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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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LISA SIEGEL BALANGER and*		17CV10087-ADB
DEVORA C. KAISER		
VS.		JANUARY 27, 2017
		10:37 A.M.
MARSHA V. KAZAROSIAN, et*		
al		
		BOSTON, MA
* * * * *		

BEFORE THE HONORABLE ALLISON D. BURROUGHS  
DISTRICT JUDGE  
(Status Conference)

**APPEARANCES:**

FOR THE PLAINTIFF, LISA S. BELANGER, ESQ.  
LISA SIEGEL BELANGER: 300 Andover Street  
No. 194  
Peabody, MA 01960  
PRO SE

FOR THE PLAINTIFF, DEVORA C. KAISER  
DEVORA C. KAISER: 2 Prospect Street  
Peabody, MA 01960  
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FOR THE DEFENDANT, COLIN T. BARRETT, ESQ.  
MARSHA V. KAZAROSIAN: Morrison Mahoney LLP  
250 Summer Street  
Boston, MA 02210



1 27 JANUARY 2017 -- 10:37 A.M.

2 THE CLERK: This is Civil Action 17-10087,  
3 Belanger v. Kazarosian.

4 Will Counsel identify themselves for the record.

5 MR. BARRETT: Good morning. Colin Barrett on  
6 behalf of Marsha Kazarosian.

7 THE COURT: Hold on. Let me -- you have entered  
8 an appearance, okay.

9 MS. BELANGER: Plaintiff, Attorney Lisa Siegel  
10 Belanger.

11 THE COURT: Okay.

12 MR. BROWN: Good morning, Your Honor.  
13 Michael Brown on behalf of the Defendant, Brian Cuffe.  
14 I haven't entered an appearance either.

15 THE COURT: Okay, hold on a second. Let me  
16 just -- I'm sorry. What was your name again?

17 MR. BROWN: Michael Brown.

18 MR. BRUCE: Good morning, Your Honor.  
19 John Bruce, B-r-u-c-e, for the Defendant, Beverly  
20 Hospital. And I will make sure my notice of appearance  
21 hits the docket today.

22 THE COURT: Okay.

23 MS. ABOWITZ: Good morning, Your Honor. My name  
24 is Alexa Abowitz, I'm on behalf of Whittier Health  
25 Network, and like my brothers at the Bar, I will file

1 my notice of appearance today as well.

2 THE COURT: Okay, hold on a second. Let me --  
3 I'll get the right lawyer with the right -- I'm sorry.  
4 What was -- now I forgot your name.

5 MS. ABOWITZ: Alexa, Abowitz. The last name is  
6 A-b, as in boy, o-w-i-t-z. Thank you.

7 THE COURT: Okay.

8 MS. ARONSSON: Good morning, Your Honor.

9 Azure Aaronsson on behalf of Dr. Spencer  
10 Amesbury. First name, A-z-u-r-e, last name,  
11 A-r-o-n-s-s-o-n. And I will file my notice of  
12 appearance as well.

13 THE COURT: Okay.

14 MR. SINNOTT: Good morning, Your Honor.  
15 William Sinnott, and I'm appearing on behalf of  
16 Merrimack Valley Hospital and Holy Family Hospital.

17 MR. SULLIVAN: Your Honor, I'm Tim Sullivan. I  
18 have a motion to file limited appearance today.

19 THE COURT: The motion -- I just read the  
20 motion, and it's granted on limited appearance. You're  
21 fine.

22 MR. SULLIVAN: I'm appearing on behalf of  
23 Dr. Janice Funk.

24 MR. DAVIDSON: Good morning, Your Honor.  
25 Leonard Davidson appearing for Dr. Robert Portney.

1 THE COURT: Okay. So, let's see, that leaves --  
2 is anybody here representing Mr. Cuffe?

3 MR. BROWN: Yes, Your Honor. Michael Brown.

4 THE COURT: Oh, sorry, sorry. Now I got it on  
5 two pieces of paper here. Make sure I have everybody.

6 And how about for Thomas Barbar? No one for  
7 him.

8 Beverly Hospital? That was you, okay. Sorry.

9 MR. BRUCE: Thank you, Your Honor.

10 THE COURT: Mr. -- yes. Kenney Enterprises?  
11 Okay.

12 All right. I want to start by thanking you all  
13 for coming. So, I know this is short notice, and the  
14 complaints were -- the complaint was just filed. I  
15 know -- I know you've gotten -- you've gotten notice of  
16 this, but the time to enter an answer has certainly not  
17 run, and I appreciate all of your showing up on this on  
18 such short notice.

19 This is not a hearing on the TRO; it's just a  
20 status conference. I want to have a better  
21 understanding of what's going on here and what sort of  
22 the Defendants' world view is.

23 In terms of the Plaintiffs, I've read the  
24 complaint. I have to tell you I have grave concerns  
25 about whether you have standing or there's any Federal

1 jurisdiction. I'm happy to hear you on that today, but  
2 this really at first seems like it's part of the first  
3 case and should not be a new case; and it's, second --  
4 if it should be in Federal Court at all; and, secondly,  
5 it seems like this is a matter much better suited for  
6 State Court than Federal.

7 All of that being said, I know this is a  
8 difficult time for you, I know it's a difficult  
9 situation. My own dad was sick and died a couple of  
10 years ago. I know how emotional this is, and you have  
11 my full sympathies on the situation, but I just, at  
12 least on a first glance through, I just don't think  
13 there's much I'm going to be able to do to help you  
14 here.

15 MS. BELANGER: Thank you, Your Honor.

16 THE COURT: So, I have no -- yeah. I'm happy to  
17 hear from all of you. I don't really care what order I  
18 hear from you. You're welcome to go first.

19 MS. BELANGER: Well, as I've articulated in the  
20 complaint, the only adequate avenue for remedy really  
21 is Federal Court. This is not an issue that --

22 THE COURT: The only Federal question that I see  
23 that you've identified is this sort of due process  
24 right to an intact family, and that's just not -- I  
25 just don't think that has legs here.

1 MS. BELANGER: It's not just to an intact  
2 family; it's the fact that Defendants have violated the  
3 Constitution by having baseless and unwarranted  
4 intrusion into the family.

5 And the reason why this is interrelated with the  
6 underlying case is because this doesn't even start off  
7 with the Probate Court. This initially starts off  
8 before that where my father, Attorney Siegel, had his  
9 established durable power of attorney and array of  
10 estate planning instruments for a long and continuous,  
11 and the only reason that we are -- what happened is, is  
12 that we're here is because of the fraudulent ouster and  
13 dismantling of that durable power of attorney. But for  
14 the fraudulent --

15 THE COURT: See, I don't see a Federal cause of  
16 action in what you just described.

17 MS. BELANGER: There's a Federal -- there's  
18 standing to -- and as I have shown in the complaint,  
19 there's a -- that's a liberty, an interest, as a  
20 durable -- as an attorney in fact. I have given case  
21 law that shows standing specifically on that being a  
22 legally constitutionally -- Federally constitutionally  
23 protected interest.

24 THE COURT: What is the Federally protected  
25 constitutional interest? An interest in a durable

1 power of attorney?

2 MS. BELANGER: The interest in having the status  
3 of being an attorney in fact.

4 THE COURT: I'm just not sure that's right.

5 MS. BELANGER: Well, I have the case law that --

6 THE COURT: Okay. I'll look at the cases that  
7 you cite.

8 MS. BELANGER: Right, in the case law that I've  
9 cited, is there anything particularly in the case law  
10 that shows why I'm wrong? Because in fact the  
11 Massachusetts case law said that it has designated it  
12 outright to be a --

13 THE COURT: How does that get you to Federal  
14 Court?

15 MS. BELANGER: Excuse me?

16 THE COURT: How does that get you to Federal  
17 Court?

18 MS. BELANGER: Because this is a legally  
19 protected right under the Fourteenth Amendment. This  
20 is a right to -- this is a family matter. This is a --

21 THE COURT: Exactly, exactly, family matter.

22 MS. BELANGER: No, it's not a family Probate  
23 Court matter; it's the integrity of the family unit.  
24 It's got to do with life, liberty, pursuit of  
25 happiness. This isn't something that just pertains to

1 a Probate Court. And so this just -- if we could have  
2 the time, which probably, you know, as you say, you're  
3 not prepared for it today, but if we could have a full  
4 hearing and I can be able to go through the tremendous  
5 amount of evidence that I have to show that this has  
6 been in the Probate Court, that it has not been  
7 litigated, it has never been determined. And in fact  
8 it has been, to contrary, has been unlawfully ignored.

9 This is not -- this is something that, because  
10 of fraudulent conduct by attorneys, started off by the  
11 financial adviser of BNY Mellon, that makes this be in  
12 Federal Court anyways based on diversity because that's  
13 where it all starts with is with BNY Mellon who  
14 colluded with attorneys --

15 THE COURT: Okay. This isn't that -- this case  
16 isn't about -- I'm only -- we're only here on the new  
17 case; okay?

18 MS. BELANGER: But if that attorney in fact --  
19 if that durable power of attorney stayed in existence,  
20 we would not be here today. The Probate Court would  
21 not be able to be in there. There would be nobody  
22 interfering or restraining or restricting visitation to  
23 see their father. That is Federal constitutional  
24 rights Federally as to whether -- what exists between  
25 relationships between adults and parents, whether it's

1 adult child or a minor child.

2 This is not something that sits in the vacuum  
3 with the Probate Court, not to mention that, as I've  
4 produced in this particular action and in my  
5 supplemental is that I have a Federal basis based on  
6 misconduct by State actors of depriving adult children,  
7 myself, my sister Devora Kaiser, from being able to  
8 freely be and associate, communicate with their parent.

9 The Board of Bar Overseers has said that, We  
10 have not looked for the regulatory agencies to  
11 interfere with whatever litigation, the fact of the  
12 matter is we have attorneys who are committing unlawful  
13 acts that go to the professional conduct. Regardless  
14 of whatever is going on --

15 THE COURT: That is definitely not a Federal  
16 cause of action; okay? I get where you're coming from.

17 Let me hear from one of the Defendants. Can  
18 I -- why is -- can someone just explain to me why her  
19 access to her father is limited? Can someone -- I  
20 mean, I --

21 MR. BROWN: Your Honor, Michael Brown for  
22 Brian Cuffe. My client is the Court-appointed guardian  
23 ad litem. He was appointed I believe back in 2011, and  
24 I'm still kind of getting my arms around the underlying  
25 facts. But I believe that, if there's any restriction,

1 it's the result of Probate Court rulings, and so any  
2 harm that the Plaintiffs claim to be suffering here I  
3 believe is the result of the Probate Court rulings;  
4 and, therefore, their redress should be with the  
5 Probate Court or the State Appellate Courts.

6 THE COURT: What -- from the defense side,  
7 what -- any thoughts about how this should go forward,  
8 about sort of what next steps should be here? You  
9 all -- she's filed a motion for a TR0. Your answers  
10 aren't due yet. Thoughts about what's next?

11 MS. ABOWITZ: If I might, Your Honor, and I can  
12 speak for some of my Counsel here. So, I represent the  
13 Whittier Pavilion. We're an adult psychiatric unit in  
14 which Plaintiffs' father was with us for a few -- for  
15 some time in 2011.

16 I think for me and for some of the other  
17 hospitals here, the only reason I'm here is because of  
18 what we did in 2011, and what we did in 2011 is also  
19 part of the first action. So, from my perspective, and  
20 I think I speak for some of my other hospital Counsel  
21 here, I would like to see us dismissed. These very  
22 same allegations exist in the first complaint, and  
23 there's nothing new. We have had no interaction with  
24 Plaintiff or her father since 2011. And I think, like  
25 I said, that probably covers some argument among my

1 other folks here.

2 MR. BROWN: Yes, and Your Honor --

3 MS. BELANGER: May I speak to that, Your Honor,  
4 please?

5 THE COURT: No, no. It's their turn, then I'll  
6 come back to you.

7 MR. BROWN: I'd also like to request the same  
8 thing. It seems to me that, first of all, Brian Cuffe  
9 is not named in the underlying case or the first case,  
10 and I'm not sure why he's a Defendant in this case  
11 because all of the actions complained of are done by  
12 him under the authority of the Probate Court orders;  
13 and, therefore -- I mean, the Plaintiff is essentially  
14 seeking to overturn Probate Court orders. The  
15 Defendant, if any, would be the Probate Court. You  
16 know, it's -- I'm confused. You know, my client would  
17 be in the position of choosing to follow Your Honor's  
18 order or the Probate Court's orders, and that seems  
19 untenable to me.

20 THE COURT: Okay. So, you all are intending on  
21 filing motions to dismiss in this case, is that what --  
22 okay. What -- Mr. Sinnott, I see you half out of your  
23 chair.

24 MR. SINNOTT: Yes, Your Honor, just to point out  
25 another perspective from one of the providers, I went

1 through the complaint, and I think that, you know, in  
2 addition to the 12(b)(6) motion to dismiss challenging  
3 jurisdiction, challenging standing, there's a lack of  
4 particularity in this document, as there was in the  
5 predecessor complaints, that's shocking.

6 I read through the complaint last night. My  
7 client wasn't served until late Wednesday afternoon,  
8 notwithstanding the Court's directive on Friday. But I  
9 did read it, and frankly, my client is guilty of  
10 treating this poor man that is I'm sure worthy of the  
11 best treatment that he can get, and my conclusion after  
12 reading all of this was this was an end-around on the  
13 discovery process and on the ongoing 2015 case because  
14 there's no reason why my client or, as far as I could  
15 ascertain, the other providers should be in this  
16 complaint.

17 MR. BARRETT: Your Honor, if I --

18 THE COURT: Hold on. Him first, then you.

19 MR. SULLIVAN: Your Honor, Attorney Tim Sullivan  
20 for Dr. Funk.

21 I'd like to really expand upon what he said  
22 about the discovery aspect of this. My client is not  
23 alleged to have committed any tortious act at all.  
24 She -- the only prayer is that she produce medical  
25 records, which, frankly, she could not produce without

1 violating HIPAA and State law without the authority of  
2 the guardian. My understanding is there is a guardian  
3 in this place -- in this case, but this is a discovery  
4 thing. It should have been done by subpoena, not by  
5 making her a Defendant in a lawsuit where she's not  
6 even alleged to have committed anything tortious.

7 THE COURT: And then --

8 MR. BARRETT: Yes, Your Honor. Thank you.  
9 Colin Barrett again on behalf of Marsha Kazarosian.

10 To echo my brothers and sisters here, this  
11 complaint is almost -- the underlying actual  
12 allegations in this complaint, to the best we can  
13 discern, are identical to the allegations that are  
14 raised in the second amended complaint, which is  
15 pending dismissal under 715, and the original  
16 complaint, which was subject to dismissal as well.

17 Where it concerns Attorney Kazarosian, her role  
18 is very much -- has been the uninterrupted Counsel to  
19 Mr. Siegel since 2011. Any actions that she has taken  
20 on his behalf are I guess not subject to challenge by  
21 Ms. Belanger.

22 And I just need to point out and object to  
23 Ms. Belinger's filing of last night. The disposition  
24 of a Bar discipline complaint is confidential under the  
25 Supreme Judicial Court rules, and for that matter,

1 anything that happens prior to the filing of the  
2 petition for discipline is similarly confidential. So  
3 we would make, either orally now or in writing, a  
4 motion to impound that entire filing because it is now  
5 available for the public's viewing that Ms. Belanger  
6 has filed a complaint.

7 THE COURT: Okay, that motion will be granted.  
8 Why don't you put it in writing.

9 MR. BARRETT: Okay, thank you.

10 THE COURT: Just short, don't --

11 MR. BARRETT: Sure, absolutely.

12 And just one other thing to really drive the  
13 point home. This complaint suffers the exact same  
14 infirmities as every other complaint that has been  
15 filed in this case as well as in the State Court  
16 action, which acknowledging I was not involved in those  
17 Probate Court actions, but there is nothing here that  
18 complies with Rule 8.

19 And as was mentioned in Attorney Kazarosian's  
20 first motion to dismiss, this Court does have the  
21 discretion to dismiss this complaint sua sponte under  
22 Rule 41, and we'd encourage to you do so. And if not,  
23 we will be filing a motion to dismiss.

24 THE COURT: Ms. Aaronsson?

25 MS. ARONSSON: Your Honor, I would also just

1       like to state on the record that Dr. Amesbury also is  
2       not -- he's not named in the underlying 2015 complaint,  
3       and he's merely named in the incident complaint based  
4       on Plaintiff's demand for medical records that he  
5       also -- it is also his position that they are  
6       HIPAA-protected, but he does not take a position on  
7       whether or not he will -- I mean, if the Court issues  
8       an order or if there is a signed authorization of  
9       release from Mr. Siegel's guardian, he will produce the  
10      records, as required by HIPAA.

11           THE COURT: Okay. So, she's filed a motion for  
12      a TRO. I need to do something about the TRO, and that  
13      is either schedule it or -- I mean, how quickly could  
14      you all file your motions to dismiss? And then we  
15      could act on the motions rather than have a TRO  
16      hearing. It's just a thought.

17           MR. BROWN: I think we could file them as  
18      quickly as Your Honor would like us to, you know,  
19      within the next week or so certainly.

20           MR. SINNOTT: I think, Your Honor, there's a  
21      likelihood that Counsel will work together to present a  
22      single document or a couple of documents to the Court,  
23      but perhaps sometime next week would be enough time for  
24      us to --

25           THE COURT: Not just a motion -- I mean, there

1 are issues with the complaint in terms of form, and you  
2 know, in the normal course, I would give them -- you  
3 would make a motion on that, I'd give her a chance to  
4 amend before we went to the substance of a motion to  
5 dismiss.

6 But if this is going to be in lieu of a TRO  
7 hearing, they're going to have to be substantive  
8 motions, not motions to dismiss the complaint on form.  
9 I'm not telling you we have to proceed that way; I'm  
10 just telling you that, if we are going to try and do it  
11 that way instead of a TRO, that's what it's going to  
12 involve.

13 MR. SULLIVAN: Your Honor, I would contemplate  
14 that we would move to dismiss our client, in the case  
15 of my client and probably in the case of the other  
16 doctor, without even being interested in the underlying  
17 complaint. We were not involved with the last  
18 complaint or in the State Court actions, and I think  
19 that might be separate than the motion to dismiss that  
20 some of the other parties might be filing.

21 MS. BELANGER: Your Honor --

22 THE COURT: Ms. Belanger.

23 MS. BELANGER: -- may I object, please?

24 Because, first of all, the manner in which this is  
25 being discussed, from -- the record, I'm confident,

1 will show that it appears as though a decision has  
2 already been made and this is a matter of formality  
3 where I have not been fully heard.

4 THE COURT: You know, there has not -- you know,  
5 I resent that. There has not been one single thing  
6 said in this Courtroom that should give you that  
7 opinion. What I am -- they're saying they have grounds  
8 for motion to dismiss. I don't think you have grounds  
9 for a TRO here, but you may have grounds on a complaint  
10 to go forward, so let's air it right now.

11 MS. BELANGER: What I would like -- and I -- as  
12 I had expressed before and why I wanted to be heard,  
13 which would have probably greatly helped the  
14 information that has been provided here, is that, upon  
15 reading of this complaint, it is not a duplicative of  
16 the underlying complaint; it just happens to be  
17 related.

18 The only reason why the hospitals themselves are  
19 as Defendants is solely for the purposes of obtaining  
20 the orders directly on the grave need to have -- that  
21 the family be able to have the information because the  
22 situation is such that the information -- we already  
23 have a great amount of information showing concealed  
24 deceptive conduct by the Defendant guardian.

25 Therefore, the only purpose of having the

1 facilities and the hospitals and doctors be involved  
2 was for an order to be given saying, Please provide the  
3 documents that show what treatment is being done. For  
4 five years --

5 THE COURT: I don't have the authority to order  
6 a hospital to give you records for another human being  
7 who is either in his own right or is represented by  
8 guardian. That -- I don't have the authority to do  
9 that, and it's not a proper basis for a --

10 MS. BELANGER: And exactly why, Your Honor, that  
11 the first underlying civil action, which is still  
12 pending, which has been pending for eight months, is  
13 exactly why you would have the authority, because my  
14 sister and I are valid attorney in fact and have the  
15 entitlement to those documents.

16 THE COURT: I can't -- that's a Probate matter.  
17 I can't rule on that either.

18 MS. BELANGER: As to --

19 THE COURT: That you are -- whether or not you  
20 are a valid attorney in fact for your father, that is  
21 not -- that's between you and the Probate Court.

22 MS. BELANGER: That is not -- no, Your Honor. I  
23 suggest -- the durable power of attorney that's in  
24 question is the underlying case that we are waiting on  
25 because, when that particular matter is decided, is

1 determined, that DPOA was fraudulently revoked, it,  
2 therefore, is axiomatically that, that then, because of  
3 the manner of being fraudulent, should be ordered to be  
4 in effect. Therefore, it has -- therefore, it revives  
5 what was already existent, what Attorney Siegel, our  
6 father, wanted in the first place and gives us that  
7 status as attorney in fact.

8 And that is exactly why this particular civil  
9 action was brought is because, once that is resolved,  
10 that we were fraudulently deprived of being attorney in  
11 fact, it's akin to the fruit of the poisonous tree  
12 that, that 2003 DPOA then is still effective, and under  
13 that particular DPOA, we are valid attorney in fact.  
14 Nobody has to determine anything because, once that  
15 instrument is effective, it says we are. There needs  
16 to be no further determination. That was my father's  
17 determination back in February 11th, 2003.

18 THE COURT: All right. You represent the  
19 guardian; correct?

20 MR. BROWN: Correct.

21 THE COURT: What is it that -- aside from the  
22 rest of the issues in this, what is it that precludes  
23 her from getting information about her father's --

24 MR. BROWN: I am not prepared to answer that at  
25 this time. I haven't spoken with my client about that.

1 I can certainly try to find out as soon as possible.  
2 My understanding is that it's the result of some  
3 proceedings in the Probate Court. I don't know the  
4 details of them, but it's not simply because he doesn't  
5 want to give them over, that's for certain.

6 THE COURT: And -- okay. I'm going to let you  
7 all file your motions to dismiss quickly. Anyone that  
8 doesn't want to file a motion to dismiss quickly, which  
9 is certainly your right because answers are not due,  
10 we'll go forward with the TRO hearing. I don't know  
11 any other way to keep these two things moving.

12 MR. BARRETT: Your Honor, if I may?

13 THE COURT: Yes.

14 MR. BARRETT: And this really is only applicable  
15 to those of us who are parties to the 2015 action, but  
16 given the interrelatedness if not the identical nature  
17 of the factual allegations in this complaint and that  
18 which is pending dismissal in the first instance, it  
19 strikes me that, should Your Honor rule in the favor of  
20 some if not all of the Defendants in the first matter  
21 on the merits, and I'm not prepared today to revisit  
22 meritorious arguments, but there is much discussion  
23 about the abstention doctrine. If Your Honor was to  
24 rule in our favor on that on the merits, then it  
25 strikes me that, in this instance, Attorney Belanger

1 would be estopped in certain instances from arguing in  
2 opposition to a motion that we would then bring now, if  
3 that makes sense.

4 THE COURT: I understand that. You may well be  
5 right, and I apologize for the delay in getting to the  
6 other motions. We're actually working on them now, but  
7 I'm just not confident that we're going to have those  
8 done in the same timeframe that I need to deal with  
9 this. So, I'm leaving it at your option about whether  
10 we schedule a TR0 hearing or we try and deal with  
11 this -- I mean, you may file motions to dismiss, I may  
12 find, if those motions have merit, if that's one thing;  
13 if they don't have merit and the case lives on, we'll  
14 still have to go to a TR0 hearing.

15 But -- so, I mean, you all can confer and decide  
16 how you procedurally want to go forward with this, but  
17 I -- whether you want to do it in the -- I mean, I  
18 don't -- you know, sort of what kind of schedule we  
19 want to set. You can answer in the normal course. I'd  
20 probably have a tightened schedule on the answer, given  
21 that she's got a TR0 pending. I don't see anything  
22 that makes this TR0 an acute emergency since what she's  
23 complaining about happened in November and she's waited  
24 a couple of months to file her motion, but I need to  
25 have it on some kind of either an expedited schedule on

1 the answer/motion to dismiss side, or we have to go  
2 ahead and have the TRO hearing.

