

IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS, et al.,

Plaintiffs,

v.

KISLING, NESTICO & REDICK, LLC,  
et al.

Defendants.

Case No. CV-2016-09-3928

Judge James Brogan

**Dr. Sam Ghoubrial's Motion for Leave to  
File Sur-Reply to Plaintiffs' Response to  
Ghoubrial's Supplemental Memorandum  
in Opposition to Plaintiffs' Motion to  
Compel Discovery**

Now comes Defendant, Sam Ghoubrial, M.D., by and through counsel, and hereby requests leave to file the attached Sur-Reply *Instanter* to Plaintiffs' Response to Ghoubrial's Supplemental Memorandum in Opposition to Plaintiffs' Motion to Compel Discovery ("Plaintiffs' Response"). Leave is necessary in order to address the multiple misrepresentations contained within Plaintiffs' Response. Thus, in anticipation of this Motion being granted, please accept the attached, marked as Exhibit "A", to be properly filed once this Motion for Leave is granted.

Respectfully Submitted,

/s/ Bradley J. Barmen

Bradley J. Barmen (0076515)  
LEWIS BRISBOIS BISGAARD & SMITH LLP  
1375 East 9<sup>th</sup> Street, Suite 2250  
Cleveland, Ohio 44114  
Phone: 216-344-9422  
Fax: 216-344-9421  
Brad.Barmen@lewisbrisbois.com  
*Counsel for Defendant  
Dr. Sam Ghoubrial*

**CERTIFICATE OF SERVICE**

The foregoing Defendant Sam Ghoubrial, M.D.'s Motion for Leave to File Sur-Reply To Plaintiffs' Response to Ghoubrial's Supplemental Memorandum in Opposition to Plaintiffs' Motion to Compel Discovery has been filed on the 31<sup>st</sup> day of January, 2019 using the Court's electronic filing system. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

/s/ Bradley J. Barmen

Bradley J. Barmen (0076515)

*Counsel for Defendant*

*Sam N. Ghoubrial, M.D.*

IN THE COURT OF COMMON PLEAS  
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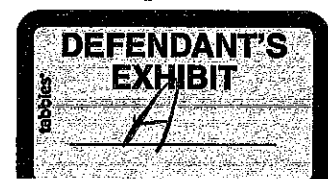
Judge James Brogan

**Dr. Sam Ghoubrial's Sur-Reply to Plaintiffs'  
Response to Ghoubrial's Supplemental  
Memorandum in Opposition to Plaintiffs'  
Motion to Compel Discovery**

Plaintiffs' Response to Ghoubrial's Supplemental Memorandum in Opposition to Plaintiffs' Motion to Compel ("Plaintiffs' Response") is filled with blatant misrepresentations. It is shocking Plaintiffs' counsel, an officer of the court, would have the unmitigated gall to file something so misleading. Attorney Pattakos' flagrant disregard for the truth and his professional ethics is a fraud on this Court and must be stopped. Plaintiffs' Response must be denied. For the reasons set forth below, attorney Pattakos should be sanctioned for violating Civil Rule 11 and R.C. 2323.51.

Notwithstanding his misguided beliefs, attorney Pattakos is not Judge Pattakos. Inexplicably, attorney Pattakos seems to believe he is somehow in a better position to make decisions and enter Orders in the Ghoubrials' divorce action than Judge John Quinn, the presiding Judge. See Summit County Court of Common Pleas Domestic Relations Division, Case No. DR-2018-04-1027. Thus, attorney Pattakos' narcissism and omnipotence are not sufficient to trump the orders of a judge presiding over an unrelated divorce case that has nothing to do with this case.

The undisputed fact is Judge Quinn entered an Order marking the deposition transcript of Julie Ghoubrial in the divorce action confidential. (See 1/25/19 Order of Judge John Quinn, Exhibit "A", also attached to Sam Ghoubrial's Supplemental Memorandum in Opposition to Plaintiffs' Motion to Compel Discovery). The Order places the deposition transcript under seal and prohibits



Julie Ghoubrial's transcript from being distributed, copied or provided to any third parties. (Exhibit "A"). Judge Quinn's Order also mandates Julie Ghoubrial's deposition transcript be used only by parties and counsel for the limited purpose of the divorce case "and for no other purpose of any kind or nature". (Exhibit "A"). Judge Quinn entered this Order after the matter had been fully briefed by the parties in the divorce action. Attorney Pattakos' suggestion that Judge Quinn was somehow duped into entering the Order is absurd and offensive. Ultimately attorney Pattakos is attempting to undermine Judge Quinn's authority because Judge Quinn entered an Order he simply disagrees with.

