EFiled: Jun 22 2016 04:40PM EDT
Filing ID 59181634
Case Number 62,2016

IN THE SUPREME COURT OF THE STATE OF DELAWARE

INFECTIOUS DISEASE ASSOCIATES, P.A.,	:	
Defendant Below, Appellee.	:	No. 62 - 2016
	:	On Appeal from the Superior
v.	:	Court of the State of Delaware
JOHN DOE,	:	C. A. No.: N13C-12-218
Plaintiff Below, Appellee.	:	

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APPELLEE, JOHN DOE'S ANSWERING BRIEF

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NATURE OF PROCEEDINGS

Plaintiff Below, Appellee, John Doe (a pseudonym), hereinafter, Plaintiff, filed a complaint in the Superior Court for the State of Delaware on December 23, 2013. The Defendant Below, Appellant, Infectious Disease Associates, P.A. The entity is the Appellant. The facts of the complaint allege that Plaintiff was a patient of the defendant and had a patient-physician relationship. At issue was the dissemination by Defendant of portions of Plaintiff's medical history, without his consent to Plaintiff's employer on March 6, 2013.

The complaint was brought in four counts:

Count I Breach of Confidential Relationship

Count II Invasion of Privacy

Count III Unreasonable Public Disclosure of Plaintiff's Private Facts

Count IV Negligence

The complaint prayed for damages that included but was not limited to lost wages, salary, employment benefits and non-pecuniary losses including pain, suffering and humiliation.

Defendant filed a Motion for Summary Judgment requesting dismissal of all counts on October 31, 2014. Subsequent thereto, Plaintiff substituted counsel. New counsel requested and got an order of the court granting additional time to file a

response which was filed with the court below on March 5, 2015.

A hearing on the motion was set for April 21, 2015. The court ruled from the bench that "genuine issues of material fact were demonstrated as to Counts I (Breach of a Confidential Relationship) and Count IV (Negligence)." Counts II and III were dismissed.

Defendant filed multiple pre-trial motions on September 21, 2015. Key motions which are the subject of this appeal are:

1. Motion to Exclude the Testimony of Dr. Manisha Wadhwa, M.D.
2. Motion to Exclude Damages for Past Wages.
3. Motion to Exclude Evidence Pertaining to Plaintiff's Unemployment Benefits.

Plaintiff filed responses to these motions on September 25, 2015. The court below, at the pre-trial conference ruled as follows:

1. Dr. Wadhwa was permitted to testify as a treating witness.
2. The court ruled that the plaintiff could introduce evidence of lost wages from his firing at Bell Supply through the date of trial.
3. Documentation of unemployment benefits could be used as rebuttal to a claim by Bell Supply that Plaintiff was terminated for cause.

Trial began on October 12, 2015. On Octo9ber 16, 2015, the jury returned a

verdict in favor of Plaintiff and against Defendant for $85,526.76 in lost wages and $1,050,000.00 for emotional pain and mental anguish.

Defendant filed a renewed Motion for Summary Judgment on October 27, 2015. Plaintiff filed a reply on November 20, 2015. The renewed motion was denied by order of the court below on February 1, 2016.

Defendant filed an appeal on February 8, 2016. Defendant filed its Opening Brief on May 9, 2016. This is Plaintiff Below, Appellee's Answering Brief.

SUMMARY OF ARGUMENT

1. The trial court correctly ruled that Plaintiff presented ample evidence of disclosure, physical manifestation of mental distress and testimony causally linking Plaintiff's injuries to Defendant's conduct and as a matter of law, Defendant's Motion should be denied.

2. The trial court did not abuse its discretion by permitting Plaintiff to use the determination by the Delaware Department of Labor that Plaintiff was entitled to unemployment for purpose of impeachment.

3. The trial court did not abuse its discretion by permitting Plaintiff to use the determination by the Delaware Department of Labor that Plaintiff was entitled to unemployment for purpose of impeachment.

STATEMENT OF FACTS

Plaintiff Below, Appellee (Plaintiff) suffers from human immunodeficiency virus (HIV). To treat the virus, he became a patient of David M. Cohen, M.D., who practices with a group of doctors under the corporate name, Infectious Disease Associates, P.A.

