. You've now agreed to provide the  
23 responses --

24 MR. MCCOY: No, that's not correct, Roger.

25 THE COURT: Quiet, both of you. Do not interrupt

1 each other.

2 Mr. Chalmers, you may put your understanding of the  
3 agreement on the record.

4 MR. CHALMERS: Thank you, Your Honor.

5 Regarding Interrogatory number Three the Plaintiffs  
6 have agreed that they will supplement with all responsive  
7 information, including by identifying the documents that are  
8 responsive as requested and that they will do that by December  
9 17th which is next Friday.

10 They have indicated in the meet and confer that they  
11 would not withhold responsive information based on the  
12 objections that they previously asserted.

13 Regarding Interrogatory Six and Seven they raised a  
14 question regarding the scope, the timing scope of number Six.  
15 And I told them I would confirm by e-mail that the timing  
16 scope for that interrogatory is the same as the scope for  
17 number Seven. Meaning from 2015 to 2019.

18 And they have said, in the meet and confer process,  
19 that they will supplement their response to interrogatory Six  
20 and Seven with all responsive information again by December  
21 17th. They will not withhold as to these interrogatories  
22 information based on the objections that they asserted.

23 Regarding Interrogatory Thirteen they raised that  
24 confidentiality agreement objection when, as I mentioned,  
25 there is no confidentiality as to the \$250,000 state

1 settlement from the Diamond One case.

2 We've agreed that I will send an e-mail confirming  
3 that my interrogatory is exclusive of any dollars received  
4 that are subject to confidentiality provision and then they  
5 will provide a response again by December 17th to that  
6 interrogatory without withholding any information based on a  
7 prior asserted objection.

8 Regarding the request for admissions Five through  
9 Ten, the confidentiality question is resolved in the manner I  
10 just mentioned. They will serve an answer actually admitting  
11 or denying Interrogatories Five through Ten again by December  
12 17th. And they will not withhold information or fail to  
13 respond with an admission or denial based on the objections  
14 previously asserted.

15 Regarding request for production One, Three, Four  
16 and Five, all of which touch upon or get to documents  
17 potentially that could be responsive with the disputes that  
18 have been raised. They have indicated that they believe they  
19 can identify all the responsive documents to interrogatory  
20 number Three, also by December 17th.

21 That leaves a set of documents that they haven't yet  
22 apparently started to collect, those are the medical or mental  
23 health records, predating Ms. Diamond's incarceration. And as  
24 Mr. McCoy mentioned what they have done is they sent,  
25 apparently, a HIPAA release to Ms. Diamond and once they get

1 that release from her, signed from her, they will begin to  
2 make efforts to collect those medical and mental health  
3 records so they can be produced in the case.

4 That is the understanding that we reached after meet  
5 and confer Friday and additional meet and confer yesterday.  
6 And I wanted to make sure it was clear on the record and ask  
7 Mr. McCoy if you could confirm that's the agreement we've  
8 reached.

9 THE COURT: No. There's no need for Mr. McCoy to  
10 say anything. I saw enough shaking of heads to know that you  
11 do not have an agreement --

12 MR. MCCOY: No, no, no.

13 THE COURT: Unless you reach an agreement you will  
14 follow the procedure I said. Were you not shaking your heads,  
15 you and Ms. Littrell.

16 MR. MCCOY: No, Your Honor. It was not about the  
17 substance of that, it's the characterizations that  
18 accompanied it. But for all intensive purposes we have  
19 agreed to provide and supplement information in the time as  
20 described by Mr. Chalmers.

21 But one thing I just want to maintain that was left  
22 out and that's the problem with -- I guess that's the better  
23 of this process, we can tell.

24 On Interrogatory number Three we have maintained  
25 that that is a contention interrogatory and we certainly will

1 supplement it.

2 Mr. Chalmers' position during the meet and confer  
3 has been that our answer that we supplement will be the sum  
4 and substance of that and if we don't include anything in the  
5 answer to that -- say that we learn in the depositions, which  
6 are substantially still uncompleted, that we won't be able to  
7 supplement that answer with additional information from what  
8 we learn in those depositions. And we think that that is not  
9 proper and not the way that this should work.

10 So we just want to make sure that once we answer the  
11 substance of three at this point that we are not frozen in  
12 time. That once we complete this substantial discovery that  
13 remains that we can supplement that interrogatory so that he  
14 has the benefit of everything and not just the current  
15 snapshot of discovery.

16 MR. CHALMERS: If I could respond, Your Honor.

17 THE COURT: Briefly.

18 MR. CHALMERS: That is not entirely accurate. My  
19 problem with the response to Interrogatory Three is that it  
20 gave no information. I understand the rules permit a party to  
21 supplement. But the response essentially provided no  
22 information. And this ties back to something Mr. McCoy  
23 mentioned earlier. This information very much bears upon what  
24 is his issue in the motion for preliminary injunction. If you  
25 look to the last page or two of their brief they talk about

1 the conduct of Defendant merits preliminary injunctive relief.

