

ORIGINAL

IN THE STATE COURT OF DOUGLAS COUNTY
STATE OF GEORGIA

LISA RENEE FIQUETTE and MARLIN)
DAVID FIQUETTE,)

Plaintiffs,)

v.)

LINDA D. FORD, M.D., LINDA D.)
FORD,)
M.D., P.C., WELLSTAR HEALTH)
SYSTEM, INC., ROBERT N. CROSS,)
M.D., RADIOLOGY ATLANTA GROUP,)
P.C., and DOUGLAS HOSPITAL, INC.,)

Defendants.)

CIVIL ACTION

FILE NO 16-SV-00275

FILED

FEB 23 2018

Tammy M. Howard, Clerk
Superior & State Court
Douglas County, GA

CONSOLIDATED PRETRIAL ORDER

The following constitutes the Consolidated Pretrial Order entered in the above-styled case upon having conference with counsel for the parties:

1.

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

Plaintiffs:

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Counsel for Linda D. Ford, M.D. and Linda D. Ford, M.D., P.C.

2.

The parties estimate the time required for trial is 2 weeks.

3.

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

Defendants WellStar Health System, Inc. and Douglas Hospital, Inc. Motions to Exclude Laurie Schachtner and Philip Kivitz, M.D. are currently pending before the Court.

Defendants Linda D. Ford, M.D. and Linda D. Ford, M.D., P.C. have filed a Motion to Limit Testimony of Dr. Mark Keaton to areas of his specialty, and a Motion to Delete Audio Portion of Video of Deceased, objections to portion of video-taped testimony for use at trial by Deceased.

The parties have filed Motions in Limine.

Robert Cross, M.D. and Radiology Atlanta Group, P.C.'s Motions in Limine and Brief in Support. The defendants reserve the right to file trial brief as necessary. In addition, the parties will file a consent motion authorizing early access to the courtroom.

4.

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

The Plaintiffs state that the jury should be qualified as to relationship with the following:

Lisa Renee Fiquette; Marlin David Fiquette; Joseph W. Watkins; Lance D. Lourie; Robert D. Roll; Stephen R. Chance; Watkins, Lourie, Roll & Chance, PC; M. Todd Camp; Camp Law Office, P.C.; Michael J. Miller; Chris Wynn; Miller & Wynn; Linda D. Ford, M.D.; Linda D. Ford, M.D.; P.C.; WellStar Health System, Inc.; Douglas Hospital, Inc.; Robert N. Cross, M.D.; Radiology Atlanta Group, P.C; The Doctors Company; Risk Management and Insurance Services; MAG Mutual Insurance Company; Community Assurance Company, Ltd.; and Columbia Casualty Company (CNA); Illinois Union Insurance Co.(ACE); Admiral Insurance Co. (Berkley); Ironshore Specialty Insurance Co. (Ironshore); and the officers, directors, and employees of each of the above-named companies/entities.

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 deposition of any person(s) for the preservation of evidence for use at trial.

The parties shall make every effort to identify the actual witnesses who most reasonably may be expected to be called to testify at trial and notify opposing counsel of the same.

The parties reserve the right to take any depositions for evidence as needed prior to trial for use at trial. To the extent any expert has formed new opinions, the parties may, if appropriate, re-depose the expert, provided that trial is not delayed.

The parties may depose any new witnesses identified in the Order provided the trial is not delayed. WellStar Health System, Inc., Douglas Hospital, Inc., Dr. Cross, and Radiology Atlanta Group, P.C. reserve the right to conduct a discovery deposition of Christopher Butler in the event plaintiff intends to call Mr. Butler as a witness in the case. Furthermore, Plaintiffs reserve the right to depose Stacy Odom, who is a newly designated witness by Defendants WellStar Health System, Inc. and Douglas Hospital, Inc.

- (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.

6.

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

On May 24, 2012, Lisa Fiquette went to her Ob/Gyn, Defendant Linda Ford, for her annual checkup. Upon doing an exam, Dr. Ford found a 2 cm mass. Initially, Dr. Ford ordered a screening mammogram, which was not the correct study. However, WellStar Health System, Inc. and Douglas Hospital, Inc. (jointly hereinafter referred to as "WellStar") obtained an order from Dr. Ford for a diagnostic mammogram and ultrasound if necessary.

Lisa Fiquette went to WellStar Douglas Hospital on June 13, 2012 and underwent a diagnostic mammogram and ultrasound. Dr. Cross read both of these studies as negative. He was unable to visualize the mass on either the mammogram or ultrasound. Dr. Cross was not able to provide Dr. Ford any information with regard to whether the palpable mass was benign or cancer. Dr. Cross completed his reports, which were sent to Dr. Ford's office.

Dr. Ford had a system in her office pursuant to which her unlicensed assistant, Mary Baldwin, would review results from radiological studies. Ms. Baldwin reviewed the impression section of the mammogram and ultrasound reports. She did not read the entire reports. She filed the reports without showing them to Dr. Ford. Dr. Ford did not review the reports of the mammogram and ultrasound when her office received them in June of 2012. Dr. Ford did not order a biopsy or any other diagnostic test to gather more information about the mass in Lisa's breast.

WellStar sent letters to Lisa Fiquette advising her of the results of her mammogram and ultrasound studies. The Mammography Quality Standards Act (21 CFR § 900.12(c)) requires that the facility send the patient a summary of the mammography report written in lay terms. WellStar sent Mrs. Fiquette a letter that stated:

We are pleased to inform you that the results of your recent mammogram are normal/benign (not cancer).

WellStar also sent Lisa Fiquette a lay letter regarding the results of her ultrasound study, which also reassured her that her mass was not cancer. When Lisa Fiquette received the letters she was relieved the mass was not cancer, and she relied upon the letters because they stated unequivocally that she did not have cancer. These letters did not adequately explain to Lisa Fiquette that she needed to return to her physician so that the mass could be further evaluated.

The wrong letters were sent to Lisa Fiquette. Mrs. Fiquette should have been sent different letters regarding the results of her mammogram and ultrasound studies. She should have been sent the letter, which was on WellStar's system and available to Dr. Cross, that contains the following additional language:

However, the area of concern in your breast that prompted this exam should be further evaluated by your physician or other healthcare provider. He/She will determine the necessary follow-up at that time.

Dr. Cross claims that he did not pick the letters that were sent to Lisa Fiquette. He claims that he has nothing to do with the selection of the letters. WellStar claims that it did not

select the letters that Lisa Fiquette was sent, but instead they were selected by Dr. Cross. Someone in the hospital printed the letters and sent them out. However, no one at WellStar compared the letters to the reports for the mammogram and ultrasound prior to sending the letters to Lisa.

WellStar was using a new computer system (the Penrad system) to create reports and letters for breast imaging studies. WellStar placed the Penrad system into operation on June 5, 2012. Dr. Cross was gone during the week that WellStar went live with the Penrad system. WellStar claims that Dr. Cross received training on the Penrad system on June 11 and June 12, 2012. However, Dr. Cross does not recall receiving any information, orally or in writing, that he was expected to select the lay letters.