Attorney Pattakos' supposition regarding why Judge Quinn entered the Order is irrelevant. However, because attorney Pattakos feels he is entitled to the transcript Judge Quinn expressly sealed, attorney Pattakos resorts to blatant misrepresentations in an effort to convince this Court to override Judge Quinn's Order. First and foremost, Dr. Ghoubrial did not ask this Court to "completely deny Plaintiffs access to" Julie Ghoubrial's deposition transcript as attorney Pattakos states. (See Plaintiffs' Response, pg. 1). To the contrary, Dr. Ghoubrial simply made this Court aware of Judge Quinn's January 25, 2019 Order as he was required to do considering Plaintiffs' repeated attempts to obtain the sealed transcript. Attorney Pattakos' misrepresentations do not end there.

Attorney Pattakos goes so far as to state Dr. Ghoubrial has "engaged in an effort to manipulate the divorce court precisely to obstruct discovery and circumvent the Court's authority in this case." (See Plaintiffs' Response, pg. 1). Attorney Pattakos makes this baseless statement accusing Dr. Ghoubrial of wrongful, and potentially sanctionable, conduct without a shred of evidence or support. In making this baseless accusation in a public filing subject to Civil Rule 11, attorney Pattakos intentionally omits several material facts. First, he fails to mention there was a confidentiality order in place in the divorce action before Judge Quinn's January 25, 2019, Order was signed. And, attorney Pattakos fails to mention the prior confidentiality order did not apply to

Julie Ghoubrial's deposition transcript because it had not yet been transcribed. In fact, the transcript was only ordered and transcribed by Julie Ghoubrial's attorney in the divorce action *after* Dr. Ghoubrial had filed his Opposition to Plaintiffs' Motion to Compel.

Attorney Pattakos complains Dr. Ghoubrial failed to inform this Court how Judge Quinn's January 25, 2019, Order came into being. (See Plaintiffs' Response, pg. 2). However, in so doing attorney Pattakos fails to articulate how or why Dr. Ghoubrial was seemingly obligated to do so. Rather, attorney Pattakos simply claims it was something nefarious without a scintilla of support for his baseless accusation. Rather than supporting his arguments with facts (because there are none to support him), attorney Pattakos instead resorts to verbal tantrums akin to a toddler who is told no. Attorney Pattakos is not counsel of record for any party in the divorce case. He does not know why any motions were filed in the divorce action and he certainly does not know why Judge Quinn saw fit to enter his January 25, 2019, Order.

Not only is attorney Pattakos willing to misrepresent facts to this Court when he believes it benefits him, he also blatantly misrepresents the law. Attorney Pattakos relies on *Grantz v. Discovery for Youth*, 12<sup>th</sup> Dist. Butler Nos. CA2004-09-216, CA2004-09-217, 2005-Ohio-680 as authority supporting his argument that this Court can order the disclosure of the transcript Judge Quinn ordered sealed.<sup>1</sup> What attorney Pattakos intentionally failed to mention to this Court is *Grantz* dealt exclusively with the release of a juvenile's records only after the juvenile and his parents had executed waivers authorizing the release pursuant to R.C. § 1347.08. (See *Grantz v. Discovery for Youth*, 12<sup>th</sup> Dist. Butler Nos. CA2004-09-216, CA2004-09-217, 2005-Ohio-680, attached as Exhibit "B"). Because the three-part *Grantz* test attorney Pattakos references is only

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<sup>1</sup> *Grantz* is the only Ohio case cited by Plaintiffs in support of their arguments. Once again Plaintiffs rely primarily upon cases from other states which are neither binding upon this Court, nor supportive of Plaintiffs' arguments.

applicable to confidential juvenile records, it is no surprise he failed to attach it to Plaintiffs' Response. (Exhibit "B"). At best attorney Pattakos' omission of *Grantz* was a material oversight. At worst it was an intentional attempt to mislead this Court. Either way, giving attorney Pattakos the benefit, *Grantz* is wholly inapplicable in this matter and there are no grounds to disregard, circumvent, or overrule Judge Quinn's Confidentiality Order.

