IN THE STATE COURT OF LOWNDES COUNTY
STATE OF GEORGIA

MARK ALAN CORBITT, M.D.,	)(	
	)(	
Plaintiff	)(	**Civil Action No. 2011-SCV-29**
	)(	
vs.	)(	
	)(	
HOSPITAL AUTHORITY OF VALDOSTA AND LOWNDES COUNTY, GEORGIA d/b/a/ SOUTH GEORGIA MEDICAL CENTER,	)(	
	)(	
Defendant.	)(	

PRE-TRIAL ORDER

The following constitutes a Pre-Trial Order entered in the above-styled case after conference with counsel for the parties:

1. **(a) Type of case:**

Premises Liability - Tort

(b) The name, address and phone number of the attorneys who will conduct the trial are as follows:

Plaintiff:

Robert D. Howell, Esq.
Georgia Bar No. 372598
HOWELL LAW FIRM, P.C.
Post Office Box 100
Moultrie, Georgia 31776
(229) 985-5300
robert.howell@southgalaw.com

Gregory A. Voyles
Georgia Bar No. 729098
MOORE & VOYLES, P.C.
Post Office Box 1929
Valdosta, Georgia 31603-1929
(229) 244-8830
greg@mavlawfirm.com

Defendants:

James Thagard
Leslie Kennerly
Young, Thagard, Hoffman, Smith, Lawrence & Shenton
Post Office Box 3007
Valdosta, GA 31604-3007
(229) 242-2520
jamesthagard@youngthagard.com
lesliekennerly@youngthagard.com

2. **Estimated time for trial.**

5-6 days

3. **There are no motions or other matters pending for consideration by this Court except as follows:**

Defendant's motion in limine, defendant's motion for sequestered voir dire, defendant's motion to exclude expert testimony of Draper and Lloyd, defendant's motion to exclude expert testimony of Rice and defendant's motion for continuance and motion for bifurcation are currently pending.

The parties intend to submit appropriate motions *in limine* prior to or during trial as the need arises.

4. **(A) Jury Matters:**

The parties request a trial by a jury of no less than twelve persons and do not agree to waive their right to a jury trial. The parties request at least two alternate jurors be empanelled to deliberate in the event any of the original twelve jurors become unable to serve during the course of trial.

(B) The jury will be qualified as to relationship with the following

(1) Plaintiff Mark Alan Corbitt

(2) Robert D. Howell and all members of his law firm

(3) Gregory A. Voyles an all members of his law firm

(3) The Hospital Authority of Valdosta and Lowndes County, Georgia, and all of its members

(4) Zurich American Insurance Company, including any of its officers, employees or shareholders.

Defendant objects to the Court qualifying its attorneys as they have no financial interest in the outcome of this case.

5. Discovery.

All discovery has been completed except for Defendant's deposition of Plaintiff's expert, Richard Rice, which has been tentatively scheduled for April 2, 2015. Unless otherwise noted, 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. The parties also reserve the right to request supplementation of discovery pursuant to § 9-11-26 (e). Plaintiff and Defendant also wish to reserve the right to take depositions of those witnesses who are unavailable for trial, and any witness listed by the Plaintiff and/or Defendant in their portion of the Pre-Trial Order who have not been previously identified.

Defendant reserves the right to depose the plaintiff's newly identified expert, Richard A. Rice, and to file a Daubert motion regarding this expert.

(b) Unless otherwise noted, the names of the parties as shown in the caption to this order are correct and complete and there is no question by any party as to the misjoinder or nonjoinder of any parties.

(c) All statutes, ordinances, and authorities set forth under Plaintiff and Defendants' portion of Section 16 below

6. The following is the Plaintiff's brief and succinct outline of the case and contentions:

Plaintiff Mark Alan Corbitt, M.D., was a highly-talented and successful general surgeon in Valdosta, Georgia for many years. Like most surgeons, Dr. Corbitt trained for over one-half of his life to obtain his medical license to practice general surgery. Dr. Corbitt had a bustling medical practice and an extremely loyal patient following. He held surgical privileges at both South Georgia Medical

Center and Smith Northview hospitals. On January 25, 2010, Dr. Corbitt's medical career ended both tragically and needlessly.

