

HITE, FANNING & HONEYMAN L.L.P.
100 North Broadway, Suite 950
Wichita, KS 67202-2209
Telephone: 316-265-7741
Facsimile: 316-267-7803

IN THE EIGHTEENTH JUDICIAL DISTRICT
DISTRICT COURT, SEDGWICK COUNTY, KANSAS
CIVIL DEPARTMENT

GWEN R. HUNT and LISA L. PERRY as
Co-Administrators of the ESTATE OF
KANDACE D. BIBLE, Deceased,

Plaintiffs,

vs.

Case No. 05 CV 4240

STEPHEN J. SCHNEIDER, D.O.,
SCHNEIDER MEDICAL CLINIC, L.L.C.,

Defendants.

PURSUANT TO K.S.A. CHAPTER 60

**DEFENDANT SCHNEIDER MEDICAL CLINIC, L.L.C.'S
MOTION TO QUASH PLAINTIFF'S NOTICES TO TAKE VIDEO DEPOSITION
OF CORPORATE DESIGNEES**

COMES NOW defendant Schneider Medical Clinic, L.L.C., and moves the Court for an order quashing plaintiff's notices to take video deposition of corporate designees (Ex's. A and B) on October 11 due to a conflict with a previously scheduled deposition to be taken that same day. In support of its motion, defendant Schneider Medical Clinic, L.L.C., states:

1. The parties had previously, by agreement, scheduled the taking of depositions on October 10, 11 and 12 of various witnesses (Dr. Schneider, Linda Atterbury-Schneider, Vince Colling and a representative of KaMMCO).

2. In an e-mail of October 2, 2007 (Ex. C), plaintiff's counsel requested that the deposition of Linda Atterbury-Schneider be moved from October 12 to October 10. Plaintiff's counsel said this would open up the 11th of October for depositions, and specifically mentioned having the deposition of Vince Colling on the 11th. In a follow-up e-mail from plaintiff's counsel later that same day, he asked if "we [plaintiff's counsel] could get him [Colling]¹ here for 2:30 [on the 11th] would that be enough time." (Ex. C)

3. On October 3, 2007, plaintiff's counsel served a deposition notice (Ex. D) to depose, at 9 a.m. on the 11th of October, a corporate representative concerning certain documents that had been produced in discovery. The notice was styled as a duces tecum one, although there was no listing of documents to be produced. On October 4, 2007, plaintiff served an amended notice (Ex A) which was/is identical to the notice served the previous day, except the amended one omits the duces tecum reference.

4. Also on October 4, 2007, plaintiff served a second deposition notice (Ex. B), this one concerning the deposition of the person "who assumed Eric Ulises Taylor's duties and responsibilities when he ceased working at the Schneider Medical Clinic, L.L.C." This notice states a date/time of October 11 at 2:30 p.m.

5. In short, the subject deposition notices (Ex's. A and B), call for the taking of depositions on October 11 at 9 a.m. and 2:30 p.m., respectively, despite the fact, by agreement, and as specifically stated in plaintiff's counsel's e-mail of October 2 (Ex. C), Vince Colling's deposition was to be arranged for sometime that same day by plaintiff's counsel, same to begin possibly at 2:30 p.m. or another time that same day.

¹ **Mr. Colling is the former spouse of decedent Kandace Bible who has, apparently, and understandably, had some contact with plaintiff's counsel.**

6. In addition to the above, and specifically addressing the amended deposition notice (Ex. A) [i.e. the deposition to commence at 9 a.m. on the 11th, concerning the documents that had been produced in discovery], counsel for Dr. Schneider has explained to plaintiff's counsel that said documents **are not** in the possession of either defendant. (Ex. E) Thus, the taking of such a deposition would be meaningless.

For the foregoing reasons, defendant Schneider Medical Clinic requests the Court enter an order quashing plaintiff's notices to take video deposition of corporate designees (Ex's. A and B).

HITE, FANNING & HONEYMAN L.L.P.
Attorneys for Defendant
Schneider Medical Clinic, L.L.C.