2           Meanwhile, in an interrogatory that is very basic  
3 where I say, what is the conduct of Defendants that's  
4 challenged and how has that harmed your clients? And who are  
5 the witnesses and documents that support your position? They  
6 say, no, we will tell you later.

7           I understand they have a right to supplement, but  
8 they don't have a right to sandbag until the end of discovery  
9 so I can't, one, respond to their motion or, two, use their  
10 information to do my own discovery in the case.

11           And that's where we have a disagreement.

12           But, in any event, they have agreed that by December  
13 17th they're going to provide a substantive response to that  
14 interrogatory and that's how we -- I believe Mr. McCoy has  
15 indicated agreement that yes, we have reached the agreement  
16 that I have discussed.

17           THE COURT: Well, I'm not going to referee whether  
18 or not you have an agreement. I'm just telling you what's  
19 going to happen if you don't have an agreement.

20           Now, Mr. Chalmers, have you deposed Ms. Diamond?

21           MR. CHALMERS: I have not deposed Ms. Diamond and I  
22 would like to depose Ms. Diamond.

23           Your question raises a second question to me which  
24 is actually something the lawyers have discussed in the meet  
25 and confer process briefly but we haven't reached any

1 resolution of it and it relates to timing going forward.

2 But the short answer, Your Honor, I have not deposed  
3 Ms. Diamond yet.

4 THE COURT: Well, it just strikes me -- I am not  
5 familiar with everything that has happened since we had our  
6 evidentiary hearing. I know we do have an affidavit now from  
7 Ms. Diamond. And clearly you think the medical treatment or  
8 the lack of medical treatment could be relevant.

9 And from our last telephone conference I know that  
10 there are allegations of continued problems. It strikes me as  
11 logical and helpful that Ms. Diamond would be deposed and I'm  
12 glad y'all are talking about doing that.

13 Anything else we need to discuss this morning?

14 MR. CHALMERS: Yes, Your Honor, the timing.

15 MR. MCCOY: Yes. Sorry Roger. Go ahead.

16 MR. CHALMERS: The timing on two fronts. When we  
17 last talked we had raised the -- jointly I believe -- the  
18 suggestion of an extension of the discovery period. And I  
19 think we had generally an agreement on the amount of time that  
20 would be needed, three additional months, running from, I  
21 believe, January 1 or early January 2022.

22 I am not optimistic we can meet a three month  
23 deadline. And I also am concerned about my deadline for  
24 responding for the motion -- the brief on the motion for  
25 preliminary injunction. What I would ask initially that I

1 have 60 days.

2 MR. MCCOY: Roger, we're having a hard time hearing  
3 you. I'm sorry.

4 MR. CHALMERS: Is this any better?

5 MR. MCCOY: I'm sorry. Mr. Chalmers we're having a  
6 hard time hearing you.

7 MR. CHALMERS: Is this any better.?

8 MR. MCCOY: Try it one more time.

9 MR. CHALMERS: Is this any better?

10 MR. MCCOY: Yeah, I can hear you now.

11 MR. CHALMERS: Your Honor, I would ask for 60 days  
12 from the time of this supplementation. Sixty days from  
13 December 17th to be able to file a response brief.

14 As you noted in my e-mail I firmly believe the  
15 parties should be able to finish discovery and then brief  
16 summary judgment motions. But I realize Plaintiff's counsel  
17 don't see it that way. I don't know how the Court sees it.  
18 I'm willing to file a response brief and I will do that but I  
19 would like additional time.

20 And then as far as the timing on discovery this is a  
21 case where Plaintiffs have collected a lot of documents. They  
22 have identified a lot of witnesses. I don't think I over  
23 counted when I said between 20 and 30 depositions and I think  
24 we are going to need substantially more than three months to  
25 get that all done.

1           In particular, I'm thinking ahead because I have a  
2 trial set in May and another case that is on fast track to  
3 finish discovery by March.

4           So I raise those to see if there is any discussion  
5 we can have or agreement we can reach on that.

6           THE COURT: Well, I will grant your request for an  
7 extension to file a response brief, which means it will be due  
8 50 days from whenever the supplemental information is  
9 provided, presumably by December 17th. Whether or not we need  
10 to extent discovery we can address that. I would encourage  
11 you to, as you probably are, to focus on discovery such as  
12 depositions that might be helpful in resolving the motion for  
13 preliminary injunction, or at least in terms of priority.

14           MR. MCCOY: Your Honor, currently the end of  
15 discovery, the cutoff in the schedule, I believe, is January  
16 4th. Which means that we would only have this month of  
17 December to complete depositions. That's why we are raising  
18 the issue of extension.