The Injury

On January 25, 2010, Dr. Corbitt was finishing a surgical case in operating room No. 5 at Defendant South Georgia Medical Center when he sat on a rolling stool in the operating room to write his orders in the patient's chart. When he did so, the stool shot out from underneath Dr. Corbitt who fell backwards to the floor and struck his head violently. Dr. Corbitt did not sit on the stool unusually in any way. Rather, he simply sat on the stool, and it shot out from underneath him causing his fall and injury.

Dr. Corbitt suffered a brain injury as a result of his fall which manifested itself in the form of at least four, grand mal seizures within the span of a few months. As a result, Dr. Corbitt has been diagnosed with trauma- induced epilepsy, a condition which his physicians have confirmed is permanent and irreversible. Due to his permanent condition, Dr. Corbitt was forced to surrender his license to practice medicine, to close his practice, and to abandon his once fruitful career as a general surgeon. Dr. Corbitt currently suffers from debilitating migraine headaches daily, many of which cause nausea and vomiting, occasional seizures, and he must ingest high doses of anti-seizure medication to control his epilepsy.

The Hazard

The stool from which Dr. Corbitt fell was purchased by Defendant and placed into its operating rooms for use in March of 2006. The stool was manufactured by Clinton Industries, Inc. and purchased by Defendant from Island Dental Supply Company. The stool, a four-legged stool with a black, round cushion, had hard, plastic casters for wheels. The hard, plastic caster wheels may have been perfectly suitable for use on a soft, carpeted flooring surface, but the casters were wholly unsafe and unsuitable for use on the hard, slick flooring surfaces present in Defendant's operating rooms. Defendant, and Defendant alone, made the decision to purchase this stool with its hard, plastic wheels and chose to make it available for use by its employees and physicians in its operating rooms.

Plaintiff's experts conducted extensive scientific testing of the exact same type of stool from which Dr. Corbitt fell on the exact same type of flooring surface present in Defendant's operating rooms. Testing revealed that, due to the hard, plastic casters which were unsuitable for the slick-tiled flooring surface, the stool from which Dr. Corbitt fell was hazardous and dangerous because it was over 100 times more likely to roll out from under a user than an identical stool with correct, and suitable, rubber wheels. Put simply, the unsuitable, hard plastic casters on the stool from which Dr. Corbitt fell had less than half of the rolling resistance of the same stool with suitable, soft rubber wheels. Thus, the offending stool, which

Defendant chose to purchase and to offer for use in its operating rooms, was dangerous.

Actual Knowledge of the Hazard

Mattie Ruth Battle, a Defendant-employed surgical technician that regularly assisted Dr. Corbitt in the operating room on his surgical cases, experienced problems with ***the exact same type of stool*** that caused Dr. Corbitt's fall. Ms. Battle reported to SGMC management that the stool would "come out from under you" when you tried to sit on it. Ms. Battle considered the stool to be unstable and reported her problems with the stool to her boss, Ms. Margie Clements, the OR Director who was employed by Defendant. Specifically, Ms. Battle reported to Ms. Clements that ***"[t]hem stools will come from up under you."*** In response, Ms. Clements informed Battle to hook her foot around the stool when sitting on it and took no further action regarding Ms. Battle's complaint about the stools. Ms. Clements did not conduct any type of investigation, did not inspect the stool or its casters, did not report the incident to the hospital's safety director, and apparently took no meaningful remedial action to correct the problem. This incident and report of a safety hazard by Ms. Battle to Margie Clements occurred prior to Dr. Corbitt's fall.

Constructive Knowledge of the Hazard

Defendant also had constructive knowledge of the hazard from multiple sources including prior employee falls, OHSA guidelines, and industry literature. Additionally, Defendant's own safety director, Stephen Mosher, admitted that, in order to be safe, casters on rolling stools should be compatible with the flooring surface on which they are used.

Defendant's Acknowledgment of the Hazard and Removal of the Hazard

After Dr. Corbitt fell in January 2010, Defendant inexplicably allowed the stools with hard, plastic casters to remain in use in its operating rooms. This occurred in spite of a post-Corbitt-fall demonstration by Ms. Sandy Sherry, the Director of Surgical Nurses at the time, who attempted to sit on the exact same stool from which Dr. Corbitt fell on January 25, 2010 only to have the stool "come out from under her" as well. Then, yet another physician, Dr. Michael Chiang, fell from a rolling stool in one of Defendant's operating rooms. Finally, after Dr. Chiang's fall, Defendant removed the four-legged stools it had purchased in March of 2006 and replaced the stools with five-legged stools that had softer, rubber casters which were suitable for the operating room flooring surface.

