IN THE STATE COURT OF COBB COUNTY
STATE OF GEORGIA

VANESSA JORDAN-PEEPLES, Plaintiff, and TRANSDEV f/k/a VEOLIA TRANSPORTATION and SEDGWICK CMS, Intervenors/Plaintiffs, v. SHERRIE ANDERSON, Defendant.	)	CIVIL ACTION FILE NO. 14A2189-5

CONSOLIDATED PRE-TRIAL ORDER

The following constitutes the parties' Consolidated Pre-Trial Order:

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

Attorney for Plaintiff: Shoran R. Williams, Esq.
Reid Williams, LLC
5555 Glenridge Connector
Suite 200
Atlanta, GA 30342
404-236-0041
Email: srwilliams@reidwilliamslaw.com

Attorney for Defendant: Daniel C. Prout, Jr., Esq.
Waldon Adelman Castilla Hiestand & Prout
900 Circle 75 Parkway
Suite 1040
Atlanta, Georgia 30339
(770) 953-1710
Email: dcprout@wachp.com

Attorney for Intervenors: Seth Martin, Esq.
Benton Hilburn, Esq.
Speed Seta Martin & Trivett, LLC
114 Stone Mountain Street
Lawerenceville, GA 30046
Email: Benton@speed-seta.com

2. The estimated time required for trial is 3-4 days.

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

Motions in Limine. Except for unforeseen evidentiary issues, all motions in limine and responses thereto are to be filed prior to, or as part of, the proposed pre-trial order. The following motions in limine are hereby made by the parties including any supportive legal citations. The Court shall rule on said motions without oral argument unless a hearing is ordered by the Court upon request of either party.

Plaintiff's Motions in Limine: Plaintiff's Motions in Limine have been submitted in a separate pleading.

Defendant's Responses to Plaintiff's Motions in Limine:

(1) Defendant does not oppose paragraph 1 of plaintiff's Motion in Limine.

(2) Defendant does not oppose paragraph 2 of plaintiff's Motion in Limine.

(3) Defendant does not object to paragraph 3 of plaintiff's Motion in Limine. However, defendant reserves the right to pursue such questioning and evidence if and when plaintiff opens the door to any collateral source information.

(4) Except for experts whose records are presented pursuant to O.C.G.A. §§ 24-8-803(6) and O.C.G.A. § 24-9-902, defendant does not oppose paragraph 4 of plaintiff's Motion in Limine.

(5) Defendant objects to paragraph 5 of plaintiff's Motion in Limine. O.C.G.A. §§ 24-8-803(6) and O.C.G.A. § 24-9-902 allow for the introduction of medical records into evidence without limitation. In its instructions to the parties regarding the Pre-Trial Order, the Court has placed safeguards so that opposing counsel will have sufficient time to review the records to be presented at trial and therefore be able to raise objections as to the portions of those records which a party contends are inadmissible. This is a personal injury case and plaintiff's medical history is at issue. Therefore, information about her health condition and treatment before and after the accident, are relevant to the issues of proximate cause and damages.

(6) Defendant objects to paragraph 6 of plaintiff's Motion in Limine. Evidence of other medical treatment has a direct bearing on the plaintiff's claim for pain and suffering. Further, such evidence bears directly on the plaintiff's ability to perform employment, recreational, and/or personal activities before and after the accident. The Court will be charging the jury as to the law in Georgia as to pain and suffering. The jury should be able to consider the condition of the plaintiff's health before and after the accident when evaluating her claims for pain and suffering. Such a consideration would necessarily include the plaintiff's treatment history.

Moreover, there is no requirement under Georgia law that a party must present expert medical evidence in order to argue that other health conditions and/or treatment are the cause or contributing factors for a plaintiff's injuries, need for treatment, or pain and suffering. Plaintiffs in personal injury trials often present their case without any medical evidence whatsoever. These claims are allowed to be presented to the jury without any expert medical evidence in support of their claims. Furthermore, if the plaintiff sustained trauma prior to the accident at issue, the defense would not be required under Georgia law to present expert medical evidence in order to

argue that the prior trauma was, in fact, the cause or contributing factor of plaintiff's injuries, need for treatment, and pain and suffering.

(7) Defendant objects to paragraph 7 of plaintiff's Motion in Limine. Evidence of other personal injury claims bears directly on the extent to which other injuries may be the cause of the damages claimed by the plaintiff in this case. For example, a Complaint or discovery from another lawsuit may contain statements or admissions which affect the issues of causation and damages in this case. Moreover, certified copies of pleadings in other cases are admissible under Georgia law.

