

IN THE STATE COURT OF DEKALB COUNTY
STATE OF GEORGIA

ARLENE THOMAS, individually, and as)
Administrator of the Estate of Lisa Dionne)
Calhoun.)
Plaintiff,)
v.) CIVIL ACTION
AJAY K. JOSHI, MD. AND) FILE NO. 16A58995E4
RADIOLOGY ASSOCIATES OF)
DEKALB, P.C.)
Defendants.)

AMENDED CONSOLIDATED PRE-TRIAL ORDER

The following constitutes the Amended Consolidated Pre-Trial Order entered in the above-styled case:

1.

The name, address and telephone number of the attorneys who will conduct the trial are as follows:

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For Defendants Ajay K. Joshi, M.D. and Radiology Associates of DeKalb, P.C.:

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2.

By the Plaintiff:

Plaintiff estimates it will take seven (7) days to present her evidence. (The length of time it will take Plaintiff to present her case may be extended depending on the length of Defendants' cross-examinations of Plaintiffs' witnesses).

For Defendants Ajay K. Joshi, M.D. and Radiology Associates of DeKalb, P.C.:

The Defendants estimate it will take two days to present their evidence.

3.

There are no motions or other matters pending for consideration by the Court except as follows:

By the Plaintiff:

Plaintiff currently has a Motion in Limine pending before the Court.

Plaintiffs reserve the right to file motions *in limine* based on any new issues that may arise in this matter, as well as motions to reconsider earlier rulings.

For Defendants Ajay K. Joshi, M.D. and Radiology Associates of Dekalb, PC.:

The parties' motions in limine and the Defendants' motion for sanctions. These Defendants reserve the right to file other pretrial motions, or any other motions that may be necessary during the trial of this case, without interfering with or delaying trial.

4.

The jury will be qualified as to relationship with the following:

By the Plaintiff:

- 1) Arlene Thomas;
- 2) Lawanna K. Monday, D.P.M.;
- 3) Village Podiatry Group, LLC;
- 4) All directors, officers, agents or shareholders of Village Podiatry Group, LLC;
- 5) Ajay K. Joshi., M.D.;
- 6) Radiology Associates of DeKalb, P.C.;

- 7) All directors, officers, agents or shareholders of Radiology Associates of DeKalb, P.C.;
- 8) All directors, officers, agents or shareholders of Village Podiatry Group, LLC
- 9) Metro Vascular, P.C.;
- 10) All directors, officers, agents or shareholders of Metro Vascular, P.C.
- 11) Willie Winfrey;
- 12) Chanel Smith, RDMS, RVT;
- 13) Tricia (CK) Hoffler;
- 14) Yvonne A. McDaniel;
- 15) Catlin Amick;
- 16) Robert Arrington;
- 17) Latif Oduola-Owoo;
- 18) Michael B. Terry;
- 19) Amanda Kay Seals;
- 20) All directors, officers, agents, employees, policyholders and relatives of policyholders within a prohibited degree of Mag Mutual Insurance Company; See, *Weatherbee v. Hutcheson*, 114 Ga. App. 761 (1966); and *Parsons v. Harrison*, 133 Ga.App. 280 (1974); and
- 21) All directors, officers, agents, employees, policyholders and relatives of policyholders within a prohibited degree of CNA Insurance Company; See, *Weatherbee v. Hutcheson*, 114 Ga. App. 761 (1966); and *Parsons v. Harrison*, 133 Ga.App. 280 (1974).

For Defendants Ajay K. Joshi, M.D. and Radiology Associates of Dekalb, PC.:

- 1) Arlene Thomas;
- 2) Beneficiaries of the Estate of Lisa Calhoun;
- 3) Ajay K. Joshi., M.D.;
- 4) Radiology Associates of DeKalb, P.C.;
- 5) Tricia (CK) Hoffler;
- 6) Yvonne A. McDaniel;
- 7) Catlin Amick;
- 8) Robert Arrington;
- 9) Latif Oduola-Owoo;
- 10) All directors, officers, and employees of Mag Mutual Insurance Company; and

5.

(a) All discovery has been completed, unless otherwise noted, and the Court will not consider any further motions to compel discovery except for good cause shown. The parties, however, shall be permitted to take depositions of any person(s) for the preservation of evidence for use at trial.

By the Plaintiff:

Alan Cousin, M.D., an interventional radiology expert, was deposed by the defendants, although his deposition has been left open pending a ruling by the Court.

For Defendants Ajay K. Joshi, M.D. and Radiology Associates of Dekalb, PC.:

These Defendants reserve the right to conduct further discovery, including depositions, regarding any witnesses identified by the Plaintiff, which witnesses have not been identified previously during discovery or any damages witnesses expected to testify at trial. These

Defendants object to the identification of any witnesses not previously named in the Pre-Trial Order.