The cost to treat the virus is expensive and there are support groups to assist patients with the virus. One such organization is AIDS Delaware. Employees at AIDS Delaware will use information from the patient's treating doctor to obtain funds to pay for treatment. On March 6, 2013, AIDS Delaware needed information about Plaintiff from Infectious Disease Associates. To obtain the information AIDS Delaware sent a release form to Plaintiff. The release form would be signed by the Plaintiff and the release would permit medical information of the Plaintiff at Infectious Disease Associates to be shared with AIDS Delaware (see A0033-A0035 from Defendant Below, Appellant's exhibits, hereinafter A-number).

On March 6, 2013, Plaintiff was instructed to wait by the fax machine at Bell Supply (Plaintiff's employer) for the release form (A0034). He received the fax directly in hand, signed the form and sent same personally by fax back to AIDS Delaware. AIDS Delaware then sent the release form with the request for Plaintiff's medical information to Infectious Disease Associates. The proper response would be

to return the information to AIDS Delaware, the party authorized by Plaintiff to receive the information. In error, Infectious Disease Associates sent the information to Bell Supply. Bell Supply was never authorized by Plaintiff to receive any medical information from Infectious Disease Associates (A1326-1327).

The fax machine at Bell Supply was at the front desk (A1509). Also, at the front desk was a series of bins. Each employee at Bell Supply had their own bin. The front desk receptionist at Bell Supply was then and is now, Carolyn Teoli. She is tasked with receiving faxes, making the determination of which employee of Bell Supply was the recipient of the fax and placing the same in the recipient's bin (A1508- A1510).

Any fax received by Carolyn Teoli would have to be read by her to determine the recipient so said fax could be placed in the proper bin. The fax in question had three pages (A0033-A0035). The first page at one time had Plaintiff's name on it, but had been blackened out. On the same page, there is one reference to AIDS Delaware. The second page is where Plaintiff's name first appears in the middle of the after four references to AIDS Delaware. The third page has four references to HIV or AIDS. On that page, the diagnosis of HIV appears just below Plaintiff's name. The Plaintiff found the three page fax in his bin at the close of business on March 6, 2013. He did not place the fax in his bin.

The effect of the fax being sent to his employer had an immediate damage to the Plaintiff. He was scared, angry and upset. The outward manifestations were crying and shaking. He had the following symptoms:

1. Crying (A1529 and A1485);
2. Shaking (A1255 and A1479);
3. Shock (A1254);
4. Loss of weight;
5. Fear (A1439); and
6. Change in mental status (A1439).

All theses symptoms were corroborated by his daughter and his friend, Barry Crell. He immediately sought medical care with his physician, Dr. Manisha Wadhwa. She noted the same symptoms in the Plaintiff's file (A1130). To control those symptoms, Dr. Wadhwa placed the Plaintiff on much stronger medication, Xanex (A1268 and A1473) and had to spend extra time in the office visit to get the Plaintiff proper care and counseling,

On March 6, 2013, Plaintiff also called the defendant, Infectious Disease Associates. Upon review, they agreed that they had been in error and issued a letter dated March 22, 2013 (A0037-A0038) and a follow up letter dated April 10, 2013 (A0039) in which they admitted their mistake. On cross examination, the office

manager admitted that the staff at Infectious Disease Associates had received no training regarding the handling of confidential patient records (A1615). The employee at Infectious Disease Associates who actually sent the fax was asked on cross examination what she thought would happen to Plaintiff and she answered that she thought it would affect Plaintiff's job (A1666).

Upon return to Bell Supply, Plaintiff found he was being treated differently. People did not include him in office conversations (A1270-A1271). Ms. Teoli, the front desk person, started using disinfectant on the phone that she sometimes shared with the Plaintiff (A1273). He also lost his job.

Plaintiff was an employee at Bell Supply for twenty- seven years. During that time, he had only received two adverse records in his file, the last on January 28, 1994 (A1716). It was his job to manage certain office staff, including Carolyn Teoli (A1676). Ms. Teoli had issues with missing work and sick leave (A1681). Plaintiff organized a meeting to resolve those issues, which included company president, Wayne Kirsh (A1687). Mr. Kirsh used the meeting to state Plaintiff was insubordinate (A1690) even though Plaintiff supervised Carolyn Teoli. Bell Supply tried to state it was for cause, insubordination, but the Delaware Division of Employment disagreed and granted him unemployment benefits.

ARGUMENT

I. THE TRIAL COURT CORRECTLY RULED THAT PLAINTIFF PRESENTED AMPLE EVIDENCE OF DISCLOSURE, PHYSICAL MANIFESTATION OF MENTAL DISTRESS AND TESTIMONY CAUSALLY LINKING PLAINTIFF'S INJURIES TO DEFENDANT'S CONDUCT AND AS A MATTER OF LAW, DEFENDANT'S MOTION SHOULD HAVE BEEN DENIED.

A. Question Presented.

Does the contents of the fax present sufficient evidence that a jury should decide the credibility of witnesses who deny knowledge of the fax and was the issue of causation correctly given to the jury for decision.

B. Scope of Review.

This court reviews de novo decisions denying a motion for judgment as a matter of law. *Teague v. Kent General Hosp.*, 89 A.2d 3rd 42 (Del. 2008). When a motion for judgment as a matter of law is made by the Defendant, it is the duty of the court to determine whether, under any reasonable interpretation of the evidence, a jury could justifiably find in favor of Plaintiff while viewing the evidence in a light most favorable to the non-moving party. With respect to a request for a new trial, the jury's verdict is given great deference and the court must determine whether the verdict is against the great weight of the evidence. *Midcap v. Sears Roebuck & Co,*, 2004 Del. Super. LEXIS 218 (Del. Super. Ct. May 26, 2004).

C. Merits of Argument.

1. Plaintiff did introduce evidence that supports a claim that disclosure of the Plaintiff's medical history to other employees of Bell Supply resulted in lost wages.

Plaintiff claims lost wages as part of his damages. He asserts that the fax was viewed by others at his employer, Bell Supply. Plaintiff disagrees that there was "uncontraverted testimony" at trial that no other employee at Bell Supply knew about his illness. It is uncontraverted that all employees of Bell Supply who testified stated that they did not know. There is other evidence besides self serving witness testimony to show that employees did know his medical history.

What is uncontraverted is that the fax was sent to Bell Supply by Defendant without Plaintiff's consent. Without any doubt, the medical history of Plaintiff entered the work place. Plaintiff testified that he found the fax for the first time in his bin. Someone at Bell Supply took the fax from the machine and placed it in his bin. Each Bell Supply employee had their own bin. The front desk person, Carrie Teoli, was the employee whose job it was at Bell Supply to identify the recipient of the fax and place the fax in the recipient's bin, The only way to identify the recipient is to read the fax. This fax had multiple references to AIDS and HIV.

The change of relationship between Plaintiff and his co-workers is yet another set of facts set before the jury as evidence of the communication of Plaintiff's medical

history to his co-workers.

The observations by the Plaintiff was that he was treated at work differently after the fax was sent. There was testimony:

A. That his co-workers did not inquire about his absence when he returned.

B. That his co-workers would go silent when Plaintiff approached.

C. That David Kirsh, the owner of the company, would not speak at length with Plaintiff in meetings which he had done in the past.

D. That Carrie Teoli started to sanitize the phone after the fax.

(1) The testimony of Carrie Teoli that sensitizer was used to clean areas touched by contractors.

(2) The testimony of Carrie Teoli that contractors were not permitted to use her desk phone.

E. That after working for 27 years for Bell Supply with no reprimands for 26 of those 27 years, Plaintiff was fired.

There exists much more than a scintilla of evidence. *Freedman vs. Chrysler Corp.*, 564 A.2d 691 (Del. 1989). It is the juries responsibility to weigh the evidence and decide the facts. If the evidence shows more than one inference could be made, then this Honorable Court should not render judgment as a matter of law and prohibit the jury from carrying out its assigned task. *Wooten v. Kiger,* Del. Supr., 226 A.2d

238 (1967).

Importantly, it is Ms. Teoli's responsibility to read the fax, otherwise she could not determine whose bin to place it in. There was sufficient evidence to show that reading the fax would disclose Plaintiff's medical history. The scope of review speaks to raising an issue of material fact. *Treival v. Sabo,* 714 A.2d 742 (Del. 1998). Here there is evidence that raises a material fax.

2. The issue of superceding clause was properly before the jury.

This Honorable Court has ruled that the issues of superseding and intervening cause are issues for the jury. *Pipher v. Parsell*, 930 A.2d 890 (Del. Supr. 2007). The jury's finding regarding superseding and intervening cause must be respected. *Delaware Elec. Co-op, Inc. v. Duphily*, 703 A.2d 1202 (Del. Supr. 1997).

If superseding and intervening clause is an issue for the jury, this court has ruled that it is always reluctant to take such a question of fact from the jury. *McCarthy v. Mayor of Wilmington*, 100 A.2d 739 (Del. 1953).

The trial court was also cognizant of the importance of superseding and intervening clause. Defendant raised the issue at the jury instruction conference. The issue of superseding and intervening clause was not in Plaintiff's initial draft of jury instructions. Defendant demanded instruction on superseding and intervening clause and the trial court granted Defendant's request. Defendant drafted the jury instruction

on superseding cause and it appeared on page 12 of the final jury instructions. (A1959-A1990) Neither Plaintiff or Defendant objected to the final draft of the charge. Defendant also demanded that superseding and intervening cause be part of the Special Verdict Form. The trial court agreed. Defendant drafted the Special Verdict Form with the superseding and intervening cause being inserted at question 5 (Defendant's Exhibit H). Neither Defendant nor Plaintiff objected to the draft of Special Verdict Form.

Regarding knowledge of what Defendant knew could have happened at Plaintiff's employer after submitting the fax, Plaintiff would point to the Defendant's witness, Sherrie Saponaro. She was and is an employee of the Defendant. Sherrie Saponaro was the employee of Defendant who sent the fax. When asked at trial what she thought would happen after she discovered she had sent Plaintiff's HIV diagnosis to his employer, she said that she thought he would loose his job. It was certainly within the knowledge of Defendant that Plaintiff losing his job was a consequence of sending the fact to Plaintiff's employer.

3. Plaintiff met his burden to show physical injury.

From three witnesses, there was testimony regarding the physical injury of the Plaintiff. From the Plaintiff himself, he testified that upon learning of the disclosure of his HIV status to his employer, it caused immediate anxiety, depression,

crying and shaking. Kelly Long, the Plaintiff's daughter, testified that she observed all these injuries to Plaintiff plus a dramatic weight loss. Dr. Manisha Wadhwa testified in an office visit of March 8, 2012, she noticed all the same physical symptoms and added nausea. The doctor concluded that the Plaintiff needed medication for the physical responses that Plaintiff was experiencing. She, for the first time, prescribed Xanax. That was prescribed for instant symptom control because of the intensity of his symptoms. Plaintiff has reached a "baseline" and stopped taking Viibryd, which Dr. Wadhwa reintroduced following the disclosure of the HIV to his workplace.

The prescribing of medications to cure symptoms that were affecting an injured party has been found to support a claim of emotional distress accompanied by physical injury. *Devaney v. Nationwide Mut. Ins. Co.*, 679 A.2d 71 (Del. Supr. 1996).

A recent Maryland case, *Exxon Mobil v. Ford*, 40 A.3d 514 (Md. App. 2012), used three relevant generalizations regarding physical manifestation. The first is that the evidence of anxiety must be "capable of objective determination" and be more than "conclusory statements." The testimony presented at trial was that the Plaintiff was crying, he was shaking, he suffered weight loss and he had to be treated with medication. None of those statement are conclusory and are capable of objective determination. The observations of the daughter were made the same day as March

6, 2013 when the fax was sent. The observations of Dr. Wadhwa were within 48 hours of the fax.

The second generalization is that the manifestations must be observed by more than one individual. Besides the testimony of the Plaintiff, there is also contemporanious testimony fromhis daughter and testimony of his treating physician.

The final generalization is that emotional or mental injury does not have a treshold of severity to be subject to compensation. The issue of injury and its severity would be a subject for the jury.

Additionally, no expert testimony would be necessary to show Plaintiff's injuries were proximately caused by Defendant. The injuries in question "occurred contemporaneously with or very shortly after Defendant's misconduct." The court in *Doe v. Widley*, 2012 WL 1408879 citing *Testrom Inc. v. Savla*, 2006 Del. Super. LEXIS 323 finds an exception to requiring a physician under those facts. In the case on appeal, the physical issues experienced by Plaintiff were immediate and he sought and received treatment within two (2) days of the fax.

The issue of causation was discussed between counsel and this Honorable Court. Defendant stated that it wanted a jury instruction for proximate cause found at page 11 of the Final Jury Instructions. (1959-A1990)

Defendant did not rest there. Defendant requested that the issue of proximate

cause be placed on the jury's Special Verdict Form not only regarding the negligence (Special Verdict Form question 2) but also regarding the damages from the lost wages resulting from Plaintiff's termination from Bells Supply (Special Verdict Form question 6) (Defendant's Exhibit H). All these requests were granted by this Honorable Court.

The language used in the jury instructions and the special jury form was drafted by Defendant and submitted to the jury.

Issues of proximate cause are issues of fact ordinarily submitted to the jury. *Ebersole v. Lowengrub*, 180 A.2d 467 (Del. 1962) and *Burge v. Reiss*, 210 WL 825081 (Del. Super. October 29, 2010). Taking the issue of proximate cause away from the jury would have been an error by this Court. This Court correctly instructed the jury on proximate cause and correctly permitted the jury to decide the proximate cause of the negligence and the damages. *Pipher v. Parsell*, 930 A.2d 890 (Del. Supr. 2007).

If any doubt remains as to causation and physical injury, Plaintiff would assert that Defendant has conceded that Plaintiff's mental/emotional issues have been caused by Defendant. The office manual for Defendant states:

> "This office maintains strict confidentiality of all patient medical records, including persons with AIDS/HIV." (A-1598)

The letter sent by Defendant to Plaintiff on March 22, 2013 (A0037) states that Defendant "can only imagine the depth of (Plaintiff's) feelings at this time." The Defendant, in the same letter, says it was aware that on March 6, 2013, Plaintiff's personal information was "compromised."

The employee at Defendant who sent the fax on March 6, 2013, Sherri Sapanaro, in answer to the question, when you learned of the mis-directed fax, how did you feel, stated:

> "Horrible - I –I've cried. I've had many sleepless nights since. This is a black cloud over my life."

If Defendant truly understands the depth of feeling Plaintiff had and that it caused, its employees to have sleepless nights, then causation and physical manifestation is conceded.

The protection of a persons medical history is of extreme importance. *United States v. Westinghouse Elec. Corp.*, 638 F.2d 570 (3rd Cir. 1980). The dissemination of that information could be said to be outrageous. As outrageous conduct, Plaintiff's evidence is clearly sufficient to establish causation and physical manifestation. *Cummings v. Pinder*, 574 A.2d 843 (Del. 1990).

II. THE TRIAL COURT DID NOT ERR WHEN IT DENIED CROSS EXAMINATION OF PLAINTIFF'S USE OF CERTAIN DRUGS.

A. Question Presented.

Did the trial court correctly determine that the substances which would be the subject of cross examination were not relevant to the claims of negligence and breach of confidentiality. Further, did the trial court correctly determine that questions regarding use of the substances would be prejudicial even if relevant.

B. Scope of Review.

Generally, the Supreme Court reviews a trial judge's evidentiary rulings for abuse of discretion. *Manna v. State*, 945 A.2d 1149 (Del. 2008).

C. Merits of Argument.

The substances in question have never been related to the facts surrounding the fax that Defendant sent to Plaintiff's employer. Defendant makes no claim that the substances were being used by Plaintiff on March 6, 2013. Defendant admits to sending the fax in error to Plaintiff's employer. Likewise, the substances were not alleged by defendant to be part of the treatment prescribed to assist Plaintiff's recovery from the events of March 6, 2013. The use of the substances is not alleged by Bell Supply to be a factor in Plaintiff's termination.

As such, the use of the substances by Plaintiff do not make "the existence of

any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Delaware Uniform Rules of Evidence 401. If the evidence is not relevant, then it is inadmissible, Delaware Uniform Rules of Evidence 402.

The use of the substances were not a part of Plaintiff's direct testimony at trial. As such, the substances would not be the subject of cross examination. *Snowden v. State*, 672 A.2d 1017 (Del. 1996). Trial judges are vested with the "wide latitude" to control cross examination and may impose limits. *Binaird v. State*, 967 A.2d 1256 (Del. 2009). The Court, in setting limitations should consider certain factors. *Weber v. State*, 457 A.2d 674 (Del. 1983). Among those factors is relevance and prejudice. The record reflects that the court below made the appropriate analysis and found the cross examination on the substances not to be relevant and would result in prejudice.

The use of substances has been found to be prejudicial and excluded pursuant to Delaware Uniform Rules of Evidence 403. Had the cross examination been permitted a jury to infer that Plaintiff would have a propensity to use the substances and distract the jury from the relevant facts needed for their deliberation. *Hicks v. State*, 913 A.2d 1189 (Del. 2006).

III. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION BY PERMITTING PLAINTIFF TO USE THE DETERMINATION BY THE DELAWARE DEPARTMENT OF LABOR THAT PLAINTIFF WAS ENTITLED TO UNEMPLOYMENT FOR PURPOSE OF IMPEACHMENT.

A. Question Presented.

Did the trial court abuse its discretion to permit the introduction of the one page letter granting unemployment benefits to Plaintiff.

B. Scope of Review.

Generally, the Supreme Court reviews a trial judge's evidentiary rulings for abuse of discretion. *Manna v. State*, 945 A.2d 1149 (Del. 2008).

C. Merits of Argument.

Plaintiff acknowledges that Defendant filed a Motion *In Limine* to exclude documentation from the State of Delaware Employment Division. That would translate into the one page Qualification Decision dated September 23, 2013.

Defendant raises three other evidentiary issues:

1. Plaintiff's testimony about a phone call with the Claims Deputy.
2. Testimony about conduct and treatment of prior Bell Supply employees.
3. Testimony during Plaintiff's direct examination about statements made by Mr. Kirsh and Mr. Connor.

These three other evidentiary issues were not the subject of the Motion *In*

Limine and to the extent the testimony was not objected to at trial, the testimony is not the subject of appeal. *Wilmington Trust Company v. Conner,* 415 A.2d 773 (Del. 1980).

In the original complaint, lost wages were clearly stated to be a damage which Plaintiff sought remuneration for. Therefore, eliciting testimony from individuals at Bell Supply would be relevant evidence. The relevant evidence ought to include testimony from the president of the corporation (Mr. Kirsh) and the vice president (Mr. Connor). What the superiors do and say are relevant to the issue of termination. *Harmon v. State*, 2010 Del. Super. LEXIS 571 (Del. Super. Ct. Dec. 21, 2010).

There is no written employment agreement or employee handbook for employees at Bell Supply. Since there are no written standards, it would be relevant testimony to establish how Plaintiff was treated when his superiors observe that they alleged to be transgression to how other employees were treated. *Kent Gen. Hosp., Inc. v. Harrison*, 1997 WL 33471241 (Del. Court of Com. Pl. 1997). This Honorable Court must remember that Bell Supply was not a defendant to this action. The testimony had a singular purpose to establish if the disclosure of Plaintiff's medical history affected his employment. In that context why he was fired is relevant.

Plaintiff disputes what occurred at the trial court level regarding evidence from the Delaware Department of Labor. Plaintiff was restricted from stating the words

spoken to him by the Department of Labor. The letter regarding the Department of Labor's determination that Plaintiff was entitled to unemployment benefits could be used by Plaintiff for impeachment purposes only. *Jackson v. Aglio,* 2014 WL 1760316 (Del. Super. Apr. 11, 2014). The evidence was also relevant to calculate Plaintiff's lost wage claim. Collected unemployment was calculated and deducted from his claim for lost wages.

CONCLUSION

The trial judge did not err, as a matter of law when she denied Infectious Disease Associates's Motion for Judgment as a Matter of Law.

The court below correctly ruled that there was a prima facie showing that Plaintiff Below, Appellee's medical history was disclosed to his co-workers at Bell Supply. Therefore, the economic and emotional injuries were supported by the evidence.

The trial judge correctly ruled that the use of narcotic drugs was irrelevant to a case which was focused on the dissemination of medical information without consent. That the use of drugs was not a part of the information disseminated. Even if relevant, the taking of a narcotic would be prejudicial to the Plaintiff Below, Appellee.

The admission of documentary evidence and testimony regarding practices at Bell Supply did not violate the hearsay rule since officers of Bell Supply were called by Defendant Below, Appellant to testify as to any testimony from Plaintiff Below, Appellee.

Defendant Below, Appellant, admits that it sent Plaintiff Below, Appellee's medical record to a location (Bell Supply) without consent. Defendant Below, Appellant, admits it was their error. For a jury to return a verdict in favor of Plaintiff

Below, Appellee, and against, Defendant Below, Appellant was within the "great weight of the evidence." The verdict below should not be reversed.

JOHN R. WEAVER, JR., P.A.

/s/ John R. Weaver, Jr.

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