IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

SAINT ALPHONSUS MEDICAL CENTER - NAMPA, INC., TREASURE VALLEY HOSPITAL LIMITED PARTNERSHIP, SAINT ALPHONSUS HEALTH SYSTEM, INC., AND SAINT ALPHONSUS REGIONAL MEDICAL CENTER, INC. Plaintiffs, v. ST. LUKE'S HEALTH SYSTEM, LTD., Defendant.	:	Case No. 1:12-CV-00560-BLW **STATUS CONFERENCE**

REPORTER'S TRANSCRIPT OF PROCEEDINGS

before B. Lynn Winmill, Chief District Judge

March 11, 2013

Pages 1 to 11

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PROCEEDINGS

March 11, 2013

(Telephonic status conference.)

THE COURT: Counsel, we did not hear from you in terms of any agenda items or any concerns. We checked with Judge Bush's chambers, and they likewise indicated there is nothing before them.

So I assume everything is proceeding well; if not, I need to hear about it quickly so we can start addressing whatever issues you may have.

I do note that there is a deadline for producing all documents looming, coming up here in about the next two weeks. But, with that exception, I'm not aware of anything else that's pending.

I think at the last conference, there was a concern expressed about third-party subpoenas with, I think, Micron, Blue Cross/Blue Shield. But we haven't heard anything more about that.

So let me just start, I guess, with the plaintiffs: If you could identify if there are any particular issues that are of concern for you.

MR. ETTINGER: Your Honor, this is David

Ettinger. I think we are doing pretty well. We have -- on behalf of Saint Alphonsus, we have produced about 90 percent of our documents with the other 10 percent to be produced this Wednesday. So we will be ahead of that March 22 deadline.

There is one exception to that, and that is: Each party last week, pursuant to our agreement, identified some additional custodians. And those documents haven't been produced yet, but they will be produced before the March 22 deadline.

On the data front, we produced all our data in February except, as it turns out, the data for Nampa physicians and a little bit of data for Boise physicians. Most of that, I think, has been produced.

That was brought to our attention the last couple of days, and we will have all that produced by the end of this week. We got on it over the weekend and worked that out.

On the third party front, Micron has produced. My understanding is Blue Cross has produced its data and will produce its documents within the next week.

And in general, we don't have everything from every third party. We have got quite a bit, and I think that's moving along acceptably. I mean, there are exceptions but nothing that I think is worth bringing to the court's attention.

On the deposition front, we have a third-party deposition, the first deposition, later this week. We have asked St. Luke's for dates for 13 witnesses all before April 12. And this morning we got dates for 11 of the 13, and we will be working that out.

St. Luke's asked us for dates for seven. We got them those. This morning they asked for another 12, and we will be responding to that.

So I think that's moving along. We have a few more third-party deposition subpoenas going out shortly, but we think we are working within the schedule.

THE COURT: That's very good news.

Mr. Bierig, do you want to report anything different, or do you have a different take on that?

MR. BIERIG: No. I generally agree,

Your Honor, with what Mr. Ettinger said. I'll just add a couple of things.

We also will have all of our documents produced by the date set by the court. I think there is no blinking the fact that, as Your Honor recognized when the schedule was set, this is a very ambitious schedule for good reason. Both parties are working in good faith to try to meet them, to meet the schedule. We are trying very hard.

I believe Mr. Ettinger and plaintiffs in general are also working in good faith. And we will continue to do so. If there is an issue, we will either apprise Your Honor or Judge Bush, as appropriate.

THE COURT: All right. Well, that's very good news.

Mr. Powers, anything you want to add?

