

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
AT WICHITA, KANSAS**

ROBERT MILLER,)
)
Plaintiff,)
vs.)
)
E.F.V., minor, and)
LARRY V. VASQUEZ, father,)
legal guardian, and next best friend,)
)
Defendants.)
_____)

Case No. 08-1114-JTM-DWB

**ORDER FOR INSPECTION AND REPRODUCTION OF MEDICAL
AND EMPLOYMENT RECORDS AND PROTECTED HEALTH
INFORMATION PURSUANT TO STATE AND FEDERAL LAW (HIPAA)
AND NOTIFICATION OF WAIVER OF PHYSICIAN-PATIENT PRIVILEGE**

TO: All Hospitals, Clinics, Pharmacies, Physicians, Social Workers, Psychiatrists, Psychologists, Therapists, Governmental Agencies (State and Federal); Kansas Department of Labor, Worker's Compensation; All Other Medical Institutions, Practitioners, Health Care Providers; and All Employers, Past and Present

You are hereby authorized, directed, and ordered pursuant to the laws of Kansas and applicable federal law, including but not limited to the Health Insurance Portability and Accountability Act (HIPAA), to make available for examination and reproduction by the parties and their counsel denominated in this lawsuit any and all medical record; employment records; and worker's compensation records of any type or nature whatsoever and/or any protected health information within your care, custody, or in any manner concerning **Robert Miller**.

Medical documents and protected health information subject to this order include but are not limited to the entire medical chart cover to cover (including but not limited to any and all medical records from other health care providers and any and all correspondence); radiological

films; monitoring strips of any kind; billing and payment records; prescriptions; test results; any and all records related to HIV testing, HIV status, AIDS or sexually transmitted diseases; any and all records related to the diagnosis and treatment of mental, alcoholic, drug dependency, or emotional condition; psychotherapy notes that are part of the medical record; provided however, that this Order does not provide for the production of any medical records maintained in connection with any program relating to substance abuse education, prevention, training, treatment, rehabilitation or research, which are conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, and which are covered by the provisions of 42 U.S.C. § 290dd-2 and 42 C.F.R., Part 2.

Unless specifically excluded by this Order, all medical records and protected health information in your possession regarding the person noted above shall be produced.

With respect to employment records, such records include but are not limited to all materials contained in the employee's personnel file cover to cover; wage, payment, salary and tax information; performance evaluations; job applications; workers compensation records and any other records pertaining to injuries incurred by the employee; any and all work releases or restrictions; any protected health information in the employer's records.

You are further notified that, pursuant to federal and state law, counsel for the defendants are hereby authorized to talk with **Robert Miller's** treating physicians or other health care providers, without counsel or the parties, including the plaintiff, being present or participating, provided the health care provider consents to the interview. This is based on the Court's finding that the plaintiffs have made a claim for personal injuries, and in filing this lawsuit have waived any privilege existing between the patient and health care provider.

Said inspection and reproduction may be requested by any attorney of record herein as

set forth below, and all clerical fees and expenses shall be paid by the attorney requesting such examination, reproduction or interview.

This Order complies with HIPAA federal standards for privacy of individually identifiable health information, 45 C.F.R. parts 160 and 164. This Order further allows the disclosure of (1) information regarding diagnosis of, treatment for and general status relating to HIV and AIDS pursuant to K.S.A. 65-6001 et seq.

This Order shall be effective throughout the pendency of this action.

Dated this 10th day of June, 2008.

s/ DONALD W. BOSTWICK
U.S. MAGISTRATE JUDGE

APPROVED:

AFFILIATED ATTORNEYS OF PISTOTNIK LAW OFFICES, P.A.

By /s/Bradley A. Pistotnik
Bradley A. Pistotnik, #10626
Attorney for Plaintiff

MARTIN, PRINGLE, OLIVER, WALLACE & BAUER, L.L.P.

By /s/Stanford J. Smith, Jr.
Stanford J. Smith, Jr., #11353
Attorney for Defendant