6.

The following is the plaintiff's brief and succinct outline of the case and contentions:

Failure to Communicate DVT diagnosis:

Ms. Calhoun returned to Village Podiatry Centers ("VPC") on June 26, 2014, as part of a follow up visit to see her Podiatrist, Dr. Lawanna K. Monday. Ms. Calhoun had been complaining of pain behind her calf and knee that had steadily worsened over the prior few days. Dr. Monday's assessment included the diagnosis of phlebitis (deep) vein thrombosis, ("DVT"), which is the presence of blood clots in the leg. As a result, she ordered a venous Doppler ultrasound "to evaluate for blood clot." The ultrasound exam was performed that same day by Chanel Smith, a Registered Diagnostic Medical Sonographer and Registered Vascular Technologist. Ms. Smith's examination of Calhoun revealed the presence of "subacute partially occlusive thrombus," or life-threatening blood clots, which confirmed Dr. Monday's diagnosis. Ms. Smith communicated the test result to Dr. Joshi (the on-call Radiologist at the facility). Dr. Joshi failed to timely or properly communicate the test result to Dr. Monday or Ms. Calhoun. Further, Dr. Joshi failed to subsequently follow up with Dr. Monday, even though he did not know whether Dr. Monday was aware of the diagnosis. In addition, Dr. Joshi failed to ensure that the results were faxed to Dr. Monday's office, despite the specific request in writing by Dr. Monday.

Emergency Trip to Hospital and Death:

Early on July 1, 2014, Ms. Calhoun who was still unaware of the DVT diagnosis arrived in the Emergency Room at DMC. She was complaining of severe chest pain and shortness of breath. Because the ultrasound had been performed at DMC, they were able to obtain the results,

showing the presence of blood clots. This was the first time Ms. Calhoun became aware of the exam results. She was treated as if she had an embolism, given anticoagulants, and a series of additional tests were ordered. She went into cardiac arrest at 9:44 a.m. that same morning and could not be resuscitated.

Dr. Joshi violated the standard of care that a radiologist owes to Ms. Calhoun. He failed to timely communicate a critical finding from ultrasound exam, such as the existence of DVTs, to the referring physician or the patient in a way that ensures that the information was received and would be acted upon promptly. His failure delayed the diagnosis and treatment of Ms. Calhoun's DVTs, which exacerbated her condition and caused her untimely death.

For Defendants Ajay K. Joshi, M.D. and Radiology Associates of Dekalb, PC.:

These Defendants object to the Court reading or otherwise presenting to the jury the Plaintiff's outline of the case and contentions.

7.

For Defendants Ajay K. Joshi, M.D. and Radiology Associates of Dekalb, PC.:

Lisa Calhoun was a 51-year-old woman who presented to Village Podiatry Centers on June 26, 2014. She had previously been seen once, on May 13, 2014, for foot pain. On June 26, Ms. Calhoun complained of foot pain and swelling that had been increasing over the past few days. Podiatrist Lawanna Monday, DPM examined Ms. Calhoun, assessed her with having a DVT (as is noted in her chart), and ordered a venous Doppler to evaluate her foot "for [a] blood clot," noting that she discussed the condition with Ms. Calhoun. Dr. Monday then told Ms. Calhoun to follow up in 2 weeks.

Ms. Calhoun presented to Dekalb Medical Center at Hillandale on June 26, 2014. She signed untimed consent forms that listed Dr. Monday as the admitting physician. Radiology

technician Chanel Smith, RVT completed a radiology history form that included right leg swelling for a week. She then performed the ultrasound and completed a chart with the findings in the principal veins, noting evidence of a subacute DVT in Ms. Calhoun's right leg. Ms. Smith wrote "Prelim called to Willie at Dr. Monday's office" on the chart. Dr. Ajay Joshi interpreted the ultrasound, noted the DVT, and appropriately relied upon, and documented, the fact that the preliminary report was called to Dr. Monday's office by Ms. Smith at the completion of the exam.

The care and treatment provided by Dr. Joshi to Ms. Calhoun complied in all respects with the applicable standard of care. Further, no act or omission on Dr. Joshi's part caused or contributed in causing any of the Plaintiff's alleged injuries and damages. These Defendants therefore are not liable to the Plaintiff for the damages she seeks. To the extent that the jury finds that Dr. Joshi violated the standard of care and caused the damages alleged, the jury should apportion fault to the settling Defendants in this case pursuant to O.C.G.A. § 51-12-33.

8.

The issues for determination by the jury are as follows:

By the Plaintiff:

Negligence by Defendants, Ajay K. Joshi, M.D., Radiology Associates of DeKalb, P.C., Metro Vascular, P.C., and Chanel Smith RDMS, RVT proximate cause and damages.

For Defendants Ajay K. Joshi, M.D. and Radiology Associates of Dekalb, PC.:

- a) Whether Dr. Joshi exercised that degree of care and skill normally exercised by physicians generally under the same or similar circumstances;
- b) Whether any alleged act or omission on the part of Dr. Joshi was the proximate cause of any injury to the Plaintiff;
- c) What damages, if any, resulted from the alleged negligent acts or omissions of Dr. Joshi;

- d) Apportionment of fault to the settled former Defendants in the event that the jury finds that Dr. Joshi violated the standard of care and caused the damages alleged;
- e) The percentage of fault to the settled former Defendants

These Defendants do not concede that the Plaintiff will present sufficient evidence to establish genuine issues of material fact as to any of these issues.

9.

Specifications of negligence including applicable code sections are as follows:

By the Plaintiff:

- 1. Medical Malpractice – O.C.G.A. – §§ 51-1-1 and 51-1-27 *et al.* (all parties)
- 2. Wrongful Death – § 51-4-1 *et al.* (all parties)
- 3. Estate Claim – § 51-3-2 *et al.* (all parties)

Regarding Dr. Joshi and Radiology Associates of Dekalb:

Defendants Dr. Joshi and Radiology Associates of Dekalb, individually and under a theory of *respondeat superior*, violated the applicable standard of care when they negligently failed to ensure that the final results from Dr. Joshi's interpretation of the lower extremity ultrasound study done at DMC on June 26, 2014 were communicated in a timely manner to the ordering physician, Dr. Lawanna Monday. This proximately caused Ms. Calhoun to develop an extensive bilateral pulmonary embolism, which resulted in Ms. Calhoun experiencing tremendous physical and mental pain and suffering and ultimately resulted in her death.

For Defendants Ajay K. Joshi, M.D. and Radiology Associates of Dekalb, PC.:

These Defendants deny they were negligent or that their alleged negligence caused or contributed to the Plaintiff's injuries. These Defendants request that the Plaintiff set forth her specific allegations of negligence fully and completely as required under the Georgia Civil Practice

Act.

10.

If the case is based on a contract, either oral or written, the terms of the contract are as follows:

This case is not based on a contract.

11.

The types of damages and the applicable measure of those damages are stated as follows:

By the Plaintiff:

1. **Wrongful Death** – Plaintiff submits that the damages recoverable in this case are those permitted under the Georgia wrongful death statute. Those damages are for the full value of the life of the deceased. The measure of those damages is such as is determined by the enlightened conscience of a fair and impartial jury. “Full value of the life of the decedent, as shown by the evidence” is defined in O.C.G.A. § 51-4-1 as the full value of the life of the decedent without deducting for any of the necessary or personal expenses of the decedent had she lived.
2. **Estate Claims**
 - (1) Funeral and medical expenses. The measure of damages for funeral expenses and medical expenses will be the expenses incurred.
 - (2) Conscious Pain and Suffering. Plaintiff submits that damages for Lisa D. Calhoun’s conscious pain and suffering, mental and physical, are a recoverable element of damages in this case. The measure of those damages is such as is determined by the enlightened conscience of a fair and impartial jury.

For Defendants Ajay K. Joshi, M.D. and Radiology Associates of Dekalb, PC.:

These Defendants contend that the Plaintiff is not entitled to any damages.

12.

If the case involves divorce, each party shall present to the court at the pre-trial conference the affidavits required by Rule 24.2.

This case does not involve a divorce.

13.

The parties stipulate to the following facts:

None.

14.

The following is a list of all documentary and physical evidence that may be tendered at the trial by the parties. Unless noted, the parties have stipulated as to the authenticity of the documents listed, and the exhibits listed may be admitted without further proof of authenticity. All exhibits shall be marked by counsel prior to trial so as not to delay the trial before the jury.

(a) **Joint Exhibits:**

1. Medical Records DeKalb Medical Center (Bates DMC001-090)
2. Medical Records Village Podiatry Centers
3. DeKalb Medical Center Radiology – Ultrasound - CD
4. Medical Records North Tucker Primary Care

(b) **Plaintiff's Exhibits:**

1. Stipulated Medical Records (i.e. Joint Exhibits);
2. Death Certificate of Lisa D. Calhoun;
3. Investigative Summary of DeKalb County Medical Examiner;
4. Funeral Program – Lisa d. Calhoun;
5. AT&T Wireless Bill of Lisa D. Calhoun;

6. Celebration of Life DVD;
7. Complaint, with Exhibits;
8. Answer of Defendants LaWanna K. Monday, D.P.M. and Village Podiatry Group, LLC to Plaintiff's Complaint and Demand for Jury of Twelve;
9. Answer of Defendant Ajay K. Joshi, M.D. and Twelve Person Jury Demand;
10. Answer of Defendant DeKalb Medical Center and Demand for a Twelve Person Jury;
11. Plaintiff's First Amended Complaint, with Exhibits;
12. Answer of Defendant Willie Winfrey to Plaintiff's First Amended Complaint and Demand for Jury of Twelve;
13. Answer & Defenses of Defendants Metro Vascular, P.C. and Chanel Smith, RDMS, RVT and Jury Trial Demand of Defendants' Metro Vascular, P.C. and Chanel Smith, RDMS, RVT;
14. Answer of Defendants Ajay K. Joshi, M.D. and Radiology Associates of DeKalb, P.C. and Twelve Person Jury Demand;
15. Plaintiff's Second Amended Complaint, with Exhibits;
16. Answer & Defenses of Defendants Metro Vascular, P.C. and Chanel Smith, RDMS, RVT to Plaintiff's Second Amended Complaint;
17. Plaintiff's Objections and Responses to Defendant LaWanna K. Monday, D.P.M.'s First Continuing Interrogatories to Plaintiff Arlene Thomas, Individually and as Administrator of the Estate of Lisa Dionne Calhoun;
18. Plaintiff's Objections and Responses to Defendant LaWanna K. Monday, D.P.M.'s First Continuing Request for Production to Plaintiff and Notice to Produce;
19. Plaintiff's Objections and Responses to Defendant Ajay K. Joshi, M.D.'s First Continuing Interrogatories and Request for Production of Documents to Plaintiff;
20. Defendant Ajay K. Joshi, M.D.'s Responses to Plaintiff's First Request for Admissions;
21. Defendant Ajay K. Joshi, M.D. Responses and Objections to Plaintiff's First Continuing Interrogatories;
22. Defendant Ajay K. Joshi, M.D.'s Responses and Objections to Plaintiff's First Continuing Request for Production of Documents;

23. Defendant Village Podiatry Group, LLC's Answers to Plaintiff's First Continuing Interrogatories to Defendant Village Podiatry Centers;
24. Defendant Village Podiatry Group, LLC's Responses to Plaintiff's First Continuing Request for Production of Documents to Defendant Village Podiatry Centers;
25. Defendant LaWanna K. Monday, D.P.M.'s Responses to Plaintiff's First Continuing Request for Production of Documents to Defendant LaWanna K. Monday, D.P.M.;
26. Defendant LaWanna K. Monday, D.P.M.'s Answers to Plaintiff's First Continuing Interrogatories to Defendant LaWanna K. Monday, D.P.M.;
27. Defendant LaWanna K. Monday, D.P.M.'s Response to Plaintiff's First Request for Admissions to Defendant LaWanna K. Monday, D.P.M.;
28. Defendant Chanel Smith's Responses to Plaintiff's First Request for Admissions;
29. Defendant Chanel Smith, RDMS, RVT's Objections and Responses to Plaintiff's First continuing Interrogatories;
30. Defendant Chanel Smith's Objections and Responses to Plaintiff's First Continuing Request for Production of Documents;
31. Defendant Metro Vascular, P.C.'s Objections and Responses to Plaintiff's First Continuing Interrogatories;
32. Defendant Metro Vascular, P.C.'s Objections and Responses to Plaintiff's First Continuing Request for Production of Documents;
33. Defendant Metro Vascular's Responses to Plaintiff's First Request for Admissions;
34. Defendant Willie Winfrey's Responses to Plaintiff's First Request for Admissions to Defendant Willie Winfrey;
35. Defendant Willie Winfrey's Responses to Plaintiff's First Continuing Request for Production of Documents to Defendant Willie Winfrey;
36. Defendant Willie Winfrey's Answers to Plaintiff's First Continuing Interrogatories to Defendant Willie Winfrey;
37. Defendant LaWanna K. Monday, D.P.M.'s Second Supplemental Answers to Plaintiff's First Continuing Interrogatories to Defendant LaWanna K. Monday, D.P.M.;
38. Plaintiff's Supplemental Objections and Responses to Defendant Ajay K. Joshi, M.D.'s Request for Production of Documents to Plaintiff;

39. Plaintiff's Objections and Responses to Defendant LaWanna K. Monday, D.P.M.'s First Continuing Request for Production to Plaintiff and Notice to Produce;
40. Plaintiff's Supplemental Objections and Responses to Defendant LaWanna K. Monday, D.P.M.'s First Continuing Request for Production to Plaintiff and Notice to Produce;
41. Plaintiff's Second Supplemental Objections and Responses to Defendant LaWanna K. Monday, D.P.M.'s First Continuing Request for production to Plaintiff and Notice to Produce;
42. Plaintiff's Second Supplemental Objections and Responses to Defendant Ajay K. Joshi, M.D.'s Request for Production of Documents to Plaintiff;
43. Defendant LaWanna K. Monday, D.P.M.'s First Supplemental Responses to Plaintiff's First Continuing Request for Production of Documents to Defendant LaWanna K. Monday, D.P.M.;
44. Defendant LaWanna K. Monday, D.P.M.'s First Supplemental Answers to Plaintiff's First Continuing Interrogatories to Defendant LaWanna K. Monday, D.P.M.;
45. Defendant Village Podiatry Group, LLC's First Supplemental Answers to Plaintiff's First Continuing Interrogatories to Defendant Village Podiatry Centers;
46. Defendant Village Podiatry Group, LLC's First Supplemental Responses to Plaintiff's First Continuing Request for Production of Documents to Defendant Village Podiatry Centers;
47. Defendant Willie Winfrey's First Supplemental Responses to Plaintiff's First Continuing Request for Production of Documents to Defendant Willie Winfrey;
48. Plaintiff's Third Supplemental Objections and Responses to Defendant LaWanna K. Monday, D.P.M.'s First Continuing Request for Production to Plaintiff and Notice to Produce;
49. Defendant LaWanna K. Monday, D.P.M.'s Second Supplemental Responses to Plaintiff's First Continuing Request for Production of Documents to Defendant LaWanna K. Monday, D.P.M.;
50. Defendant Village Podiatry Group, LLC's Second Supplemental Responses to Plaintiff's First Continuing Request for Production of Documents to Defendant Village Podiatry Centers;
51. Plaintiff's Fourth Supplemental Objections and Responses to Defendant LaWanna K. Monday, D.P.M.'s First Continuing Request for Production to Plaintiff and Notice to Produce;

52. Plaintiff's Objections and Responses to Defendant LaWanna K. Monday, D.P.M.'s Second Continuing Interrogatories to Plaintiff Arlene Thomas, Individually and as Administrator of the Estate of Lisa Dionne Calhoun;
53. Plaintiff's Answers to Defendant LaWanna K. Monday, D.P.M.'s First Request for Admissions to Plaintiff;
54. Plaintiff's Amended Answers to Defendant LaWanna K. Monday, D.P.M.'s First Request for Admissions to Plaintiff;
55. Defendant Chanel Smith's Supplemental discovery responses;
56. Plaintiff's supplemental discovery responses;
57. Plaintiff's additional supplemental discovery responses;
58. Affidavit of Joel Schuessler, Esq.;
59. Affidavit of William Kenneth Mask, M.D.;
60. Affidavit of Michael W. Dixon, DPM;
61. Letters of Administration;
62. Birth Certificate for Philip Calhoun;
63. Birth Certificate for Glen Calhoun;
64. Birth Certificate for Arlene (Calhoun) Thomas;
65. Text between Lisa Calhoun and Jerome Marshall;
66. Text between Marjory Patrick and Arlene Thomas;
67. Birth Certificate for Jeryn Calhoun;
68. Photographs of Prescriptions;
69. Medical Bills;
70. DeKalb Medical Center Radiology – Ultrasound – CD;
71. Funeral Expenses;
72. Journal Entries;
73. Call Logs and Report;
74. Medical Record dated June 26, 2014 re: Right modified McBride bunionectomy;

75. Patient Appointment Report;
76. Lithonia Daily Schedule Report;
77. Internal Revenue Service transcripts for tax years 2011, 2012, 2013, and 2014;
78. Curriculum Vitae of William Kenneth Mask, M.D.;
79. Curriculum Vitae of Michael W. Dixon, DPM;
80. Curriculum Vitae of LaWanna K. Monday, D.P.M.;
81. Curriculum Vitae of Ajay K. Joshi, M.D.;
82. Curriculum Vitae of Chanel Smith, BHS, RDMS, RVT;
83. Chanel Smith's Employment Letter with Metro Vascular, P.C dated 2/5/2014;
84. Chanel Smith's Covenant Not to Compete;
85. Chanel Smith's Tuberculosis Skin Tests dated 2/14/14 & 2/24/14;
86. Chanel Smith's handwritten notes;
87. Duplex Bilateral Upper Extremity Imaging forms;
88. Employment Agreement between Radiology Associates of DeKalb, P.C. and Ajay Joshi, M.D. dated July 1, 2011;
89. Policy and Procedures for Patient Calls;
90. Policy and Procedures for Specimen Collection and Pickup;
91. Chanel Smith's letter re: June 26, 2014 Ultrasound;
92. DeKalb Medical Center Vascular Services Agreement;
93. First Amendment to DeKalb Medical Center Vascular Services Agreement;
94. Second Amendment to DeKalb Medical Center Vascular Services Agreement;
95. Third Amendment to DeKalb Medical Center Vascular Services Agreement;
96. Fourth Amendment to DeKalb Medical Center Vascular Services Agreement;
97. Curriculum Vitae of Willie Winfrey;
98. Employment records – Lisa D. Calhoun;

99. Funeral Program – Jerome Marshall
100. Social Security Earning Records re Lisa D. Calhoun;
101. Internal Revenue Service Records re Lisa D. Calhoun;
102. Letter from Coca-Cola;
103. Deposition of Arlene Thomas, taken December 1, 2016 and Exhibits Admitted Therewith;
104. Deposition of Yulonda Calhoun, taken March 13, 2017 and Exhibits Admitted Therewith;
105. Deposition of Michael Thomas, taken March 13, 2017 and Exhibits Admitted Therewith;
106. Deposition of Andre Clark, taken March 13, 2017 and Exhibits Admitted Therewith;
107. Deposition of Marjory Patrick, taken March 16, 2017 and Exhibits Admitted Therewith;
108. Deposition of Chanel Smith, taken on October 13, 2016 and October 27, 2016 and Exhibits Admitted Therewith (Parts 1 & 2);
109. Deposition of Willie Winfrey, taken on December 17, 2016 and Exhibits Admitted Therewith;
110. Deposition of LaWanna K. Monday, taken on December 17, 2016 and Exhibits Admitted Therewith;
111. Deposition of Kathryn Strozier-Bessent, taken on June 12, 2017 and Exhibits Admitted therewith;
112. Deposition of Phyllis LaVerne Breech, taken on June 12, 2017 and Exhibits Admitted therewith;
113. Deposition of Richard Gore, M.D., taken on January 16, 2018 and Exhibits Admitted therewith;
114. Deposition of Khristy Lynn Harris, taken on June 12, 2017 and Exhibits Admitted therewith;
115. Deposition of William Z. H'Doubler, M.D., taken on May 30, 2018 and Exhibits Admitted therewith;
116. Deposition of Ajay K. Joshi, M.D., taken on June 12, 2017 and Exhibits Admitted therewith;

117. Deposition of Mark Keenan, M.D., taken on April 26, 2018 and Exhibits Admitted therewith;
118. Deposition of Sandra Tooks Leavell, taken on June 12, 2017 and Exhibits Admitted therewith;
119. Deposition of Joshua Lee, BS, RVT, taken on July 13, 2018 and Exhibits Admitted therewith;
120. Deposition of Edward Pullen, taken on June 12, 2017 and Exhibits Admitted therewith;
121. Deposition of Steven James Knight, taken on August 15, 2018 and Exhibits Admitted therewith;
122. Deposition of Franklin West, taken on April 11, 2018 and Exhibits Admitted therewith;
123. Deposition of Stacey Nicole Williams, taken on June 12, 2017 and Exhibits Admitted therewith;
124. Deposition of Philip Calhoun, taken on January 11, 2019 and Exhibits Admitted therewith;
125. Deposition of Dr. Alan Cousin, taken on May 14, 2019 and Exhibits Admitted therewith;
126. Curriculum Vitae of Richard Gore, M.D.;
127. Curriculum Vitae of A. Frank Adams, II, Ph.D.;
128. Curriculum Vitae of Joshua Lee, BS, RVT
129. All documents produced by Non-Party Production;
130. Enlargements of Medical Records;
131. Annuity Mortality Table for 1949 ultimate;
132. 2018 Annual Report of the Board of Trustees of the Federal Old-Age and survivors Insurance and Federal Disability Insurance trust Funds;
133. US Life Tables 2014 – National Vital Statistic Reports, Vol. 66, No. 4, August 14, 2017 – Table 9, page 25;
134. www.treasury.gov – Market based rates are US Treasury’s (Constant Maturities);
135. Social Security Online Benefits Calculator – www.ssa.gov;

136. Any and all documents generated by any of Plaintiff's testifying experts with respect to this lawsuit;
137. All medical records, radiographic imaging, prescriptions, and bills maintained by DeKalb Medical Center.
138. All medical records, radiographic imaging, prescriptions, and bills maintained by Radiology Associates of DeKalb, P.C.
139. All medical records, radiographic imaging, prescriptions, and bills maintained by Metro Vascular, P.C.
140. All medical records, radiographic imaging, prescriptions, and bills maintained by Village Podiatry Centers;
141. All medical records, radiographic imaging, prescriptions, and bills maintained by North Tucker Primary Care;
142. All pleadings, orders, or other filings in this case, including anything filed by plaintiff, any current or prior defendant to this case, or the Court;
143. Any and all discovery responses filed by any party to this case;
144. Any and all documents or materials produced during discovery by any party to this case;
145. Any and all documents provided to Plaintiff's testifying experts by Plaintiff or Plaintiff's counsel in this lawsuit;
146. Any and all documents generated by any of Defendants' testifying experts with respect to this lawsuit;
147. Any and all documents provided to Defendants' testifying experts by Defendants or Defendants' counsel in this lawsuit;
148. Any and all Defendants' Exhibits;

149. Any and all Exhibits Used for Rebuttal Witness(s);
150. Any and all Demonstrative Evidence and Exhibits, Medical Charts, Diagrams, Blow-Ups, and Animations;
151. Any and all Exhibits used for Impeachment of Witness(s); and
152. Any and all Depositions and Exhibits admitted therewith.

Plaintiff objects to the admission of Defendants' exhibits to the extent that they would call for the admission of exhibits from experts who are not testifying at trial, or any attorney work product.

Demonstrative aids (including but not limited to anatomical pictures and diagrams, charts, medical supplies, timelines, and enlargements) not to be admitted into evidence may be used as allowed by law and need not be listed, but must be shown to opposing counsel sufficiently far in advance of use so that opposing counsel may have the opportunity to object. Impeachment materials, including medical literature and other statements or testimony, may be used as permitted by law without being listed.

The parties have, in good faith, identified all documents they intend to introduce at trial. The parties agree to review each other's exhibits and agree to a good faith effort to enter into all reasonable or necessary stipulations concerning foundation and authenticity with a view towards the goal that all exhibits will be admitted without further proof of foundation or authenticity.

Plaintiff reserves the right to amend the foregoing list of documents provided reasonable notice is provided to the opposing party. Plaintiff reserves the right to object to any documentary evidence tendered by the opposing party pending mutual examination of the exhibits prior to trial.

Plaintiff reserves the right to object to the introduction of documents on grounds other than

authentication or best evidence rule. Plaintiff reserves the right to amend this list as well as this order should the interest of justice so require.

15.

(c) **For Defendants Ajay K. Joshi, M.D. and Radiology Associates of Dekalb, PC.:**

- 1) Medical records from DeKalb Medical;
- 2) Radiology imaging from DeKalb Medical;
- 3) Medical Records from Village Podiatry Centers;
- 4) Curriculum Vitae of Ajay Joshi, M.D.;
- 5) Curriculum Vitae of Mark Keenan, M.D.;
- 6) Plaintiff's Complaint;
- 7) Any medical journal and textbook articles written by the Plaintiff's experts;
- 8) All pleadings, including the discovery responses of the parties;
- 9) Demonstrative evidence and exhibits;
- 10) All materials obtained or produced during discovery;
- 11) Any exhibits attached to any of the depositions taken in this case;
- 12) Any documents generated by the Plaintiff's experts in relationship to this case;
- 13) Any documents provided to the Plaintiff's experts by the Plaintiff or Plaintiff's counsel;
- 14) Medical charts, diagrams, blow-ups, and animations; and
- 15) Any document listed by any other party to this action;

These Defendants respectfully request the right to amend this list of documentary and physical evidence by giving appropriate notice to opposing counsel prior to the trial. Additionally, these Defendants reserve the right to object to any proposed documentary and/or physical evidence until it is properly authenticated and tendered. Further, these Defendants reserve the right to use

impeachment materials and demonstrative aids as allowed by law without being listed herein. Other than these materials, these Defendants object to the admissibility of any documentary or physical evidence not previously identified and produced during discovery.

16.

Special authorities relied upon by the plaintiff relating to peculiar evidentiary or other legal questions are as follows:

None at this time. Plaintiff reserves the right to identify any such special authorities later as the need arises.

17.

Special authorities relied upon by the defendant relating to peculiar evidentiary or other legal questions are as follows:

O.C.G.A. § 51-12-33

18.

All requests to charge anticipated at the time of trial will be filed in accordance with Rule 10.3.

19.

The testimony of the following person(s) may be introduced by depositions:

(a) By the Plaintiff:

- 1) William Z. H'Doubler, M.D.;
- 2) Mark Keenan, M.D.;
- 3) Steven James Knight;
- 4) Joshua Lee, BS, RVT;
- 5) Franklin West;
- 6) A. Frank Adams, III, Ph.D.;
- 7) Richard Gore, M.D.; and

8) Alan Cousin, M.D.;

(b) **By the Defendants:**

1) Those individuals listed above by Plaintiff.

2) Yulonda Calhoun;

3) Michael Thomas;

4) Andre Clark;

5) Marjory Patrick;

6) Willie Winfrey;

7) LaWanna K. Monday;

8) Chanel Smith;

9) Kathryn Strozier-Bessent;

10) Phyllis LaVerne Breech;

11) Richard Gore, M.D.;

12) Khristy Lynn Harris;

13) William Z. H'Doubler, M.D.,;

14) Mark Keenan, M.D.;

15) Sandra Tooks Leavell;

16) Joshua Lee, BS, RVT;

17) Edward Pullen;

18) Steven James Knight;

19) Franklin West; and/or

20) Stacey Nicole Williams.