(8) Defendant does not oppose paragraph 8 of plaintiff's Motion in Limine.

(9) Defendant objects paragraph 9 of plaintiff's Motion in Limine to the extent that it seeks to limit defendant's attorney from making any argument based on the evidence. Counsel for the parties is entitled to wide latitude in closing arguments. Kennebeck v. Glover, 294 Ga. App. 822 (2008). Furthermore, defense counsel may draw from the evidence any inference which is reasonable and legitimate. Id. Therefore, defendant should not be precluded from making any arguments which are reasonable and legitimate based on the evidence presented to the jury during the trial of this case. This would include alternate theories of causation for the plaintiff's claimed injuries.

Moreover, there is no requirement under Georgia law that a party must present expert medical evidence in order to argue that other health conditions and/or treatment are the cause or contributing factors for a plaintiff's injuries, need for treatment, or pain and suffering. Plaintiffs in personal injury trials often present their cases without any medical evidence whatsoever. These claims are allowed to be presented to the jury without any expert medical evidence in support of their claims. Furthermore, if the plaintiff sustained trauma prior to the accident at

issue, the defense would not be required under Georgia law to present expert medical evidence in order to argue that the prior trauma was, in fact, the cause or contributing factor of plaintiff's injuries, need for treatment, and pain and suffering.

(10) Defendant does not oppose paragraph 10 of plaintiff's Motion in Limine.

(11) Defendant does not oppose paragraph 11 of plaintiff's Motion in Limine.

(12) Defendant objects this paragraph 12 of plaintiff's Motion in Limine. Plaintiff is claiming physical injuries as a result of the accident at issue. Therefore, plaintiff's physical abilities following the accident at issue are probative as to her claims. Defendant should be allowed to inquire into the types of activities plaintiff was able to do after the subject accident, (i.e. shopping, recreational activities, retain counsel, work, etc.). Although plaintiff expresses concern as to the possible disclosure of privileged attorney-client communications, the timing of when an attorney was retained has nothing to do with such privileged communications. Based on the standard set forth in O.C.G.A. § 24-4-403, this relevant evidence should not be excluded because its probative value is not substantially outweighed by its prejudicial effect.

(13) Defendant does not oppose paragraph 13 of plaintiff's Motion in Limine.

(14) Defendant does not oppose paragraph 14 of plaintiff's Motion in Limine.

(15) Defendant objects to paragraph 15 of plaintiff's Motion in Limine. The jurors will be tasked with determining whether or not plaintiff has been injured and, if so, what amount of damages she is entitled to receive. Part of this determination will include whether the plaintiff's medical treatment and/or expenses necessarily resulted from the accident at issue. In an effort for the jury to have a complete and fair picture of plaintiff's treatment and medical expenses, the jury should be entitled to know how or why plaintiff began treating with one or more of her providers. Further, defendant should be allowed to refute any implication that plaintiff was sent

to one treating physician by another treating physician if, in fact, the referral was made by an attorney. The jury should not be left to assume that all of the plaintiff's treatment is based on referrals from one physician to another.

(16) Defendant does not oppose paragraph 16 of plaintiff's Motion in Limine.

(17) Defendant objects to paragraph 17 of plaintiff's Motion in Limine. There is absolutely no legal authority in Georgia to support this portion of plaintiff's Motion. Counsel for the parties is entitled to wide latitude in closing arguments. Kennebeck v. Glover, 294 Ga. App. 822 (2008). Furthermore, defense counsel may draw from the evidence any inference which is reasonable and legitimate. Id. Therefore, defendant should not be precluded from making any arguments which are reasonable and legitimate based on the evidence presented to the jury during the trial of this case. This would include argument that minor property damage to the vehicles means a lesser impact and therefore lesser chance of injury.

If there were a significant amount of damage to the vehicles, plaintiff would not make this Motion. Rather, plaintiff would argue that extensive damage correlates to a hard impact and therefore a higher chance of injury. Inasmuch as there is no legal support for this part of plaintiff's Motion, it should be denied.

Defendant respectfully requests oral argument on plaintiff's Motion in Limine.

Defendant's Motions in Limine:

(A) Any evidence concerning plaintiffs' inability to pay medical, chiropractic, or any healthcare expenses. This evidence goes directly to the financial well-being and wealth of the plaintiffs and is clearly inadmissible. See Warren v. Ballard, 266 Ga. 408 (1996). If the plaintiffs, plaintiffs' witnesses, or plaintiffs' counsel violate an Order in limine instructing them not to testify about or mention any alleged inability to pay these expenses, defendant's counsel should be

permitted to impeach the plaintiffs by demonstrating the existence of insurance which provides coverage to the plaintiffs. See McGee v. Jones, 232 Ga. App. 1 (1998); Patterson vs. Lauderback, 211 Ga. App. 891, 893 (1994).

(B) Any evidence relating to the existence of liability insurance in this case. Georgia law is clear that "generally liability . . . insurance coverage of a litigant is not admissible in evidence, and that unnecessary disclosure of such a fact is ground for mistrial or reversal." Goins vs. Glisson, 163 Ga. App. 290, 292 (1982). Along this same line, the plaintiffs, plaintiffs' witnesses, and plaintiffs' counsel should be prohibited from introducing or soliciting any evidence concerning any previous payments made by the defendant's liability insurer for the plaintiffs' property damage. Such evidence is irrelevant and could only serve to prejudice the jury against the defendant.

(C) Any evidence relating to the defendant's prior or subsequent traffic citations and/or driving record. Such evidence is completely irrelevant to the issues of negligence in this case. The only purpose of such evidence would be to prejudice the jury. Accordingly, any evidence concerning the defendant's prior and/or subsequent driving record should be properly excluded. Leo v. Williams, 207 Ga. App. 321 (1993).

(D) Any evidence of any criminal record of the defendant in the absence of a certified copy of a felony conviction or misdemeanor crime involving moral turpitude. Kimbrough v. State, 254 Ga. 504 (1985). See also Hood v. State, 179 Ga. App. 387 (1986).

(E) Any evidence of the substance of, or lack of, settlement negotiations.

(F) Any questions, testimony or other evidence placing the plaintiff or any other layperson in the position of suggesting or inferring an expert medical opinion beyond the ken of a layperson. "A lay witness is not competent to give what amounts to a medical opinion relative to [his/her] injuries or the effect thereof." Eberhart v. Morris Brown College, 181 Ga. App. 516, 518-19 (1987). Such evidence is inadmissible and should be excluded.

(G) Any questions, testimony or other evidence from any lay witness suggesting or inferring the prospect of any surgery and/or a correlation between any possible surgery and plaintiff's alleged injuries from the subject accident. The plaintiff cannot testify about such matters, as it is hearsay and such issues can only be resolved by expert medical testimony. *See* Lewis v. Smith, 238 Ga. App. 6 (1999); *See* Pilzer v. Jones, 242 Ga. App. 198 (2000). Any medical testimony as to mere possibilities of surgery would be improper, as it is insufficient to establish the requisite causal connection. Id.; *see also* Maurer v. Chyatte, 173 Ga. App. 343 (1985). *See* Lewis, 238 Ga. App. 6; Maurer, 173 Ga. App. 343. The Court should prohibit any and all mention or testimony about any surgery by lay witnesses, as it would only confuse the issues and introduce irrelevant, unduly prejudicial material.

(H) Any questions, testimony, or other evidence from the plaintiffs, plaintiffs' counsel or plaintiffs' witnesses which states or tends to describe or infer what a physician or healthcare practitioner told plaintiffs, plaintiffs' counsel, or plaintiffs' witnesses. Any such testimony as to the words and/or opinions of such a non-testifying individual would be inadmissible hearsay. *See generally* O.C.G.A. § 24-3-1 *et. seq.*; and *see* Bray v. Dixon, 176 Ga. App. 895 (1985) ("testimony regarding what plaintiff was told by her succession of doctors [is] pure hearsay and without probative value."). Such evidence is inadmissible and should be excluded.

Similarly, the Court should prohibit the plaintiffs, plaintiffs' counsel, and any other witness from stating, describing, or inferring what any physician or healthcare provider said or would say about the plaintiffs' ability or inability to work, any purported disability, disability rating, any conditions for total or partial disability, or concerning limited or light duty work or plaintiffs' ability or inability to engage in such work assignments or duties. Any such testimony or evidence would be inadmissible hearsay. *See generally* O.C.G:A. § 24-3-1 *et. seq.* Such evidence is improper and should be excluded.

