

DOCKET NO: KNLCV186032838S

SUPERIOR COURT

SANCHEZ, BENJAMIN Et Al
V.
OB-GYN SERVICES, P.C. Et Al

JUDICIAL DISTRICT OF NORWICH/NEW
LONDON
AT NEW LONDON

9/2/2020

ORDER

ORDER REGARDING:
05/06/2020 163.00 OBJECTION

The foregoing, having been considered by the Court, is hereby:

ORDER:

The defendant filed an objection to the plaintiff's supplemental request for production directed to the defendant Stephen Briggs, M.D. An affidavit of the parties attempted resolution of the discovery dispute was filed. The matter was heard by the court on September 2, 2020.

At the hearing, the plaintiffs claim that the defendant, Stephen Briggs M.D., who is disclosed as an expert witness in the pending action, served as an expert witness in other medical negligence actions. The plaintiffs claim that these other actions involved the same or similar injuries as alleged in this pending action, namely shoulder dystocia or brachial plexus injury. The plaintiffs are seeking the disclosure of all "written communications, reports and transcripts from these other cases."

The parties filed a stipulated exhibit (Ex. 1), which is an excerpt(s) of the transcript from the deposition of Dr. Briggs in this matter. Dr. Briggs testified under oath that he served as an expert witness and provided deposition testimony in four shoulder dystocia or brachial plexus injury litigation matters. He testified that his involvement in these cases occurred eight or more than ten years ago.

Pursuant to P.B. 13-2, discovery of information must be reasonably calculated to lead to the discovery of admissible evidence. Practice Book 13-4(c)(1), which addresses discovery for expert witnesses, further provides in pertinent part: "Nothing contained in subsection (b) of this section shall impair the right of any party from exercising that party's rights under the rules of practice to subpoena or to request production of any materials, to the extent otherwise discoverable, in addition to those produced under subsection (b) of this section, in connection with the deposition of any expert witness, nor shall anything contained herein impair the right of a party to raise any objections to any request for production of documents sought hereunder to the extent that a claim of privilege exists."

The plaintiff has not shown that the facts of the other cases are causally connected to any facts alleged in the instant case. However, the plaintiffs argues that the deposition testimony from prior cases is discoverable with regard to the defendant's proposed testimony on the applicable standard of care in the cases involving the same or similar claims or injuries. The court agrees. The objection is overruled, in part, and sustained, in part.

The defendant shall comply with the following limited discovery:

1. Identify by name and docket number the cases in which Dr. Briggs served as an expert witness in a shoulder dystocia or brachial plexus injury litigation matter;
2. Identify deposition transcript(s) of Dr. Briggs in which Dr. Briggs served as an expert witness in a shoulder dystocia or brachial plexus injury litigation matter, which are in his possession and control;
3. Disclose whether the discovery sought is in the possession, control or power of the defendant Briggs and whether subject to any privilege. P.B. 13-2, 13-4.

This order does not preclude supplemental discovery not subject to any objection or privilege.

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Judge: KIMBERLY KNOX

This document may be signed or verified electronically and has the same validity and status as a document with a physical (pen-to-paper) signature. For more information, see Section I.E. of the *State of Connecticut Superior Court E-Services Procedures and Technical Standards* (<https://jud.ct.gov/external/super/E-Services/e-standards.pdf>), section 51-193c of the Connecticut General Statutes and Connecticut Practice Book Section 4-4.