Plaintiffs' desire to obtain Julie Ghoubrial's deposition transcript from her divorce case does not trump a Confidentiality Order specifically barring its distribution to third-parties and use outside of the divorce case. Attorney Pattakos' unsupported assertion Julie Ghoubrial's testimony in the divorce case is somehow relevant to his clients' claims in this case does not make his assertions true. Dr. Ghoubrial's divorce is in no way relevant to this class action. The only reason attorney Pattakos is trying to so hard to drag Dr. Ghoubrial's divorce into this matter is to embarrass and harass in an effort to gain an unfair advantage.

Attorney Pattakos was not present during Julie Ghoubrial's deposition in the divorce case and there is no way he has seen and/or read the transcript unless he has knowingly violated Judge Quinn's Order. Because there is an Order in place specifically barring distribution and use of the transcript Plaintiffs seek to compel, Plaintiffs' Motion to Compel must be denied. Further, attorney Pattakos should be sanctioned by this Court for his repeated misrepresentations of the facts and the law.

Respectfully Submitted,

/s/ Bradley J. Barmen

Bradley J. Barmen (0076515)  
LEWIS BRISBOIS BISGAARD & SMITH LLP  
1375 East 9<sup>th</sup> Street, Suite 2250  
Cleveland, Ohio 44114  
Phone: 216-344-9422  
Fax: 216-344-9421  
Brad.Barmen@lewisbrisbois.com  
*Counsel for Defendant*  
*Dr. Sam Ghoubrial*

**CERTIFICATE OF SERVICE**

The foregoing Defendant Sam Ghoubrial, M.D.'s Sur-Reply To Plaintiffs' Response to Ghoubrial's Supplemental Memorandum in Opposition to Plaintiffs' Motion to Compel Discovery has been filed on the 31<sup>st</sup> day of January, 2019 using the Court's electronic filing system. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

/s/ Bradley J. Barmen

Bradley J. Barmen (0076515)

*Counsel for Defendant*

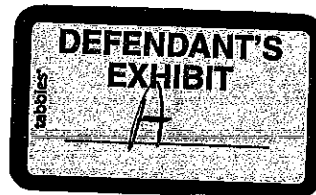
*Sam N. Ghoubrial, M.D.*

IN THE COURT OF COMMON PLEAS  
DOMESTIC RELATIONS DIVISION  
SUMMIT COUNTY, OHIO

Julie Ghoubrial	*	Case No.: DR 2018-04-1027
Plaintiff	*	Judge Quinn
vs.	*	Magistrate Dennis
Sameh N. Ghoubrial, et al.	*	<u>ORDER TO MARK DEPOSITION</u>
Defendants	*	<u>TRANSCRIPT AS CONFIDENTIAL</u>
		<u>INFORMATION</u>

Based upon written motion and for good cause shown, the following terms shall apply:

1. The deposition transcript of Plaintiff taken on or about October 12, 2018, shall remain under seal of this Court and shall not be distributed, copied, or provided to any third parties.
2. The deposition transcript shall only be used by the parties to the within action.
3. The Court Reporter shall mark each and every one of the pages contained in the deposition as confidential and subject to the Protective Order previously executed by the parties and filed with this Court.





4. This deposition transcript shall only be used by parties and counsel for the limited purposes of the within divorce case and for no other purposes of any kind or nature.

IT IS SO ORDERED.

\_\_\_\_\_  
Judge Quinn

Approved By:

/s/ Adam R. Morris  
Adam R. Morris (0086513)  
Randal A. Lowry (0001237)  
Mora Lowry (0070852)  
Attorneys for Defendant  
4000 Embassy Parkway, Suite 200  
Akron, Ohio 44333  
(330) 576-3363

The foregoing document styled 'ORDER TO MARK DEPOSITION TRANSCRIPT AS CONFIDENTIAL INFORMATION' and consisting of 2 pages plus this signature page is hereby approved and made an Order of this Court.

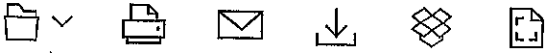
**IT IS SO ORDERED**



Judge QUINN, JOHN



Document: Grantz v. Discovery for Youth, 2005-Ohio-680 Actions ▾



Go to ▾ Page  ^ ▾

◆ Grantz v. Discovery for Youth, 2005-Ohio-680

**Copy Citation**

Court of Appeals of Ohio, Twelfth Appellate District, Butler County

February 22, 2005, Decided

CASE NOS. CA2004-09-216, CA2004-09-217

**Reporter**

**2005-Ohio-680** \* | 2005 Ohio App. LEXIS 701 \*\*

KAREN GRANTZ, et al., Plaintiffs-Appellees, - vs - DISCOVERY FOR YOUTH, et al.,  
Defendants-Appellants.

**Prior History:** [\*\*1] CIVIL APPEAL FROM BUTLER COUNTY COURT OF COMMON PLEAS.  
Case No. CV2003 12 3312.

**Disposition:** Judgment affirmed.

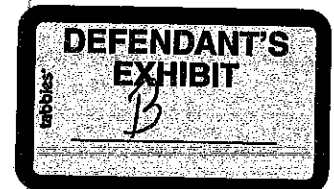
**Core Terms**

confidential, records, discovery, trial court, juvenile record, juvenile, Appellees, disclosure,  
provides, good cause, juvenile court record, juvenile court, in camera, discoverable,  
Services

**Case Summary**

**Procedural Posture**

Defendants, county agencies and juvenile court, appealed a judgment by the Butler  
County Court of Common Pleas (Ohio) that granted the motion of plaintiffs, a victim  
and her husband, to compel discovery of a minor's juvenile court records under Ohio



R. Civ. P. 26(B)(1).

**Overview**

After the minor was adjudicated a delinquent child and placed in an independent living facility, he raped the victim, who had been tutoring him in reading. The victim and her husband subsequently filed suit alleging that the county agencies and court negligently supervised and placed the minor, and that despite knowledge of the minors' prior history of violent sexual behavior, failed to warn of the danger he posed. The agencies and court denied the victim's request for the minor's juvenile records based on relevancy and confidentiality. The trial court compelled the discovery. The appellate court held that because the minor and his parent executed waivers pursuant to Ohio Rev. Code Ann. § 1347.08, permitting access the records, good cause was demonstrated. In addition, the records concerning the minor's criminal history were relevant to prove the issues of notice and foreseeability. Consequently, the trial court did not abuse its discretion or breach the confidentiality considerations set forth in Ohio Rev. Code Ann. §§ 2151.14, 5153.17, and Ohio R. Juv. P. 32 when it granted the Ohio R. Civ. P. 26(B)(1) motion to compel.

**Outcome**

The judgment was affirmed.


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**HN1** [Discovery, Privileged Communications](#)

See [Ohio R. Civ. P. 26](#). [More like this Headnote](#)


[Shepardize](#) - Narrow by this Headnote (0)

Civil Procedure > [Discovery & Disclosure](#) ▼ > [Discovery](#) ▼ >   
[Relevance of Discoverable Information](#) ▼

**HN2** [Discovery, Relevance of Discoverable Information](#)


In a relevance context, parties generally should be granted broad leeway in discovering material that may be useful to them in preparing for litigation. [More like this Headnote](#)

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[Relevance of Discoverable Information](#) ▼


1/31/2019

Grantz v. Discovery for Youth, 2005-Ohio-680

**HN3**  **Discovery, Relevance of Discoverable Information**


The concept of relevancy as it applies to discovery is not limited to the issues in a case, but to the subject matter of the action, which is a broader concept. [More like this Headnote](#)

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[Relevance of Discoverable Information](#) ▼

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**HN4**  **Discovery, Relevance of Discoverable Information**

In a relevance context, the Ohio Civil Rules permit discovery of information so long as it is reasonably calculated to lead to the discovery of admissible evidence. [Ohio R. Civ. P. 26\(B\)\(1\)](#). [More like this Headnote](#)

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**HN5**  **Standards of Review, Abuse of Discretion**

In a relevance context, it is well established that the regulation of discovery is committed to the sound discretion of a trial court and that this regulation will not be disturbed by a reviewing court absent an abuse of discretion. [More like this Headnote](#)

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**HN6**  **Judges, Discretionary Powers**

In a relevance context, management of the discovery process lies within a trial court's sound discretion. [More like this Headnote](#)

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**HN7**  **Standards of Review, Abuse of Discretion**

Regulation of pretrial discovery matters concerning privilege are reviewed under an abuse of discretion standard. An abuse of discretion connotes more than an error of law or judgment and implies that the trial court's decision was unreasonable, arbitrary, or unconscionable. [More like this Headnote](#)

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1/31/2019

Grantz v. Discovery for Youth, 2005-Ohio-680

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### **HN8** **Sentencing Alternatives, Probation**

Ohio Rev. Code Ann. § 2151.14 provides that certain individuals or entities may request disclosure of confidential juvenile court and juvenile probation records by filing a motion with the juvenile court. [More like this Headnote](#)

[Shepardize](#) - Narrow by this Headnote (0)

Civil Procedure > ... > [Discovery](#) ▼ > [Misconduct During Discovery](#) ▼ > [Motions to Compel](#) ▼  
 Criminal Law & Procedure > [Juvenile Offenders](#) ▼ > [Juvenile Proceedings](#) ▼ > [Records](#) ▼  
 Education Law > [Administration & Operation](#) ▼ > [Elementary & Secondary School Boards](#) ▼ > [School Board Records](#) ▼

### **HN9** **Misconduct During Discovery, Motions to Compel**

Ohio Rev. Code Ann. § 2151.14 provides a means for specific individuals, including a juvenile's parents, attorney, and guardian ad litem, prosecuting attorney, school board, and juvenile probation department, among others, to obtain disclosure of juvenile records. However, review of relevant case law demonstrates that courts, other than juvenile courts, may order disclosure of juvenile records when pertinent to pending civil and criminal actions. [More like this Headnote](#)

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Criminal Law & Procedure > [Juvenile Offenders](#) ▼ > [Juvenile Proceedings](#) ▼ > [Records](#) ▼

### **HN10** **Juvenile Proceedings, Records**

Under certain circumstances, confidential records of a children's services agency must be made available to a trial court for an in camera inspection. [More like this Headnote](#)

[Shepardize](#) - Narrow by this Headnote (0)

Criminal Law & Procedure > [Preliminary Proceedings](#) ▼ > [Discovery & Inspection](#) ▼ > [In Camera Inspections](#) ▼  
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### **HN11** **Discovery & Inspection, In Camera Inspections**

A criminal defendant's right to a fair trial entitles the defendant to an in camera review by a trial court of confidential records in order to determine whether the records contain evidence material to the accused's defense. [More like this Headnote](#)

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1/31/2019

Grantz v. Discovery for Youth, 2005-Ohio-680

Criminal Law & Procedure > [Preliminary Proceedings](#) ▼ > [Discovery & Inspection](#) ▼  
 > [In Camera Inspections](#) ▼  
 Evidence > ... > [Documentary Evidence](#) ▼ > [Writings](#) ▼ > [General Overview](#) ▼  
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### **HN12** [Discovery & Inspection, In Camera Inspections](#)


The confidential nature of juvenile records is not absolute, and such records may be discovered in a criminal proceeding, provided a trial court conducts an in camera review of the records to determine (1) the relevancy and necessity of the records and (2) whether admission of the records outweighs statutory confidentiality provisions. [More like this Headnote](#)

[Shepardize](#) - [Narrow by this Headnote \(1\)](#)  1

Civil Procedure > ... > [Discovery](#) ▼ > [Misconduct During Discovery](#) ▼ >  
[Motions to Compel](#) ▼  
 Criminal Law & Procedure > [Juvenile Offenders](#) ▼ > [Juvenile Proceedings](#) ▼ >  
[Records](#) ▼  
 Governments > [Courts](#) ▼ > [Court Records](#) ▼

### **HN13** [Misconduct During Discovery, Motions to Compel](#)

Ohio Rev. Code Ann. § 1347.08 provides a mechanism for obtaining confidential juvenile records where a juvenile has executed a written authorization permitting inspection of his juvenile court records. This statute does not permit absolute disclosure of juvenile court records, but requires the trial court to conduct a balancing test to determine whether the records are discoverable. [More like this Headnote](#)

[Shepardize](#) - [Narrow by this Headnote \(1\)](#)  1

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[General Overview](#) ▼  
 Criminal Law & Procedure > [Juvenile Offenders](#) ▼ > [Juvenile Proceedings](#) ▼ >  
[Records](#) ▼

### **HN14** [Discovery, Privileged Communications](#)

Although confidential, juvenile records may nevertheless be discoverable and admissible in certain circumstances. [More like this Headnote](#)

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[Records](#) ▼

### **HN15** [Juvenile Proceedings, Records](#)

Although juvenile records are afforded a measure of confidentiality by [Ohio Rev. Code Ann. §§ 2151.14, 5153.17](#) and [Ohio R. Juv. P. 32](#), the confidential nature of

