

3. Mr. Taylor asserts that Defendant unlawfully required him, and members of the proposed class of Medicare recipients, to prepay for medical procedures and/or devices that are covered by Medicare. As a result of Defendant's alleged actions and/or omissions, Mr. Taylor alleges he and others similarly situated have sustained actual damages, psychological harm, mental anguish, emotional distress, and consequential damages. Plaintiff has described the proposed class as Medicare recipients that have sought and/or received treatment from Defendant and who have been required to prepay for medical treatment covered by Medicare, have been required to pay out of pocket for medical treatment covered by Medicare, or have been incorrectly informed by Defendant that medically necessary procedures were not covered by Medicare.

4. Defendant Novant denies any illegal actions and asserts in response that there was no concerted effort to violate Medicare processes and procedures.

5. Mr. Taylor served Defendant with Interrogatories and Requests for Production on December 21, 2017. Defendant filed a Motion for Protective Order and/or to Stay Discovery on March 9, 2018.

CONCLUSIONS

I reach the following conclusions:

1. This was a hearing to decide Defendant's Motion for Protective Order and/or to Stay Discovery.

2. South Carolina has a broad scope of discovery. *Samples v. Mitchell*, 329 S.C. 105, 108, 495 S.E.2d 213, 215 (Ct. App. 1997). The scope and conduct of discovery are within the sound discretion of the trial court and will only be reversed where that discretion has been abused. *Palmetto Alliance v. South Carolina Public Service Commission*, 282 S.C. 430, 434, 319 S.E.2d 695, 698 (1984). Parties may obtain discovery regarding any matter, not privileged, which is

relevant to the subject matter involved in the pending action. S.C. R. Civ. P. 26(b)(1). Any party may request another party "to produce and permit the party making the request, or someone acting on his behalf, to inspect and copy, any designated documents...within the scope of Rule 26(b) and which are in the possession, custody or control of the party upon whom the request is served." S.C. R. Civ. P. 34(a)(1).

3. "Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the court in which the action is pending or alternatively, on matters relating to a deposition, the court ... may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden by expense." S. C. R. Civ. P. 26(c).

4. The information sought by Plaintiff is relevant, and Plaintiff is permitted pre-certification discovery on the matters set forth in his discovery requests. Plaintiff has alleged a potentially viable class action claim and has represented that his intention in seeking the information is not to identify potential new clients, but to establish the appropriateness of class action certification.

5. Defendant has not established that good cause exists for the entry of a protective order, or for a stay of discovery. Defendant's Motion for Protective Order and/or to Stay Discovery, therefore, is DENIED.

IT IS THEREFORE ORDERED:

Defendant's Motion for Protective Order is DENIED.

AND IT IS SO ORDERED.

The Honorable Alex Kinlaw Jr.
Judge, Thirteenth Judicial Circuit

_____, SC

_____, 2018



Lexington Common Pleas

Case Caption: Tommy Taylor VS Novant Health Inc
Case Number: 2017CP3202813
Type: Order/Protective Order

So Ordered

s/Alex Kinlaw, Jr., #2763

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