A year later, on June 4, 2013, Lisa Fiquette saw Dr. Ford again for her annual checkup. The same lump was still there. Dr. Ford ordered a screening mammogram, which was read as negative. In July of 2013, Lisa Fiquette began to experience back pain, which led to the diagnosis of Stage IV breast cancer. Lisa's breast cancer metastasized to her bones, brain, eyes, and other organs. Lisa Fiquette underwent extensive treatment for her breast cancer. She died on February 2, 2017.

Defendants committed ordinary negligence, negligence per se, and medical malpractice. Plaintiffs' specifications of negligence are set out in Section 9 below, and incorporated herein.

As a result of the deviations from the standard of care, ordinary negligence, and negligence per se of the Defendants, Lisa Fiquette's cancer was not discovered until it had progressed to Stage IV and could not be treated successfully, thereby causing her death. The deviations from the standard of care, ordinary negligence, and negligence per se of Defendants, proximately caused Lisa Renee Fiquette to suffer personal injuries, permanent impairment to her body, medical expenses, funeral expenses, pain and suffering, loss of enjoyment of life,

and death. Marlin David Fiquette, as the Executor of the Estate of Lisa Renee Fiquette, is entitled to recover damages for Lisa Fiquette's medical expenses, funeral expenses, and pain and suffering. The acts and omissions of Defendants caused and contributed to the death of Lisa Fiquette. Marlin David Fiquette is entitled to recover damages of the full value of the life of Lisa Fiquette. Marlin David Fiquette has suffered loss of his wife's consortium. Mr. Fiquette is entitled to recover damages for his loss of consortium.

NOTE: Defendants WellStar Health System, Inc., Douglas Hospital, Inc., Robert N. Cross, M.D., Radiology Atlanta Group, P.C.; Linda D. Ford, M.D., and Linda D. Ford, M.D., P.C. object to Plaintiffs' brief and succinct outline of the case and contentions being read or otherwise presented to the jury.

7.

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

For Defendants WellStar Health System, Inc. and Douglas Hospital, Inc.:

On May 24, 2012, Plaintiff Lisa Fiquette attended her annual appointment with her treating OB/GYN, Defendant Dr. Linda Ford, at the offices of Defendant Linda D. Ford, MD, PC. During Mrs. Fiquette's routine breast exam, Dr. Ford observed what she believed to be a cyst in Mrs. Fiquette's left breast, for which she ordered a diagnostic mammogram. That diagnostic mammogram and a subsequent ultrasound were performed appropriately and within the standard of care on June 13, 2012 at WellStar Douglas Hospital and read and interpreted as "negative" by Defendant Dr. Robert Cross of Defendant Radiology Atlanta Group, P.C. Following that imaging, Mrs. Fiquette was sent two patient notification letters, one for her June 13, 2012 mammogram and one for her ultrasound, both informing her that her results were "normal/benign (not cancer)." The letters that Mrs. Fiquette received were the same letters

selected by Dr. Cross. Patient ultrasound and mammogram reports were also drafted by Defendant Dr. Robert Cross and sent to the ordering physician, Defendant Linda D. Ford, MD.

Approximately a year later, Mrs. Fiquette returned to Dr. Ford for an annual exam, at which time a screening mammogram was ordered. That mammogram took place on June 14, 2013 and was read as "negative" by Dr. Thomas Hinz. Following that imaging, Mrs. Fiquette was sent a patient notification letter informing her that her results were "normal/benign (not cancer)." Those letters were selected by Defendant Dr. Thomas Hinz and sent through an automated software system maintained by Defendant WellStar. Patient ultrasound and mammogram reports were also drafted by Dr. Hinz and sent to the ordering physician, Defendant Linda D. Ford, MD.

On July 11, 2013, Mrs. Fiquette was treated for chronic abdominal pain and back pain. Mrs. Fiquette underwent a bone and skeletal survey on July 15, 2013 and July 19, 2013, which confirmed the diagnosis of bony metastatic disease. On July 24, 2013, a breast biopsy was performed by Dr. Anna Meyerson at Cobb Hospital. Mrs. Fiquette was subsequently diagnosed with metastatic cancer. Mrs. Fiquette died in February 2017.

Defendants WellStar Health System, Inc. and Douglas Hospital, Inc. deny that they were in any way negligent with regard to Mrs. Fiquette's treatment and care. They maintain that the patient notification letters sent to Mrs. Fiquette following her 2012 mammogram and ultrasound were drafted, maintained, and sent to Mrs. Fiquette within the standard of care, and further, within the guidelines of the American College of Radiology. Defendants further maintain that Dr. Cross was appropriately trained and utilized the system within the standard of care. Defendants WellStar Health System, Inc. and Douglas Hospital, Inc. further deny that the patient notification letter that Mrs. Fiquette received harmed Mrs. Fiquette in any way or that Mrs. Fiquette would have done anything different had she received an alternate patient notification letter.

For Defendants Linda D. Ford, M.D. and Linda D. Ford, M.D., P.C.:

The plaintiff patient, Lisa Fiquette, was a woman in her late forties. Dr. Ford followed her for a number of years without significant findings. In May 2012 she presented for an annual well-woman exam and Dr. Ford found what she felt certain was a 2 cm simple cyst in the left breast. The patient was not aware of it. Dr. Ford found the area had only the hallmarks of a cyst and none of cancer. However, she ordered a diagnostic mammogram (more detailed than a routine screening mammogram) and as well an ultrasound since it is considered better at determining the presence of cysts. The patient waited three weeks (until June 2012) to get those two studies at the co-defendant hospital. The results were read as negative for both the diagnostic mammogram (“There is no mammographic evidence of malignancy.”) and the ultrasound (“There is no evidence of malignancy.”).

The June 2012 imaging reports were sent to Dr. Ford’s office and reviewed and found to be reported as negative; therefore, no further action was taken.

The patient returned in June of 2013 for her annual checkup. She reported no interim problems. A breast mass was present but unchanged (Dr. Ford described it in her records as “same size”) in the left breast. She followed the radiologist’s recommendations from the preceding year and ordered a screening mammogram. She also thought about sending the patient to a breast surgeon but decided to wait for results of the mammogram. A return visit was scheduled for approximately one month later. Before the patient returned, she experienced back pain which led her to other physicians who in July 2013 diagnosed metastatic breast cancer (spread to at least the spine). The patient’s cancer was determined to be stage IV at that time. The patient has subsequently died.

For Defendants Robert N. Cross, M.D. and Radiology Atlanta Group, P.C.:

On May 24, 2012, Lisa Renee Fiquette underwent an annual gynecological exam, which included a breast exam, performed by defendant Linda D. Ford, M.D. During that exam,

Dr. Ford identified a lump in Ms. Fiquette's left breast. As a result, Dr. Ford ordered a diagnostic mammogram of both breasts, as part of her evaluation of the lump.

