

From: [Bill Tapella](#)
To: [Amy Bowne](#)
Subject: Proposed Amendment to SCT Rule 218
Date: Tuesday, April 30, 2019 12:34:57 PM
Attachments: [image001.png](#)

Amy,

I hope this letter finds you well. I am writing to voice my strong opposition to the proposed amendment to Supreme Court Rule 218. The proposed change would eliminate long established protections for plaintiffs seeking redress in the courts, thereby limiting access.

First, the United States Supreme Court has long recognized a right to privacy under our Constitution. Any invasion of that right must be limited in scope and necessary to the protection of other competing interest. The proposed amendment authorizes such an invasion without any limitation and cannot be justified by any competing interest. No explanation of the need for unlimited access to records is offered and no competing interest is enunciated in the proposed amendment. The reason for these omissions should be obvious: there is no need for such unfettered access to plaintiffs' medical records and no competing interest sufficient to justify the invasion of privacy permitted under the amendment exist.

Second, the proposed rule change would eliminate the protection afforded to plaintiffs by *Petrillo v. Syntex Laboratories, Inc.*, 148 Ill.App.3d 581 (1st Dist. 1986). For over three decades, *Petrillo* has prevented defense counsel from access to a plaintiffs' health care providers, outside the formal discovery process. This amendment would, without explanation or justification, wipe out those protection. There is no just reason to do so.

Third, the amendment accomplishes nothing. It appears to be a solution in search of a problem. It would open the door to unlimited access to plaintiffs' medical records for no justifiable purpose. Existing case law currently limits that access. There is simply no reason to require a plaintiff to disclose mental health records from many years prior to a motor vehicle collision, where the plaintiff's mental health is not at issue. Imagine a rape victim considering a medical malpractice or personal injury claim: should he/she be required to waive the right to privacy in order to seek damages for the loss of a kidney or a fractured spine? Innumerable other examples would demonstrate the danger inherent in the amendment. While I will spare you a statement of all those examples, I urge you to consider the impact on plaintiffs seeking access to the courts. It appears obvious that the amendment could have devastating consequences.

The amendment, as written, is poorly crafted, unjustified, and extraordinarily prejudicial to those seeking access to the courts. It should be rejected.

Thank you for your consideration.

Bill
William R. Tapella
Tapella & Eberspacher LLC
6009 Park Drive
Charleston, Illinois 61920
P 217-639-7800

F 217-639-7810