1/31/2019

Grantz v. Discovery for Youth, 2005-Ohio-680

such records is not absolute since there exist multiple exceptions to the confidentiality provisions. [More like this Headnote](#)

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### **HN16** [Discovery, Privileged Communications](#)

The proper procedure for determining the discoverability of confidential juvenile records requires a trial court to conduct an in camera inspection to determine: (1) whether the records are necessary and relevant to the pending action; (2) whether good cause has been shown by the person seeking disclosure; and (3) whether their admission outweighs the confidentiality considerations set forth in [Ohio Rev. Code Ann. §§ 5153, 2151](#). [More like this Headnote](#)

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### **HN17** [Discovery, Privileged Communications](#)

In a motion to compel context, the "good cause" determination does not run to the benefit of an agency, but instead, the nondisclosure protection runs to the individuals who are the subject of the file. Therefore, the agency may not determine that a record is confidential for the purpose of protecting the agency itself. Good cause is generally defined as that which is in the best interest of the juvenile. [More like this Headnote](#)

[Shepardize - Narrow by this Headnote \(0\)](#)

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### **HN18** [Juvenile Proceedings, Records](#)

Generally, the admission of juvenile records is not outweighed by statutory confidentiality considerations. [More like this Headnote](#)

[Shepardize - Narrow by this Headnote \(0\)](#)

**Counsel:** Michael T. Gmoser, [Richard A. Hyde](#) ▼, [John M. Holcomb](#) ▼, Hamilton, Ohio, for plaintiffs-appellees.

[Robbins, Kelly, Patterson & Tucker](#) ▼, [Randy J. Blankenship](#) ▼, [Michael A. Galasso](#) ▼,  
[Sandra Kurt, Summit County Clerk of Courts](#)



1/31/2019

Grantz v. Discovery for Youth, 2005-Ohio-680

Cincinnati, Ohio, for defendant-appellant, Discovery for Youth, Inc.

Freund, Freeze & Arnold ▼, Stephen V. Freeze ▼, Lisa A. Hesse ▼, Dayton, Ohio, for defendants-appellants, the Hamilton County Board of Commissioners, Hamilton County Juvenile Court, Hamilton County Department of Job and Family Services, Hamilton County Board of Mental Retardation and Developmental Disabilities, Hamilton County Mental Health Board, and Hamilton County Alcohol and Drug Services Board, Hamilton Choices, LLC and Indiana Behavioral Health Choices, Inc.

**Judges:** WALSH ▼, J. POWELL, P.J., and YOUNG, J., concur.

**Opinion by:** WALSH ▼

## Opinion

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### WALSH, J.

**[\*P1]** Defendants-appellants, the Hamilton County Board of Commissioners, Hamilton County Juvenile Court, Hamilton County Department of Job and Family Services, Hamilton County Board of Mental Retardation and Developmental Disabilities, Hamilton County Mental Health Board, and Hamilton County [\*\*2] Alcohol and Drug Services Board ("Hamilton County defendants"); Hamilton Choices, LLC and Indiana Behavioral Health Choices, Inc. ("Choices"); and Discovery for Youth, appeal the decision of the Butler County Court of Common Pleas, granting the motion of plaintiffs-appellees, Karen and John Grantz, to compel discovery of Terrell Wilkins' juvenile court records. We affirm the decision of the trial court.

**[\*P2]** Terrell Wilkins was adjudicated a delinquent child by the Hamilton County Court of Common Pleas, Juvenile Division. In the disposition of the matter, Wilkins was placed in an independent living facility. Hamilton County had contracted with Hamilton Choices for the delivery and management of social services, including juvenile placements in independent living facilities. Consistent with the contract, Hamilton Choices placed Wilkins with Discovery for Youth's independent living facility in Hamilton, Ohio. Discovery for Youth is licensed by the Ohio Department of Job and Family Services as a private noncustodial agency pursuant to O.A.C. 5101:2-5-03(D).

**[\*P3]** On March 7, 2003, Wilkins, then 17 years old, assaulted and raped Karen Grantz, [\*\*3] who had been tutoring Wilkins in reading at the Butler County YWCA. Grantz was alone with appellant in the basement of the YWCA facility when the attack occurred. Wilkins was arrested and bound over to the Butler County Grand Jury. He was indicted and charged as an adult with felonious assault and rape. Upon pleading no contest to the charges, he was convicted and sentenced accordingly.