On June 13, 2012, Ms. Fiquette underwent a diagnostic mammogram and ultrasound of both breasts at Wellstar Douglas Hospital. The mammogram and ultrasound were interpreted by Robert N. Cross, M.D. as normal, and not suspicious for any malignancy. Dr. Cross dictated and issued reports for both the mammogram and ultrasound, which were transmitted to Dr. Ford's office. Ms. Fiquette also received "lay letters" pertaining to both the mammogram and ultrasound.

There is no dispute that Dr. Cross's interpretation of both the mammogram and ultrasound was appropriate, and that they were both appropriately read as "normal." Dr. Cross's reports associated with the normal mammogram and normal ultrasound were appropriate and within the standard of care. Additionally, the "lay letters" that Ms. Fiquette received regarding the mammogram and ultrasound were appropriate and within the standard of care.

8.

The issues for determination by the jury are as follows:

For Plaintiff:

- (a) Whether the Defendants violated the professional standards of care applicable to each Defendant.
- (b) Whether Defendants WellStar Health System, Inc. and Douglas Hospital, Inc. were negligent.
- (c) Whether Defendants WellStar Health System, Inc., Douglas Hospital, Inc., Robert N. Cross, M.D., and Radiology Atlanta Group, P.C. were negligent as a matter of law (negligence per se).

- (d) Whether any of the professional negligence, ordinary negligence, or negligence per se caused or contributed to Lisa Fiquette's pain and suffering, medical expenses, funeral expenses, death, or David Fiquette's loss of consortium.

For Defendants WellStar Health System, Inc. and Douglas Hospital, Inc.:

- (a) Whether or not WellStar Health System, Inc. and Douglas Hospital, Inc. met the standard of care in the sending of the 2012 mammogram patient notification letter.
- (b) Whether or not WellStar Health System, Inc. and Douglas Hospital, Inc. met the standard of care in the sending of the 2012 ultrasound patient notification letter.
- (c) Whether or not the sending of the patient notification letters proximately caused any injury to the Plaintiffs.
- (d) Damages, if any.

For Defendants Linda D. Ford, M.D. and Linda D. Ford, M.D., P.C.:

- (a) The nature of the patient's health and history prior to her 2012 visit with Dr. Ford;
- (b) Whether Dr. Ford exercised a reasonable degree of care and skill such as that exercised under like or similar circumstances in the care rendered by her to the patient;
- (c) Whether any departure by Dr. Ford from said recognized degree of care and skill proximately caused death;
- (d) The cause in fact or actual cause of death;
- (e) Plaintiffs' damages, if any, according to Georgia law.

For Defendants Robert N. Cross, M.D. and Radiology Atlanta Group, P.C.:

- a. Whether the care and treatment provided by Robert N. Cross, M.D. and Radiology Atlanta Group, P.C. complied with the applicable standard of care;
- b. Whether any act or omission by Robert N. Cross, M.D. and/or Radiology Atlanta Group, P.C. proximately caused the alleged injuries to Lisa Fiquette;
- c. Damages, if any.

9.

Specifications of negligence including applicable code sections are as follows:

Linda D. Ford, M.D. deviated from the applicable standard of care and skill in numerous ways, including but not limited to, the following:

- a. Failing to personally review the radiology reports for the diagnostic mammogram and ultrasound of June 13, 2012, and failing to recognize that the radiologist failed to see the mass in Lisa Fiquette's left breast; instead, Dr. Ford allowed an unlicensed assistant to read the reports and make the determination whether any additional action was necessary;
- b. Failing to explain to Lisa Fiquette that the diagnostic mammogram and ultrasound did not provide any information as to whether the lump was cancer, and failing to explain to Lisa Fiquette what her options were, including a biopsy, to find out if the mass in her breast was cancer;
- c. Failing to refer the patient for a biopsy of the lump discovered in Lisa Fiquette's left breast in May of 2012;
- d. Failing to schedule a follow up examination of Lisa Fiquette within a short period of time following May 24, 2012;

- e. Failing to order further diagnostic testing including biopsy of the lump in Lisa Fiquette's left breast following the mammogram and ultrasound of June 13, 2012; and
- f. Having a policy and practice in place of allowing an unlicensed assistant to take sole responsibility for viewing reports of diagnostic mammograms and ultrasounds, which were done to determine the nature of a lump in a patient's breast, and make decisions as to what action, if any, should and would be taken in response to said reports.

WellStar, through its employees, deviated from the applicable standard of care as follows:

- a. Providing improper and misleading advice to Lisa Fiquette regarding the results of her mammogram and ultrasound (including recommendations).
- b. Failing to select and send the patient a complete and accurate summary of the mammography report written in lay terms. The letter sent to Lisa Fiquette was misleading and not the correct letter. The letter stated that the results of her mammogram were "normal/benign (not cancer)." Lisa Renee Fiquette should have been sent a letter making a clear recommendation that she should go back to her physician so that the mass could be further evaluated.
- c. WellStar sent Ms. Fiquette a letter, which was inaccurate and misleading, regarding her ultrasound because it stated that her ultrasound was "normal/benign (not cancer)." The letter regarding the ultrasound should have made a clear recommendation that the patient go back to her physician so that the mass could be further evaluated.
- d. WellStar had the responsibility of sending an accurate letter to the patient. WellStar should have had a system in place that required a licensed professional

to check the letters to make sure they were consistent with the reports and other information relating to the patient. The facility employees should have checked and seen that there was a discrepancy between Dr. Cross's reports and the letters that were being sent to the patient.

- e. Failing to make sure that the healthcare providers and staff understood their respective roles in connection with selecting and sending out of lay letters and making sure that the radiologists understood that they were expected to select the appropriate lay letter to be sent to the patient regarding the results of breast imaging studies. WellStar failed to have adequate communication, training, policies, procedures, and protocols in place to make sure that the radiologists understood that the selection of appropriate lay letters was the responsibility of the radiologists, and that they understood how to select the letters on the new PenRad system; and
- f. Failing to have an appropriate and properly functioning patient notification system for sending lay letters to patients, failing to maintain said system in an organized manner, and failing to perform audits on the system to ensure that it was operating properly and that everyone, including the radiologists, were performing the necessary functions.

