

20, December 2007

GRACE ACOSTA

Dunn & Dunn

Suite 200

505 East 200 So.

Salt Lake, UT 84112

**Re: GOMEZ V. DELGADO
S. J. B. C. No.: 07-0904092 P1**

Subject: Objections to SDTs to Health Care Providers

Dear Ms. Acosta:

Pursuant to my [our] meet and confer obligations under U.R.C.P., Rule 37(a)(2)(B), I write. I am in receipt of the following SDTs:

Associates of Pathology
IHC Stewart Rehabilitation Center
Brigham Anesthesia (attn: Chelsea)
Brigham City Community Flospital
Brigham City Orthopedic
Brigham Pharmacy
Canyon View Pharmacy
Dann Byck
Dewey McKay, M.D.
Dorian Wood, MS PT
Gailen Lundell, D.C.
Intermountain Neurology Clinic
Jahan Imani, M.D.
Kris Davis, D.C.
Kwik Stop Drug Maceys
McKay-Dee Surgical Center
McKay-Dee Hospital
Ogden Clinic Family Practice
Walgreens Pharmacy
Mountain Medical Specialists
Ogden Clinic

GRACE ACOSTA

Re: Gomez v. Delgato

20, December 2007

Page 2 of 4.

I cannot not permit those subpoenas to go forward unchallenged. The SDTs are far too broad and fail to offer my client even minimal protection. They overreach in both the time period covered i.e., there is no time/historical limit on the records you seek, and the scope of the records requested, e.g., "protected health ... without limitation", and, "complete copies of any and all medical records." I am willing to cooperate in your discovery rights and permit SDTs that reflect the following changes:

A- DELETE the phraseology:

- * "of any and all medical records."
Only my client's physical medical condition is in issue.
- * "without limitation" following protected health information.
- * "Dental records" [we make no claims for dental injuries]
- * "All incident reports."
- * "Personal Property Lists". Such information is not reasonably calculated to lead to admissible evidence.
- * "All lab reports í í ..(m) other."
- * "(b) psychiatry; (c) internal medicine; (e) surgical; (f) obstetric; (g) pediatric; (h) neurosurgical; (i) neonatologist; (j) other" from the heading, "Consultation Reports."
- * "Anesthesia Records";
- * "Surgical Authorization Forms";
- * "Ambulance Records";
- * "Operative Reports";
- * "Paramedic Reports";
- * "Scans, CAT, CT, MRI, Ultrasound";
- * "Recovery room records";
- * "Arteriograms, Venograms, & Angiograms";

GRACE ACOSTA

Re: Gomez v. Delgato

20, December 2007

Page 3 of 4.

- * ōRecovery room recordsö;
- * ōPathology/Independent Pathology Reportsö;

- * ōNursesørecordsö;
- * ōPharmacy Reports/Unit Dose Control Sheetsö;

- * ōRespiratory Therapy Sheet Notesö;
- * ōHospital Bills, Insurance Forms, Records of Paymentö;

- * ōRecords of Operative Proceduresö;
- * ōAny other Records, Reports, Memoranda, Documents, Correspondence, etc.ö;

- * ōTelephone message Slipsö;
- * ōLaboratory & Diagnostic Testsö;

- * ōCorrespondenceö;
- * ōApplication & Claim Formsö;

- * ōDocuments of Benefitsö; and,
- * ōRecords recorded to microficheö;

My client has suffered a soft tissue, spinal injury. There was no ambulance, no surgery, no dental injury, no anesthesia, no operation, no psychiatric or psychological injury, no paramedics, no lab work, no diagnostics, no nurses, no respiratory therapy, no hospital, no claims, no other incidents, etc. The subpoenas are overbroad in seeking any and all medical records when only spine and back injuries/conditions are in issue. The SDTs are just a defense öfishing expeditionö. Utah law does not allow öfishing expeditions.ö These are the most egregious SDTs I have seen.

Moreover, your SDT are unlimited in time and thus, are overbroad in seeking remote records. I will permit a SDT addressed to any record you can show [not speculate] has relevance to any issue in contest.

Additionally, I will require you add-in language to the SDTs to the effect that:

- 1) Plaintiff Gomez specifically request that the records provider not talk to the anyone associated with Dunn & Dunn.

GRACE ACOSTA

Re:Gomez v. Delgato

20, December 2007

Page 4 of 4.

- 2) The provider should provide only physical injury or physical medical condition records involving the neck, back, head, and shoulder and only going back 10 years from the date of the crash. [I do agree that if you find a relevant entry in the records provided, I will sign [my client] an authorization going back another 10 years from the date of the relevant entry on that medical condition.]

And I ask your written assurance that:

- 3) These records will be used only in the context of my client's claim for injuries arising out of the present lawsuit.
- 4) These records will not be copied or distributed to anyone outside of Dunn & Dunn. [You can distribute the records to any expert/attorney hired by Dunn & Dunn to defend against my client's claims in this lawsuit.]

I believe a SDT as set forth above provides our client a modicum of protection against the unauthorized distribution of her records. Likewise, it protects her privacy rights that are not in issue in this lawsuit.

Ms. Acosta, please let me know in writing by **5:00 P.M.** on Thursday, **December 28th**, if you will tailor your SDTs as I request. If not, you will force me to file a motion to quash.

Lastly, I trust you and Dunn & Dunn will not open any records provided to you/the firm while this issue remains in dispute. That is, sometimes medical providers send their records either before or despite my letter to them requesting they not provide any record until this dispute is resolved.

Call with questions or concerns. Thank you and I remain,

JOHN F. FAY

hard copy this date U.S.P.S

JFF/agb

****DC-Objecs2SDTs-12-20-7**

PS - A safe and joyful holyday season to you and your loved ones.