3 MR. DAVIDSON: Your Honor, Leonard Davidson for  
4 Dr. Portney.

5 There are half a dozen very fine attorneys here,  
6 and what Your Honor is suggesting is we're going to  
7 have to end up having to file half a dozen motions to  
8 dismiss, or even if we consolidate them, there's a lot  
9 of effort that's going to be required when we don't  
10 know whether Mr. Cuffe will have an objection to the  
11 production of the medical records.

12 So, it strikes me as being, first of all, not an  
13 emergency. Nobody's destroying any of the medical  
14 records, and there's no allegation that that's about to  
15 happen, and I can assure the Court that my client would  
16 not be doing such. And if Mr. Cuffe has no objection  
17 to the records being produced, then we produce the  
18 records, and we're all out of here, and it  
19 simplifies --

20 THE COURT: I completely agree with you, but  
21 what he's telling me is that he doesn't have the  
22 authority to do that, and that -- I don't have the  
23 authority to order him to do that.

24 MR. DAVIDSON: But the question is: He doesn't  
25 know, so that, you know, if he could speak to his

1 client and make a determination of that, it could save  
2 a lot of trouble for everybody because, if the records  
3 can be produced, I think I speak for other medical  
4 providers here, they're records that belong to the  
5 patient as much as to the medical providers who -- the  
6 patient has a right to say, Okay, release my records,  
7 and if they say it's okay to go, we're all set. If  
8 they say no, then we're back to square one. I don't  
9 know how long it would take to find that out, but that  
10 would seem to resolve a lot of the issues here,  
11 Your Honor.

12 MR. BROWN: Your Honor, I understand. I will  
13 speak with my client as soon as I can and figure out if  
14 it is the case that we can release the records, and if  
15 so, I'll let all of the other parties know.

16 THE COURT: I mean, from -- I don't know enough  
17 about the underlying facts of this case, but let's say  
18 that there's a safety concern about her being in the  
19 same room with her father, that would not seem to be  
20 implicated by simply sharing the medical records.

21 MR. BROWN: I would agree with that. And I wish  
22 that I could speak more at length with the particular  
23 reasons, if any, why the records can't be shared, but I  
24 just haven't been able to connect with my client to  
25 that extent in the past few days.

1 THE COURT: All right. Ms. Belanger, if the  
2 medical records are produced, are you going to agree to  
3 have all of these providers dismissed?

4 MS. BELANGER: If they produce all the records,  
5 yes.

6 THE COURT: Who's that? Is that Whittier --

7 MS. BELANGER: Whittier, Merrimack Valley, Holy  
8 Family, Dr. Portney, Dr. Spencer, Dr. Ping Cui,  
9 Dr. Funk --

10 THE COURT: So, all the doctors --

11 MS. BELANGER: -- and --

12 THE COURT: -- and all the hospitals with  
13 medical records.

14 MS. BELANGER: -- and the records from Kenney  
15 Enterprises, the Right at Home.

16 THE COURT: So, that would still leave in,  
17 even if the medical records were produced, Dr. --  
18 Attorney Kazarosian, Cuffe --

19 MS. BELANGER: Attorney Barbar --

20 THE COURT: Barbar.

21 MS. BELANGER: -- and Right at Home --

22 THE COURT: And --

23 MS. BELANGER: -- Kenney Enterprises.

24 THE COURT: They would still be in?

25 MS. BELANGER: Yes. And to clarify, the record

1 well supports that here's the thing: There's nothing  
2 to be done in Probate Court because there is no order  
3 to prevent me from seeing my father other than  
4 Mr. Cuffe saying there is. In fact Mr. Bruce,  
5 Attorney Bruce, should be able to help clarify this  
6 because, as in the complaint, I was told, when I went  
7 to go see my father, because there is no valid order to  
8 prohibit me from seeing my father, I was told I needed  
9 to leave Beverly Hospital based on there being a Court  
10 order. I asked for the Court order. Beverly Hospital  
11 did not provide it to me.

12 THE COURT: Mr. Bruce, is there a Court order to  
13 that effect?

14 MR. BRUCE: I don't know, Your Honor. I'll  
15 clarify what I can, which is I'm told Ms. Belanger went  
16 to Beverly Hospital to see her father and, as related  
17 to the Court, was asked to leave because there's an  
18 order prohibiting her from having contact. I haven't  
19 seen the order. I don't know that it exists. I've  
20 just heard of it.

21 MS. BELANGER: Beverly Hospital ordered me to  
22 leave on that very basis.

23 THE COURT: Mr. Brown, is there a Court order  
24 that -- a no-contact order with her father?

25 MR. BROWN: I believe there is. I haven't seen

1 it, but I also understand that there's currently a  
2 request for a contempt order against Ms. Belanger for  
3 violating --

4 MS. BELANGER: On an order that does not exist.

5 MR. BARRETT: -- the Court order.

6 THE COURT: Okay. So, if that order exists,  
7 there should not be any reason why she shouldn't have a  
8 copy of it, so --

9 MS. BELANGER: I can help clarify. What they're  
10 doing is, Your Honor -- and Attorney Cuffe, and it  
11 shows on the complaint, they're using a contempt -- an  
12 order, which I have provided the Court, that -- an  
13 order from 2012. It was a temporary order, it's proven  
14 to be a temporary order, as I've shown from the  
15 transcripts from the Judge's own mouth, it is a case  
16 of -- as a matter of law, it was a temporary order that  
17 cannot exceed a year. They have never asked for the  
18 record to be continued, they haven't done any  
19 proceedings, and they have acted in misconduct on  
20 relying -- knowingly relying on an order that has --  
21 that not only was invalid from the beginning but --

22 THE COURT: Is the order attached to your new  
23 complaint?

24 MS. BELANGER: Yes, it is.

25 THE COURT: What exhibit?

1 MS. BELANGER: It's Exhibit -- Exhibit 101,  
2 which also --

3 THE COURT: Exhibit 101 is a series of -- it's a  
4 series of e-mails.

5 MS. BELANGER: January 31, 2012, order?

6 THE COURT: No. It's a series of e-mails. It  
7 must be the wrong exhibit number.

8 MS. BELANGER: That's 99, then comes  
9 November 8th, 2011 order, then there's the  
10 January 31st, 2012 order.

11 THE COURT: I need the exhibit number. I  
12 can't --

13 MS. BELANGER: When I labeled it, I labeled  
14 them, like, 97, 97-A, 97-B, 98-A, 98-B, 98-C.

15 THE COURT: 133 is a contempt order. I can't  
16 figure out which was the underlying one that led to the  
17 contempt. Does anybody know what the exhibit number is  
18 that --

19 MR. SINNOTT: According to the index,  
20 Exhibit 101 is the January 31st, 2012 order, the index  
21 provided by Attorney Belanger.