By: Don D. Gribble
 Don D. Gribble #12163

NOTICE OF HEARING

Please take notice the foregoing Defendant Schneider Medical Clinic, L.L.C.'s Motion to Quash Plaintiff's Notices to Take Video Deposition of Corporate Designees will be heard by the Honorable Mark Vining, Room 6-4, Sedgwick County Courthouse, 525 North Main, Wichita, Kansas 67203, at 3:30 p.m. on October 9, 2007.

Don D. Gribble
 Don D. Gribble

CERTIFICATE OF SERVICE

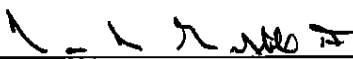
The undersigned hereby certifies that on the 4th day of October, 2007, a true and correct copy of the above and foregoing Defendant Schneider Medical Clinic, L.L.C.'s, Motion to Quash Plaintiff's Notices to Take Video Deposition of Corporate Designees was served via facsimile to:

Larry Wall, Esq.
2024 North Woodlawn, Suite 405
Wichita, KS 67208

and

Troy H. Gott, Esq.
Patterson, Gott & Burk L.C.
245 North Waco, Suite 405
Wichita, Kansas 67202
Attorneys for Plaintiffs

Steven C. Day, Esq.
Christopher S. Cole, Esq.
Woodard, Hernandez, Roth & Day, L.L.C.
P. O. Box 127
Wichita, KS 67201-0127
Attorneys for Defendant Stephen J. Schneider, D.O.



Don D. Gribble

PATTERSON, GOTT & BURK, L.C.
245 North Waco, Suite 405
Wichita, Kansas 67202
(316) 687-2400

IN THE EIGHTEENTH JUDICIAL DISTRICT
DISTRICT COURT, SEDGWICK COUNTY, KANSAS
CIVIL DEPARTMENT

GWEN R. HUNT and LISA L. PERRY as)
Co-Administrators of the ESTATE OF)
KANDACE D. BIBLE, deceased,)
)
Plaintiff,)

v.)

Case No.: 05 CV 4240

STEPHEN J. SCHNEIDER, D.O.,)
DONNA M. ST. CLAIR, D.O.,)
KIMBERLY L. HEBERT, P.A.,)
CURTIS J. ATTERBURY, P.A., and)
SCHNEIDER MEDICAL CLINIC, L.L.C.,)
)
Defendants.)

PURSUANT TO CHAPTER 60 OF
KANSAS STATUTES ANNOTATED

**AMENDED NOTICE TO TAKE VIDEO DEPOSITION
OF CORPORATE DESIGNEE**

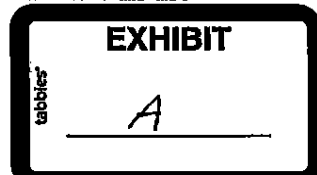
TO: All Interested Parties

WITNESS TO BE DEPOSED: Agent or employee who was responsible for gathering documents that were produced by defendant Stephen Schneider, DO's counsel and counsel for Schneider Medical Clinic that were produced September 28, 2007.

DATE AND TIME: Commencing October 11, 2007 at 9:00 a.m.

PLACE OF DEPOSITION: Larry Wall's Office, One Brittany Place, 2024 N. Woodlawn, Suite 405, Wichita, Kansas 67208

TAKE NOTICE that at the above-stated date, hour and place, Plaintiff shall cause the deposition of the witness to be taken, pursuant to K.S.A. § 60-230, before a videographer and a certified shorthand reporter, to be used for discovery purposes and for use as evidence in the



above-captioned matter. Said oral examination shall continue from day to day, or until a day and time mutually agreed upon by all counsel, until complete.

Pursuant to K.S.A. § 60-230(b)(5), Plaintiff designates with reasonable particularity the following matters on which examination is requested. The designated person shall testify as to matters known or reasonably available to the organization.

You are invited to participate.

Dated this 3rd day of October, 2007.

Respectfully submitted,

PATTERSON, GOTT & BURK, L.C.