(I) Any display or presentation of any demonstrative evidence purportedly utilized by physicians or other healthcare providers in the treatment of the plaintiffs, including such items as syringes, needles, or other devices or items not property authenticated by the appropriate medical provider. Any such items not properly authenticated and admitted pursuant to proper procedure should be excluded from the courtroom entirely, as the mere presence of such items would only serve to inflame the emotions of the jury. Such evidence is unduly prejudicial, inadmissible, and should be excluded from trial.

(J) Any argument asking jurors to put themselves in the place of the plaintiffs with regard to damages. This type of argument (violates the "Golden Rule") and is highly prejudicial and improper, as it urges the jurors to allow such recovery as they would wish for if they were in the same position. Earl v. Edwards, 117 Ga. App. 559 (1968). Such evidence is inadmissible and should be excluded.

The Parties acknowledge that counsel is directed to notify the Court on the record of any contention that the Court's ruling on a motion in limine has been violated during trial.

Plaintiff's Response to Defendant's Motions in Limine:

A) Plaintiff does not object to this motion in limine, so long as neither Defendant, Defendant's Counsel nor any of Defendant's witnesses argues that any gaps in treatment are indicative of any malfeasance on Plaintiff's behalf.

B) Plaintiff has no objection.

C) Plaintiff has no objection.

D) Plaintiff has no objection.

E) Plaintiff has no objection.

F) Plaintiff has no objection.

G) Plaintiff objects to this motion in limine as Plaintiff is allowed to testify as to her

understanding for any and all medical treatment administered or contemplated in the future.

H) Plaintiff objects to this motion in limine as Plaintiff is allowed to testify as to her understanding for any and all medical treatment administered or contemplated in the future.

I) Plaintiff has no objection.

J) Plaintiff has no objection.

Defendant's Motion for Bifurcation: Defendant moves for bifurcation of the plaintiff's claims against her and the Intervenors' claims against any recovery by the plaintiff. Defendant further moves for an Order directing that both the Intervenors and counsel for the Intervenors be prohibited from participating in the compensatory phase of the trial.

Plaintiff has no objection to Defendant's Motion for Bifurcation.

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

By the Plaintiff: The parties, Plaintiff's counsel and State Farm Mutual Automobile Insurance Company and policy holders. Plaintiff objects to the jury being qualified as to the Intervenors as they no standing in this phase of the litigation and qualifying the jury as to the presence would only serve to confuse the jury and improperly interject collateral source issues into this tort phase of the trial.

By the Defendant: The parties, plaintiff's counsel and their law firm, and the Intervenors. The defendant objects to qualifying the members of the juror pool as to their relationship with her attorneys as they do not have a financial stake in the outcome of this case.

By the Intervenors: The parties, Plaintiff's counsel and State Farm Mutual Automobile Insurance Company and policy holders.

5.

By the Plaintiff: (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 shall be permitted to take depositions of any persons for the preservation of evidence for use at trial **no later than sixty (60) days following the entry of the Consolidated Pre-Trial Order.**

(b) Unless otherwise noted, the names of the parties as shown in the caption to this Order are correct and complete and there are no questions by any party as to the misjoinder or non-joinder of any parties. Plaintiff objects to the Intervenor parties being identified in the style of the case during the tort litigation phase of this trial as it improperly interjects collateral source issues into this phase and would unnecessarily confuse the jury and prejudice the Plaintiff.

By the Defendant:

(a) All discovery has not been completed. On December 1, 2016, plaintiff identified three (3) healthcare providers from which defendant needs to obtain plaintiff's treatment records, diagnostic testing, and bills so as to properly evaluate this case and prepare for trial. Defendant may need the assistance of the Court in enforcing the production of the plaintiff's records from these recently identified providers. The parties shall be permitted to take depositions of any person(s) for the preservation of evidence at trial no later than 60 days following the entry of the Consolidated Pre-Trial Order.

Further, the parties shall have the right to take the discovery deposition(s) of any opposing expert(s) who will testify at trial. Each party shall notify the opposing party of his/her intent to introduce "live" expert testimony at trial ~~within a reasonable time~~ no later than 90 days prior to trial, so that the opposing party will have ample time to secure the discovery deposition of that expert and to

retain his/her own rebuttal expert(s).

(b) 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 non-joinder of any parties.

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

On September 26, 2012, Ms. Jordan-Peeples was operating a Cobb County Transit bus, traveling straight on Atlanta Street near its intersection with Waverly Way, when the Defendant negligently changed lanes and collided her vehicle into the driver's area of the bus setting into motion a chain of events which have changed the course of Ms. Jordan-Peeples life forever. As a result, of Defendant's negligence, Ms. Jordan-Peeples sustained an injury to her left wrist which ultimately required surgery in an attempt to alleviate pain and regain use of her left hand.

For a brief period following the wrist surgery, Ms. Jordan-Peeples began to feel better then she began to experience increased pain in her wrist near the surgical site. Simultaneously, Ms. Jordan-Peeples also began to experience pain and swelling in her right knee, where over a year before the collision she had a surgery to implant an artificial knee joint. Following the wrist surgery, Ms. Jordan-Peeples complained to her wrist surgeon about the increase of pain near the surgical site for which he prescribed her a course of antibiotics to fight any infection present. During this same time she was regularly returning to the orthopedic practice where she had received her artificial knee implant, complaining of pain and swelling in her right knee. While taking the antibiotics prescribed by the hand surgeon, Ms. Jordan-Peeple's experienced a corresponding decrease in her right knee pain, although she continued to have swelling, and the knee doctors continued to try to determine the cause of her problems. After several months the

artificial knee specialist determined her knee implant was infected, and had been for several months, leaving the only option for treatment as a two stage surgical procedure.

Ms. Jordan-Peeples ultimately underwent the doctor recommended two-stage surgery where the infected knee implant was removed and an antibiotic device was implanted an antibiotic spacer device in its place. Following that surgery, Ms. Jordan-Peeples, suffered complications which led to early stage renal failure and required emergency hospitalization and in-hospital care, followed by in-patient rehabilitation care. Once stabilized, Ms. Jordan-Peeples had to endure the second surgical stage of the two-stage surgical procedure, wherein doctors surgically remove the antibiotic spacer device and implanted a new artificial knee joint.

Had the Defendant not negligently changed lanes on September 26, 2012, causing the collision, which injured Ms. Jordan-Peeples wrist, the resulting chain of events set into motion by that negligence would never have occurred. Those events the Defendant set into motion with her admitted carelessness have left Ms. Jordan-Peeples after 3 invasive surgeries, in daily pain. She is currently under the care of doctors to try to manage that daily pain. The injuries and her pain resulted in Ms. Jordan-Peeples becoming permanently disabled. The injuries and her pain caused Ms. Jordan-Peeples to lose her job of 16 years and have left her physically unable to work. Had that single negligent act, for which the Defendant has admitted fault, not occurred Ms. Jordan-Peeples would not be in the position she finds herself today.

7. The following is the defendant's brief and succinct outline of the case and contentions: The plaintiff and Sherrie Anderson were involved in an automobile accident on September 26, 2012. Plaintiff was driving a Cobb County Transit bus. Ms. Anderson was driving an SUV. Plaintiff made no complaint of injury at the scene. No ambulance as called.

Ms. Anderson is not responsible for any pre-existing or subsequent injury or illness which is not directly related to the accident. The burden of proof is upon the plaintiff to prove causation of her injuries and damages.

8. The issues for determination by the jury are as follows:

By Plaintiff: Proximate cause and damages.

By Defendant: Proximate cause and damages.

By the Intervenors:

(a) Proximate cause and damages.

(b) With regard to damages, the jury will utilize a special verdict form delineating the amount of economic and noneconomic damages awarded to ensure that a determination of whether the Plaintiff has been fully and completely compensated within the meaning of O.C.G.A. § 34-9-11.1 can be made by the Court.

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

By Plaintiff: Defendant has admitted that she negligently caused the collision at issue.

10. If the case is based on a contract, either oral or written, the terms of the contract are as follow: Not applicable.

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

(a) **By the Plaintiff:**

Physiotherapy	$3,465.00
Peachtree Orthopeadics	$7,567.00
Visiting Nurse Health System	$3,300.00
UniHealth Austell	$3,500.00
Kaiser	$TBD
MedRisk, Inc.	$6,892.62

Marietta Neuro & Headache	$3,315.00
Barrack Spine & Joint	$1,908.33
Center for Orthopedics & Sports Medicine	$7,472.14
Smyrna Ortho & Sports	$740.00
Concentra	$6,862.62
Northside Hospital	$273,464.25
*Chronic Pain Clinics of America	$1,000.00
*Atlanta Vanguard	$1,000.00
*OrthoAtlanta	$1,000.00
Past and Future Lost Wages	$540,800.00
Anticipated Future Medical Costs	$400,000.00

