

STATE OF MICHIGAN
SIXTH JUDICIAL CIRCUIT FOR THE COUNTY OF OAKLAND
FAMILY COURT DIVISION

LORI MATHESON,
Plaintiff,

Honorable Karen McDonald
Case No. 2015-831539-DM

-v-

MICHAEL SCHMITT,
Defendant.

MICHAEL W. REEDS, PC
By: Amy M. Ruby (P71718)
Attorney for Plaintiff
1038 E. West Maple
Walled Lake, MI 48390
(248) 624-4044

KARLSTROM COONEY, LLP
By: Timothy P. Flynn (P42201)
Laura L. Nieuwsma (P80182)
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DEFENDANT'S MOTION TO QUASH

NOW COMES the Defendant, Michael Schmitt, by and through his attorneys, KARLSTROM COONEY, LLP, and hereby moves this Court to quash Plaintiff's subpoena, seal Dr. Plotkin's deposition, and prohibit further discovery;

1. The parties are midway through a trial regarding contested child custody issues.
2. This trial has already involved multiple days of testimony and multiple expert witnesses.
3. There is an outstanding subpoena to a witness that Father is no longer using in this case.
4. Despite attempts at seeking concurrence, this subpoena has not been withdrawn.
5. Upon information and belief, the subpoena has not been properly domesticated in the state of Pennsylvania, however, Father wishes to clarify this issue with the Court.
6. A ten hour deposition of Dr. Plotkin was taken on January 11, 2018.

7. This deposition covered various topics, many of which were not relevant to the case at hand.
8. Based on the line of questioning and conditions under which the deposition was taken, Father believes that Mother may plan to use this deposition to further her personal agenda, thus creating considerable embarrassment and loss of privacy for Dr. Plotkin in the process.
9. Counsel for Mother has indicated her intent to conduct further depositions of Father's remaining witness.
10. Such a deposition would be extremely inappropriate, as discovery closed in this matter on January 15, 2018.
11. Dr. Holtrop has been on Father's witness list since November 2017, Mother has had ample time to conduct a deposition if she so wished.
12. Father is fearful that this deposition, like that of Dr. Plotkin, will be a lengthy ordeal that is calculated to humiliate and oppress his experts, ultimately resulting in their withdrawing from the case.

WHEREFORE, Defendant-Father asks that this Court:

- A. Quash the January 12, 2018 subpoena to Dr. Plotkin;
- B. Seal Dr. Plotkin's January 11, 2018 deposition, limiting its use to the above captioned case;
- C. Quash any depositions scheduled or discovery promulgated after the discovery deadline; and
- D. Award him \$1,200 for attorney fees incurred in bringing this motion; and
- E. Provide all other just and equitable relief.

Respectfully submitted,

Laura Nieuwsma

KARLSTROM COONEY, LLP

Laura L. Nieuwsma (P80182)

Attorneys for Defendant

Dated: January 23, 2018

BRIEF IN SUPPORT

Pursuant to MCR 2.305(A)(4) and MCR 2.305(B)(1)&(2), Defendant moves to quash a subpoena issued by Plaintiff as unreasonable and oppressive. Specifically, Defendant requests that the court enter an order excusing Dr. Stanley Plotkin from complying with the subpoena because he is no longer involved in the case and is outside the jurisdiction of this Court.

Further, Defendant requests that this Court order the deposition of Dr. Stanley Plotkin be placed under protective order requiring that it not be used for any purpose other than the above captioned proceeding. Mother brought in a *pro hac vice* attorney from New York City, Aaron Siri, who specializes in vaccine litigation to conduct the deposition of Dr. Plotkin. This deposition took approximately 10 hours and covered topics that far exceed the scope of the above captioned case, including the oral polio vaccine (which is not in use in the United States), military vaccine schedules, and Dr. Plotkin's finances. While some of these matters may have been relevant at the time Dr. Plotkin was scheduled to testify, he is no longer a proposed witness in this case, as indicated by Defendant's trial brief.

Defendant is fearful that Plaintiff or her out-of-state counsel will use this deposition in order to further their personal agenda, releasing the deposition containing information about Dr. Plotkin's travel schedule, finances, and the distribution of labor in his marriage to the general public. Dr. Plotkin should not be subjected to such an invasive process based on a deposition taken in a case in which he is no longer participating.

Despite multiple attempts to seek concurrence, Defendant has been unable to obtain the relief requested and is thus forced to bring this matter before the Court.

WHEREFORE, Defendant-Father asks that this Court:

- A. Quash the January 12, 2018 subpoena to Dr. Plotkin;

- B. Seal Dr. Plotkin's January 11, 2018 deposition, limiting its use to the above captioned case;
- C. Quash any depositions scheduled or discovery promulgated after the discovery deadline; and
- D. Award him \$1,200 for attorney fees incurred in bringing this motion; and
- E. Provide all other just and equitable relief.

Respectfully submitted,

Laura Nieuwsma

KARLSTROM COONEY, LLP
Laura L. Nieuwsma (P80182)
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Dated: January 23, 2018