By: 

Troy H. Gott, S.C. No. 14062
245 North Waco, Suite 405
Wichita, Kansas 67202
(316) 687-2400
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

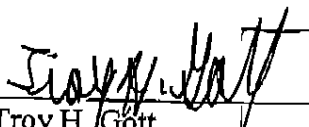
The undersigned hereby certifies that a true and correct copy of the foregoing was sent by United States Mail, properly addressed and postage prepaid this 3rd day of October, 2007, to the following:

Larry Wall
Larry Wall Trial Law
2024 N. Woodlawn, Suite 405
Wichita, KS 67208
Facsimile: (316) 267-3567

Chan P. Townsley
Hutton & Hutton Law Firm, LLC
8100 E. 22nd Street N., #1200
Wichita, KS 67225
Facsimile: (316) 686-1077
Attorneys for Plaintiffs

Steve C. Day
Christopher Cole
Woodard, Hernandez, Roth & Day, L.L.C.
257 North Broadway, Suite 300
P.O. Box 127
Wichita, Kansas 67201
Facsimile: (316) 263-0125
*Attorneys for Defendant Stephen J. Schneider,
D.O.*

Randy Troutt
Hite, Fanning & Honeyman, L.L.P.
100 North Broadway, Suite 950
Wichita, Kansas 67202
Facsimile: (316) 267-7803
*Attorneys for Defendant Schneider Medical
Clinic, L.L.C.*



Troy H. Gott

10/04/07 17:33 FAX 316 267 7803
10/04/07 10:50 FAX 316 267 7803

HITE FANNING
HITE FANNING

☑009/018
☑001

*** RX REPORT ***

RECEPTION OK

TX/RX NO	7184	
CONNECTION TEL		3166872572
SUBADDRESS		
CONNECTION ID		
ST. TIME	10/04 10:47	
USAGE T	01'05	
PGS.	6	
RESULT	OK	

PATTERSON, GOTT & BURK, L.C.
245 North Waco, Suite 405
Wichita, Kansas 67202
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**NOTICE TO TAKE VIDEO DEPOSITION
OF CORPORATE DESIGNEE**

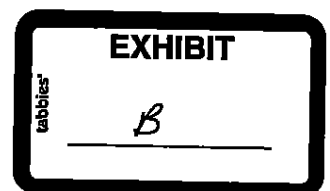
TO: All Interested Parties

WITNESS TO BE DEPOSED: The agent or employee who assumed Eric Ulises Taylor's duties and responsibilities when he ceased working at the Schneider Medical Clinic, L.L.C.

DATE AND TIME: Commencing October 11, 2007 at 2:30 p.m.

PLACE OF DEPOSITION: Larry Wall's Office, One Brittany Place, 2024 N. Woodlawn, Suite 405, Wichita, Kansas 67208

TAKE NOTICE that at the above-stated date, hour and place, Plaintiff shall cause the deposition of the witness to be taken, pursuant to K.S.A. § 60-230, before a videographer and a certified shorthand reporter, to be used for discovery purposes and for use as evidence in the



above-captioned matter. Said oral examination shall continue from day to day, or until a day and time mutually agreed upon by all counsel, until complete.

Pursuant to K.S.A. § 60-230(b)(5), Plaintiff designates with reasonable particularity the following matters on which examination is requested. The designated person shall testify as to matters known or reasonably available to the organization.

You are invited to participate.

Dated this 3rd day of October, 2007.

Respectfully submitted,

PATTERSON, GOTT & BURK, L.C.

By: 

Troy H. Gott, S.C. No. 14062
245 North Waco, Suite 405
Wichita, Kansas 67202
(316) 687-2400
Attorneys for Plaintiffs

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Wichita, KS 67225
Facsimile: (316) 686-1077
Attorneys for Plaintiffs

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Christopher Cole
Woodard, Hernandez, Roth & Day, L.L.C.
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Facsimile: (316) 263-0125
*Attorneys for Defendant Stephen J. Schneider,
D.O.*

Randy Troutt
Hite, Fanning & Honeyman, L.L.P.
100 North Broadway, Suite 950
Wichita, Kansas 67202
Facsimile: (316) 267-7803
*Attorneys for Defendant Schneider Medical
Clinic, L.L.C.*