**Pursuant to instructions from the Court, Plaintiff estimates the costs of these provider's services and will provide actual charges as soon as practicable.*

*** Plaintiff anticipates that there may be additional damages and will notify the Court and all parties as soon as practicable.*

(b) **By the Defendant:** The plaintiff has provided documentation for medical expenses of $253,354.78 and claims lost wages in the amount of $540,800. Defendant objects to the presentation of any evidence, testimony, documentation, or argument concerning any special damages which were not disclosed during the course of discovery and specifically pled in accordance with O.C.G.A. §9-11-9(g).

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. The following facts are stipulated:

By Plaintiff: Defendant has admitted jurisdiction and venue and admits fault for the collision.

By Defendant: Defendant admits fault for the accident.

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) **By the Plaintiff:**

1) Plaintiff's medical bills, medical items and related expenses

2) Plaintiff's employment related records

3) Photographs of Plaintiff

4) Photographs of bus Plaintiff was driving

5) Photographs of Defendant's vehicle

6) Police report of September 26, 2012

7) Certified copy of traffic citation

8) Any medical narrative from previously identified medical providers tendered pursuant to O.C.G.A. §24-8-826. See 4.2.1(d)

Plaintiff does not stipulate to the authenticity of any documents listed by Defendant and would object to the introduction of any evidence requested of Defendant in discovery and not produced.

Plaintiff objects to any document which Defendant attempts to introduce into evidence without the proper evidentiary foundation.

(b) **By the Defendant:**

Defendant, at the discretion of her attorneys, may tender:

1) Any of the plaintiff's healthcare records or bills, including, but not limited to, the records or bills of the following: Concentra Medical Center; Kaiser Permanente; Dr. Julien; Dr. Yilling; Dr. Lewis; Dr. Cabot; Smyrna Orthopedics and Sports Medicine; Dr. Drake-Barrack; Barrack Spine and Joint Medicine; Dr. Craig Weil;

Center for Orthopedic and Sports Medicine; Peachtree Orthopedic Clinic; Dr. Reddy; P.T. Kristi Dean; Dr. Gupta; Dr. Arnold Weil; Non-Surgical Orthopedics; Dr. Guild; Northside Hospital-Atlanta; Northside Hospital-Forsyth; Dr. Kovacic; Venture Physical Therapy; Dr. Hormes; Marietta Neurology and Headache Center; N.P. Clauson; Dr. Solomon; Chronic Pain Clinics of America; Atlanta Vanguard Medical Associates; Ortho Atlanta; Cobb Hospital; Marietta Imaging; Visiting Nurse; Pinnacle Orthopedics; Select Physical Therapy; Kennestone Hospital; Northside Hospital Pain Clinic; Windy Hill Hospital; Dr. Swayze; Dr. Manela; Dr. Tina Jones; Physiotherapy Associates; UniHealth; Rite-Aid; Dr. Tharpe; Dr. Connally; MedRisk; Kaiser Town Lake; Kaiser Pharmacy; Marietta Clinic; Dr. Haddad;

2) Any document necessary for purposes of impeachment, cross-examination or rebuttal;

3) Any documents identified by the plaintiff in her portion of the Pre-Trial Order;

4) The police accident report;

5) Any records of any of the plaintiff's employers including, but not limited to, Cobb County Transit; Veolia Transporation; TransDev Services; IBM;

6) Any records of the following insurers including but not limited to, State Farm; Kaiser Permanente; Sedgwick; United Healthcare;

7) Any diagnostic studies, including, but not limited to, MRI, CT and x-ray films; EEG results;

8) Any medical narratives identified by the defendant in accordance with O.C.G.A. §24-3-18 and/or O.C.G.A. §24-8-826; See ¶ 21(3)

9) Any pleadings, discovery, and depositions from this case;

10) Any document pertaining to any prior/subsequent accidents, injuries, claims, or lawsuits involving the plaintiff;

11) Any of the plaintiff's cellular phone records including but not limited to Metro PCS;

12) Any criminal convictions of the plaintiff;

13) Any records from a gym or fitness facility;

14) Pursuant to O.C.G.A. §§ 24-8-803(6) and 24-9-902(11), defendant hereby gives notice of her intent to use all or portions of documents from the following providers/entities:

(a) Peachtree Orthopedic Clinic;

(b) Kaiser Permanente;

(c) Center for Orthopedic and Sports Medicine;

(d) Marietta Neurology and Headache Center;

(e) Concentra Medical Center/Concentra Health Services;

(f) Smyrna Orthopedic and Sports Medicine;

(g) Barrack Spine and Joint Medicine;

(h) Non-Surgical Orthopedics;

(i) Northside Hospital-Atlanta;

(j) Northside Hospital Pain Clinic;

(k) Dr. Jeffrey Kovacic;

(l) Chronic Pain Clinics of America;

(m) Atlanta Vanguard Medical Associates;

(n) Ortho Atlanta;

(o) Cobb Hospital; ✓

(p) Marietta Imaging;

(q) Visiting Nurse;

(r) Pinnacle Orthopedics;

(s) Select Physical Therapy;

(t) Kennestone Hospital; ✓

(u) Physiotherapy Associates;

(v) UniHealth; ✓

(w) Rite-Aid;

(x) Dr. Tina Jones;

(y) Windy Hill Hospital; and ✓

(z) Veolia Transportation/TransDev/Sedgwick.

Defendant reserves her objections as to authenticity of documents and exhibits tendered by the plaintiff until after her counsel has had a chance to review and examine such documents and exhibits. In addition, the defendant reserves her objections to the admissibility of any documents listed by the plaintiff until they are tendered into evidence. Defendant will make all records received pursuant to requests for production of documents to non-parties available for plaintiff's inspection at a mutually agreeable date and time. ~~Finally, defendant reserves the right to supplement and/or amend this list prior to trial.~~ See ¶ 19(c)

(c) **By the Intervenors/Plaintiffs:**

1) Payment ledgers from Sedgwick Claims Management Services

2) Stipulation and Settlement Agreement

Evidence submitted by the Intervenors/Plaintiffs shall be provided outside the presence of the jury.

(d) All medical records a party intends to introduce under O.C.G.A. § 24-8-803(6) must be specifically identified as such in the Consolidated Pretrial Order. Upon notification that a party intends to introduce medical records under O.C.G.A. § 24-8-803(6), an opposing party shall have 30 days to file a request for the production of such documents. Upon receipt of such a request for production, the party seeking to introduce medical records under O.C.G.A. § 24-8-803(6) shall produce such medical records within 15 days of the receipt of the request.

(e) Any party may supplement its list of physical and documentary evidence no later than 90 days prior to trial with adequate notice to opposing counsel and leave of Court.

15. Special authorities relied upon by the plaintiff relating to peculiar evidentiary or other legal questions are as follows: Plaintiff is not aware of any peculiar evidentiary or other legal questions but should the same arise, Plaintiff will submit authorities to the Court regarding the same. Plaintiff does, however, pursuant to instruction from the Court, reserve the right to amend her itemization of special damages as soon as practicable. P shall itemize special damages by amendment to pretrial order within 15 days of the entry of this order.

16. Special authorities relied upon by the defendant relating to peculiar evidentiary or other legal questions are as follows: The plaintiff is not entitled to recover any special damages which were not specifically pled in accordance with O.C.G.A. § 9-11-9(g).

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

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

By the Plaintiff: Dr. Craig Weil, Dr. George Guild and Dr. Ramin Haddad.

By the Defendant: Any healthcare provider who has treated or examined the plaintiff or interpreted any diagnostic tests; Dr. Craig Weil; Dr. George Guild; any persons listed in paragraph No. 19 who are unavailable at the time of trial. (See ¶ 5(a))

~~Any objection to the depositions or questions or arguments in the depositions shall be~~ called to the attention of the ~~Court prior to trial~~. See ¶ 21(d)

~~Further, defendant reserves the right to supplement and/or amend this portion of the Pre-Trial Order with proper notice to the Court and the plaintiff.~~ See ¶ 5(a)

19. The following are lists of witnesses the

(a) Plaintiff will have present at trial: Plaintiff.

(b) Plaintiff may have present at trial: Sherrie Anderson, Karess McDew, William Peeples, and Sheila Williams.

(c) Defendant will have present at trial: No one.

