



IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA
IN RE: RALEIGH HEART CLINIC LITIGATION CIVIL ACTION NO. 18-C-5000

THIS DOCUMENT APPLIES TO ALL CASES
ORDER MEMORIALIZING RULINGS DURING
SEPTEMBER 21, 2018 STATUS CONFERENCE

On September 21, 2018, the Presiding Judges of the Mass Litigation Panel assigned to the Raleigh Heart Clinic Litigation held a Status Conference and made the following rulings:

Defendant Cardinal Health 414, LLC's Motion to Dismiss Plaintiffs' Complaints

The Presiding Judges heard arguments from Defendant Cardinal Health 414, LLC, by counsel, on their Motions to Dismiss Plaintiffs' Complaints pursuant to Rule 12(b)(6) of the West Virginia Rules of Civil Procedure, and from Plaintiffs, by counsel, on their Response in Opposition to Cardinal Health's Motion to Dismiss.

Construing Plaintiffs' Amended Complaint in the light most favorable to Plaintiffs, and taking the allegations to be true, the Court finds Plaintiffs' Amended Complaint does not fail to state a claim upon which relief may be granted pursuant to Rule 12(b)(6) of the West Virginia Rules of Civil Procedure. Therefore, Cardinal Health 414, LLC's Motion to Dismiss Plaintiffs' Complaints pursuant to Rule 12(b)(6) is **DENIED**. *See Order Denying Cardinal Health 414, LLC's Motions to Dismiss in Specified Cases* (Transaction ID 62501843) entered on September 28, 2018.

Voluntary Dismissal of West Virginia Department of Health and Human Resources

Certain Plaintiffs, by counsel, notified the Court, pursuant to West Virginia Rule of Civil Procedure 41(a)(1)(ii), that they wish to voluntarily dismiss all claims asserted, or that could have been asserted, in the aforementioned civil actions against the West Virginia Department of Health and Human Resources ("WVDHHR"). The aforementioned Plaintiffs wished to dismiss

any and all claims against the WVDHHR, with prejudice. All parties that have appeared in the action have agreed and consented to these dismissals, as evidenced by the signatures of counsel of record affixed hereto. Based upon the foregoing notice, the Court adopted the aforementioned stipulations and **DISMISSED**, with prejudice, the claims of certain Plaintiffs against the WVDHHR. See Voluntary Dismissal Order Dismissing the Department of Health and Human Resources with Prejudice (Transaction ID 62482226) entered on September 24, 2018.

Motion to Withdraw as Counsel for Plaintiff; Raleigh Heart Clinic Motions to Dismiss

The Court will hear the Motions to Withdraw as Counsel for Plaintiff, and *Motions to Dismiss* filed by Defendants, Raleigh Heart Clinic, Inc. and Thair Barghouthi, M.D. (Transaction IDs 62116814 and 62122080) at **1:00 p.m. on October 15, 2018**, in Courtroom Four, also known as the Ceremonial Courtroom, on the second floor of the Kanawha County Courthouse, located at 409 Virginia Street, East, in Charleston, West Virginia. Stephen P. New, Amanda J. Taylor, and The Law Office of Stephen P. New are directed to send a copy of the Court's Notice of Hearing to each Plaintiff whose case is affected by the motion to withdraw.

Discovery Disputes

All parties shall work together to resolve any discovery disputes amongst themselves. Should any discovery issues or disputes not be resolved, the Court will hear those disputes at **1:00 p.m. on October 15, 2018**, in Courtroom Four, also known as the Ceremonial Courtroom, on the second floor of the Kanawha County Courthouse, located at 409 Virginia Street, East, in Charleston, West Virginia.

It is to **ORDERED**.

ENTER: October 23, 2018.

/s/ Jay M. Hoke
Lead Presiding Judge
Raleigh Heart Clinic Litigation