

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

M.A., by her Parent and
Guardian, FAITH ALLEN,

Plaintiff,

v.

FAMILIES THRU INTERNATIONAL
ADOPTION, INC., et al.,

Defendants,

FAMILIES THRU INTERNATIONAL
ADOPTION, INC.

Third-Party Plaintiff,

v.

ADAGIO HEALTH, INC.

Third-Party Defendant.

Civil No. 08-4614 (JHR/AMD)

AMENDED SCHEDULING ORDER

This Scheduling Order confirms the directives given to the parties during the telephone conference on January 6, 2010; and the Court noting the following appearances: Thomas Vecchio, Esquire, and Darren Summerville, Esquire, appearing on behalf of the plaintiff; Donald C. Cofsky, Esquire, appearing on behalf of the defendant Families Thru International Adoption, Inc.; Brad M. Weintraub, Esquire, appearing on behalf of third-party defendant Adagio Health, Inc.; and defendant Jeannene Smith appearing *pro se*; and for good cause shown:

IT IS this **7th** day of **January 2010**, hereby **ORDERED**:

1. Pretrial factual discovery is hereby extended to **April 30, 2010**. All pretrial discovery shall be concluded by that date. All discovery motions and applications pursuant to L. Civ. R. 37.1(a)(1) shall be made returnable before the expiration of pretrial factual discovery.

2. **Depositions.** All depositions are to be conducted in accordance with the procedures set forth in the order of Judge Gawthrop, in Hall v. Clifton Precision, 150 F.R.D. 525 (E.D.Pa. 1993).

3. All affirmative expert reports and expert disclosures pursuant to FED. R. CIV. P. 26(a)(2) shall be served not later than **May 28, 2010**. All rebuttal expert reports and expert disclosures pursuant to FED. R. CIV. P. 26(a)(2) shall be served not later than **June 30, 2010**. Each such report should be accompanied by the curriculum vitae of the proposed expert witness. No expert opinion testimony shall be admitted at trial with respect to any witness for whom this procedure has not been timely followed. Depositions of proposed expert witnesses shall be concluded by **July 30, 2010**.

For purposes of this Scheduling Order, treating physicians, if any, shall not be considered expert witnesses and shall be treated as fact witnesses who are, however, required to provide reports and records concerning their treatment. However, any doctor who is going to express an opinion as to the cause of a particular condition or as to the future prognosis of a particular condition, shall be considered an expert subject to the requirement of FED. R. CIV. P. 26(a)(2)(B).

The parties shall also exchange, in accordance with the foregoing schedule, written statements identifying all opinion testimony counsel and the parties anticipate will be presented at trial pursuant to F. R. EVID. 701 and Teen-Ed v. Kimball International, Inc., 620 F.2d 399 (3d Cir. 1980).

4. **Dispositive Motions.** Dispositive motions shall be filed with the Clerk of the Court no later than **August 27, 2010**. Opposition to the motion should be served in a timely fashion. Counsel are to follow L. Civ. R. 7.1, 7.2, 56.1 and 78.1 (Motion Practice - Generally).

5. The Final Pretrial Conference on August 5, 2010 is **RESCHEDULED** to **October 14, 2010 at 10:00 A.M.**. The form Joint Final Pretrial Order (original and two copies for the court, with sufficient copies for all counsel), as signed by all counsel, shall be delivered to the Court at the conference. The plaintiff's portion of the proposed order shall be prepared and sent to defense counsel not later than **September 24, 2010**. Defendants' and third-party defendant's portion of the proposed order shall be prepared and returned to counsel for plaintiff not later than **October 8, 2010**. Instructions for preparing the Joint Final Pretrial Order

can be found at www.njd.uscourts.gov/otherGuides.html. **FAILURE TO APPEAR AT THIS CONFERENCE WILL LEAD TO THE IMPOSITION OF SANCTIONS, INCLUDING COSTS.**

TRIAL COUNSEL MUST APPEAR AT THE FINAL PRETRIAL CONFERENCE UNLESS SPECIFICALLY EXCUSED BY THE COURT. FED. R. CIV. P. 16(d).

6. The Court will conduct a telephone status conference on **April 15, 2010 at 11:30 A.M.**. Counsel for plaintiff shall initiate the telephone call.

7. Any application for an extension of time beyond the deadlines set herein shall be made in writing to the undersigned and served upon all counsel prior to expiration of the period sought to be extended, and shall disclose in the application all such extensions previously obtained, the precise reasons necessitating the application showing good cause under FED. R. CIV. P. 16(b), and whether adversary counsel agree with the application. The schedule set herein will not be extended unless good cause is shown.

THE FAILURE OF A PARTY OR ATTORNEY TO OBEY THIS ORDER MAY RESULT IN IMPOSITION OF SANCTIONS UNDER FED. R. CIV. P. 16(f).

s/ Ann Marie Donio
ANN MARIE DONIO
United States Magistrate Judge

cc: Hon. Joseph H. Rodriguez