

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT

LAW PROJECT FOR PSYCHIATRIC)
RIGHTS, Inc., an Alaskan non-profit)
corporation,)
Plaintiff,)
vs.)
STATE OF ALASKA, *et al.*,)
Defendants,)

Case No. 3AN 08-10115CI

COPY
Original Received

MAR 17 2009

Clerk of the Trial Courts

OPPOSITION TO MOTION FOR EXPEDITED CONSIDERATION

Plaintiff, the Law Project for Psychiatric Rights (PsychRights®), opposes expedited consideration of the Motion to Stay Discovery, especially on the schedule proposed by the defendants, State of Alaska, *et al* (State). The Motion for Expedited Consideration (Motion) is misleading about the necessity of a decision by March 19, 2009,¹ and about PsychRights' position on the stay, as shown by the e-mail exchanges attached hereto as Exhibits 1 and 2.

The following e-mail exchange occurred on February 24, 2009 between Ms. Bakalar, counsel for the State, and Mr. Gottstein of PsychRights:

Jim,

In preparing for Dave Campana's upcoming deposition, Stacie and I have taken a more extensive look at the complaint and we have concerns about engaging in discovery at this point. As a result of our review we are preparing a dispositive motion that we hope to file in the next two weeks. Therefore we would request that you agree to postpone Dave's deposition until after the court has ruled on our motion. If you are unable to agree to

¹ Also, instead of faxing or e-mailing a copy of the Motion, it put the Motion in the mail to PsychRights on Thursday, March 12, 2009, which was not received until the afternoon of Monday, March 16, 2009. This shortened the effective amount of time available by 4 days.

that postponement, we'll file an expedited motion to quash the deposition on similar grounds. We apologize for the late notice but we need to know by COB today if you can agree to this plan.

Libby²

PsychRights replied:

Hi Libby,

I will agree to postpone it for two weeks or maybe a bit more, but I don't think I can agree to anything that open-ended.³

The State responded:

Good enough Jim, we understand that concern. Thanks for your understanding and courtesy on this point and we will be in touch. Procedurally, will you be issuing a notice that cancels Thursday's deposition?⁴

PsychRights responded:

Hi Libby,

I will serve you with a re-notice of deposition for say three weeks out, which when we get closer we will presumably have another discussion about.⁵

The State responded to this as follows:

That's fine, with the understanding that we're not agreeing to a date certain at this point and re-notice will be subject to further discussions and/or motion practice as we get closer to the time. So I believe we're on the same page with how to proceed.⁶

² Exhibit 1.

³ Exhibit 1.

⁴ Exhibit 1.

⁵ Exhibit 1.

⁶ Exhibit 1.

On Sunday, March 15, 2009, not having heard anything from the State, including not having been served with or given any notice of the State's Motion for Expedited Consideration, PsychRights e-mailed the State as follows:

Hi Libby and Stacie


I figure we should reset Mr. Campana's deposition for at least a few days after the response to our First Requests for Production are due. Do you agree? Without waiving whatever right you have to object to the deposition, do you have a preferred date and time?⁷

The next day, Monday, March 16, 2009, as PsychRights had indicated to the State it was willing to do, it has further extended the date for the deposition until April 9, 2009.⁸

Thus, the necessity of deciding the Motion to Stay Discovery by March 19, 2009 has been obviated.⁹ However, it probably should be decided by April 9, 2009.

DATED: March 17, 2009.

Law Project for Psychiatric Rights

By: 
James B. Gottstein
ABA # 7811100

⁷ Exhibit 2.

⁸ Exhibit 3.

⁹ With an "n" of two, the State seems to have established a pattern of waiting until the last minute in order to manufacture an exigency. As set forth above, the State waited until only two days before the February 26, 2009 date that had been set for Mr. Campana's deposition (to which the state had agreed) to ask for a delay and now waited so long that it is trying to force PsychRights to respond to an extremely significant motion in less than three days.

Subject: RE: Discovery in Psych Rights
From: "Bakalar, Elizabeth M (LAW)" <libby.bakalar@alaska.gov>
Date: Tue, 24 Feb 2009 16:51:10 -0900
To: Jim Gottstein <jim.gottstein@psychrights.org>
CC: "Kraly, Stacie L (LAW)" <stacie.kraly@alaska.gov>

That's fine, with the understanding that we're not agreeing to a date certain at this point and re-notice will be subject to further discussions and/or motion practice as we get closer to the time. So I believe we're on the same page with how to proceed.

Libby Bakalar
Assistant Attorney General
Office of the Attorney General
P.O. Box 110300
Juneau, Alaska 99801-0300
(907) 465-4135 (direct)
(907) 465-3600 (main)
(907) 465-2539 (fax)

From: Jim Gottstein [mailto:jim.gottstein@psychrights.org]
Sent: Tuesday, February 24, 2009 4:17 PM
To: Bakalar, Elizabeth M (LAW)
Cc: Kraly, Stacie L (LAW); Lisa Smith
Subject: Re: Discovery in Psych Rights

Hi Libby,

I will serve you with a re-notice of deposition for say three weeks out, which when we get closer we will presumably have another discussion about.