Dr. Robert N. Cross, M.D. deviated from the applicable standard of care as follows:

- a. Providing improper and misleading advice to Lisa Fiquette regarding the results of her mammogram and ultrasound (including recommendations);
- b. Failing to prepare a sufficient and adequate report (and one which complied with the Mammography Quality Standards Act (MQSA)) in connection with the studies done on June 13, 2012 as they did not clearly account for the palpable mass and state that the patient needed clinical follow-up;

- c. Failing to know and understand that he was responsible for selecting the appropriate lay letters to be sent to patients (including Lisa Fiquette) regarding ultrasound and mammogram;
- d. Failing to select the appropriate letters, including the letter required by the MQSA, to be sent to Lisa Fiquette regarding the results of her ultrasound and mammography studies of June 13, 2012;
- e. The letters that were sent to Lisa Fiquette (regarding both the mammography and ultrasound studies) failed to comply with the standard of care. In particular, the letters stated that Lisa Fiquette did not have cancer. They were false and misleading because the radiologist was not able to see the known palpable mass. She should have received a recommendation that she should go back to her physician for further evaluation. The PenRad system in use by Defendant WellStar on June 13, 2012 contained such a letter.

WellStar (through its employees) failed to exercise ordinary and reasonable care in:

- (a) Preparing, selecting, and sending accurate letters to Lisa Renee Fiquette regarding the results of her mammogram and ultrasound studies.
- (b) Making sure the letters sent to Lisa Renee Fiquette regarding the results of her mammogram and ultrasound studies were complete, accurate, and not misleading.
- (c) Making sure that the healthcare providers and staff understood their respective roles in connection with the sending out of the lay letters (including the letters required by the Mammography Quality Standards Act), and making sure that the radiologists understood that they were expected to select the appropriate letter to be sent to the patient regarding the results of breast imaging studies.

- (d) Having adequate communication, training, policies, procedures, and protocols in place to make sure that the radiologists understood that the selection of the appropriate lay letter was the responsibility of the radiologists and was to be done by the radiologists.
- (e) Making sure that it had an adequate and properly functioning patient notification system, which was maintained in an organized manner such that the Defendants' employees and radiologists were properly using it, and further failed to conduct necessary audits of the system to make sure that it was functioning properly.
- (f) Adequately training their staff and radiologists to ensure that the radiologists understood that the selection of the letter was their responsibility, how to navigate the Penrad system, and how to select the appropriate lay letters to be sent to patients.

Defendants WellStar Douglas Hospital, Dr. Robert N. Cross, and Radiology Atlanta Group, P.C. violated 21 C.F.R. § 900.12(c) in (1) relating to the mammography report and (2) relating to the lay letter. The violations constitute negligence *per se*.

For Defendants Robert N. Cross, M.D. and Radiology Atlanta Group, P.C.:

O.C.G.A. §51-1-27 (malpractice liability generally).

Robert N. Cross, M.D. and Radiology Atlanta Group, P.C. deny that they were negligent in any respect.

For Defendants WellStar Health System, Inc. and Douglas Hospital, Inc.:

WellStar Health System, Inc. and Douglas Hospital, Inc. deny that they were negligent in any respect.

For Defendants Linda D. Ford, M.D., and Linda D. Ford, M.D., P.C.:

Linda D. Ford, M.D. and Linda D. Ford, M.D., P.C. deny that they were negligent in any respect.

10.

If the case is based on a 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:

- (a) Pain and suffering as determined by the enlightened conscience of the jury;
- (b) Medical expenses in the amount of \$950,000.00 or in an amount as shown by the evidence;
- (c) Funeral and burial expenses in the amount of \$12,954.30;
- (d) Loss of consortium as determined by the enlightened conscience of the jury;
- (e) Damages for the full value of the life of Lisa Fiquette as determined by the enlightened conscience of the jury.

For Defendants WellStar Health System, Inc. and Douglas Hospital, Inc.:

Defendants WellStar Health System, Inc. and Douglas Hospital, Inc. deny that they are liable to the Plaintiffs for any of the above-referenced damages. Defendants WellStar Health System, Inc. and Douglas Hospital, Inc. further assert that in order for Plaintiffs to recover special damages, Plaintiffs must comply with O.C.G.A. § 9-11-9(g).

For Defendants Robert N. Cross, M.D. and Radiology Atlanta Group, P.C.:

Defendants deny that plaintiffs are entitled to any damages.

For Defendants Linda D. Ford, M.D., and Linda D. Ford, M.D., P.C.:

Linda D. Ford, M.D. and Linda D. Ford, M.D., P.C. deny that they are liable to Plaintiffs or either of them for damages.

12.

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

Not applicable.

13.

The following facts are stipulated:

At all times relevant hereto, Defendant Linda D. Ford, M.D., was employed by Linda D. Ford, M.D, P.C. and was acting with the course and scope of said employment and agency relationship.

At all times relevant hereto, Defendant Robert N. Cross, M.D. was employed by Radiology Atlanta Group, P.C., and was acting within the course and scope of said employment and agency relationship.

14.

The following is a list of all documentary and physical evidence that will be tendered at the trial by the Plaintiffs or Defendants. 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) **For Plaintiff:**

- (1) Annuity Mortality Table for 1949, Ultimate;
- (2) Social Security Period Life Table, 2014;
- (3) All documents produced by Defendants in this matter;
- (4) Demonstrative exhibits, including charts, models, diagrams, photographs, blow ups;
- (5) All Exhibits to all Depositions;

- (6) All documents or physical evidence listed by Defendants in this Pretrial Order;
- (7) All Defendants' responses, supplemental responses, and amended responses to Plaintiffs' interrogatories, requests for production of documents, and requests for admissions;
- (8) Curriculum Vitae of all persons listed in Plaintiffs' list of "may call" witnesses and all expert witnesses;
- (9) Death Certificate of Lisa Fiquette;
- (10) Letters Testamentary appointing Marlin David Fiquette as Executor of the Estate of Lisa Renee Fiquette;
- (11) Photographs of Lisa Fiquette and her family;
- (12) Video of Lisa Fiquette in hospice;
- (13) The letter from WellStar Douglas Hospital Mammography to Lisa Fiquette relating to her June 13, 2012 mammogram;
- (14) The letter from WellStar Douglas Hospital Mammography to Lisa Fiquette relating to her June 13, 2012 ultrasound;
- (15) Defendants WellStar Health System, Inc.'s and Douglas Hospital, Inc.'s Responses to Plaintiffs' Third Request for Production of Documents, including all attachments;
- (16) Screenshots from PenRad System;
- (17) Pages from the PenRad access log;
- (18) Pages from WellStar Health System, Inc.'s Radiology Patient Inquiry Processor;
- (19) Defendants WellStar Health System, Inc.'s and Douglas Hospital, Inc.'s Responses to Plaintiffs' Second Request for Production of Documents, including attachments;
- (20) Sample letters from the American College of Radiology;
- (21) Clinical Practice Guideline Number 13, Quality Determinants of Mammography, U.S. Department of Health and Human Services, Public Health Service, including attached letter/Communicating Mammography Results to Women, including Attached Letter (which is attached to the 30(b)(6) deposition of WellStar Health System, Inc. and Douglas Hospital, Inc., as Exhibit 5);
- (22) Provisions of the Mammography Quality Standards Act, including 21 CFR § 900.12(c);
- (23) Defendants WellStar Health System, Inc.'s and Douglas Hospital, Inc.'s Responses to Plaintiffs' Third Continuing Interrogatories;
- (24) Defendants WellStar Health System, Inc.'s and Douglas Hospital, Inc.'s Responses to Plaintiffs' First Requests for Admissions;
- (25) Defendants Robert N. Cross, M.D. and Radiology Atlanta Group, P.C.'s Response to Plaintiffs' Second Interrogatories;
- (26) Copies of the provisions of the Mammography Quality Standards Act, including Section 900.12(c) Medical Records and Mammography Reports (1) Contents and Terminology and (2) Communication of Mammography Results to Patients;
- (27) Copies of all records, radiological studies and images (including mammograms, CT scans, MRIs, x-rays, ultrasounds), and billing records from the following healthcare providers:
 - WellStar Cobb Cancer Center (f/k/a WellStar Radiation Oncology)
 - Douglasville Eye Clinic
 - Ambry Genetics

- Dr. Linda Ford
 - Eye Consultants of Atlanta
 - Georgia Cancer Specialists
 - Laboratory Corporation of America (“LabCorp”)
 - Northside Hospital
 - OMI Diagnostics
 - Quantum Radiology
 - Solstas Lab Partners
 - South Cobb OB/GYN
 - South Cobb Primary Care
 - The Breast Center
 - WellStar Cobb Hospital
 - WellStar Douglas Hospital
 - WellStar Kennestone Hospital
 - WellStar Paulding Hospital
 - WellStar Tranquility Hospice
- (28) Any portion of the answers and amended answers filed by Defendants in this action;
- (29) All sample letters from WellStar’s PenRad system;
- (30) Policies and procedures of WellStar Health System, Inc. and Douglas Hospital, Inc.;
- (31) The letter from WellStar Douglas Hospital mammography to Lisa Fiquette relating to her June, 2013 mammogram;
- (32) Any contracts involving Robert Cross, including contracts with Radiology Atlanta Group, P.C., Douglas Hospital, Inc., WellStar Health System, Inc. and WellStar Douglas Hospital, including professional services agreement between Northwest Georgia Health System, Inc., Douglas Hospital, Inc., Kennestone Hospital Inc., and Robert N. Cross, M.D., first amendment to professional services agreement and second amendment to professional services agreement;
- (33) Any item or documents relating to the licensure of WellStar Douglas Hospital and corporate documents relating to WellStar Health System, Inc. and Douglas Hospital, Inc.;
- (34) Any documents for impeachment as provided by Georgia law;
- (35) Defendant WellStar Health System, Inc.’s Medical Imaging Department Policies and Procedure, Communication of Mammography Results to Patients (including all attachments);
- (36) Defendants WellStar Health System, Inc. and Douglas Hospital, Inc.’s Amended Response to Plaintiffs’ Third Request for Production of Documents (including all attachments);
- (37) Summary of medical records and/or medical bills;
- (38) Any document or item properly used for rebuttal or impeachment as provided by law;

(b) **For Defendants WellStar Health System, Inc. and Douglas Hospital, Inc.:**

- i. Medical records, imaging studies, pharmacy records, and bills of Lisa Renee Fiquette from the following providers:

- a. WellStar Douglas Hospital
 - b. WellStar Cobb Hospital
 - c. WellStar Kennestone Hospital
 - d. WellStar Paulding Hospital
 - e. WellStar Surgical Specialists
 - f. WellStar Cobb Tranquility Hospice
 - g. WellStar Medical Group Primary Care
 - h. Linda D. Ford, M.D., PC
 - i. South Cobb OB/GYN
 - j. Northside Hospital
 - k. South Cobb Primary Care
 - l. OMI Diagnostics
 - m. Quantum Radiology
 - n. Eye Consultants of Atlanta, PC
 - o. Douglasville Eye Clinic
 - p. Piedmont Heart Institute
 - q. Georgia Cancer Specialists
 - r. Ambry Genetics
- ii. PenRad software screenshots.
 - iii. PenRad software access log.
 - iv. PenRad Report for Mammograms performed by Robert Cross, MD in June 2012.
 - v. STAR software audit trails.
 - vi. Mammography Accreditation Approval Reports for WellStar Douglas Hospital for Unit 5 dated January 13, 2011 and for Unit 4 dated January 13, 2011.
 - vii. FDA Mammography Quality Standards Act Inspection Report for 2012 and 2013.
 - viii. FDA Mammography Quality Standards Act Accreditation for WellStar Douglas Hospital.
 - ix. Patient Notification Sign Posted in WellStar Douglas Hospital, in Compliance with the Mammography Quality Standards Act regulations.
 - x. The mammogram patient notification letter received by Lisa Renee Fiquette in 2012.

- xi. The ultrasound patient notification letter received by Lisa Renee Fiquette in 2012.
- xii. The mammogram patient notification letter received by Lisa Renee Fiquette in 2013.
- xiii. The mammogram report for Lisa Renee Fiquette generated by Robert Cross, MD in 2012.
- xiv. The mammogram report for Lisa Renee Fiquette generated by Thomas Hinz, MD in 2013.
- xv. WellStar sample patient notifications letters from 2012 produced in discovery.
- xvi. Policies and procedures from 2012 produced in discovery, including but not limited to:
 - a. IM-49 Report Distribution by Fax in Medical Imaging;
 - b. IM-45 Lanier Downtime Procedures for Dictation;
 - c. IM-40 Linked Reports and Cross Referenced Reports;
 - d. IM-38 Results of Exams/Telephone Dictation System;
 - e. IM-36 Dictation Procedure for Lanier;
 - f. IM-25 Report Standards for Transcriptionists;
 - g. IM-21 Clinstar Radiology Overview;
 - h. IM-13 Legal Case Files;
 - i. IM-10 Radiologist/Physician Electronic Signatures;
 - j. IM-02 Pending Work Report-Ordered, Check-in, Technical and Clinical Results;
 - k. USD-06 US Breast, Lesion Directed Douglas;
 - l. USD-07 Breast, Diagnostic Ultrasound Protocol;
 - m. US-07 Patient Flow for Out Patient Ultrasound Scans;
 - n. IM-02 Pending Work Report-Ordered, Check-In, Technical and Clinical Results;
 - o. IM-10 Radiologist/Physician Electronic Signatures
 - p. IM-13 Legal Case Files
 - q. IM-21 Clinstar Radiology Overview
 - r. IM-25 Report Standards for Transcriptionists
 - s. IM-36 Dictation Procedure for Lanier
 - t. IM-38 Results of Exams/Telephone Dictation System
 - u. IM-40 Linked Reports and Cross Referenced Reports
 - v. IM-45 Lanier Downtime Procedures for Dictation
 - w. IM-49 Report Distribution by Fax in Medical Imaging
 - x. US-07 Patient Flow for OutPatient Ultrasound Scans
 - y. IM-43 Telephone Scripting
 - z. IMS-01 Log In Process for Schedulers

