

Plaintiff
v.
Defendants

IN THE
CIRCUIT COURT
FOR
BALTIMORE CITY
Case No.

* * * * *

**AND
MOTION *IN LIMINE* TO PRECLUDE PLAINTIFF FROM PRESENTING
ARGUMENT AND/OR EVIDENCE REGARDING WRITTEN HOSPITAL
POLICIES, PROTOCOLS AND PROCEDURES**

Defendants and by
their attorneys, and

submit this Motion *in Limine* to Preclude Plaintiff from presenting argument and/or evidence at trial regarding written Hospital policies, protocols and/or procedures, and state:

1. This medical malpractice action involves allegations of negligence against an emergency medicine physician and physician's assistant for their alleged failure to diagnose a vascular injury to Mr. left leg during his admission to the St. Agnes Hospital Emergency Department ("St. Agnes ED") on December 3, 2009. Plaintiff has also sued and contends that it is vicariously liable for the negligence of its nurse employee,

2. It is anticipated that Plaintiff will attempt to argue at trial that either refused and/or failed to produce written Hospital policies, protocols and

procedures regarding patient care in the St. Agnes Hospital Emergency Department ("St. Agnes Hospital ED"), and/or that _____ is liable because it failed to promulgate and/or follow written policies, protocols or procedures regarding patient care in the St. Agnes Hospital ED.

3. There is no allegation that _____ or its nursing staff is negligent for failing to promulgate and/or follow any written policies, protocols and/or procedures regarding patient care in the St. Agnes Hospital ED. Consequently, argument and/or evidence regarding the existence or production of written Hospital policies, protocols and/or procedures is wholly irrelevant to the material issues in this case, is unduly prejudicial and will only serve to mislead and confuse the jury.

4. Moreover, any argument that _____ and/or _____ failed or refused to produce written Hospital policies, protocols and/or procedures is baseless. Rather, on April 16, 2014, this Court precluded Plaintiff from requesting the Hospital's written policies, protocols and procedures regarding patient care in the Emergency Department, which was made by way of Plaintiff's Notice of Deposition *Duces Tecum* for _____ Corporate Representatives. See Order Granting _____ Motion for Protective Order and Denying Plaintiff's Motion to Compel, attached herewith as *Exhibit 1*.¹

¹ Plaintiff's Notice of Deposition to _____ is attached herewith as *Exhibit 2*. The Deposition Notice requested that _____ produce over 86 written policies, protocols and/or procedures on various topics. See e.g., Areas of Inquiry 4(a) through 4(cc) and Requests for Documents Nos. 5-62. Defendant filed Formal Objections to Plaintiff's Notice, and a Motion for Protective Order that the deposition not be had, which Motion was granted for the reasons stated in Defendants' Objections and Motion for Protective Order, and after a hearing on same held on April 16, 2014. See *Exhibit 1*.

5. For the foregoing reasons, Plaintiff should be prohibited from arguing and/or presenting evidence at trial that _____ and _____ failed or refused to produce written policies, protocols and/or procedures regarding patient care in the St. Agnes Hospital ED, or that _____ (and its employee _____ is negligent for failing to promulgate and/or follow any written policies, protocols and/or procedures. Permitting Plaintiff to present argument or evidence regarding the Hospital's written policies, procedures and/or protocols would only serve to mislead and confuse the trier of fact, and is unduly prejudicial to Defendants.

WHEREFORE, Defendants respectfully request that their Motion in *Limine* be granted.

Respectfully submitted,

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of May, 2014, a copy of the foregoing was mailed via U.S. Mail postage prepaid and e-mailed to: