

EXHIBIT “J”

Rivera-Soto, Roberto A. (NJ)

From: aschlafly@aol.com
Sent: Friday, May 13, 2016 4:51 PM
To: Rivera-Soto, Roberto A. (NJ)
Subject: Re: ABIM v. Salas Rushford
Attachments: Objections to Notice of Deposition in ABIM v Salas Rushford.pdf

Dear Mr. Rivera-Soto,

Please find attached our objections to your untimely Notice of Deposition on Dr. Salas Rushford.

This has also been mailed to your office.

Andy Schlafly
Counsel for Defendant Jaime Salas Rushford, M.D.
908-719-8608

-----Original Message-----

From: Rivera-Soto, Roberto A. <RiveraSotoR@ballardspahr.com>
To: 'aschlafly@aol.com' <aschlafly@aol.com>
Sent: Mon, May 9, 2016 3:36 pm
Subject: ABIM v. Salas Rushford

Dear Mr. Schlafly:

Please see the attached letter with enclosure.

Sincerely,

Roberto A. Rivera-Soto
Ballard Spahr LLP
210 Lake Drive East - Suite 200
Cherry Hill, New Jersey 08002
Direct: 856.761.3416
Fax: 856.761.1020
riverasotor@ballardspahr.com

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

<hr/>)	
AMERICAN BOARD OF INTERNAL)		
MEDICINE,)		
)		
Plaintiff,)		
)		Civil Action
vs.)		
)		2:14-cv-06428-KSH-CLW
JAIME SALAS RUSHFORD, M.D.,)		
)		
Defendant.)		
<hr/>)	

**DEFENDANT’S OBJECTIONS TO PLAINTIFF’S NOTICE OF DEPOSITION
BY ORAL EXAMINATION WITH REQUEST FOR PRODUCTION OF DOCUMENTS**

TO: Roberto Rivera-Soto, Esq.
Counsel for Plaintiff American Board of Internal Medicine

Defendant Jaime Salas Rushford, M.D. (“Dr. Salas Rushford”) hereby serves the following objections to the Notice of Deposition by Oral Examination with Request for Production of Documents (“Plaintiff’s Notice”) by Plaintiff American Board of Internal Medicine dated May 9, 2016:

1. Plaintiff’s Notice provides inadequate notice in its demand for documents that Plaintiff seeks to use in the deposition. FED. R. CIV. P. 34(b)(2)(A) requires notice of a minimum of 30 days to request documents from a party. Plaintiff’s Notice is expressly based on FED. R. CIV. P. 34, but Plaintiff’s Notice provides notice of only 17 days, which is barely half the time period required by the Federal Rules of Civil Procedure. Furthermore, Dr. Salas Rushford objects to several of Plaintiff’s requests as being clearly inappropriate, such as Plaintiff’s demand for Defendant’s personal tax returns from 2004 through 2008, which are years that are not even in

dispute in this action. Any documents that Dr. Salas Rushford may produce should be taken as a good-faith effort and not as a waiver of this objection as to any other documents.

2. Plaintiff's Notice provides inadequate notice as to the deposition itself. Dr. Salas Rushford lives and works in Puerto Rico, but Plaintiff's Notice gives him only notice of only 22 days for a deposition scheduled on the first day after the highly traveled Memorial Day weekend, which would require Dr. Salas Rushford to travel on Memorial Day itself. Plane fares are exorbitant at this late time for booking travel during that weekend. Plaintiff's short notice for such a highly traveled time is not "reasonable written notice" as expressly required by FED R. CIV. P. 30(b)(1).

3. Plaintiff's Notice is also unreasonable in that May 31 is Dr. Salas Rushford's birthday and he has prior family plans for that date.

4. Plaintiff's Notice is also untimely in giving him notice of only 14 business days. Dr. Salas Rushford runs a medical practice and schedules out more than 14 days the few patients he has been able to keep after ABIM injured him. He will need to take time off to prepare for a deposition and travel to and from it, in addition to the day of the deposition itself. There is no justification for Plaintiff to provide so little notice for a deposition of Defendant, in litigation that has been ongoing for more than 18 months.

5. Plaintiff's Notice specifies an unreasonable location for the deposition, far outside of the vicinage of this lawsuit in Newark. Plaintiff insists on holding the deposition in downstate New Jersey, in Cherry Hill, rather than a location within the Newark vicinage. Plaintiff sued in Newark, and the deposition should be held in proximity to either the Newark vicinage or where Dr. Salas Rushford is located in Puerto Rico.

6. Plaintiff's Notice is untimely and not feasible under the currently applicable Scheduling Order, by which fact discovery must conclude on May 31, 2016. Plaintiff has not sought an extension in that deadline, and thus Plaintiff's Notice is untimely.

Defendant Dr. Salas Rushford asserts the above objections without waiving any additional objections he may have to specific document requests or questions.

Dated: May 13, 2016

s/ Andrew L. Schlafly

Andrew L. Schlafly (AS4533)
Attorney at Law
939 Old Chester Rd.
Far Hills, NJ 07931
(908) 719-8608
Attorney for Defendant Jaime Salas Rushford, M.D.

CERTIFICATE OF SERVICE

I, Andrew L. Schlafly, counsel for Defendant Jaime Salas Rushford, M.D., do certify that on May 13, 2016, I served by email and postal mail Defendant's Objections to Plaintiff's Notice of Deposition by Oral Examination with Request for Production of Documents on all parties of record as follows:

Roberto A. Rivera-Soto
BALLARD SPAHR LLP
210 Lake Drive East- Suite 200
Cherry Hill, New Jersey 08002-1163
riverasotor@ballardspahr.com

Counsel for Plaintiff American Board of Internal Medicine

s/ Andrew L. Schlafly

Andrew L. Schlafly (AS4533)
Attorney for Defendant Jaime Salas Rushford, M.D.

EXHIBIT “K”

Rivera-Soto, Roberto A. (NJ)

From: Rivera-Soto, Roberto A. (NJ)
Sent: Friday, May 13, 2016 5:35 PM
To: 'aschlafly@aol.com'
Subject: ABIM v. Salas Rushford
Attachments: 20160513 Email letter to A. Schlafly, Esq. re defendant's objs. to notice of deposition.pdf

Dear Mr. Schlafly:

Please see the attached letter.

Sincerely,

Roberto A. Rivera-Soto
Ballard Spahr LLP
210 Lake Drive East - Suite 200
Cherry Hill, New Jersey 08002
Direct: 856.761.3416
Fax: 856.761.1020
riverasotor@ballardspahr.com
From: aschlafly@aol.com [<mailto:aschlafly@aol.com>]
Sent: Friday, May 13, 2016 4:51 PM
To: Rivera-Soto, Roberto A. (NJ)
Subject: Re: ABIM v. Salas Rushford

Dear Mr. Rivera-Soto,

Please find attached our objections to your untimely Notice of Deposition on Dr. Salas Rushford.

This has also been mailed to your office.

Andy Schlafly
Counsel for Defendant Jaime Salas Rushford, M.D.
908-719-8608

-----Original Message-----

From: Rivera-Soto, Roberto A. <RiveraSotoR@ballardspahr.com>
To: 'aschlafly@aol.com' <aschlafly@aol.com>
Sent: Mon, May 9, 2016 3:36 pm
Subject: ABIM v. Salas Rushford

Dear Mr. Schlafly:

Please see the attached letter with enclosure.

Sincerely,

Roberto A. Rivera-Soto
Ballard Spahr LLP
210 Lake Drive East - Suite 200
Cherry Hill, New Jersey 08002
Direct: 856.761.3416

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Roberto A. Rivera-Soto
Direct: 856.761.3416
riverasotor@ballardspahr.com

VIA ELECTRONIC MAIL

May 13, 2016

Andrew L. Schlafly, Esq.
939 Old Chester Road
Far Hills, New Jersey 07931

Re: ***AM. BD. OF INTERNAL MED. V. JAIME SALAS RUSHFORD, M.D.***
Civil Action No. 2:14-cv-06428-KSH-CLW
United States District Court for the District of New Jersey

Dear Mr. Schlafly:

This firm represents plaintiff/counterclaim defendant the American Board of Internal Medicine and third-party defendants Richard Baron, M.D., Christine K. Cassel, M.D., Lynn O. Langdon, Eric S. Holmboe, M.D., David L. Coleman, M.D., Joan M. Feldt, M.D., and Naomi P. O'Grady, M.D. (collectively, "ABIM") in the above referenced case.

I am in receipt of your email of 4:51 p.m. this afternoon, enclosing what you have titled "defendant's objections to plaintiff's notice of deposition by oral examination with request for production of documents." As you well know, that document is a legal nullity, both procedurally and substantively. The proper procedure is an application for a protective order; from a substantive point of view, none of the reasons advanced form a proper basis for disregarding the command of the notice of deposition properly served on defendant. As a result, please be advised that we do not recognize what you have submitted as being operative in any manner or fashion.

Please be reminded that the May 9, 2016 notice of deposition as issued to defendant remains in full force and effect. Your client may choose to disregard it -- and the sanctions such disregard will bring -- at his own peril. Please be guided accordingly.

Very truly yours,

BALLARD SPAHR LLP

By: 

Roberto A. Rivera-Soto

A PA Limited Liability Partnership | John B. Kearney, Managing Partner

Atlanta | Baltimore | Bethesda | Delaware | Denver | Las Vegas | Los Angeles | New Jersey
New York | Philadelphia | Phoenix | Salt Lake City | San Diego | Washington, DC
www.ballardspahr.com

EXHIBIT “L”

Rivera-Soto, Roberto A. (NJ)

From: Rivera-Soto, Roberto A. (NJ)
Sent: Thursday, May 26, 2016 7:07 PM
To: aschlafly@aol.com
Subject: ABIM v. Salas Rushford
Attachments: 20160526 Email letter to A. Schlafly, Esq. re discovery and deposition.pdf

Dear Mr. Schlafly:

Please see the attached letter.

Sincerely,

Roberto A. Rivera-Soto
Ballard Spahr LLP
210 Lake Drive East - Suite 200
Cherry Hill, New Jersey 08002
Direct: 856.761.3416
Fax: 856.761.1020
riverasotor@ballardspahr.com

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www.ballardspahr.com

Roberto A. Rivera-Soto
Direct: 856.761.3416
riverasotor@ballardspahr.com

VIA ELECTRONIC MAIL

May 26, 2016.

Andrew L. Schlafly, Esq.
939 Old Chester Rd.
Far Hills, New Jersey 07931

Re: ***AM. BD. OF INTERNAL MED. V. JAIME SALAS RUSHFORD, M.D.***
Civil Action No. 2:14-cv-06428-KSH-CLW
United States District Court for the District of New Jersey

Dear Mr. Schlafly:

This firm represents plaintiff/counterclaim defendant the American Board of Internal Medicine and third-party defendants Richard Baron, M.D., Christine K. Cassel, M.D., Lynn O. Langdon, Eric S. Holmboe, M.D., David L. Coleman, M.D., Joan M. Feldt, M.D., and Naomi P. O'Grady, M.D. (collectively, "ABIM") in the above referenced case.

As you know, the deposition of defendant Jaime A. Salas Rushford, M.D. has been noticed for Tuesday, May 27, 2016; the notice of deposition required that defendant produce documents on or before today and, as noted in my May 5 and 25, 2016 letters to you, defendant has yet to comply with his *Rule 26* discovery obligations in respect of his counterclaims.

The litany of defendant's contempt of valid court processes is remarkable: defendant has failed to produce required *Rule 26* information for months, despite repeated requests; he has interposed meritless and, candidly, almost childish objections to the scheduling of his deposition; he has failed to seek a protective order, as is his obligation; he has failed to produce the noticed documents by today's deadline; and, as his counsel of record, your unexplained and unfathomable failure to respond to any one of several inquiries made of you leave a great deal to be desired. Based on that course of conduct, we must demand that defendant confirm, by no later than noon tomorrow, whether he is appearing at his deposition as scheduled and when he will comply with both the *duces tecum* provisions of his notice of deposition and his *Rule 26* disclosure requirements. We have set a noon deadline because we all face a holiday weekend -- and the family obligations those holidays imply -- and defendant's dilatory actions will require that deposition preparation occur then.

A PA Limited Liability Partnership | John Bernard Kearney, Managing Partner

Atlanta | Baltimore | Bethesda | Delaware | Denver | Las Vegas | Los Angeles | New Jersey
New York | Philadelphia | Phoenix | Salt Lake City | San Diego | Washington, DC
www.ballardspahr.com

Andrew L. Schlafly, Esq.
May 26, 2016
Page 2

Defendant should carefully think better of the delay tactics he has employed to date. Unless defendant's demeanor changes to conform to what is expected of any litigant -- much less of a purportedly well-educated person -- we no longer will treat defendant with the professional courtesy we have to date, and instead we will invoke the Court's coercive powers to receive what is a matter of right of any litigant. We trust this will not prove necessary.