These Defendants reserve the right to take videotaped evidentiary depositions for preservation of evidence and use at trial and will arrange for such deposition in the event that any

witness is unavailable to appear for trial. These Defendants also reserve the right to take the deposition of any witness whose attendance cannot be compelled by subpoena or who cannot be present at trial due to legally sufficient reasons. Any objections to the depositions or questions or arguments in the depositions shall be called to the attention of the Court prior to use. All objections to any portion of a designated deposition shall be called to the attention of the Court prior to trial. The parties reserve the right to use any depositions (or portions thereof) at trial to the extent permitted by the Civil Practice Act or other applicable law.

Any objection to the depositions or questions or arguments in the depositions shall be called to the attention of the court prior to trial.

The Defendants reserve the right to use deposition testimony for purposes of impeachment.

20.

The following are lists of witnesses who will or may be called to testify at trial:

(a) The plaintiff will have present at trial:

1) Arlene Thomas

(b) The plaintiff may have present at trial:

1) Vera Reaves, M.D.;

2) Tonya N. Callahan, M.D.;

3) Jean Gustave E. Shomou, M.D.;

4) Daniel A. Wood, M.D.;

5) William K. Mask, M.D.;

6) Michael T. Dixon, DPM;

7) Jeryn Calhoun;

8) Philip Calhoun;

9) Yulonda Calhoun;

- 10 Glen Calhoun;
- 11) Andre' Clark;
- 12) Michael Thomas;
- 13) Sandra Leavell;
- 14) Marjory Patrick;
- 15) Kathryn Strozier-Bessent;
- 16) Phyllis LaVerne Breech;
- 17) Richard Gore, M.D.;
- 18) Khristy Lynn Harris;
- 19) William Z. H'Doubler, M.D.;
- 20) Ajay K. Joshi, M.D.;
- 21) Mark Keenan, M.D.;
- 22) Sandra Took's Leavell;
- 23) Joshua Lee, BS, RVT;
- 24) Edward Pullen;
- 25) Steven James Knight;
- 26) Franklin West;
- 27) Stacey Nicole Williams;
- 28) A. Frank Adams, III, Ph.D.;
- 29) LaWanna K. Monday, M.D.;
- 30) Willie Winfrey;
- 31) Alan Cousin, M.D.;
- 32) Any person necessary to authenticate a document;
- 33) Any person necessary for rebuttal;
- 34) Any other fact witness who was present during the care and treatment of Lisa

Dionne Calhoun; and

35) Any person listed by Defendants.

Plaintiff objects to any witnesses listed by Defendants not previously disclosed in discovery or identified in medical records of Lisa Dionne Calhoun.

For Defendants Ajay K. Joshi, M.D. and Radiology Associates of Dekalb, PC.:

(c) Defendant will have present at trial:

Ajay Joshi, M.D.

(d) Defendant may have present at trial:

(1) Mark Keenan, M.D.;

(2) William Z. H'Doubler, M.D.;

(3) Chanel Smith;

(4) LaWanna K. Monday, M.D.;

(5) Willie Winfrey;

(6) A corporate representative of DeKalb Medical Center;

(7) Any witness identified by any other party;

(8) Any healthcare provider identified in the medical records of Lisa Calhoun;

(9) Any records custodian to authenticate records and documents produced in discovery;

(10) Any witness previously identified by any party in the discovery process;

(11) Any witness listed by the Plaintiff, including expert witnesses; and

(12) Any witness needed for impeachment purposes;

These Defendants object to any witness being called to testify at trial who has not properly been included in the pre-trial order. Opposing counsel may rely on a representation that the

designated party will have a witness present unless notice to the contrary is given in sufficient time prior to trial to allow the other party to subpoena the witness or obtain his testimony by other means.

Opposing counsel may rely on representation by the other party that he or she will have a witness present unless notice to the contrary is given in sufficient time prior to trial to allow the other party to subpoena the witness or obtain his/her testimony by other means.

21.

The forms of all possible verdicts to be considered by the jury are as follows:

The parties anticipate agreeing on a verdict form prior to submission of the case to the jury.

22.

- (a) The possibilities of settling the case are remote.
- (b) The parties *DO* want the case reported.
- (c) The cost of takedown will be shared equally among the parties.
- (d) Other matters:

1. **Unless the parties otherwise agree, all jury trials shall use 12 jurors.**
2. **The case has been X mediated without success, or ___ has been exempted from mediation, or ___ other: _____N/A_____.**

Respectfully submitted this 10th day of July, 2019.

THE CK HOFFLER FIRM

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**Attorneys for Defendants, Ajay K. Joshi, M.D.
and Radiology Associates of DeKalb, P.C**

CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing Amended Consolidated Pre-Trial Order with the Clerk of Court using the *Odyssey eFileGA* system which will automatically send e-mail notification of such filing to all parties of record.

This the 10th day of July, 2018.

THE CK HOFFLER FIRM

/s/Tricia P. Hoffler _____
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