22 MS. BELANGER: In the way that I had  
23 electronically submitted it, I --

24 THE COURT: 133 does attach Exhibit 101, but  
25 133, it's the contempt order; it's not the order that

1 led to the -- it's not --

2 MS. BELANGER: The order that led to it is right  
3 before that. That's the November 8th, 2011 order.  
4 That's No. 100.

5 THE COURT: Hold on a second.

6 All right. So, that Exhibit is an emergency  
7 motion of guardian for temporary order, and there's  
8 Mr. Cuffe requesting a temporary order prohibiting  
9 Mr. Belanger and her husband from interfering with the  
10 treatment of her father, and that's dated November 8th,  
11 2011.

12 MS. BELANGER: And may I say they have  
13 represented that order to be a no-contact order, which  
14 is impossible because on November 8th, that -- I was  
15 living with my father up until December 16th. That  
16 order they have misrepresented to be a restraining,  
17 no-contact order. That was an order just saying that I  
18 needed permission to go with him to the doctors, and  
19 that is the one that they relied on to say that -- to  
20 create the misrepresentation that they have a  
21 restraining order against me. I have never had a  
22 restraining order against me.

23 THE COURT: Well, the next exhibit does suggest  
24 that there was such an order.

25 MS. BELANGER: But the record shows he's relying

1 on exactly that November 8th order as being that. He's  
2 relying on that November 8th order.

3 THE COURT: All right. Well, in that order, at  
4 the bottom of that order, it says, "Lisa Belanger is  
5 not permitted any access to the ward, Marvin Siegel,  
6 nor shall she be permitted any communication with him,  
7 either directly or through another or by telephone,  
8 except by the express written authorization of the  
9 guardian." And that's dated January 30th, 2012.

10 MS. BELANGER: Right. And that was a temporary  
11 order, and that was invalid. That was based on --

12 THE COURT: It's not a temporary order.

13 MS. BELANGER: Your Honor, I have --

14 THE COURT: It's part of the judgment of the  
15 civil contempt --

16 MS. BELANGER: Your Honor, I have shown the  
17 transcript -- I presented the transcript where the  
18 Judge himself on the record stated that was a temporary  
19 order. Let's see. That's No. 102, Exhibit 102,  
20 pertinent portions of the June 29th, 2012 transcript  
21 proving that he exactly -- Judge Albert himself said it  
22 was a temporary order.

23 THE COURT: All right. Mr. Brown, will you sort  
24 out what orders there are that are currently in effect  
25 that limit her contact with her father, and whatever

1       there is, give her a copy and file a copy with the  
2       Court?

3               MR. BROWN: Yes, Your Honor.

4               THE COURT: Mr. Bruce, if that is in the  
5       possession of Beverly Hospital, you are free to assist  
6       him in getting that to her as quickly as you can.

7               MR. BRUCE: I will do what I can, Your Honor.  
8       When Ms. Belanger made a request for the actual order,  
9       I referred the request to the Lahey General Counsel's  
10      office. I don't know what was produced or not  
11      produced. I had no further involvement other than  
12      facilitating or passing along her request. But I will  
13      see what I can find out as well.

14              THE COURT: So, it seems to make sense for you  
15      to check with your client about whether or not you can  
16      sort this out vis-a-vis the medical providers. And  
17      then if you could also get to me a copy of whatever  
18      order you're relying on as a -- the no-contact order,  
19      that would be helpful.

20              I'm going to give you all some time to get these  
21      motions to dismiss in, and then whatever's left after  
22      that, whoever doesn't respond, I'm going -- we're going  
23      to have to have a hearing on this. Not you; him.

24              MR. SULLIVAN: Your Honor, Attorney Belanger has  
25      said that, if the medical records were produced, that

1 we would be dismissed.

2 THE COURT: Yes.

3 MR. SULLIVAN: I represent Dr. Janice Funk.  
4 She's a neuropsychologist. Her only participation  
5 here, as alleged in the complaint on Page 85 and 86, is  
6 conducting neuropsychological examinations for which  
7 she produced reports. Those reports are already in the  
8 Court's possession, provided by Attorney Belanger as  
9 Exhibits No. 85 and 92, so where she already has the  
10 records, I move to dismiss Dr. Funk from this case at  
11 this point.

12 THE COURT: Ms. Belanger.

13 MS. BELANGER: Your Honor, but it goes more to  
14 just the certificate of record. She makes -- says of  
15 her examination, so there are records, Your Honor,  
16 pertaining to whatever she supposedly conducted for her  
17 evaluation. So, all I have is the certificate. I  
18 don't have the records of her -- of what tests she  
19 performed, what evalu -- the manner of evaluations.

20 THE COURT: Do you have the evaluation report?  
21 Because all that information is normally included in  
22 that report.

23 MS. BELANGER: Your Honor, it's mere conclusory  
24 statements, Your Honor. It does not give descriptions  
25 as to -- in-depth as to the evaluation that she

1 conducted.

2 THE COURT: All right. So, she's objecting.  
3 That's a factual dispute. I'm not going to be able to  
4 rule on the motion in this context.

5 MR. SULLIVAN: Well, she's objecting saying that  
6 the tests and stuff were not provided. I have not seen  
7 the particular reports. I've seen a lot of Dr. Funk's  
8 reports, and you have them, and the Court can review  
9 these. I'm sure they say what tests she conducted  
10 because that's the way she normally does it.