Very truly yours,

BALLARD SPAHR LLP

By:



Roberto A. Rivera-Soto

EXHIBIT “M”

Rivera-Soto, Roberto A. (NJ)

From: Rivera-Soto, Roberto A. (NJ)
Sent: Friday, May 27, 2016 9:47 AM
To: aschlafly@aol.com
Subject: ABIM v. Salas Rushford
Attachments: 20160527 Email letter to A. Schlafly, Esq. re prot. order re discovery and deposition.pdf

Dear Mr. Schlafly:

Please see the attached letter.

Sincerely,

Roberto A. Rivera-Soto
Ballard Spahr LLP
210 Lake Drive East - Suite 200
Cherry Hill, New Jersey 08002
Direct: 856.761.3416
Fax: 856.761.1020
riverasotor@ballardspahr.com



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Roberto A. Rivera-Soto
Direct: 856.761.3416
riverasotor@ballardspahr.com

VIA ELECTRONIC MAIL

May 27, 2016

Andrew L. Schlafly, Esq.
939 Old Chester Rd.
Far Hills, New Jersey 07931

Re: ***AM. BD. OF INTERNAL MED. v. JAIME SALAS RUSHFORD, M.D.***
Civil Action No. 2:14-cv-06428-KSH-CLW
United States District Court for the District of New Jersey

Dear Mr. Schlafly:

This firm represents plaintiff/counterclaim defendant the American Board of Internal Medicine and third-party defendants Richard Baron, M.D., Christine K. Cassel, M.D., Lynn O. Langdon, Eric S. Holmboe, M.D., David L. Coleman, M.D., Joan M. Feldt, M.D., and Naomi P. O'Grady, M.D. (collectively, "ABIM") in the above referenced case.

At 9:17 p.m. yesterday, we received an electronic notice of filing in respect of the motion for a protective order filed by defendant Jaime A. Salas Rushford, M.D.; that motion seeks to quash the notice of deposition that requires that defendant produce documents on or before May 26, 2016 and appear for deposition on May 31, 2016, the fact discovery deadline in this case. Consistent with his failure to address the question to date, that motion makes no mention of defendant's non-compliance with his *Rule 26* discovery obligations in respect of his counterclaims/third-party complaint.

Putting aside, for the moment, the fatal procedural defect that defendant's motion for a protective order lacks either a return date or a request that it be considered on short notice, *see generally L.Civ.R. 7.1*, it is self-evident that the filing of a motion for a protective order does not automatically grant the relief requested, even on an interim basis. *See Mitsui & Co. (U.S.A.), Inc. v. Puerto Rico Water Resources Authority*, 93 F.R.D. 62, 67 (D.P.R. 1981) (holding that "[protective] order must be obtained before the date set for the discovery" (emphasis supplied)). *See also United States v. Portland Cement Co.*, 338 F.2d 798, 803 (10th Cir. 1964), *cert. denied*, 389 U.S. 975 (1967) (holding that issuance of protective order "must precede the taking of the depositions"). And, substantively, defendant's motion for a protective order lacks the good cause required of that application; ABIM will address that point and others more fully once a proper schedule is set based on a properly noticed return date.

A PA Limited Liability Partnership | John Bernard Kearney, Managing Partner

Atlanta | Baltimore | Bethesda | Delaware | Denver | Las Vegas | Los Angeles | New Jersey
New York | Philadelphia | Phoenix | Salt Lake City | San Diego | Washington, DC
www.ballardspahr.com

Andrew L. Schlafly, Esq.
May 27, 2016
Page 2

In sum, please take notice that defendant's last-minute motion for a protective order does nothing to avoid or otherwise modify defendant's obligation to appear for deposition on May 31, 2016 or to produce documents in accordance with the notice of deposition. Moreover, defendant has yet to address his unexplained failure to comply with his *Rule 26(a)* initial disclosures obligations in respect of his counterclaims and third-party claims.

The deposition remains as scheduled; defendant's choice in failing to appear is at his own risk. Therefore, we expect confirmation from you, by noon today, of (a) whether defendant will appear at the deposition noticed for May 31, 2016 and (b) when we may expect the documents requested in the notice of deposition along with defendant's long-overdue *Rule 26(a)* counterclaim/third-party complaint initial disclosures.

Very truly yours,

BALLARD SPAHR LLP

By:



Roberto A. Rivera-Soto

EXHIBIT “N”

Rivera-Soto, Roberto A. (NJ)

From: aschlafly@aol.com
Sent: Friday, May 27, 2016 11:56 AM
To: Rivera-Soto, Roberto A. (NJ)
Subject: Re: ABIM v. Salas Rushford

Dear Mr. Rivera-Soto,

Our recently filed Motion for a Protective Order is clear, and it does have a return date. It is not procedurally defective.

Your Notice of Deposition was untimely and defective in multiple ways. There will be no deposition of Dr. Salas Rushford on May 31 for the multiple reasons set forth in the motion papers filed with the Court yesterday, and in our prior notice to you on May 13.

If you seek to extend the discovery deadline and want to consider agreeing on what will be reasonably produced, then please let me know.

Andy Schlafly
Counsel for Dr. Salas Rushford
908-719-8608

-----Original Message-----

From: Rivera-Soto, Roberto A. <RiveraSotoR@ballardspahr.com>
To: aschlafly <aschlafly@aol.com>
Sent: Fri, May 27, 2016 9:46 am
Subject: ABIM v. Salas Rushford

Dear Mr. Schlafly:

Please see the attached letter.

Sincerely,

Roberto A. Rivera-Soto
Ballard Spahr LLP
210 Lake Drive East - Suite 200
Cherry Hill, New Jersey 08002
Direct: 856.761.3416
Fax: 856.761.1020
riverasotor@ballardspahr.com

EXHIBIT “O”

Rivera-Soto, Roberto A. (NJ)

From: Rivera-Soto, Roberto A. (NJ)
Sent: Friday, May 27, 2016 12:06 PM
To: 'aschlaflly@aol.com'
Subject: ABIM v. Salas Rushford

Dear Mr. Schlafly:

Defendant did not file a notice of motion, which is the customary practice in the District of New Jersey and where the return date usually appears. We do note that a June 20, 2016 return date appears in the caption of the "motion" defendant filed. We will assume that that is what you intend to act as your notice of motion.

We understand that your client will not appear for his scheduled deposition as noticed. He does so at his own peril.

Sincerely,

Roberto A. Rivera-Soto
Ballard Spahr LLP
210 Lake Drive East - Suite 200
Cherry Hill, New Jersey 08002
Direct: 856.761.3416
Fax: 856.761.1020
riverasotor@ballardspahr.com
From: aschlaflly@aol.com [<mailto:aschlaflly@aol.com>]
Sent: Friday, May 27, 2016 11:56 AM
To: Rivera-Soto, Roberto A. (NJ)
Subject: Re: ABIM v. Salas Rushford

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If you seek to extend the discovery deadline and want to consider agreeing on what will be reasonably produced, then please let me know.

Andy Schlafly
Counsel for Dr. Salas Rushford
908-719-8608

-----Original Message-----

From: Rivera-Soto, Roberto A. <RiveraSotoR@ballardspahr.com>
To: aschlaflly@aol.com

Sent: Fri, May 27, 2016 9:46 am
Subject: ABIM v. Salas Rushford

Dear Mr. Schlafly:

Please see the attached letter.

Sincerely,

Roberto A. Rivera-Soto
Ballard Spahr LLP
210 Lake Drive East - Suite 200
Cherry Hill, New Jersey 08002
Direct: 856.761.3416
Fax: 856.761.1020
riverasotor@ballardspahr.com

EXHIBIT “P”

EXHIBIT "P"

Transcript of defendant's deposition proceeding, May 31, 2016
(to be provided upon receipt)

EXHIBIT “Q”

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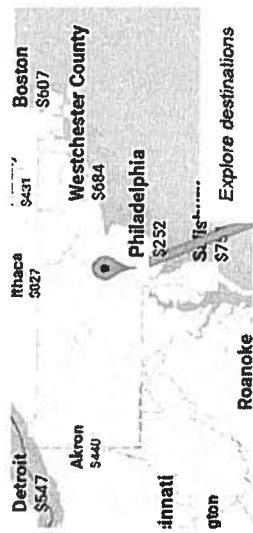
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\$552 round trip		2:00 pm – 11:23 pm JetBlue	9h 23m SJU-PHL	1 stop 3h 53m in FLL
\$691 round trip		1:30 am – 12:27 pm United · American · Air Wisconsin	10h 57m SJU-PHL	1 stop 5h 50m in EWR
\$761 round trip		1:07 pm – 6:53 pm United · Trans States Airlines I	5h 46m SJU-PHL	1 stop 33m in IAD

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