- aa. IMS-02 Pre-Certification of Medical Imaging Exams
- bb. IMS-03 Work-In Appointments
- cc. IMS-04 Fax Scheduling
- dd. IMS-05 Request and Verification of Written and Faxed Orders
- ee. IMS-09 Mammography Scheduling
- ff. IMS-10 Scheduling Exams/Procedure Questions
- gg. IMS-13 NextGen Requests
- hh. PACS-04 Changing an Order Prior to Procedure
- ii. PE-04 Sequence of Exams
- jj. PE-05 History Form for Medical Imaging Exams
- kk. PE-11 WellStar Douglas Emergency Center Film Flow and Report Follow Up
- ll. PE-18 Connixion Reporting of F1 Interpretations of Radiographs on Outpatients
- mm. PI-02 Medical Imaging Department Over Read Procedure
- nn. WC-11 Communication of Mammography Results to Patients
- oo. WC-03 Medical Director of Mammography
- pp. WC-06 Changing Screening Mammogram to Diagnostic Mammogram
- qq. WC-07 MRS – Mammography Reporting System
- rr. WC-09 Screening Mammography and Diagnostic Mammography Definitions
- ss. WC-10 Follow-up Mammogram in Patients with Known Breast Malignancy
- tt. WC-11 Communication of Mammography Results to Patients
- uu. WC-12 Follow-up of Positive Mammograms
- vv. WC-14 Transcription-Mammography Reports to Health Care Providers
- ww. WC-19 Compression
- xx. WC-21 Specific Personnel Responsibilities
- yy. WC-22 MRS History Sheet-Mammography
- zz. WC-24 Consumer Complaint Process
- aaa. WC-25 Comparison of Previous Mammogram(s)
- bbb. WC-28 Medical Audits and Outcome Analysis
- ccc. WC-30 Log Book for Highly Suspicious and Surgical Consults
- ddd. WC-32 Placement of "Marker" on Symptomatic Patients
- eee. WC-33 Onset of Breast Symptom Since Scheduling of Mammogram Appointment
- fff. WC-34 Technical Call-Backs
- ggg. WC-35 Sequencing of Studies in Symptomatic Women
- hhh. WCD-01 Mammogram – Augmentation Bilateral Diagnostic
- iii. WCD-02 Mammogram – Augmentation Bilateral Screening
- jjj. WCD-03 Mammogram – Bilateral Diagnostic
- kkk. WCD-04 Mammogram – Bilateral Diagnostic with Additional Views
- lll. WCD-05 Mammogram – Bilateral Screening
- mmm. WCD-12 Mammogram – Additional Views
- nnn. WCD-13 Mammogram – Augmentation Unilateral Diagnostic
- ooo. WCD-15 Mammogram – Unilateral Diagnostic
- ppp. WCD-16 Mammogram – Unilateral Screening

- xvii. All written discovery served by Defendants on Plaintiffs and Plaintiffs' responses thereto, including without limitation, all documents produced by Plaintiffs in response to Defendants written discovery requests.
- xviii. All depositions taken in this case.
- xix. All exhibits to depositions taken in this case.
- xx. Curriculum vitae of all experts, including but not limited to:
 - a. Carol Collings, MD
 - b. Michael Grossbard, MD
 - c. Edward Sickles, MD
 - d. Ruth O'Regan, MD
 - e. Martha Garrison, MD
 - f. Barry Goldsmith, MD
 - g. Philip Kivitz, MD
 - h. Mark Keaton, MD
 - i. Paul Goldfarb, MD
 - j. Mark Levin, MD
 - k. Cyd Williams, MD
 - l. Gary Smith, MD
 - m. Leonel Vasquez, MD
 - n. Laurie Schachtner, PhD
- xxi. Any and all documents identified in Plaintiffs' portion of the Proposed Consolidated Pre-Trial Order, excepting only documents and physical evidence excluded by the Court based upon Defendants objections..
- xxii. Any and all documents identified in Co-Defendants Linda D. Ford, M.D. Linda D. Ford, M.D., P.C., Robert N. Cross, M.D., and Radiology Atlanta Group, P.C.'s portion of the Proposed Consolidated Pre-Trial Order, excepting only documents and physical evidence excluded by the Court based upon Defendants objections..
- xxiii. Any documents necessary for impeachment as provided by Georgia law.
- xxiv. Demonstrative exhibits, including charts, models, diagrams, photographs, blow ups.

All exhibits shall be marked by counsel prior to trial so as to not delay the trial before the jury. Plaintiffs and Defendants each reserve the right to use and introduce into evidence illustrations, models, diagrams, charts or other demonstrative materials and aids for use at trial. Plaintiffs and Defendants each reserve the right to introduce any documentary evidence listed by the other, excepting documents and physical evidence excluded by the Court based upon any objections listed above. Plaintiffs and Defendants each agree to cooperate regarding stipulations concerning authenticity and admissibility of exhibits as much as possible before trial.

Plaintiffs and Defendants each object to the admissibility of any documentary or physical evidence not previously identified and produced during discovery, excepting only documents or other physical evidence not requested by the party seeking to exclude the subject evidence during discovery.

(c) **For Defendants Linda D. Ford, M.D. and Linda D. Ford, M.D., P.C.:**

Defendants will not stipulate to the authenticity of any of Plaintiffs' proposed exhibits until counsel for Defendants has had the opportunity to review them. Defendants Linda D. Ford, M.D. and Linda D. Ford, M.D., P.C. object to Plaintiffs' list of documentary evidence as follows:

- (3) Not all documents produced by Defendants in this matter will be relevant or admissible;
- (5) Not all exhibits to all depositions will be relevant or admissible;
- (7) Defendants' written discovery responses are not admissible;
- (12) For the reasons set forth in the motion to delete the audio portion of the video of Lisa Fiquette which is currently before the Court;
- (28) Defendants' pleadings will be superseded by the pretrial order and contain irrelevant legal matter).

Defendants further reserve the right to object to any proposed documentary or physical evidence being presented to the jury until counsel has had the opportunity to examine the same and until it has been properly tendered. Defendants may tender the following documentary and physical evidence at trial:

- (1) Defendants' office records on the patient;
- (2) Medical illustrations of the anatomy involved; and
- (3) Any documentary or physical evidence listed by Plaintiffs.

(d) **For Defendants Robert N. Cross, M.D. and Radiology Atlanta Group, P.C.:**

1. All pleadings filed and discovery/discovery documents served in this case, including supplemental discovery by letter and/or pleading;
2. Any document produced by any party or third party in this case;
3. Records produced by Blue Cross/Blue Shield;
4. Radiology films and images pertaining to Lisa Fiquette;
5. Patient notification letters sent by Wellstar Hospital pertaining to:
 - a. June 13, 2012 mammogram;
 - b. June 13, 2012 ultrasound;
 - c. June 14, 2013 mammogram.
6. Medical records for Lisa Renee Fiquette maintained by the following health care providers:
 - a. Wellstar Douglas Hospital;
 - b. Linda Ford P.C.;
 - c. Radiology Atlanta Group, P.C.;
 - d. Eye Consultants of Atlanta;
 - e. Georgia Cancer Specialists;
 - f. Solstas Lab Partners;

- g. South Cobb OB-GYN;
 - h. South Cobb Primary Care;
 - i. The Breast Center;
 - j. Wellstar Cancer Center;
 - k. Douglasville Eye Clinic;
 - l. Northside Hospital;
 - m. OMI Diagnostics;
 - n. Quantum Radiology;
 - o. Wellstar Cobb Hospital;
 - p. Wellstar Kennestone Hospital;
 - q. Wellstar Paulding Hospital;
 - r. Wellstar Tranquility Hospice.
- 6. Any document identified and/or produced by any party in discovery in this action.
 - 7. Evidence used for impeachment purposes.
 - 8. All materials provided to, generated by, produced by or contained in the files of any of plaintiff's expert witnesses.
 - 9. Any and all documents attached as exhibits to depositions in the case.
 - 10. Curriculum vitae of all defense experts:
 - a. Martha Garrison, M.D.;
 - b. Edward Sickles, M.D.;
 - c. Carol Collings, M.D.;
 - d. Ruth O'Regan, M.D.;
 - e. Michael Grossbard, M.D.
 - 11. Curriculum vitae of Ms. Fiquette's treating physicians;

12. Curriculum vitae of defendants and their expert witnesses;
13. All documents identified during the course of depositions or attached as exhibits during depositions;
14. Medical charts, diagrams, blow-ups and animations;
15. Demonstrative evidence and exhibits; and
16. All exhibits listed by any other party to this action.

Portions of exhibits, redacted versions and enlargements may be used as allowed by law. Learned treatises and medical articles may be used as allowed by law without being listed in this Pre-Trial Order. Transcripts or other documents used to impeach witnesses may be used as allowed by law without being listed in this Pre-Trial Order. Demonstrative aids need not be listed in this Pre-Trial Order. These exhibits may be renumbered before trial.

The parties shall be permitted to supplement this list before trial with any document previously disclosed in discovery, provided notice is given to the other party. The parties shall be permitted to supplement this list prior to trial with additional, previously undisclosed documents only upon agreement of the parties or Order of this Court.

Defendants do not stipulate to the authenticity of documents identified by Plaintiffs but will attempt to stipulate to the authenticity of as many documents as possible prior to trial. Additionally, Defendants reserve the right to object to any proposed documentary and/or physical evidence until it is properly authenticated and tendered.

15.

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

- Plaintiffs have filed a Motion in Limine requesting the Court to take judicial notice of the Internet Archive. Special authorities relating to this issue are set forth in said Motion.

- Provisions of the Mammography Quality Standards Act, including 21 CFR § 900.12(c). Plaintiff Lisa Renee Fiquette falls within the class of persons that this regulation was intended to protect. Furthermore, the harm complained of (the failure to appropriately communicate with the patient resulting in the unnecessary and negligently caused spreading of Lisa Renee Fiquette's breast cancer) was the same harm that the statute was intended to guard against. Plaintiffs request the Court to take judicial notice of these federal regulations. O.C.G.A. § 24-2-20, *Robertson v. State*, 210 Ga. App. 834 (1993).

16.

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

For Defendants WellStar Health System, Inc. and Douglas Hospital, Inc.:

None at this time.

Defendants reserve the right to rely upon other special authorities should peculiar evidentiary or other legal questions arise.

For Defendants Linda D. Ford, M.D. and Linda D. Ford, M.D., P.C.:

Defendants specifically reserve the right to rely upon other special authorities should peculiar evidentiary or other legal questions arise during the trial of this matter.

For Defendants Robert N. Cross, M.D. and Radiology Atlanta Group, P.C.:

Dr. Cross and Radiology Atlanta Group, P.C. will address any peculiar evidentiary issues in motions in limine or a trial brief.

17.

All Requests to Charge anticipated at the time of trial will be filed on March 12, 2018 in accordance with the Court's previous Order.

The testimony of the following persons may be introduced by depositions:

For Plaintiff:

The Plaintiffs may present the following testimony by deposition:

Lisa Fiquette

Laurie Schachtner, Ph.D.

Any witness whose deposition has been taken as provided by law.

Christopher Butler

Plaintiffs reserve the right to introduce testimony of any witness whose deposition has been taken for use as evidence, or any witness who is legally unavailable at time of trial.

For Defendants WellStar Health System, Inc. and Douglas Hospital, Inc.:

Defendants reserve the right to introduce the deposition testimony of any individual deposed in this action in accordance with the Georgia Civil Practice Act. Defendants object to the use of deposition testimony, without agreement, for any witness who is available other than for purposes of impeachment.

Subject to the foregoing objections and without waiving the same, Defendants may introduce the testimony of Edward Sickles, M.D. by deposition.

For Defendants Linda D. Ford, M.D. and Linda D. Ford, M.D., P.C.:

Any witness considered to be unavailable under Georgia law and/or listed on any party's may call list.

For Defendants Robert N. Cross, M.D. and Radiology Atlanta Group, P.C.:

Dr. Cross and Radiology Atlanta, P.C. reserve the right to introduce depositions of any witness if the witness is deemed unavailable under the Georgia Civil Practice Act or the trial court otherwise permits such use.

No later than five (5) days before trial, the parties shall designate by page and line number the deposition testimony that they intend to present to the jury, if any, so that the opposing party can interpose any objections and designate additional testimony to be read under the rule of completeness. Any objection to the deposition designations or the questions or arguments in the depositions designated shall be called to the attention of the Court prior to trial.

Dr. Cross and Radiology Atlanta, P.C. reserve the right to use deposition testimony for the purposes of impeachment.

Counsel and parties are ordered and directed to discuss all objections to depositions including, but not limited to, objections to deposition questions, motions to limit deposition testimony, or motions to strike any portion of a deposition prior to offering such testimony per the Uniform State Court Rules.

19.

The following are lists of witnesses for the Plaintiff:

(a) Plaintiffs will have present at trial:

Marlin David Fiquette

(b) Plaintiffs may have present at trial:

Any corporate representative of any Defendant who is present at trial
Mary Jane Baldwin
Christopher Butler
Robert N. Cross, M.D.
Custodian of all records, radiological studies and images (including mammograms, CT scans, MRIs, x-rays, ultrasounds) and billing records from the following:

1. WellStar Cobb Cancer Center (f/k/a WellStar Radiation Oncology)
2. Douglasville Eye Clinic
3. Dr. Linda Ford
4. Eye Consultants of Atlanta
5. Georgia Cancer Specialists
6. Laboratory Corporation of America (“LabCorp”)
7. Northside Hospital
8. OMI Diagnostics

9. Quantum Radiology
10. Solstas Lab Partners
11. The Breast Center
12. WellStar Cobb Hospital
13. WellStar Douglas Hospital
14. WellStar Kennestone Hospital
15. WellStar Paulding Hospital
16. WellStar Tranquility Hospice

Kelly DeGraff

Linda D. Ford, M.D.