11 THE COURT: What are the exhibit numbers?

12 MR. SULLIVAN: 85 and 92.

13 THE COURT: You're talking about --

14 MS. BELANGER: Those are the certificates --

15 THE COURT: Hold on, please.

16 MS. BELANGER: -- so he can be given --

17 THE COURT: Hold on, please. 85. Are you  
18 giving me the number of the link or the actual exhibit  
19 number, Mr. Sullivan?

20 MR. SULLIVAN: Exhibit number from the table of  
21 exhibits. I have not seen -- they're impounded, so I  
22 don't see them at this point.

23 THE COURT: Hold on. Give me the numbers again.

24 MR. SULLIVAN: 85, 92.

25 THE COURT: Okay. Hold on a minute.

1 MS. BELANGER: They were manually filed  
2 yesterday.

3 THE COURT: They were manually filed? Karen, do  
4 you have the manual filings?

5 THE CLERK: I don't have them yet.

6 THE COURT: We don't have them yet.

7 All right. I can't deal with that without  
8 looking at these, and if she's objecting, it's going to  
9 be a hard motion to rule on just orally.

10 MR. SULLIVAN: Thank you, Your Honor.

11 THE COURT: Ms. Abowitz?

12 MS. ABOWITZ: Thank you. I would just seek, for  
13 my provider group back here, a little bit of guidance  
14 from the Court with respect to what we're doing on  
15 motions to dismiss. If Ms. Belanger is correct that,  
16 once she gets the records, we're out of the case, and  
17 we have no say as to whether she gets the records, we  
18 are precluded from providing them under HIPAA until we  
19 either get a Court order to do it, which you have said  
20 you don't have the authority to do, or until Mr. Cuffe  
21 gives us an authorization to do it, so under those  
22 circumstances --

23 THE COURT: Let's -- I hear you.

24 MS. ABOWITZ: -- I'm hesitant to commit  
25 resources to --

1           THE COURT: Let's hold off on the motions to  
2 dismiss from those medical providers that she has  
3 identified. As to Cuffe, Barbar, Kenney Enterprises --  
4 is that it? -- we're either going to have to go ahead  
5 with a hearing, or you're going to have to give me a  
6 motion to dismiss. Oh, and Kazarosian. Kazarosian,  
7 Cuffe, Barbar and Kenney Enterprises.

8           Yes, Ms. Belanger?

9           MS. BELANGER: Also, if I may, please,  
10 Your Honor, what needs to also be addressed is that  
11 there has never been an order ever against my sister,  
12 Devora Kaiser, and she is being restricted from --

13          THE COURT: You know, I hear you. You're in the  
14 wrong forum for that, you just are. You can argue with  
15 me all that you want, but I am not -- there is nothing  
16 in this Court or in this complaint that I can act on  
17 that is restricting her access. Her problem is with  
18 him.

19          MS. BELANGER: I object, Your Honor. The mere  
20 fact that it happens to be that, that -- that --  
21 hypothetically, let's say that could be handled in the  
22 Probate Court. That does not mean that, on a -- on its  
23 own substantive Federal question that prohibit -- that  
24 means that this Court does not have jurisdiction. It  
25 has its own jurisdiction based on it being a Federal

1 matter. So, it's not a State matter. It's a State --

2 THE COURT: A due process violation has to do  
3 with the amount of process that you've gotten vis-a-vis  
4 the liberty interests. The process that has happened  
5 in this case is all in the State Court. I can't pass  
6 on the sufficiency of their process in what is  
7 quintessentially a State issue. I'm going to -- we're  
8 looking at your other case, we'll look at whatever is  
9 filed in this case, but I'm just -- if time is of the  
10 essence in your world view, this -- I'm just not sure  
11 that this is the best avenue, even if it turns out to  
12 be a valid one, about which I --

13 MS. BELANGER: I have -- as shown well by the  
14 record, for five years, I have exhausted the Probate  
15 Court, Appellate Courts --

16 THE COURT: I don't have -- I do not have --  
17 although I am in many ways omnipotent, I do not have  
18 the authority to go back to the Probate Court and say,  
19 You have this wrong. It's just --

20 MS. BELANGER: I'm not -- that is not what's  
21 being asked, Your Honor. You do not have to create an  
22 order and say, You got it wrong. There's no order that  
23 you're overturning.

24 THE COURT: Well, they think there is, so --

25 MS. BELANGER: I know. It's amazing what

1 somebody can say when they say something exists but it  
2 doesn't exist.

3 THE COURT: With the exception of Kazarosian,  
4 Cuffe, Barbar and Kenney Enterprises, you all stand  
5 silent until we sort out this medical issue; all right?

6 Mr. Brown, you're going to sort out the medical  
7 issue, you're going to figure out what order you think  
8 you have authority to keep her from her father on. Do  
9 the inquiry for both sisters; okay? Let's figure out  
10 where we are there.

11 And then you all file your motions to dismiss.  
12 Can you do it -- today is Thursday; right? Can you do  
13 it by next Wednesday? You can incorporate as much of  
14 the prior motions as you want. You don't need to  
15 re-invent the wheel.

16 MR. BARRETT: Your Honor, we need to go look  
17 back at the complaint again. It's only been a couple  
18 of days. I would say provisionally yes, but would  
19 Your Honor entertain a motion for an extension, if that  
20 is --

21 THE COURT: We can have the hearing on the TRO  
22 if you want, if that -- would that -- if that is less  
23 work for you. I'm not -- is there anything in this  
24 complaint besides a motion for a TRO?

25 MR. BARRETT: There is a motion for a

1 declaration that my client engaged in professional  
2 misconduct, which is the only issue we're trying to  
3 address.

4 THE COURT: That's not appropriate here either.

5 MS. BELANGER: Excuse me, Your Honor, but it's  
6 exactly what's appropriate here because that's what the  
7 BBO had said, they specifically provided.

