### 1997 WL 688824

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Catherine Natsu LANNING, et al.

v.

## SOUTHEASTERN PENNSYLVANIA TRANSIT AUTHORITY, et al. United States of America

v.

Southeastern Pennsylvania Transit Authority

No. Civ. A. 97-593, Civ. A. 97-1161. | Oct. 10, 1997.

### **Attorneys and Law Firms**

Jules Epstein, Kairys & Rudovsky, Philadelphia, PA, Lisa M. Rau, Kairys, Rudovsky, Kalman & Epstein, Philadephia, PA, Catherine Natsu Lanning, for plaintiff.

Jules, Lisa M. Rau (See above), Altovise Love, for plaintiff.

Jules, Lisa M. Rau (See above), Belinda Kelly Dodson, for plaintiff.

Jules, Lisa M. Rau (See above), Denise Dougherty, for plaintiff.

Jules, Lisa M. Rau (See above), Lynne Zirilli, for plaintiff.

Saul H. Krenzel, Saul H. Krenzel and Associates, Philadephia, PA, Southeastern Pennsylvania Transportation Authority (SEPTA), for defendant.

Saul H. Krenzel, (See above), Richard Evans, Individually and in his Official Capacity as Chief of Septa Police Department, for defendant.

Robert S. Libman, U.S. Dept. of Justice, Employment Litigation Section, Washington, DC, United States of America, for movant.

# **Opinion**

#### MEMORANDUM AND ORDER

SCUDERI, J.

\*1 Presently before the court is Plaintiffs' Motion to Limit or Control Disclosure and Dissemination of Plaintiffs' Records and the answer, thereto. On September 17, 1997, the undersigned granted the defendants' motion to compel production of the plaintiffs' medical and psychiatric records. All but two of the plaintiffs have provided signed releases for the disclosure of their medical records.

In the present motion, plaintiffs' counsel requests the court to conduct an *in camera* review of the records of the two remaining plaintiffs, alleging that "these records are not likely to lead to any admissible testimony *and* that disclosure of the same can prove extremely damaging to the individual Plaintiffs in question." (Plaintiffs' Memorandum of Law, at 1).

Although "[t]he Supreme Court has recognized a limited privacy interest in one's medical records," such a privacy interest is not absolute. *Soto v. City of Concord*, 162 F.R.D. 603, 618 (N.D.Cal.1995) (citing *Whalen v. Roe*, 429 U.S. 589, 599–600, 97 S.Ct. 869, 51 L.Ed.2d 64 (1977)). As stated in my previous Memorandum and Order, the plaintiff's privacy interest must be balanced against "the defendant's right to a fair trial." (Memorandum and Order, Sept. 17, 1996, *citing Lowe v. Philadelphia Newspapers Inc.*, 101 F.R.D. 296, 298 (E.D.Pa.1983).

In this case, the records sought include gynecological records. Such records have been held to "contain the most private medical and social information a woman possesses." *Mann v. University of Cincinnati*, 152 F.R.D. 119, 124 (S.D.Ohio 1993). Considering the sensitive nature of such records and the representation by counsel that the disclosure of the records would prove "extremely damaging" to the individual plaintiffs, I believe that review of the documents is necessary to balance the privacy interest of the plaintiffs with the interests of the defendants in the documents' disclosure. Therefore, I will grant the plaintiffs' motion for an *in camera* review.

An appropriate order follows.

### **ORDER**

AND NOW, this 10th day of October, 1997, upon consideration of Plaintiffs' Motion to Limit or Control Disclosure and Dissemination of Plaintiffs' Records, the response, thereto, and the September 17, 1997, Memorandum and Order of the undersigned, IT IS HEREBY ORDERED that Plaintiffs' Motion is GRANTED. With regard to the two unnamed plaintiffs, counsel may submit any records of an extremely personal nature to this Court for *in camera* review and reconsideration of the necessity of their being produced prior to the records being turned over to Defendants.

Lanning v. Southeastern Pennsylvania Transit Authority, Not Reported in F.Supp. (1997)