From: Paul McMahon
To: Amy Bowne
Cc: [redacted]
Subject: Supreme Court Rule 218 change
Date: Tuesday, April 30, 2019 3:06:26 PM

Mr. Bowne, As a Plaintiff's personal injury attorney in Illinois for the last 27 years, I have some serious concerns about the proposed rule change requiring Plaintiffs to sign a "waiver of their right to privacy". First of all, is this a solution in need of a problem? Providing authorizations and the use of subpoenas has served all parties well for many years. It balances the issues of privacy and fairness by giving notice to the Plaintiff of exactly what records are being pursued and when. This allows his attorney to ferret out when to object and ask for an in camera inspection of records, particularly in cases involving where a client has psychiatric/psychological issues and treatment that are unrelated to the case. If the case is about a broken ankle, a motion for in camera inspection achieves the correct outcome..always. That if the plaintiff is not making a claim for psychiatric or psychological injury, that the Court will redact those records and remain private. Is there a clamor in the defense bar that it is somehow unfair to expect any privacy at all for the plaintiff? Regardless of the nature of the claim? Should the defendant and his insurance company agents, all of them, be made aware that a plaintiff is struggling with issues regarding his sexuality for instance? Should the fact that they may have considered suicide in high school remain relevant and accessible to all 10 years later, because they were rearended and have back pain? These are obviously extreme examples, but they would become the norm, with this change in the rule. Again? Why the need for this change? What fairness is being impinged by our present system, which essentially allows access to relevant records, but with proper notice to the attorney who can then protect his client from overreaching? The new rule would eliminate that. And what of Petrillo, which has been a respected part of Illinois law now for decades? With this "waiver", are Plaintiffs now subject to insurers and their agents, who frequently pay the doctor's bills, sitting down and having lunch and discussing their patient without consequence and without any notice to the Plaintiff and his attorney? How does this serve our community other than to discourage plaintiffs from pursuing fair and reasonable claims in Illinois for fear of the harassment which this rule would bring?

I ask again, whose stupid idea was this, and whose ends does it serve? Our system of discovery is not broken, and does not require this poisonous "fix", but rather is indicative that the foxes are running the hen house.

If there will be a hearing on this matter, I would ask an opportunity to attend and speak on behalf of my clients who would be irreversibly harmed by this change in the rules.

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