Paul Goldfarb, M.D.

Lynn Hanks

Lynn Hanks / 30(b)(6) witness of Defendants WellStar Health System, Inc. and Douglas Hospital, Inc.

Thomas Hinz, M.D.

Elizabeth Holbrook

Mark R. Keaton, M.D.

Philip Kivitz, M.D.

Penny Martin

Martha T. Moses

Karen Oakley

Laurie Schachtner, Ph.D.

Gary Smith, M.D.

Leonel Vasquez, M.D.

Cyd Green Williams, M.D.

Jimmy Williams

Any rebuttal witness as provided by law

Any witness listed by Defendants in this Pretrial Order

The following are lists of witnesses for the Defendants:

(c) Defendants will have present at trial:

For Defendants WellStar Health System, Inc. and Douglas Hospital, Inc.:

None

For Defendants Linda D. Ford, M.D. and Linda D. Ford, M.D., P.C.:

Linda D. Ford, M.D.

For Defendants Robert N. Cross, M.D. and Radiology Atlanta Group, P.C.:

Robert W. Cross, M.D.

(d) Defendants may have present at trial:

For Defendants WellStar Health System, Inc. and Douglas Hospital, Inc.:

1. Lynn Mary Hanks

2. Linda Ford, MD
3. Robert Cross, MD
4. Thomas Hinz, MD
5. Elizabeth Holbrook
6. Penny Galloway Martin
7. Karen Oakley
8. Carol Collings, MD
9. Edward Sickles, MD
10. Ruth O'Reagan, MD
11. Michael Grossbard, MD
12. Martha Garrison, MD
13. Stacy Odom
14. Mary Baldwin
15. Any rebuttal witness necessary as provided under Georgia law
16. Any witness needed to authenticate or prove admissibility of documents
17. Any witness specifically listed by Plaintiff
18. Any witness specifically listed by Co-Defendants Linda D. Ford, M.D., Linda D. Ford, M.D., P.C., Robert N. Cross, M.D., and Radiology Atlanta Group, P.C.

For Defendants Linda D. Ford, M.D. and Linda D. Ford, M.D., P.C.:

Barry J. Goldsmith, M.D.;
Ruth M. O'Regan, M.D.;
Any witness listed by Plaintiffs; and
Mary Baldwin.

For Defendants Robert N. Cross, M.D. and Radiology Atlanta Group, P.C.:

1. Any person deposed in this lawsuit:
 - a. Barry Goldsmith, M.D.;
 - b. Carol Collings, M.D.;

- c. Cyd Williams, M.D.;
 - d. Edward Sickles, M.D.;
 - e. Elizabeth Holbrook;
 - f. Gary Smith, M.D.;
 - g. Karen Oakley;
 - h. Laurie Schachtner, Ph.D.;
 - i. Leonel Vasquez, M.D.;
 - j. Linda D. Ford, M.D.;
 - k. Lisa Fiquette;
 - l. Lynn Hanks;
 - m. Mark Keaton, M.D.;
 - n. Mark Levin, M.D.;
 - o. Marlin David Fiquette;
 - p. Martha Garrison, M.D.;
 - q. Michael Grossbard, M.D.;
 - r. Paul Goldfarb, M.D.;
 - s. Penny Martin;
 - t. Philip Kivitz, M.D.;
 - u. Robert Cross, M.D.;
 - v. Ruth O'Regan, M.D.; and
 - w. Thomas Hinz, M.D.
2. Any person identified in any deposition taken in this lawsuit;
 3. Any person required for rebuttal;
 4. Medical records custodians, if necessary;

5. Any person designated by any medical provider to authenticate their medical records;
6. Any person designated by any entity to authenticate their records;
7. Any person listed on the plaintiff's "will call" and "may call" lists;
8. Any person previously identified by any party in the discovery process;
9. Any witness needed for impeachment purposes.

Opposing counsel may rely on representations by the designated party that they will have a witness present at trial 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.

20.

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

The parties shall present possible verdict forms to the Court at the time of trial.

For Defendants WellStar Health System, Inc. and Douglas Hospital, Inc.:

Each of the parties' counsel will submit a proposed verdict sheet prior to the charge conference.

For Defendants Linda D. Ford, M.D. and Linda D. Ford, M.D., P.C.:

Defendants Linda D. Ford, M.D. and Linda D. Ford, M.D., P.C. will submit a verdict form to the Court prior to the submission of the case to the jury.

For Defendants Robert N. Cross, M.D. and Radiology Atlanta Group, P.C.:

Dr. Cross and Radiology Atlanta Group, P.C. will submit a verdict form to the Court prior to the submission of the case to the jury.

21.

- (a) The possibilities of settling the case are extremely poor.
- (b) The parties do want the case reported.

- (c) Plaintiffs contend that the costs of takedown should be shared equally between all parties (with each party paying 25%). Defendants Linda D. Ford, M.D., and Linda D. Ford, M.D., P.C. contend that the costs of takedown will be shared equally by the parties (*i.e.*, 50 percent by Plaintiffs, 50 percent by Defendants).
- (d) Other matters: None.

For Defendants WellStar Health System, Inc. and Douglas Hospital, Inc.:

- a. The possibilities of settling this case are poor.
- b. The parties **do** want the case reported.
- c. The cost of take-down will be paid by: Shared equally by the parties.
- d. Other matters: None at this time.

For Defendants Robert N. Cross, M.D. and Radiology Atlanta Group, P.C.:


- a. The possibilities of settling the case are remote.
- b. The parties do want the case reported, including voir dire.
- c. The cost of take down will be equally shared by the parties.
- d. Other matters:

Dr. Cross and Radiology Atlanta Group, P.C.:

1. The case will be tried to a jury of twelve (12) with (2) alternates.
2. The Court understands that there are various witnesses, including physicians and others, who are under subpoena or who will be subpoenaed to testify at the trial of this case. Counsel are authorized by this Court to have any such witnesses which they have caused to be served with a subpoena, to be available to testify on reasonable notice, rather than to appear at the call of this case. This reasonable notice rule is designed to accommodate the witnesses, counsel, and the Court and does not affect the validity of any such subpoena served or to be served in this case.

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.

This 23 day of February, 2018.



JAMES E. BARKER, JUDGE
STATE COURT OF DOUGLAS COUNTY


Consented to by:



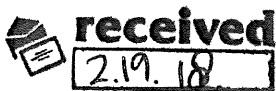
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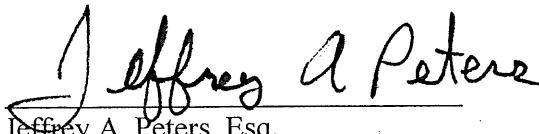
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