(d) Defendant may have present at trial: Sherrie Anderson; Officer Wallace; any healthcare provider, before or after the accident, who treated the plaintiff or interpreted diagnostic tests, including, but not limited to, those persons or entities listed in paragraph 14(b)(1); any representative of the plaintiff's employers, including but not limited to, those listed in paragraph 14(b)(6); any representative of any insurer, including but not limited to, those listed in paragraph 14(b)(7); any representative of the plaintiff's cellular phone providers; any records custodian needed for purposes of authenticity; any witness for rebuttal, cross-examination, or impeachment including but not limited to, all persons listed in the parties' portions of the Pre-Trial Order; any person identified in the parties' portions of the Pre-Trial Order. (See ¶ 19(a))

Defendant objects to any witnesses listed by the plaintiff who were not previously identified in response to discovery requests which called for their identification.

The parties must specify the identity of any non-authentication witness within 30 days of this order and may not rely upon a nonspecific designation. Failure to do so may result in exclusion of the witness.

~~Defendant reserves the right to supplement and/or amend this portion of the Pre-Trial Order pursuant to the Court's instructions regarding identification of witnesses.~~ See ¶ 19(c)

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 testimony by other means.

(e) Any party may supplement its list of potential witnesses no later than 90 days prior to trial with adequate notice to opposing counsel and leave of Court, if the additional witness was disclosed during discovery. Any such additional witnesses must be made available for a deposition within thirty (30) days following the amendment to the Consolidated Pretrial Order.

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

By the Plaintiff:

a) We, the jury, find in favor of the Plaintiff and against the Defendant in the following amounts:

a. For past medical bills and expenses in the amount of _____ dollars;

b. For future medical bills and expenses in the amount of _____dollars;

c. For past and future lost wages in the amount of _____ dollars;

d. For past and Pain and suffering in the amount of _____ dollars; or

b) We, the jury, find in favor of the Defendant.

By the Defendant: The parties will submit a special verdict form to the Court.

By the Intervenor:

a) We, the jury, find in favor of the Plaintiff and against the Defendant in the following amounts:

a. For past medical bills and expenses in the amount of _____ dollars;

b. For future medical bills and expenses in the amount of _____dollars;

c. For past and future lost wages in the amount of _____ dollars;

d. For past and future pain and suffering in the amount of _____ dollars; or

b) We, the jury, find in favor of the Defendant.

21.

By the Plaintiff:

(a) The possibilities of settling the case are poor at this time.

(b) The parties do want the case reported.

(c) The cost of takedown will be paid by the parties.

(d) Other matters: **Inasmuch as plaintiff's counsel resides out of state, plaintiff requests a special setting for the trial of this case.**

By the Defendant:

(a) The possibilities of settling the case are fair.

(b) The parties do want the case reported.

(c) The cost of takedown will be shared.

(d) Other matters: Defendant requests a jury of twelve (12) persons. **Defendant respectfully requests oral argument on plaintiff's Motion in Limine.**

Deposition Objections:

Prior to trial, counsel shall make a good faith effort to resolve any objections in depositions to be presented at trial.

All unresolved objections, together with argument and citations, shall be filed, with a copy to the Court, no later than fifteen (15) days prior to trial. Any objections not brought before the Court fifteen (15) days prior to trial shall be deemed waived.

Medical Narratives:

Notice of Intent to Use Medical Narratives **must be filed with the Court no later than the filing of the Consolidated Pre-Trial Order and all proposed narratives must be filed with the Court no later than ninety (90) days prior to trial.** Counsel shall make a good faith effort to resolve any objections to proposed medical narrative reports. The Court shall rule on any objections timely filed, pursuant to O.C.G.A. § 24-8-826, without oral argument unless a hearing is ordered by the Court upon request of either party at the time of filing.

This _____ day of _____, 201__.

_____
Judge David P. Darden
State Court of Cobb County

(signatures continued on next page)

Submitted by:

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IN THE STATE COURT OF COBB COUNTY
STATE OF GEORGIA

VANESSA JORDAN-PEEPLES, Plaintiff, and TRANSDEV f/k/a VEOLIA TRANSPORTATION and SEDGWICK CMS, Intervenors/Plaintiffs, v. SHERRIE ANDERSON, Defendant.	)	CIVIL ACTION FILE NO. 14A2189-5

ORDER

It is hereby ordered that the foregoing, including the attachments thereto, constitutes the PRETRIAL ORDER in the above case and supersedes the pleadings which may not be further amended except by order of the court to prevent manifest injustice or as otherwise provided herein.

This 25 day of Jan. 2017.

Judge David P. Darden
State Court of Cobb County