MR. POWERS: I don't have anything to add to that, Your Honor. We have been balanced, like I think all parties have, in producing documents from the various sources. We feel that while we are a little behind schedule compared to Saint Al's and St. Luke's, that we'll have most, if not all, of our documents produced here in the

next ten days.
We get some stragglers coming in from time to time over the past few days, and that surprises us sometimes, but we're trying to manage the information we are receiving from several sources as well as we can.
I think I can represent to the court that we will be able to meet the March 22nd deadline that's been set.
THE COURT: Good. Well, I really don't have anything else, and I don't want to delay you from other important things you may have coming up.
I'm wondering -- I don't think it hurts for us to have kind of ongoing discussions of this type, regardless. I think we have scheduled -- if I'm looking at this correctly, April 30th scheduled.
THE CLERK: 1:30.
THE COURT: I'm sorry?
THE CLERK: April 30th at 1:30.
MR. BIERIG: That's correct, Your Honor. This is Jack Bierig.
THE COURT: I don't see a problem with it. I'm trying to think -- I'm going to be out --
Ms. Gearhart, that's not during the

time I am out of the office?
Okay. April 30th would be great. Why don't we just plan on that. That's almost a month-and-a-half away, and I think that will also give us any clear indications. But I think, as you have indicated, if there are any problems, notify our chambers; or first, of course, contact Judge Bush with regard to any discovery matters.
But I could tell from the outset that we had attorneys who have been down the road a few times on these kind of cases, and I think that's paying some huge dividends here; that both sides realize that cooperation is generally going to be better for everybody.
And I suppose taking a belligerent, confrontational point of view in some cases may win some points with some clients, but it doesn't really help them in the long run. So I very much appreciate the sophistication and cooperation that counsel is exhibiting in this case.
All right. If there is nothing else -- is there anything else?
MR. BIERIG: Your Honor, this is Jack Bierig. I'm sorry. I didn't mean to interrupt you.

THE COURT: No. Go ahead, Mr. Bierig.
MR. BIERIG: I do think that April 30th, which is sort of six weeks away, is a long time. And if it's acceptable to the court, I would respectfully suggest that we have another status conference sometime in early April, just to see how things are.
THE COURT: I don't -- Mr. Bierig, I think that's a good idea. It's just a question of finding a time. Ms. Gearhart is looking. I assume no more than an hour, and we can do it perhaps even early in the day, if need be, since some of you are further east than we are.
Ms. Gearhart, do you have some time, maybe a --
Let's try April 2nd at 9:00 a.m. I may -- I may have to change that; but if I do, we'll notify counsel of that.
Is that a problem for anyone?
MR. BIERIG: No, Your Honor.
THE COURT: That was Mr. --
MR. ETTINGER: That works for us, Your Honor. April 2nd at 9:00 a.m. And someone will circulate a call-in number?
THE COURT: Yes.

MR. ETTINGER: I think that's a great idea.
THE COURT: Let's do it. To me, these conferences pay huge dividends. I have got a couple of other cases in which I'm doing the same thing. And I must confess, in those cases, we have a long laundry list. And I had one that took an hour-and-a-half or more with some pretty contentious discussion, but I think it's still paying dividends.
And even in a case like this, where counsel are cooperating to this extent, I think this helps the court kind of keep the pulse of what's going on in the case. So we'll schedule it for that date.
MR. ETTINGER: Thank you, Your Honor. We think that's a good idea, too.
THE COURT: You know, Counsel, I would ask, if you think that there is any specific items that you want us to address, if you could notify us -- I think April 2nd, I'm going to guess, is like a Tuesday?
MR. BIERIG: It is.
THE COURT: If you could notify us by the preceding Friday of any agenda items that you want us to kind of have a heads-up on. If we don't

hear from you, we'll assume it's just going to be a matter of report. But if there are items that are contentious or problematic, if you could notify Mr. Metcalf by email with an agreed-upon agenda of the topics to be discussed -- and it can be very short, but I think it would be very helpful if we had that, so I can at least have a heads-up and know what it is I may be facing. All right?

MR. BIERIG: We will do that, Your Honor.

MR. ETTINGER: Yes, Your Honor, we will.

THE COURT: Is there anything else from anyone?

MR. ETTINGER: Not for Saint Alphonsus, Your Honor.

MR. BIERIG: Nothing from St. Luke's, Your Honor.

THE COURT: Very good, Counsel. We'll talk to you, then, on April 2nd. Thank you.

(Proceedings concluded.)

REPORTER'S CERTIFICATE

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IN WITNESS WHEREOF, I have hereunto set my hand April 10, 2013.

-s-
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