Troy H. Gott

Don Gribble - RE: SMC - Correspondence

From: "Larry Wall" <larry@larrywalllaw.com>
To: "'Kay Davis'" <Davis@hitefanning.com>, "'Don Gribble'" <gribble@hitefanning.com>, "'Steve' 'Day'" <scday@woodard-law.com>
Date: 10/2/2007 11:36:46 AM
Subject: RE: SMC - Correspondence
CC: "'Chan Townsley'" <chan.townsley@huttonlaw.com>, "'Troy H.' 'Gott'" <troy@kslegaleagles.com>

Dear Kay: Thank you. We thought we would start at 9 am with Dr. S on the 10th and then depose Linda immediately following the completion of his depo. We will probably have time left over on the 10th. How long do you need Mr. Colling? If we could get him here for 2:30 would that be enough time. Will you pay for a room if he has to stay late? Larry

From: Kay Davis [mailto:Davis@hitefanning.com]
Sent: Tuesday, October 02, 2007 11:13 AM
To: Don Gribble; Larry Wall; Steve' 'Day
Cc: 'Chan Townsley'; Troy H.' 'Gott
Subject: Re: SMC - Correspondence

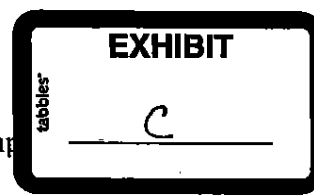
Don has asked me to respond to your email. We have been able to reschedule Linda Atterbury's deposition to October 10 as requested. We also have no objection to rescheduling the deposition of Vince Colling to October 10 or 11 although reaching him on the 10th is probably optimistic. We also have no objection to rescheduling the deposition of the KaMMCO representative to October 11. Please keep us advised of the new schedule. Thank you.

Kay Davis, Paralegal
Hite, Fanning & Honeyman L.L.P.
100 North Broadway, Suite 950
Wichita, Kansas 67202-2209
Tele: 316.265.7741
Facsimile: 316.267.7803
Email: davis@hitefanning.com

CONFIDENTIALITY NOTICE: This message contains confidential information which is legally privileged. It is intended only for the recipient named above. If you are not the intended recipient, you cannot disclose, copy, distribute, or take any action in reliance on the contents of this message. If you received this message in error, please notify me by email and delete this message.

>>> "Larry Wall" <larry@larrywalllaw.com> 10/2/2007 9:08 AM >>>

Dear Don&Steve: We believe the depositions of Dr. Schneider and Linda will be relatively short. We hope to complete them both in about 4 hours. This will require some cooperation regarding objections and breaks but we are confident that if we work together on this we can save everyone some time. In that regard we would like to take Dr. Schneider on the 10th followed by Linda. It would be helpful if she could be present that way questions asked of him would all not have to be repeated. Also this procedure if accomplished would open up the 11th for depositions. And a heads up on the dep of Mr. Colling set for Friday. I have not been able to connect with Vince Colling for the dep but maybe we could do him on the afternoon of the 10th or on the 11th. We also would prefer to depose the KaMMCO rep on the 12th. Please advise if this can be done by agreement. Larry



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)
Defendants.)

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**NOTICE TO TAKE VIDEO DEPOSITION
DUCES TECUM OF CORPORATE DESIGNEE**

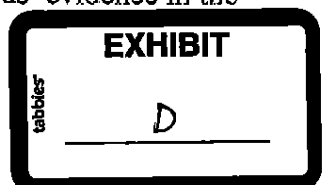
TO: All Interested Parties

WITNESS TO BE DEPOSED: Agent or employee who was responsible for gathering documents that were produced by defendant Stephen Schneider, DO's counsel and counsel for Schneider Medical Clinic that were produced September 28, 2007.

DATE AND TIME: Commencing October 11, 2007 at 9:00 a.m.

