

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
URBANA DIVISION**

FELITA McGEE, as Independent Administrator)	
of the Estate of Michael Carter, Sr., Deceased,)	
and as next-of-kin,)	
)	
Plaintiff,)	Case No. 2:16-cv-02221-CSB-EIL
)	
vs.)	
)	
MACON COUNTY SHERIFF’S DEPARTMENT,)	The Honorable Colin S. Bruce
DECATUR MEMORIAL HOSPITAL, DMH)	United States District Judge
CORPORATE HEALTH SERVICES, ROBERT)	
BRACO, M.D., JO BATES, LPN, RANDELL)	The Honorable Jonathan E. Hawley
WEST, LARRY PARSANO, TERRY COLLINS,)	United States Magistrate Judge
MICHAEL PATTON, JOSHUA PAGE, and)	
COUNTY OF MACON ILLINOIS,)	
)	
Defendants.)	

**DEFENDANTS’ MOTION FOR A PROTECTIVE ORDER
TO PRECLUDE THE TAKING OF MR. TIMOTHY D. STONE, JR.’S DEPOSITION**

Defendants, DECATUR MEMORIAL HOSPITAL and ROBERT BRACO, M.D., by their attorneys KEHART, PECKERT, WISE, TOTH & LEWIS, request that this Court enter a protective order pursuant to Fed. R. Civ. P. Rule 26(c)(1), quashing the Notice of Deposition issued with respect to Timothy D. Stone, Jr. In support of its Motion, Defendants submit a supporting legal memorandum filed contemporaneously herewith. Defendants respectfully move this Court pursuant to Fed. R. Civ. P 26:

- (1) To issue a protective order pursuant to Fed. R. Civ. P. 26(c) concerning, and to quash, Plaintiff Felita McGee’s Notice of Deposition (the “Notice”) as it relates to Decatur Memorial Hospital’s President and Chief Executive Officer, Timothy D. Stone, Jr., dated

March 7, 2019. There is good cause for this motion, on grounds including, but not limited to:

- a. The Notice impermissibly and without justification seeks the deposition of an apex witness, Mr. Stone, President and Chief Executive Officer of Decatur Memorial Hospital; and
- b. The information believed to be sought is protected by the insurer-insured privilege and Plaintiff cannot satisfy her burden under Fed. R. Civ. P. Rule 26.

(2) To issue a protective order pursuant to Fed. R. Civ. P. Rule 26(c), and to quash the Notice pursuant to Fed. R. Civ. P. Rule 26 on additional grounds, but not limited to:

- a. The discovery sought is obtainable from less burdensome sources;
- b. Plaintiff has not attempted to obtain discovery from other sources;
- c. The Notice does not seek discovery likely to lead to admissible (relevant) evidence;
- d. The intended deponent has no unique personal knowledge related to Plaintiff's claims;
- e. The deposition of the intended deponent would be unduly burdensome and would significantly disrupt his company obligations; and

(3) Such other relief as this Court may deem just and proper.

This Motion is based upon the Notice of Motion attached hereto as Exhibit "A" and the accompanying Memorandum of Law in support of this Motion.

WHEREFORE, Defendants, Decatur Memorial Hospital and Robert Braco, M.D., requests that this Court enter a protective order precluding Plaintiff from deposing Timothy D. Stone, Jr.

Dated: March 21, 2019

Respectfully submitted,

Decatur Memorial Hospital and Robert Braco,
M.D.,
Defendants,

BY: /s/ Regan Lewis (#6301846)
Kehart, Peckert, Wise, Toth & Lewis
Its Attorneys

CERTIFICATION OF ATTORNEY

Pursuant to Rule 26(c)(1), the moving attorney certifies that the parties have attempted to resolve the dispute without court action via telephone conference, but the parties remain at an impasse with respect to the necessity of the deposition at issue.

BY: /s/ Regan Lewis (#6301846)
Kehart, Peckert, Wise, Toth & Lewis
Attorney for Moving Defendants

PROOF OF SERVICE

The undersigned certifies that the foregoing Motion for a Protective Order to Preclude the Taking of Timothy D. Stone Jr.'s Deposition was filed on the 21st day of March 2019 through the ECF system with the United States District Court for the Central District of Illinois for delivery to registered participants for the litigation in which said document has been filed.

/s/ Regan Lewis

Michael J. Kehart – Lead Attorney
Regan Lewis
KEHART, PECKERT, WISE, TOTH & LEWIS
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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS**

FELITA MCGEE, as Independent)
Administrator of the Estate of MICHAEL)
CARTER, SR., *deceased* and as next-of-kin)
)
Plaintiff)

vs.)

Case No. 2:16-cv-02221

)
MACON COUNTY SHERIFF'S)
DEPARTMENT; DECATUR MEMORIAL)
HOSPITAL; DMH CORPORATE)
HEALTH SERVICES; ROBERT)
BRACO, MD; JO BATES, LPN;)
RANDELL WEST; LARRY PARSANO;)
TERRY COLLINS; MICHAEL PATTON;)
and JOSHUA PAGE)
)
Defendants.)

NOTICE OF DEPOSITIONS

TO ALL ATTORNEYS OF RECORD:

- Brian Michael Smith bsmith@heyloyster.com, urbecf@heyloyster.com
- Keith Eric Fruehling kfruehling@heyloyster.com, urbecf@heyloyster.com
- Michael B Baggett mbaggett@sa-macon-il.us, mmartin@sa-macon-il.us
- Michael J Kehart mjk@kehart.com, jer@kehart.com
- Peter R Jennetten pjennetten@quinnjohnston.com, kjohnson@quinnjohnston.com
- Regan Lewis rlewis@kehart.com, jer@kehart.com, regan.lewis@gmail.com
- William W Kurnik bkurnik@khkklaw.com, kstocco@khkklaw.com

PLEASE TAKE NOTICE that the following depositions will be taken of the person named below on the date and hour specified below at the address specified below before a Notary Public, pursuant to the provisions of Civil Rules of the United States District Court for the Central District of Illinois:

EXHIBIT A

<u>DEPONENT</u>	<u>ADDRESS</u>	<u>DATE</u>	<u>TIME</u>
RODNEY SLAYBACK	123 S. Water Suite 200 Decatur, IL 62525	3/25/19	1 PM

SGT. R.D. ATKINS	123 S. Water Suite 200 Decatur, IL 62525	3/25/19	3 PM
EDNA MORGAN	123 S. Water Suite 200 Decatur, IL 62525	3/26/19	9 AM
TIM STONE	123 S. Water Suite 200 Decatur, IL 62525	3/26/19	4 PM
JEFFREY KELLER	123 S. Water Suite 200 Decatur, IL 62525	3/27/19	11 AM

LAW OFFICES OF RAHSAAN A. GORDON

By:/s/: Rahsaan A. Gordon
One of Plaintiff's Attorneys

Rahsaan A. Gordon
LAW OFFICES OF RAHSAAN A. GORDON
333 West Wacker Drive, Suite 500
Chicago, Illinois 60606
(312) 422-9500
Firm ID 42809

Certificate of Service

The undersigned attorney says that he served the foregoing attorney on the attorney(s) address by emailing a copy to each counsel of record registered thru the Court's Case Management/Electronic (CM/ECF) system.

By:/s/: Rahsaan A. Gordon