**[\*P4]** Appellees, Karen Grantz and her husband, John Grantz, subsequently filed suit alleging appellants negligently supervised and placed Wilkins, and that despite knowledge of Wilkins' prior history of violent sexual behavior, failed to warn her or the YWCA of the danger he posed. Appellees alleged that as a consequence, neither Grantz nor the YWCA appreciated the risk that resulted when Grantz was left alone with Wilkins.

1/31/2019

Grantz v. Discovery for Youth, 2005-Ohio-680

[\*P5] Appellees sought discovery of the appellants' records and documents pertaining to Wilkins. The defendants denied the request, asserting that the records were not relevant to the suit and additionally, that Wilkins' juvenile records were confidential and privileged. Appellees moved to compel disclosure of the records. The trial court granted the motion to compel [\*\*4] discovery and appellants have appealed.

[\*P6] Discovery For Youth's Assignment of Error:

[\*P7] "The trial court erred in granting plaintiff's motion to compel disclosure."

[\*P8] Choices' and Hamilton County Defendants' Assignment of Error:

[\*P9] "The trial court erred when it ordered that confidential juvenile court records and confidential investigation records concerning Wilkins be released to the Grantzes in the prosecution of their civil lawsuit."

[\*P10] Because appellants' assignments of error raise similar issues, they will be considered together.

[\*P11] Civ.R. 26 establishes the scope of discovery and states that **HN1** "parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action." **HN2** Parties generally should be granted broad leeway in discovering material that may be useful to them in preparing for litigation. See Stegawski v. Cleveland Anesthesia Group, Inc. (1987), 37 Ohio App.3d 78, 85, 523 N.E.2d 902. **HN3** The concept of relevancy as it applies to discovery is not limited to the issues in the case, but to the subject matter of the action, which is a [\*\*5] broader concept. Nilavar v. Osborn (2000), 137 Ohio App.3d 469, 499, 738 N.E.2d 1271; Tschantz v. Ferguson (1994), 97 Ohio App.3d 693, 715, 647 N.E.2d 507. **HN4** The Civil Rules permit discovery of information so long as it is "reasonably calculated to lead to the discovery of admissible evidence." Civ.R. 26(B)(1).

[\*P12] **HN5** It is well-established that the regulation of discovery is committed to the sound discretion of the trial court and that this regulation will not be disturbed by a reviewing court absent an abuse of discretion. See Dirksing v. Blue Chip Architectural Products, Inc. (1994), 100 Ohio App.3d 213, 227, 653 N.E.2d 718 **HN6** (management of discovery process lies within trial court's sound discretion); see, also, State ex rel. Denton v. Bedinghaus, 98 Ohio St.3d 298, 305, 2003 Ohio 861, P31, 784 N.E.2d 99. **HN7** Regulation of pretrial discovery matters concerning privilege are also reviewed under an abuse of discretion standard. Radovanic v. Cossler (2000), 140 Ohio App.3d 208, 213, 746 N.E.2d 1184; Witt v. Fairfield Public School District (Apr. 22, 1996), Butler App. No. CA95-10-169, 1996 Ohio App. LEXIS 1564. An abuse of discretion connotes more than an error of law or judgment [\*\*6] and implies that the trial court's decision was unreasonable, arbitrary, or unconscionable. Bedinghaus, 2003 Ohio 861, at P31.

[\*P13] Appellants first argue that the records sought by appellees may only be obtained upon motion before the Juvenile Division of the Hamilton County Court of Common Pleas. They thus conclude that the trial court was without authority to compel discovery of the confidential juvenile records in the present matter. In support of their contention, appellants cite **HN8** R.C. 2151.14, which provides that certain individuals or entities may request disclosure of confidential juvenile court and juvenile probation records by filing a motion with the juvenile court. They argue, without authority, that this statute provides the exclusive mechanism by which juvenile court records may be disclosed.

1/31/2019

Grantz v. Discovery for Youth, 2005-Ohio-680

**[\*P14]** HN9 R.C. 2151.14 provides a means for specific individuals, including the juvenile's parents, attorney, and guardian ad litem, prosecuting attorney, school board, and juvenile probation department, among others, to obtain disclosure of juvenile records. However, review of relevant case law demonstrates that courts, other than [\*\*7] juvenile courts, may order disclosure of juvenile records when pertinent to pending civil and criminal actions.