PLACE OF DEPOSITION: Larry Wall's Office, One Brittany Place, 2024 N. Woodlawn, Suite 405, Wichita, Kansas 67208

TAKE NOTICE that at the above-stated date, hour and place, Plaintiff shall cause the deposition of the witness to be taken, pursuant to K.S.A. § 60-230, before a videographer and a certified shorthand reporter, to be used for discovery purposes and for use as evidence in the



above-captioned matter. Said oral examination shall continue from day to day, or until a day and time mutually agreed upon by all counsel, until complete.

Pursuant to K.S.A. § 60-230(b)(5), Plaintiff designates with reasonable particularity the following matters on which examination is requested. The designated person shall testify as to matters known or reasonably available to the organization.

You are invited to participate.

Dated this 3rd day of October, 2007.

Respectfully submitted,

PATTERSON, GOTT & BURK, L.C.

By: 

Troy H. Gott, S.C. No. 14062
245 North Waco, Suite 405
Wichita, Kansas 67202
(316) 687-2400
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

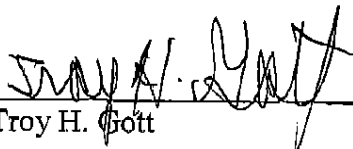
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Attorneys for Plaintiffs

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Christopher Cole
Woodard, Hernandez, Roth & Day, L.L.C.
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Facsimile: (316) 263-0125
*Attorneys for Defendant Stephen J. Schneider,
D.O.*

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100 North Broadway, Suite 950
Wichita, Kansas 67202
Facsimile: (316) 267-7803
*Attorneys for Defendant Schneider Medical
Clinic, L.L.C.*



Troy H. Gott

*** RX REPORT ***

RECEPTION OK

TX/RX NO	7171	
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SUBADDRESS		
CONNECTION ID		
ST. TIME	10/03 15:36	
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RESULT	OK	

Don Gribble - RE: SMC -Dr. Schneiders"s Responses to 9/14/07Requests for Production Pages S 000001 to S 00182 & 4 page Fax

From: "Chris Cole" <ccole@woodard-law.com>
To: "Larry Wall" <larry@larrywalllaw.com>, "Steve Day" <scday@woodard-law.com>
Date: 10/3/2007 1:40:56 PM
Subject: RE: SMC -Dr. Schneiders"s Responses to 9/14/07Requests for Production Pages S 000001 to S 00182 & 4 page Fax
CC: "Gott, Troy H." <troy@kslegaleagles.com>, "Chan Townsley" <chan.townsley@huttonlaw.com>, "Don Gribble" <gribble@hitefanning.com>

The four page fax is what Linda Schneider was able to provide from the clinic to Hite Fanning. It is my understanding that Linda believes that any other documents relating to the medicaid audit/correction plan which the Clinic may have had were taken as part of the government seizures of documents in either September 2005 and March, 2006.

The remainder of the documents which were provided to you were obtained by me from Marti Ross, being documents she had in connection with the appeal of the medicaid termination. As I prepared the response to the requests, I found that many of the items which I produced didn't fall into the specific requests. I think I produced more than the strict wording of your requests asked for. I didn't see any way to identify them to a particular request, and don't think that I can do so now either. Most of the documents simply don't fall into the specific requests, but are, I believe, related generally to the subject matter of your requests.

From: Larry Wall [mailto:larry@larrywalllaw.com]
Sent: Sunday, September 30, 2007 6:19 PM
To: Chris Cole; Steve Day
Cc: 'Gott, Troy H.'; 'Chan Townsley'
Subject: Re: SMC -Dr. Schneiders"s Responses to 9/14/07Requests for Production Pages S 000001 to S 00182 & 4 page Fax

Dear Chris: I went to your office on Friday to obtain the above responses because time is critical. I am confused by the manner in which the documents are produced. I hope you can help. The Requests ask for 13 separate class of documents. The responses are not specific to the requests. You have produced 182 numbered pages plus a four page fax without page/document numbers. Will you please advise the page numbers that are responsive to each specific request? Thank you. PS Please work this out with Troy on Monday as I will be out of the office and time is critical. Thank you. Larry PS We will want to see the original documents at the time we depose the person that gathered the documents for you and the person that can validate the storage, possession and completeness of the documents under oath. I want to do this ASAP since discovery closes in a month! Larry

