

for the maintenance or replacement of the device and required him to submit pre-payment of funds exceeding \$100,000.00.

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 illegal 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.

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. After being afforded an extension of time, Defendant responded on March 9, 2018, and objected to essentially every interrogatory and request for production with boilerplate objections. Plaintiff attempted to resolve the discovery issues with Defendant prior to filing his Motion to Compel, but the efforts were unsuccessful. Within one week of hearing, Defendant produced certain documents, but did not (1) supplement its discovery responses to identify which documents are responsive to which request(s), (2) provide a privilege log detailing the nature of the privileges it asserts and the bases for the privileges asserted, or (3) identify which, if any, objections remain after the recent production.

CONCLUSIONS

I reach the following conclusions:

1. This was a hearing to decide Plaintiff's Motion to Compel responses to Plaintiff's First Set of Interrogatories Nos. 1, 2, 4, 5, 6, 10, 11, 15, 19, 21, 23, and 24 and Plaintiff's Requests for Production Nos. 1, 6-13, 16-17, 19-20, 26-27, 29, 30, 32-35, and 37-61.

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. Plaintiff's First Set of Interrogatories Nos. 1, 2, 4, 5, 6, 10, 11, 15, 19, 21, 23, and 24 and Plaintiff's Requests for Production Nos. 1-14, 16-17, 19-20, 26-27, 29, 30, 32-35, and 37-61 ("Plaintiff's Discovery") are overly broad in geographic extent and time period and are properly limited to Defendant's facilities physically located in North Carolina and for the five-year period covering the years before the date of Plaintiff's requests. Defendant is ordered to produce the requested information, for each of Defendant's medical facilities located in North Carolina for a period covering 5 years from the date the Plaintiff's discovery was served. Any patient's name in the documents that are found to be responsive to Plaintiff's requests must be redacted prior to Defendant's production of documents.

4. In addition, Defendant is ordered to supplement its responses to the entirety of Plaintiff's discovery to (1) update its response to each Interrogatory and Request for Production at issue; (2) whether any objections remain and, if so (3) restate each objection with the specificity required by the Rules; and (4) identify which documents are responsive to which Request(s).

5. Defendant is also ordered to produce a privilege log meeting the requirements of South Carolina Rule of Civil Procedure 26(b)(5) for all materials that Defendant asserts are subject to privilege. Defendant shall describe the nature of the documents, communications, or things not produced or disclosed that will enable Plaintiff to assess the applicability of the privilege or protection.

Plaintiff's Motion to Compel, therefore, is GRANTED, in part, and DENIED, in part. Defendant shall produce the interrogatory responses and requested documents as ordered above to Plaintiff's counsel within forty-five (45) days of the date of the filing of this Order.

IT IS THEREFORE ORDERED:

Plaintiff's Motion to Compel is GRANTED, in part, and DENIED, in part.

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/Compel

So Ordered

s/Alex Kinlaw, Jr., #2763