

IN THE IOWA DISTRICT COURT IN AND FOR JACKSON COUNTY

PATRICIA PETERS and JACOB  
BREWSTER, Individually And As Parents  
and Next Friends of VICTORIA  
BREWSTER,

Plaintiffs,  
vs.

JACKSON COUNTY REGIONAL  
HEALTH CENTER, a/k/a JACKSON  
COUNTY PUBLIC HOSPITAL, JACKSON  
COUNTY REGIONAL HEALTH CENTER  
AMBULANCE SERVICE, JACKSON  
COUNTY AMBULANCE SERVICE,  
ACUTE CARE, INC., RAYMOND  
HAMILTON, D.O. and QUAD CITY  
HELICOPTER EMERGENCY MEDICAL  
SERVICE, a/k/a MEDFORCE,

Defendants.

**No. 07491 LACV027871**

**RULING ON DEFENDANTS' JOINT  
THIRD MOTION FOR SANCTIONS  
AND ORDER FOR DISMISSAL**

On the 15th day of July, 2016, Defendants' Joint Third Motion for Sanctions, filed June 8, 2016, came on for oral argument. No written resistance was filed to Defendants' Joint Motion. Plaintiffs appeared by attorney Stephen W. Scott. Defendant Jackson County Regional Health Center, a/k/a Jackson County Public Hospital, Jackson County Regional Health Center Ambulance Service, and Jackson County Ambulance Service ("JCRHC") appeared by attorney George L. Weilein. Defendant Raymond Hamilton, D.O. ("Hamilton") appeared by attorney Mark A. Schultheis. Defendant Quad City Helicopter Emergency Medical Service, a/k/a Medforce ("QC Helicopter") appeared by attorney Andrea D. Mason.

After reviewing the motion, arguments of counsel, and being otherwise fully apprised in the matter, the Court finds the Plaintiffs have been repeatedly delinquent in providing discovery, all as set forth in Defendants' Joint Third Motion for Sanctions.

The sanction requested by Defendants is dismissal of Plaintiffs' action. The Court finds dismissal is warranted and grants the same. This matter has been pending for two years, the Petition having been filed July 24, 2014, and Defendants are still without responsive discovery answers, despite multiple and meaningful attempts to receive the same.

QC Helicopter filed its Motion to Compel April 9, 2015, which was granted by this Court May 4, 2015. The Court ordered Plaintiffs to "provide full and complete responses to [QC Helicopter's] discovery requests on or before May 15, 2015. A failure to comply with this order may result in the imposition of sanctions pursuant to Iowa R.Civ.P. 1.517." On June 9 and 10, 2015, Dr. Hamilton and JCRHC, respectively, filed their Motions to Compel, which were similarly granted by this Court June 29, 2015. Again, Plaintiffs were ordered to "comply with the discovery requests propounded...by producing complete interrogatory answers and documents as set forth in the request for production of documents by July 17, 2015. If Plaintiffs fail to comply with this Order, the Plaintiffs may be subject to sanctions if such failure is shown to be a result of no good cause."

Plaintiffs failed to adequately produce discovery information to Defendants following this Courts' orders. On June 10, 2015, QC Helicopter filed its first Motion for Sanctions, which was subsequently withdrawn. On August 31, 2015, Hamilton and JCRHC, respectively, filed their own Motion for Sanctions and Motion to Dismiss. On October 6, 2015, the Court ruled Plaintiffs' "compliance with the orders of June 29th, 2015[] has been inadequate" and ordered Plaintiffs to pay \$1,600 in attorney's fees to each JCRHC and Hamilton. Still, Plaintiffs failed to

provide adequate discovery responses and, to date, Plaintiffs have failed to pay the \$1,600 ordered to be paid to each JCRHC and Hamilton.

On February 11, 2016, Hamilton filed his Second Motion for Sanctions, which was followed by QC Helicopter's second Motion for Sanctions filed February 12, 2016, and JCRHC's Second Motion to Dismiss filed February 23, 2016. On April 12, 2016, those motions came before this Court for consideration. By order dated April 22, 2016, the Court found "the plaintiffs have been delinquent in providing discovery, all as set forth in the [Defendants'] motion[s] for sanctions." The requested sanctions of dismissal or a bar to presentation of expert testimony was not then granted, and Plaintiffs were granted additional time to comply with Defendants' discovery requests. Importantly, Plaintiffs were allowed to select reasonable deadlines for production which they could accommodate and achieve; in fact, Plaintiffs, through counsel, approved the deadlines set by the April 22, 2016 order prior to entry thereof. Plaintiffs were "put on notice that if these deadlines are not met, the court will entertain a motion for sanctions which include [sic] dismissal of the petition. See IRCP 1.517(2)."

Although ordered to do so by the April 22, 2016 order, Plaintiffs failed to provide the curricula vitae of the treating physician and of their retained expert by May 16, 2016; failed to supplement all discovery, including school records, health records, medical records, counsel records, occupational therapy records, and physical therapy records, by May 16, 2016; failed to provide their expert's report by June 1, 2016; and failed to provide to each QC Helicopter, Hamilton, and JCRHC the \$1,600 fees ordered on April 22, 2016.<sup>1</sup> Although Plaintiffs provided Defendants a written statement and some records the day before hearing on the instant matter, such was itself untimely and, more importantly, incomplete. Defendants, at this time, are unable

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<sup>1</sup> To date, none of the \$1600 owed to QC Helicopter or the \$3200 owed to each Hamilton and JCRHC has been paid.

to prepare for trial, unable to proceed with depositions, and unable to proceed with any other discovery.

Despite the multitude of opportunities provided Plaintiffs, they remain delinquent in providing discovery materials and have now violated seven court orders: three orders to compel, the October 6, 2015 Ruling granting sanctions, and three Rulings filed 4/22/16 granting sanctions.<sup>2</sup> Plaintiffs' opportunities for compliance have been exhausted. There is no indication Plaintiffs will comply with additional orders for discovery or sanctions and Defendants have been prejudiced by Plaintiffs' noncompliance. The Court finds there exists no available alternative remedy short of dismissal and dismissal is appropriate. The Court further finds there is no evidence upon which Plaintiffs can maintain their claim.

WHEREFORE, it is hereby ORDERED Plaintiffs' Petition is DISMISSED in its entirety, with prejudice. Costs are assessed against Plaintiffs.

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<sup>2</sup> Order granting QC Helicopter's Motion to Compel 5/4/15; Order granting Hamilton's Motion to Compel 6/29/15; Order granting JCRHC's Motion to Compel 6/29/15; Ruling granting Hamilton's and JCRHC's motions for sanctions 10/6/15; Ruling granting QC Helicopter's Motion for Sanctions 4/22/16; Ruling granting Hamilton's Motion for Sanctions 4/22/16; Ruling granting JCRHC's motion for sanctions 4/22/16



State of Iowa Courts

**Type:** DISMISSED W/ PREJUDICE

**Case Number** LACV027871  
**Case Title** PATRICIA PETERS ETAL VS JACKSON CO.REGIONAL HEALTH CENTERETA

So Ordered

A handwritten signature in black ink, appearing to read "Stuart P. Werling".

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Stuart P. Werling, District Court Judge,  
Seventh Judicial District of Iowa