Defendant's Negligence

Dr. Corbitt alleges in his lawsuit that Defendant is liable to him for his injury and all of his damages because Defendant provided a hazardous and unsafe condition on its premises (a stool with unsuitable and hence unsafe casters), had

actual, constructive and superior knowledge of the hazard via prior reports of problems with the stool and elsewhere, and that Defendant breached its duty owed to Dr. Corbitt by failing to remedy the safety hazard thereby unnecessarily and negligently exposed him to harm. The evidence in this case establishes that (1) Defendant chose to purchase stools with hard, plastic caster wheels and placed the stools into its operating rooms for use by hospital personnel and physicians; (2) the hard, plastic caster wheels were unsuitable for the operating room's hard, slick flooring surface thereby creating a safety hazard; (3) Defendant had received at least one direct report of a problem with the exact same type of stool "coming from up under" an employee who tried to sit on it, and the hospital took no action to remedy the hazard; (4) Dr. Corbitt had never before experienced any similar problem with a rolling stool; (5) Defendant thus had direct, actual, constructive and superior knowledge of a dangerous condition on its premises; (6) Defendant breached its duty owed to Dr. Corbitt by exposing him to this dangerous condition; and (7) the dangerous condition led to a severe and career-ending injury for Dr. Corbitt.

a. **Plaintiffs' contentions of applicable law:**

Under Georgia law, a landowner has a non-delegable duty to keep the premises safe from an invitee lawfully thereon. O.C.G.A. § 51-3-1.

A defendant is liable for the plaintiff's injuries in a premises liability case if

(1) the defendant had actual and constructive knowledge of the hazard; and (2) the plaintiff lacked knowledge of the hazard despite exercise of ordinary care due to actions or conditions within the control of the landowner. Robinson v. Kroger Co., 268 Ga. 735 (1997).

7. The following is Defendants' brief and succinct outline of the case and contentions:

This case arises out of a fall from a wheeled stool which occurred at Defendant's hospital. Plaintiff was a general surgeon with privileges to perform surgical procedures at Defendant's hospital. Plaintiff alleges that on January 25, 2010 he was sitting on a stool in one of the Defendant's operating rooms when the stool slipped out from beneath him, causing him to fall and strike his head on the floor. As a result of the fall, Plaintiff allegedly sustained personal injuries.

As a surgeon, Plaintiff has performed thousands of surgeries utilizing a rolling stool and has sat on rolling stools thousands of times. He is aware that stools like the one at issue in this case are made to roll and has personally utilized such stools to roll from one place to another. On the day in question, the Plaintiff was performing a surgical procedure. After completing the procedure, the Plaintiff was offered a stool for his use by Maggie Johnson, who was also working in the operating room. Ms. Johnson had been sitting on the stool and offered it to Plaintiff as there was no other stool available for his use. Ms. Johnson extended the stool to

Plaintiff while they were standing face to face, rather than pushing the stool to the Plaintiff from behind. Plaintiff attempted to sit on the stool at issue without looking at it. The room was well lit and the plaintiff was not distracted in anyway. Typically, he would hold a stool with his hand in order to stabilize it before sitting. However, he cannot say that he did that in this case. When attempting to sit, he fell.

A. LIABILITY

Regarding liability, Defendant denies that it was negligent in any way. Defendant denies that the stool at issue was a hazard and denies that it was unsuitable for use on the flooring surface. Additionally, there is no evidence that defendant had either actual or constructive knowledge of the alleged hazard.

1. Defendant is not liable to plaintiff as the stool was not a hazardous condition

Defendant contends that the stool at issue was not a hazardous condition. Plaintiff contends his "experts'" testimony proves defendant was negligent and that that negligence was the cause of plaintiff's fall. One expert, Lloyd, claims a softer wheel would have rolled less than the wheels on the stool at issue. The other expert, Draper, claims OSHA required a stool with wheels like the ones Lloyd suggests. Even if these experts' contentions are arguably true, there is no evidence defendant had superior knowledge of this. More importantly, there is no evidence

in the record that the fall would not have occurred, or that it is less likely the fall would have occurred, if softer casters had been used on the stool at issue. Furthermore, there is no evidence there is anything that would have informed the defendant that the stool at issue was not, or the wheels on it were not, appropriate for the floor upon which it was being used.

2. *Defendant is not liable to plaintiff as there is no evidence defendant had actual or constructive knowledge of the alleged hazard*

Defendant did not have actual or constructive knowledge of the alleged hazard. There is no evidence in the record that this stool was involved in any falls, nor was it complained about, prior to plaintiff falling. This is a rolling stool. Plaintiff and defendant both knew that. They knew it rolled. Defendant did not have superior knowledge of that critical fact.

Plaintiff seeks to impute superior knowledge to the defendant by presenting "evidence" of instances where other stools, not this stool, rolled in an operating room and someone reportedly fell, or almost fell. However, plaintiff has presented no evidence these other stools were defective or "hazardous". If these prior "incidents" are deemed admissible, which defendant argues they should not be, all they show is that rolling stools roll and people could fall from them. Plaintiff and defendant both knew this the day of plaintiff's fall. Defendant did not have

superior knowledge that the particular stool at issue presented any additional danger.

3. Plaintiff's injuries and alleged damages were caused by the plaintiff's failure to exercise care for his own safety

The plaintiff's alleged injuries and damages were caused not by the negligence of the defendant, but by the plaintiff's failure to exercise care for his own safety when sitting on the rolling stool. Plaintiff has done thousands of surgeries utilizing a rolling stool and has sat on rolling stools thousands of times. He acknowledges that such stools are made to roll and has personally utilized such stools to roll from one place to another. Plaintiff further acknowledges that a person should look at a stool before sitting on it and that he would typically do so. Furthermore, he would grab and hold a stool before sitting on it if he needed to. Despite this knowledge, plaintiff sat on the stool at issue without looking at it. Plaintiff is clearly familiar with wheeled stools, their obvious propensity to roll and procedures to safely sit on said stools. Despite this, he failed to exercise care for his own safety when sitting on the stool and is responsible for his own damages. Accordingly, defendant was not negligent and is not liable to plaintiff.

B. DAMAGES

Defendant denies that all of the damages and injuries alleged by plaintiff were proximately caused by the fall from the stool or defendant's alleged

negligence. Defendant asserts that the two motor vehicle accidents which plaintiff was involved in in 2008 caused or contributed to plaintiff's alleged damages and damages.

C. CONCLUSION:

Defendant denies it was negligent and denies it is liable to the plaintiff in any way or in any amount. The cause of the plaintiff's fall and his injuries resulting from the fall was plaintiff's own failure to exercise ordinary care for his own safety. Defendant requests a twelve person jury determine who is responsible for the plaintiff's fall and alleged damages.

a) Defendants' contentions of applicable law:

1. Defendant's request to charge
2. Defendant's motion in limine
3. Harpe v. Shoney's, Inc., 203 Ga. App. 592, 593 (1992).
4. Nunnelley v. Brown, 197 Ga. App. 711 (1990).
5. Nemeth v. RREEF AMERICA, LLC, 283 Ga. App. 795, 797 (2007).
6. Berry v. Hamilton, 246 Ga.App. 608, 610 (2000).
7. Hudson v. J.H. Harvey Co., 244 Ga.App. 479, 480-81 (2000).
8. Theesfeld v. Image Electrolysis & Skin Care, Inc., 274 Ga.App. 38 (2005)
9. Ford v. Bank of America, 277 Ga.App. 708 (2006)

10. Also see Defendant's motion for summary judgment.

8. (a) Issues of Law

(1) Applicability and propriety of the requests to charge proposed by the parties;

(2) The admissibility of evidence and propriety of arguments sought to be excluded by motions in limine filed by the parties or challenged by objection during trial

(3) The propriety of the verdict form(s) proposed by the parties

(4) The qualification of potential jurors

(5) The qualification of expert witnesses to offer proffered opinions

(b) The issues for determination by the jury are as follows:

Plaintiff:

(a) Whether Defendant was negligent in exposing Plaintiff to a hazardous condition on its property?

(b) Whether Defendant had superior knowledge of the hazardous condition on its property?

(c) Whether Defendant was negligent in failing to remedy the hazardous condition after being warned of same?

(d) Whether Plaintiff exercised reasonable care for his own safety?

