

DOCKET NO.: X03-HHD-CV11-6032094-S : SUPERIOR COURT
: :
JAMES J. DESALLE, ET AL. : COMPLEX LITIGATION DOCKET
: :
v. : JUDICIAL DISTRICT OF HARTFORD
: :
WAL-MART STORES EAST, LP, ET AL. : September 22, 2016

**ORDER RE: PLAINTIFFS' MOTION IN LIMINE RE: ALLEGED
SEXUAL MISCONDUCT BY PLAINTIFF JAMES DESALLE**

Having heard Plaintiffs James DeSalle and Hailee DeSalle's ("movants") Motion in Limine to Preclude Admission of Evidence of Alleged Sexual Misconduct by Plaintiff, James DeSalle, Contained in the Medical Records of His Daughter dated August 22, 2016 ("motion") (#398.00) and defendant Wal-Mart Stores East, LP's ("Wal-Mart") objection thereto dated September 6, 2016 (#421.00), the Court reserves decision until trial.

As an initial matter, the Court notes that the title of the motion and various statements in the motion and the objection suggest at first blush that the evidence sought to be excluded relates to alleged sexual misconduct by Mr. DeSalle toward his daughter. That is not the case, however. At issue are references in the records of Ms. DeSalle's counselor, Dr. Rhoda Kreisman, upon which Wal-Mart wishes to rely to show that, prior to the accident, Ms. DeSalle was uncomfortable going to Mr. DeSalle's home for reasons that included their sleeping arrangements and the presence of his girlfriends. The Court notes that there is no suggestion that Mr. DeSalle was engaged in any criminal conduct.

The movants argue that any such evidence is irrelevant, would be unfairly prejudicial, and would only serve to confuse the issues. Wal-Mart argues to the contrary that such information is relevant because the movants claim in the operative complaint (now #214.00) that the accident in question caused a breakdown of their relationship, giving rise to emotional

damages. In this regard, Wal-Mart contends that the challenged information tends to support the conclusion that the relationship between the movants had broken down prior to the accident.

The Court has reviewed those materials submitted by plaintiffs' counsel during the September 14, 2016 hearing – specifically, (1) deposition pages 64-65 and 81-82 of the March 31, 2015 deposition of Dana Pniewski, and (2) Defendant's Exhibit 7 from that deposition ("the Kreisman records"). The Court notes that many of the comments contained in the Kreisman records are illegible and lack context. Although the Court is mindful that information tending to show a fracture in the relationship between Mr. DeSalle and Ms. DeSalle prior to the accident may be relevant to their claim for emotional damages, a more fulsome record must be developed prior to any ruling on the admissibility of such information. Therefore, based on the current record, the Court has concluded that it will reserve decision until trial. *See Practice Book* § 15-3.

Finally, because the Kreisman records -- which are a psychologist's records that include not only notes from counseling sessions with a minor but also insurance information -- were submitted without a motion to seal and appear to be entitled to various confidentiality protections under law, the Court will return such materials to plaintiffs' counsel. If any party wishes to have the Kreisman records included in the court record in connection with the Court's adjudication of the instant motion, a proper motion must be filed.

 9/27/16

Ingrid L. Moll
Judge, Superior Court