Court of Appeals, State of Michigan

ORDER

Renee Thaens v Dr Nhan Pham DO

Docket No. 287305

LC No. 2008-090490-NH

Deborah A. Servitto
Presiding Judge

Mark J. Cavanagh

Kathleen Jansen
Judges

The Court orders pursuant to MCR 7.205(D)(2) that the Oakland Circuit Court's July 16, 2008 order, abstaining from deciding defendants' motion for a qualified protective order is VACATED. The Health Insurance Portability & Accountability Act (HIPAA), 42 USC 1320d *et seq.*, applies to this case, and its regulations do not prohibit the possibility of ex parte communications between defendants and plaintiff's treating physicians. *Holman v Rasak*, ___ Mich App ___; ___ NW2d ___ (2008) (Docket No. 279879), slip op at 3-4. The court here should have considered defendants' motion for a qualified protective order under the HIPAA regulations, 45 CFR 164.512(e).

This matter is REMANDED to the circuit court for consideration of defendants' request for a qualified protective order in accordance with 45 CFR 164.512(e).

The application for leave to appeal is otherwise DENIED for failure to persuade the Court of the need for immediate appellate review.

The motion to file a late answer is GRANTED.

This Court retains no further jurisdiction.

A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JAN 21 2009
Date

Sandra Schultz Mengel
Chief Clerk