(e) Whether Plaintiff's injuries and damages were caused by his

fall on Defendant's property?

(f) The amount of economic and/or non-economic damages to be incurred by the Plaintiff.

Defendants:

1. Negligence of defendant

2. Negligence (contributory/comparative) of plaintiff

3. Proximate Cause

4. Damages

(a) Issues of law:

1. Please see Section 7a of this pre-trial order.

2. Please see Defendant's motion in limine.

3. Please see Defendant's request to charge.

4. Please see Defendant's motion for summary judgment.

Plaintiff objects to items (a) 1-4 above as these are not issues for determination by the jury. Plaintiff further objects as this Court and the Court of Appeals have already ruled upon Defendant's motion for summary judgment.

9. Specifications of negligence including applicable code sections are as follows:

Plaintiff:

O.C.G.A. § 51-3-1; A defendant is liable for the plaintiff's injuries in a

premises liability case if (1) the defendant had actual and constructive knowledge of the hazard; and (2) the plaintiff lacked knowledge of the hazard despite exercise of ordinary care due to actions or conditions within the control of the landowner. Robinson v. Kroger Co., 268 Ga. 735 (1997).

Defendants:

If the defendants was negligent in any way as alleged, an assertion which these defendant emphatically denies, the doctrine of comparative negligence bars or proportionately reduces any recovery by plaintiff, pursuant to O.C.G.A. §§ 51-12-33(a) and 51-12-33(g).

The sole cause of the plaintiff's fall and alleged injuries and damages is the plaintiff's failure to exercise care for his own safety. If it is found that the defendant is negligent, which defendant denies, then the doctrine of contributory/comparative negligence bars any recovery by the plaintiff.

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

Not Applicable.

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

Plaintiff:

Plaintiff's economic and non-economic damages attributable to

Defendant's negligence. Damages sought include economic damages for medical expenses, past and future lost wages, and non-economic damages for pain and suffering and emotional distress.

Defendants:

Defendants contend Plaintiff is not entitled to recover any damages in this action.

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

Not Applicable.

13. (a) Facts established by the pleadings.

(1) On January 25, 2010 Plaintiff was a general surgeon in Valdosta, Georgia.

(2) On January 25, 2010 plaintiff held surgical privileges at South Georgia Medical Center

(3) On January 25, 2010 plaintiff fell from a rolling stool in an operating room at South Georgia Medical Center

(b) Facts stipulated to by the parties

(1) Jurisdiction and venue.

(2) The authenticity of all of Plaintiff's medical records and radiographic images from the following institutions and

providers:

(a) South Georgia Medical Center;

(b) Smith Northview Hospital;

(b) Emory Medical Center;

(c) Shands Hospital;

(d) Dr. Bipin Patel;

(e) Dr. Joe Morgan;

(f) EMS records;

(g) Dr. Steven Greenhaw;

(h) Rite Aid Pharmacy;

(i) Hogan's Pharmacy;

(j) Premier Pain Management, P.A.

(h) S. Terry Persaud, M.D.

(i) Care Medical Center / Ryan Moorman, DC

(j) Dr. Edward Mark

Plaintiff and defendant reserves the right to redact portions of these records consistent with the Court's ruling on any applicable motions in limine which may be filed by the parties prior to the start of trial.

The parties will not stipulate to the admissibility of any documents listed in this section at this time. However, the attorneys for the parties will meet prior to

trial to review exhibits and discuss the possibility of admitting certain exhibits.

14. The following is a list of all documentary and physical evidence that will be tendered at the trial by the Plaintiff or Defendants. Unless noted, the parties have stipulated as to the authenticity of the documents listed. The parties will not stipulate to the admissibility of any documents listed in this section at this time. However, the attorneys for the parties will meet prior to trial to review exhibits and discuss the possibility of admitting certain exhibits. All exhibits shall be marked by counsel prior to trial so as not to delay the trial before the jury.

(A) Plaintiff:

1) Plaintiff's redacted medical records and radiographic images from the following medical providers:

(a) South Georgia Medical Center;

(b) Smith Northview Hospital;

(b) Emory Medical Center;

(c) Shands Hospital;

(d) Dr. Bipin Patel;

(e) Dr. Joe Morgan;

(f) EMS records;

(g) Dr. Steven Greenhaw;

(h) Rite Aid Pharmacy;

(i) Hogan's Pharmacy;

(j) Premier Pain Management, P.A.

(h) S. Terry Persaud, M.D.

2) Defendant's response to Plaintiff's interrogatories and requests for production of documents

3) Any document exchanged during discovery

4) Plaintiff's medical bills

5) Documentation of Plaintiff's wage losses including tax returns and expert report of wage loss calculation

6) Any exhibit used by the Defendants

7) Mortality/Life Expectancy Table

8) Any document attached to any deposition as an exhibit in this case;

9) Various photographs of the subject stool;

10) The stool which caused Plaintiff's fall;

11) Private Consent Agreement and Order between Plaintiff and the Georgia Composite Medical Board wherein Plaintiff surrendered his license to practice medicine;

12) Defendant's purchase documentation for the subject stool;

13) Letter from Mosher to OSHA dated June 11, 2010;

14) Letter from Mosher to OSHA dated July 1, 2010;

15) Letter from Mosher to Corbitt dated July 2, 2010;

16) Expert Reports (including photos) of test results on the subject and exemplar stool;

17) Audio recording of 911 call by Michelle Corbitt;

18) Educational Attendance Roster (6/29/10) educating Defendant employees on safe use of rolling stools;

Plaintiff objects to the listing of any documents or evidence by Defendant which has not previously been provided to Plaintiff and does not stipulate to the admissibility of the documents listed by Defendant unless indicated otherwise herein. Plaintiff also objects to Defendant's use of any demonstrative evidence that Plaintiff has not been given the opportunity to review prior to trial.

(B) Defendants:

1. Photos of operating room
2. Photos of stool
3. Stool
4. Clinton catalog
5. Stool purchase order
6. Island Dental Invoice

7. Diagram of operating room
8. Flooring specifications
9. Corbitt contract with SGMC
10. Chart of plaintiff's surgery rates
11. Medical records from South Georgia Medical Center
12. Medical records from Smith Northview Hospital
13. Medical records from Neurology, Neurosurgery and Spine Center / Dr. Bipin Patel
14. Medical records from Valdosta Psychiatric Associates / Dr. Joe Morgan
15. Medical records from University of Florida Physicians / Dr. Kenneth Heilman
16. Medical records from Premier Pain Management / Dr. Sunil T. Persaud
17. Medical records from The Emory Clinic / Dr. Kimford Meador
18. Medical records from Dr. Steven Greenhaw
19. Medical records from Care Medical Center / Ryan Moorman
20. Medical records from Dr. Edward Mark
21. CV of Dr. David Brani
22. All exhibits listed by plaintiff

23. All documents produced during discovery

24. All exhibits attached to depositions

25. Plaintiff's responses to Defendant's interrogatories and requests for production of documents

Defendant objects to the listing of any documents or evidence by Plaintiff which has not previously been provided to Defendant and does not stipulate to the admissibility of the documents listed by Plaintiff unless indicated otherwise herein. Defendant also objects to Plaintiff's use of any demonstrative evidence that Defendant has not been given the opportunity to review prior to trial.

(C) Documents to be admitted into evidence without objection

Plaintiff's redacted medical records, including radiographic images, from the following institutions and medical providers:

(a) South Georgia Medical Center;

(b) Smith Northview Hospital;

(b) Emory Medical Center;

(c) Shands Hospital;

(d) Dr. Bipin Patel;

(e) Dr. Joe Morgan;

(f) EMS records;

(g) Dr. Steven Greenhaw;

(h) Rite Aid Pharmacy;

(i) Hogan's Pharmacy;

(j) Premier Pain Management, P.A.

(h) S. Terry Persaud, M.D.

(i) Care Medical Center / Ryan Moorman, DC

(j) Dr. Edward Mark

Unless noted, the parties have stipulated as to the authenticity of the documents listed. The parties will not stipulate to the admissibility of any documents listed in this section at this time. However, the attorneys for the parties will meet prior to trial to review exhibits and discuss the possibility of admitting certain exhibits. To prevent duplicity, the parties intend to present these records/documents to the court as a joint exhibit.

15. Special authorities relied upon by Plaintiff relating to peculiar evidentiary or other legal questions.

None other than those which are set forth in Plaintiff's Requests To Charge which will be filed prior to trial.