19           THE COURT: Yeah. Did we not extend last time?

20           MR. MCCOY: Well, I apologize, Your Honor. There  
21 was some -- it wasn't clear and you had asked us to give you  
22 our list of deponents and to give you the written discovery.  
23 And I thought it was so that you could take a look and then  
24 make a judgment about our three-month request. If I am  
25 mistaken on that I apologize, but it wasn't clear when I went

1 back through the transcript and we had not received a minute  
2 entry extending the January 4th deadline. And so that's why  
3 Mr. Chalmers and I were raising it again here today because we  
4 weren't sure if we had that in place.

5 THE COURT: Well, Kim is checking. Whether we did  
6 or not I clearly recall -- and I believe it was a three-month  
7 extension that was discussed. So if we haven't memorialized  
8 that or put that on the docket we will. If any further  
9 extensions are necessary, as I said, we will address that as  
10 that date approaches.

11 MR. MCCOY: Thank you, Your Honor. That is  
12 satisfactory. We will operate under that three-month  
13 extension and then if we need more time, obviously, we would  
14 raise that with the Court.

15 THE COURT: Yes. Kim tells me we memorialized this  
16 in the minute order that was entered after our October 29  
17 conference. I don't have that in front of me. But in any  
18 event --

19 MR. MCCOY: Sorry, Your Honor, that we missed that.  
20 We will go back and get that and that is how we will proceed.

21 MR. CHALMERS: Your Honor, I do think we will need  
22 that extension just because of where we've come. Or a couple  
23 of things, I asked for 60 days and not 50. I don't know if  
24 the Court and counsel cannot hear me very well, but those 10  
25 days will be helpful to me if I could have 60 from the time of

1 their supplementation on the motion for preliminary  
2 injunction.

3 THE COURT: I thought you did say 50. Let's stick  
4 with 50 for now and see how that goes.

5 MR. CHALMERS: The other is, once we file the  
6 certificate of completion, which I anticipate doing next  
7 Tuesday, I believe that is the 14th, Plaintiffs have 30 days  
8 to identify an expert and then we have 90 days to identify an  
9 expert. And I believe that pushes us right up against -- that  
10 pushes right up against that three-month extension time.

11 In any event, I do think likely -- we're trying to  
12 work together to plan depositions. I understand the Court  
13 would like those related to the current pending motion, if  
14 possible, to be done first. And we can try to do that. But  
15 for planning purposes I think it would be helpful for us to  
16 know we're going to work on some kind of extension of that  
17 discovery period.

18 THE COURT: Well, you make a compelling case that  
19 that will be necessary, but again let's see how things go. I  
20 will be receptive to a further extension if it's necessary.

21 MR. MCCOY: Thank you. Your Honor, can I ask one  
22 clarifying question. So the 50 days runs from December  
23 17th, right? The supplementation rather than -- is that  
24 what the anticipation was rather than from our filing?

25 THE COURT: Yes.

1 MR. MCCOY: I just wanted to understand. That's  
2 all. Just for clarity purposes.

3 THE COURT: Anything else?

4 MR. MCCOY: Your Honor, there was one issue that I  
5 wanted to raise while we were here and that is at the last  
6 status conference you had asked GDC to produce all of the  
7 incidences involving Ms. Diamond -- records of incidences  
8 involving Ms. Diamond since the preliminary injunction  
9 hearing. And Defendants have produced a lot of information  
10 mostly about -- complaints about Ms. Diamond rather than  
11 complaints by Ms. Diamond.

12 One in particular thing that is missing is an  
13 interview with Investigator Furlow that was either videoed or  
14 recorded that has not been produced. And that is something  
15 that we think is significant because it does detail  
16 Ms. Diamond's allegations of what have happened since the last  
17 hearing. And we are just wondering where that is.

18 THE COURT: Well, I don't know. Have you talked  
19 with Mr. Chalmers about it?

20 MR. MCCOY: I have not had a chance to meet and  
21 confer on that yet.

22 THE COURT: Well, it sounds like it's something that  
23 y'all need to talk about.

24 MR. MCCOY: All right. We will do that then.

25 THE COURT: Thank you all. Have a good day.

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MR. CHALMERS: Thank you, Your Honor.

MR. MCCOY: Thank you.

(Proceedings concluded at 11:00 a.m.)

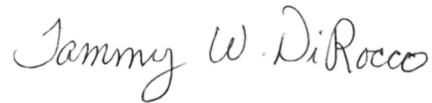
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CERTIFICATE OF OFFICIAL REPORTER

I, Tammy W. DiRocco, Federal Official Court Reporter,  
in and for the United States District Court for the Middle  
District of Georgia, do hereby certify that pursuant to  
Section 753, Title 28, United States Code, that the foregoing  
is a true and correct transcript of the stenographically  
reported proceedings held in the above-entitled matter and  
that the transcript page format is in conformance with the  
regulations of the Judicial Conference of the United States.

Dated this 30th day of December, 2021



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Tammy W. DiRocco CCR  
Federal Official Court Reporter