**[\*P15]** In the criminal context, the United States Supreme Court has acknowledged that HN10 under certain circumstances, confidential records of a children's services agency must be made available to a trial court for an in camera inspection. In Pennsylvania v. Ritchie (1987), 480 U.S. 39, 94 L. Ed. 2d 40, 107 S.Ct. 989, the United States Supreme Court held that HN11 a criminal defendant's right to a fair trial entitled the defendant to an in camera review by the trial court of confidential records in order to determine whether the records contained evidence material to the accused's defense.

**[\*P16]** The Ohio Fifth District Court of Appeals has likewise held that HN12 the confidential nature of juvenile records is not absolute, and that such records may be discovered in a criminal proceeding, provided the trial court conducts an in camera review of the records to determine 1) the relevancy and necessity of the records and 2) whether admission of the records outweighs statutory confidentiality provisions. State v. Fuson (Aug. 11, 1998), Knox App. No. 97 CA 000023, 1998 Ohio App. LEXIS 4047. The Eighth [\*\*8] District Court of Appeals has held that confidential juvenile records are discoverable in an administrative action revoking childcare provider certification. Child Care Provider Certification Department v. Harris, Cuyahoga App. No. 82966, 2003 Ohio 6500. The Third District Court of Appeals has held that confidential juvenile records are discoverable in a parenting dispute brought in the domestic relations division. See Johnson v. Johnson (1999), 134 Ohio App.3d 579, 731 N.E.2d 1144.

**[\*P17]** Notably, HN13 R.C. 1347.08 also provides a mechanism for obtaining confidential juvenile records where, as in the present case, the juvenile has executed a written authorization permitting inspection of his juvenile court records. See Atty.Gen.Ops. 84-077. This statute does not permit absolute disclosure of juvenile court records, but requires the trial court to conduct a balancing test to determine whether the records are discoverable. See id.

**[\*P18]** We consequently reject appellants' argument that the only mechanism for obtaining confidential juvenile records lies in a R.C. 2151.14 application to the juvenile court. See, [\*\*9] also, State v. Hart (1988), 57 Ohio App.3d 4, 566 N.E.2d 174 HN14 (although confidential, juvenile records may nevertheless be discoverable and admissible in certain circumstances).

**[\*P19]** HN15 Although the juvenile records at issue are afforded a measure of confidentiality by R.C. 2151.14, R.C. 5153.17 and Juv.R. 32, the confidential nature of such records is not absolute since, as noted above, there exist multiple exceptions to the confidentiality provisions. HN16 The proper procedure for determining the discoverability of confidential juvenile records requires the trial court to conduct an in camera inspection to determine: 1) whether the records are necessary and relevant to the pending action; 2) whether good cause has been shown by the person seeking disclosure; and 3) whether their admission outweighs the confidentiality considerations set forth in R.C. 5153 and R.C. 2151. Johnson at 585; see, also, Harris, 2003 Ohio 6500 at P11.

1/31/2019

Grantz v. Discovery for Youth, 2005-Ohio-680

**[\*P20]** In the present case, the trial court first concluded that appellees demonstrated good cause for their request. **HN17** The "good cause" determination does not **[\*\*10]** run to the benefit of the agency, but "instead, the nondisclosure protection runs to the individuals who are the subject of the file. Therefore, the [agency] may not determine that a record is confidential for the purpose of protecting the [agency] itself." 1991 Ohio Atty.Gen.Ops. No. 91-003, at 5, citing Ohio Civil Rights Comm'n. v. Campbell, 46 Ohio App.2d 110, 345 N.E.2d 438. Good cause is generally defined as that which is in the best interest of the juvenile. Id.; Johnson at 585. While appellants aptly point out that the good cause determination should focus on the best interest of the child, not appellees, we agree with the trial court that, in the present case, where the juvenile and his parent have executed waivers permitting appellees to access the records, good cause is demonstrated.

**[\*P21]** We also agree with the trial court's conclusion that "the records in possession of the Defendants concerning [Wilkins'] criminal history \*\*\* are relevant to prove the issues of notice and foreseeability," and that, **HN18** generally, the admission of the records is not outweighed by statutory confidentiality considerations. The trial court's decision further provides the parties **[\*\*11]** with an opportunity to have any disputed materials reviewed in camera at which time they can argue the relevance of the evidence and factors weighing for or against the statutory confidentiality considerations.

**[\*P22]** We consequently conclude that the trial court did not abuse its discretion and overrule the assignments of error.

**[\*P23]** Judgment affirmed.

POWELL, P.J., and YOUNG, J., concur.



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