16. (A) Statutes or ordinances applicable

Plaintiff

O.C.G.A. § 51-3-1

Defendants

O.C.G.A. §§ 51-12-33(a), 51-12-33(g), O.C.G.A. 51-11-7

(B) Special authorities relied upon by Defendant relating to peculiar evidentiary or other legal questions.

Please see sections 7(a) and 8 of this pre-trial order. Additionally, please see Defendant's motion in limine and jury charges. Defendant will submit a brief to the Court concerning any other peculiar evidentiary or other legal questions that may arise.

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

18. The testimony of the following persons may be introduced by deposition:

By Plaintiff:

(a) Dr. Kenneth Heilman;

(b) Dr. Kimford Jay Meador;

(c) Any witness who may be or become unavailable for trial.

Plaintiff wishes to reserve the right to use any deposition for any witness who has been deposed in the event that said witness is legally unavailable for trial.

By Defendant:

1. Dr. Mark Alan Corbitt
2. Michele Corbitt
3. Dr. Michael Chiang
4. Margaret Clements
5. Stephen Michael Mosher
6. James Steinberg
7. Mattie Battle
8. Frances Westlake
9. Pamela Williams
10. Wendy Sue Clavon
11. Wanda Dubberly
12. Margaret Ann Johnson
13. Laura Martin Taylor
14. Wayne Plumley
15. Dr. John Lloyd
16. Dr. Barrett Miller
17. Susan Draper
18. Dr. David Brani
19. Dr. Bipin Patel
20. Dr. Kimford Meador

21. Dr. Kenneth Heilman

22. Dr. Sunil T. Persaud

23. Any witnesses listed in Section 19 who become unavailable to testify at trial.

Plaintiff objects to Defendant introducing the deposition testimony of any witness, other than for purposes of impeachment, who is available for trial.

Defendant reserves the right to introduce the deposition testimony of any witness who was deposed during discovery and/or is unavailable to testify at trial.

Plaintiff and Defendants also wish to reserve the right to use the deposition testimony of any witness who is present and testifying at trial for the purposes of cross-examination or any other proper legal cause.

Any additional objections to depositions, questions or arguments in the deposition shall be called to the attention of the Court prior to trial.

19. Witnesses present at trial.

(A) Plaintiff will have present at trial:

(1) Mark Alan Corbitt.

(B) Plaintiff may have present at trial:

(1) Michelle Corbitt

(2) Bipin Patel, M.D.

(3) Joe Morgan, M.D.

(4) Terry Persuad, M.D.

(5) Fran Westlake

(6) James Miller Steinberg

(7) Laura Martin Taylor

(8) Margaret Ann Johnson

(9) Margaret H. Clements

(10) Mattie Ruth Battle

(11) Mike Chiang

(12) Pamela Williams

(13) Stephen Michael Mosher

(14) Susan Draper

(15) Wayne Plumley

(16) Wendy Sue Clavon

(17) Dr. John Lloyd

(18) Richard Rice

(19) Wanda Dubberly

(20) John White

(21) Pam Chadwick

(22) Ronnie Chancey

(23) Shirley Corbitt

(24) Bill Corbitt

(25) Derwin Walker

(C) Defendant will have present at trial:

(1) None

(D) Defendant may have present at trial:

1. Michele Corbitt
2. Pam Chadwick
3. Dr. Michael Chiang
4. Dr. Brook Bearden
5. Margaret Clements
6. Stephen Michael Mosher
7. James Steinberg
8. Mattie Battle
9. Katrina Florig
10. Cheryl Bartlett
11. Sandy Sherry
12. Frances Westlake
13. Pamela Williams
14. Wendy Sue Clavon
15. Wanda Dubberly

16. Sharon Winkles Purser
17. Margaret Ann Johnson
18. Laura Martin Taylor
19. Ann Hargett
20. Kay Englehart
21. Suzane Tyrone
22. David Clements
23. Beverly Samuel Wright
24. Stewart Adams
25. Randy Saul
26. Dr. James Warren
27. Robin Back
28. Mitchell Brice
29. Andy Wilds
30. Wayne Plumley
31. Dr. John Lloyd
32. Dr. Barrett Miller
33. Susan Draper
34. Dr. David Brani
35. Richard Rice

