From: Rick Murphy
To: Amy Bowne
Subject: Rule 218 proposal
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Ms Browne-

This proposed rule will do nothing more than intimidate plaintiffs with prior sensitive medical histories from bringing cases for unrelated injuries. This will have a chilling effect on the system.

The rule must be amended in a way to provide fairness to both sides.

Currently it does not require the DEFANDENTS to limit subpoenas to medical condition "at issue" or to limit invasive requests for disproportionate access to medical information.

For example, in *Palm v. Holocker*, the Illinois Supreme Court found that a defendant had not placed his medical condition "at issue" where the plaintiff sought the defendant's medical records that could have shown that the defendant had vision impairment. *Palm v. Holocker*, 2018 IL 123152, ¶ 39, reh'g denied (Feb. 28, 2019) ("…the physician-patient privilege does not apply in any action in which the patient's physical or mental condition is "an issue." We agree with the appellate court that "an issue" for purposes of this section means placed in issue by the patient.")

Just like the defendant had the privilege to drive even with impaired vision and be protected by the fact that he had not placed his condition "at issue", a plaintiff with a broken arm or leg, should not be coerced to abandon her constitutional right to privacy to the rest of her body, and most certainly should not be required to abandon her right to require destruction or return of her medical records at the end of the litigation, just as HIPAA mandates.

Scrap the proposed rule. Start over with a committee well versed on this issue and create something FAIR to both defense and plaintiffs!!!!!

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