8 And I also object that -- the representation  
9 made by Counsel that it was a confidential disposition.  
10 In fact that's not a misrepresentation because there  
11 was no disposition. The fact is, is the Office of Bar  
12 Counsel and Board of Bar Overseers --

13 THE COURT: I have zero authority over the  
14 Office of Bar Counsel, zero.

15 MS. BELANGER: I'm not asking on authority. He  
16 made a representation that there was a disposition and,  
17 therefore, was confidential. Factually, he is  
18 misrepresenting to this Court. There was no  
19 disposition. It is not confidential. The letter  
20 itself from Attorney -- General Counsel does not say  
21 it's confidential, and in fact it cannot be a  
22 disposition when they refuse to even conduct a  
23 threshold inquiry.

24 THE COURT: Well, he's going to file a motion on  
25 that. If, by their rules, it is a disposition and it

1 is to be confidential, it's going to be either  
2 impounded or struck. If he's wrong about that, it will  
3 live on.

4 Motions to dismiss, or I'm going to have to go  
5 ahead and schedule a hearing; okay? I'm going to look  
6 at their motions, and you'll have the opportunity to  
7 respond. How much time do you need to respond? You  
8 too can incorporate as much of your prior motion as you  
9 want.

10 MS. BELANGER: Two weeks?

11 THE COURT: Okay. So, that puts us three weeks  
12 out at least from any TRO hearing; okay? You  
13 comfortable with that?

14 MS. BELANGER: I'm willing to do whatever is --  
15 you know, to be able to have this heard fully. I have  
16 not been able to have an evidentiary hearing at all,  
17 whether it be in the State Court, which is -- which is  
18 entirely the problem as well.

19 THE COURT: Well, if I have jurisdiction over  
20 this and if it's not dismissed, you can have your  
21 evidentiary hearing, but I have grave reservations  
22 about whether or not I have jurisdiction or you have  
23 standing. So, let's sort out the jurisdictional and  
24 standing issues, and then we'll go ahead to an  
25 evidentiary hearing, if that's appropriate.

1           Mr. Sinnott, you look -- you're getting out of  
2 your chair again.

3           MR. SINNOTT: Just on behalf of the providers,  
4 Your Honor, just because I don't know what attempts  
5 that the Plaintiffs have already made to obtain  
6 records, and I foresee a situation where the guardian  
7 ad litem would say, Well, show me what's been  
8 requested, only to find out that perhaps things have  
9 not been requested, that this is aspirational. Can I  
10 just ask the Court to inquire the extent to which there  
11 have been documented attempts to get these records?

12           THE COURT: Have there -- have you made -- what  
13 kind of process have you served on the hospitals and  
14 the providers?

15           MS. BELANGER: I have not served any process on  
16 the hospitals because, as we have discussed here, that  
17 that would be a frivolous filing because they would not  
18 be able to do so.

19           THE COURT: Have you asked them for the records,  
20 or you haven't?

21           MS. BELANGER: What I have done is, in the  
22 Probate Court, I have asked the Court that myself and  
23 my sister Devora be able to retain a doctor to be able  
24 to examine my father and the medical records since  
25 beginning in 2011, and we have consistently, through

1 the voluminous events, have asked non-stop for records  
2 and have been denied in numerous e-mails given -- they  
3 refuse to provide us information in e-mails, which I've  
4 provided. Mr. Cuffe, they gave us, you know,  
5 bare-bones descriptions. They delay in telling us when  
6 our father has been put in the hospital for what has  
7 shown to be illegitimate reasons.

8 THE COURT: Is there a request to the hospitals  
9 to provide the records?

10 MS. BELANGER: I have not -- no, because --  
11 because -- I have not done it to the hospitals  
12 themselves because I've -- it is my understanding that  
13 I have no legal ability --

14 THE COURT: Was a request made to Mr. Cuffe for  
15 the hospital records?

16 MS. BELANGER: Yes.

17 THE COURT: Is that adequate for the hospitals,  
18 the providers? If he determines -- right? It's as if  
19 those records are in Mr. Siegel's possession; correct?

20 MS. ABOWITZ: Correct.

21 THE COURT: They stand in the shoes of  
22 Mr. Siegel?

23 MS. ABOWITZ: Correct.

24 THE COURT: So, he can --

25 MS. ABOWITZ: Mr. Cuffe, as the guardian, has

1 the authority to release the records. We will be happy  
2 to release the records on the request of someone with  
3 the authority to do so, either Your Honor, another  
4 Court or Mr. Cuff. At present, we have received no  
5 request from Ms. Belanger, even if she did have the  
6 authority. Again, we have no dog in the fight. If --

7 THE COURT: Mr. Brown, is that -- do you agree  
8 that you can give authority to the hospitals to release  
9 the records even to you, and then you can give them to  
10 her?

11 MR. BROWN: I agree.

12 THE COURT: We don't need to involve a separate  
13 layer of new process here?

14 MR. BROWN: I agree, as long as there's no  
15 Probate Court ruling instructing my client otherwise.

16 THE COURT: Correct. And you're going to look  
17 into that?

18 MR. BROWN: I am, yes.

19 THE COURT: Okay. You're going to respond, I  
20 hope, by next Wednesday, anyone that wants to. You're  
21 going to have two weeks. If you respond sooner, we'll  
22 get to it sooner. We'll see what we have, and then  
23 we'll schedule a TRO hearing for whatever needs to have  
24 a TRO hearing after the three weeks is up; okay?

25 MS. ABOWITZ: Thank you, Your Honor .

1 MR. BROWN: Yes, Your Honor.

2 THE COURT: Anything else today?

3 MR. DAVIDSON: Just for clarification --

4 THE COURT: Yes.

5 MR. DAVIDSON: -- we do not need to file any  
6 responsive pleadings in the interim, the medical  
7 providers; is that correct, Your Honor?

8 THE COURT: Yes, that's correct.

9 MS. DAVIDSON: Thank you.

10 THE COURT: Once this TRO's over, we'll issue a  
11 new scheduling order for answering for whoever is left  
12 standing.

13 MR. DAVIDSON: Very good. Thank you,  
14 Your Honor.

15 THE COURT: Anything else? All right. Thank  
16 you all.

17 THE CLERK: Court is adjourned.

18 (Adjourned, 11:32 a.m.)

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C E R T I F I C A T I O N

I, Debra D. Lajoie, RPR-FCRR-CRI-RMR, do hereby certify that the foregoing pages are a true and accurate transcription of my stenographic notes in the above-entitled case.

/s/ Debra D. Lajoie

2/1/17