

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

TASHA BRACKEEN,)	
)	
Plaintiff,)	Case No. 6:16-cv-1255-EFM
)	
vs.)	
)	
SAFECO INSURANCE)	
COMPANY OF AMERICA,)	
)	
Defendant.)	
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**AGREED ORDER FOR INSPECTION AND REPRODUCTION OF
MEDICAL 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); All Other Medical Institutions, Practitioners and Health Care Providers, Past and Present

COMES NOW before the Court on the application of the parties for an order permitting all health-care providers who have provided care, treatment and/or services to plaintiff Tasha Brackeen to produce any and all health care information within their custody and/or control pertaining to said person. Plaintiff Tasha Brackeen, appears by and through her attorney, Dustin DeVaughn of DeVaughn James Injury Lawyers, 3241 N. Toben, Wichita, Kansas; and defendant, Safeco Insurance Company of America, appears by and through his attorney, Patrick J. Murphy of Woodard, Hernandez, Roth & Day, LLC, 245 N. Waco, Suite 260, Wichita, Kansas.

WHEREUPON, the court, after reviewing the files and records, hearing statements of counsel and being fully and duly advised in the premises finds:

You are hereby authorized, 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 counsel denominated in this lawsuit any and all medical records of any type or nature whatsoever and/or any protected health information within your care, custody, or control concerning Tasha Brackeen, whose identifying information will be provided in the cover letter which accompanies this order.

Medical documents and protected health information subject to this order include but are not limited to:

- **Every page of the entire medical chart cover to cover** (including but not limited to all records pertaining to the examination, diagnosis, care and treatment of the patient, patient intake and registration forms; patient insurance and identification information; office narratives; progress notes; prescription orders; lab results; nurse and physician assistant notes; consultation reports; order sheets; handwritten notes; and, radiological and laboratory reports, itemized billing statements listing all charges, diagnostic films, photographs and videotapes.
- This order also includes all "**Secondary Records**" regardless of whether generated by you. Secondary Records include patient questionnaires; phone message slips; correspondence with patient and other physicians; and all documents contained in the patient's office chart from other health care providers, insurance representatives, attorneys or governmental agencies, including but not limited to: medical records as defined above and all correspondence and hospitalization records.
- Any and all records related to the diagnosis and treatment of mental illness, emotional condition, chemical dependency or substance abuse, including any psychotherapy notes that are part of the medical record; the plaintiff/patient has made a full and knowing waiver of the statutory privilege provided these records under K.S.A. 65-5602.
- This order further allows the disclosure of all information regarding diagnosis and treatment of mental and emotional condition pursuant to Kansas Statutes 65-5601 to 65-5603 (*treatment facility privilege*) and 74-5323 and 75-5372 (*psychologist-patient privilege*).

This Court specifically finds the above requested information necessary to this proceeding because the plaintiff relies on the information of her condition as an

element of a claim or defense. Unless specifically excluded by this Order, **ALL** medical records and protected health information in your possession regarding the person noted above may be produced or made available for inspection. Said inspection and reproduction may be requested by any attorney of record herein as set forth below, and clerical fees and expenses as permitted under K.S.A. 65-4971 shall be paid by the attorney requesting such examination, reproduction or interview.

You are further notified that, pursuant to state law, and the rules of the United States District Court for the District of Kansas, counsel for the defendant is hereby authorized to talk with plaintiff's treating physicians or other health care providers outside the presence of plaintiff and/or her counsel provided the health care provider consents to the interview. This is not required and health care providers are under no obligation to consent to such interviews. This ruling is based on the Court's finding that the plaintiff has made a claim for personal injuries by filing this lawsuit, and, pursuant to Kansas law, has therefore waived any privilege existing between the patient and health care providers as defined in K.S.A. 60-247. By virtue of filing this suit, the plaintiff is aware that this privilege has been waived and has been given the opportunity to object to this order.

This Order complies with HIPAA federal standards for privacy of individually identifiable health information, 45 C.F.R. Parts 160 and 164 and Kansas Statute, K.S.A. 60-427, Physician-Patient Privilege.

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

Dated this 23rd day of August, 2016.

s/ James P. O'Hara
U.S. MAGISTRATE JUDGE

APPROVED:

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