36. Dr. Bipin Patel

37. Dr. Kimford Meador

38. Dr. Kenneth Heilman

39. Dr. Joe Morgan

40. Dr. Sunil T. Persaud

41. Randy Crews

42. Records custodian of South Georgia Medical Center

43. Records custodian of Smith Northview Hospital

44. Records custodian of Neurology, Neurosurgery and Spine Center / Dr. Bipin Patel

45. Records custodian of Valdosta Psychiatric Associates / Dr. Joe Morgan

46. Records custodian of University of Florida Physicians / Dr. Kenneth Heilman

47. Records custodian of Premier Pain Management / Dr. Sunil T. Persaud

48. Records custodian of The Emory Clinic / Dr. Kimford Meador

49. Records custodian of Dr. Steven Greenhaw

50. Records custodian of Care Medical Center / Ryan Moorman

51. Records custodian of Dr. Edward Mark

52. Any witness listed by plaintiff

53. Any witness deposed or identified during discovery

Opposing counsel may rely on representation by the designated party that he 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.

Plaintiff and Defendants reserve the right to supplement their witness list so long as the other party is notified of the new witness and given an opportunity to either depose or interview said witness.

20. The form of all possible verdicts to be considered by the jury as are follows:

Plaintiff: Attached as Exhibit "A".

Defendant: Defendant has no objection to the verdict form presented by plaintiff. However, Defendant reserves the right to submit an alternate verdict form depending on the evidence presented at trial

21. **(A)** Possibilities of settling this case are: Plaintiff: poor; Defendant: non-existent at this time

(B) The parties do want the case reported.

(C) The cost of take-down will be shared 50% by Plaintiffs and 50% by Defendants.

(D) Other matters: Use of the stool at trial - Defendant has no objection to the presence of the stool in the courtroom or its use by counsel or experts for either party. Defendant has no objection to the stool going back with the jury and no objection to the jurors touching or sitting on the stool. However, defendant objects to the jurors conducting their own experiments with the stool. While "it is not improper for a jury to use its common experience to conduct illustrations or experiments which merely examine or verify evidence admitted during the trial, the use of an object by the jury may constitute no more than a common sense illustration of the evidence admitted at trial." Gentry v. State, 236 Ga.App, 820, 824 (1999). It is improper for the jury to conduct tests or experiments during deliberations which have the effect of producing new evidence not introduced at trial. Dixon v. State, 303 Ga.App. 517 (2010). In the case at hand, it would be impossible for the jurors to recreate the fall at issue as the exact circumstances cannot be recreated, ie- weight for plaintiff, flooring surface, etc. Additionally, experts with specialized training may testify regarding the fall and the jurors likely will not possess the expertise needed to recreate or test the accuracy of the expert testimony. Accordingly, defendant objects to the jurors attempting to recreate the fall at issue.

Respectfully submitted this _____day of March 2015.

Plaintiff Mark Alan Corbitt

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Defendant Hospital Authority of Valdosta and Lowndes County, Georgia d/b/a South Georgia Medical Center

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It is hereby ORDERED that the foregoing, including the attachments thereto, constitutes the PRE-TRIAL ORDER in the above-styled case and supersedes the pleadings which may not be further amended except by order of the Court to prevent manifest injustice.

This ____day of March, 2015.

_____

Judge, State Court
Lowndes County, Georgia

IN THE STATE COURT OF LOWNDES COUNTY
STATE OF GEORGIA

MARK ALAN CORBITT, M.D.,	)(	
	)(	
Plaintiff	)(	**Civil Action No. 2011-SCV-29**
	)(	
vs.	)(	
	)(	
HOSPITAL AUTHORITY OF VALDOSTA AND LOWNDES COUNTY, GEORGIA d/b/a/ SOUTH GEORGIA MEDICAL CENTER,	)(	
	)(	
Defendant.	)(	

VERDICT FORM

____ We, the jury, award damages in favor of Plaintiff, Mark Alan Corbitt, and against the Defendant, Hospital Authority of Valdosta and Lowndes County, Georgia d/b/a South Georgia Medical Center, in the amount of

$_____.

OR

____ We, the jury, find in favor of the Defendant, Hospital Authority of Valdosta and Lowndes County, Georgia d/b/a South Georgia Medical Center, and against the Plaintiff, Mark Alan Corbitt.

This __ day of _____, 2015.

_____
Jury Foreperson