Bakalar, Elizabeth M (LAW) wrote:

Good enough Jim, we understand that concern. Thanks for your understanding and courtesy on this point and we will be in touch. Procedurally, will you be issuing a notice that cancels Thursday's deposition?

Libby Bakalar
Assistant Attorney General
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Juneau, Alaska 99801-0300
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(907) 465-2539 (fax)

From: Jim Gottstein [mailto:jim.gottstein@psychrights.org]
Sent: Tuesday, February 24, 2009 3:51 PM
To: Bakalar, Elizabeth M (LAW)
Cc: Kraly, Stacie L (LAW); Lisa Smith
Subject: Re: Discovery in Psych Rights

Hi Libby,

I will agree to postpone it for two weeks or maybe a bit more, but I don't think I can agree to anything that open-ended.

Exhibit 1, page 1 of 2

Bakalar, Elizabeth M (LAW) wrote:

Jim,

In preparing for Dave Campana's upcoming deposition, Stacie and I have taken a more extensive look at the complaint and we have concerns about engaging in discovery at this point. As a result of our review we are preparing a dispositive motion that we hope to file in the next two weeks. Therefore we would request that you agree to postpone Dave's deposition until after the court has ruled on our motion. If you are unable to agree to that postponement, we'll file an expedited motion to quash the deposition on similar grounds. We apologize for the late notice but we need to know by COB today if you can agree to this plan.

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--

James B. (Jim) Gottstein, Esq.
President/CEO

Law Project for Psychiatric Rights
406 G Street, Suite 206
Anchorage, Alaska 99501
USA
Phone: (907) 274-7686) Fax: (907) 274-9493
jim.gottstein[at]psychrights.org
<http://psychrights.org/>

PsychRights[®]
Law Project for
Psychiatric Rights

The Law Project for Psychiatric Rights is a public interest law firm devoted to the defense of people facing the horrors of forced psychiatric drugging. We are further dedicated to exposing the truth about these drugs and the courts being misled into ordering people to be drugged and subjected to other brain and body damaging interventions against their will. Extensive information about this is available on our web site, <http://psychrights.org/>. Please donate generously. Our work is fueled with your IRS 501(c) tax deductible donations. Thank you for your ongoing help and support.

--

James B. (Jim) Gottstein, Esq.

Exhibit 1, page 2 of 2

Subject: David Campana Deposition
From: Jim Gottstein <jim.gottstein@psychrights.org>
Date: Sun, 15 Mar 2009 15:09:30 -0800
To: "Bakalar, Elizabeth M (LAW)" <libby.bakalar@alaska.gov>, Stacie Kraly <stacie.kraly@alaska.gov>
CC: [REDACTED]@psychrights.org, Lisa Smith <Lisa@psychrights.org>

Hi Libby and Stacie

I figure we should reset Mr. Campana's deposition for at least a few days after the response to our First Requests for Production are due. Do you agree? Without waiving whatever right you have to object to the deposition, do you have a preferred date and time?

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James B. (Jim) Gottstein, Esq.
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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
AT ANCHORAGE

Law Project for Psychiatric Rights, Inc.,)
Plaintiff(s)) **RE-NOTICE OF TAKING**
vs.) **DEPOSITION DAVID CAMPANA**
)
State of Alaska, et al.,)
Defendant(s))

Case No. 3AN 08-10115 CI

TO:

Elizabeth M. Bakalar/Stacie L. Kraly
Attorney General's Office
P.O. Box 110300
Juneau, AK 99811-0300

PLEASE TAKE NOTICE that on behalf of Law Project for Psychiatric Rights, Plaintiff, the deposition of David Campana has been changed to 1:00 PM on the 9th day of April, 2009, at the offices of the Law Project for Psychiatric Rights, 406 G Street, Suite 206, Anchorage, Alaska 99501, before a court reporter. The designation of materials to be produced is attached and you are invited to attend.

DATED: March 16, 2009.

Law Project for Psychiatric Rights Inc.

By: 

James B. Gottstein, Esq.
ABA # 7811100

LAW PROJECT FOR PSYCHIATRIC RIGHTS, INC.
406 G Street, Suite 206
Anchorage, Alaska 99501
(907) 274-7686 Phone ~ (907) 274-9493 Fax

Attachment to David Campana Subpoena Duces Tecum

All documentation of computerized records relating to payment (or reimbursement) by Medicaid for psychotropic drugs prescribed to children and youth who have or had claims for payment (or reimbursement) for psychotropic drugs from January 1, 1999, to date, including but not limited to:

- (1) Manuals,
- (2) File format,
- (3) File structure,
- (4) The identity and meaning (including codes and/or lookup tables, etc.) of all fields contained in such computerized records, and
- (5) Examples of all report types.