

**IN THE STATE COURT OF DEKALB COUNTY
STATE OF GEORGIA**

SHAWN G. EVANS, Individually and as)
Guardian of JANICE K. EVANS)
)
)
) **Plaintiff,**)
)
) **vs.**)
)
) **TAMAURUS SUTTON, M.D.**)
) **EMERGINET, LLC and ROCKDALE**)
) **HOSPITAL, LLC d/b/a ROCKDALE**)
) **MEDICAL CENTER,**)
)
) **Defendants.**)

**CIVIL ACTION FILE
NO. 13A48465-4**

CONSOLIDATED PRETRIAL ORDER

COME NOW, all parties to the above-style civil action, and pursuant to Uniform Superior Court Rule 7.2, hereby files this Consolidated Pretrial Order:

1.

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

For Plaintiffs Shawn G. Evans, Individually and as Guardian of Janice K. Evans:

Lloyd N. Bell, Esq.
BELL LAW FIRM
1201 Peachtree St. N.E., Suite 2000
Atlanta, GA 30361
404-249-6768 (tel)
404-249-6764 (fax)

James O. Wilson, Esq.
P.O. Box 667
Marietta, GA 30061
770-427-2476

Lawrence B. Schlachter, MD, JD
602 Macy Dr.
Roswell, GA 30076

770-552-8362 (tel)

For Defendants Tamaurus Sutton, M.D. and Emerginet, LLC:

Paul E. Weathington, Esq.
Heather McGrotty, Esq.
WEATHINGTON SMITH, PC
191 Peachtree St., Suite 3900
Atlanta, GA 30303
404-524-1600 (tel)
404-524-1610 (fax)

For Defendant Rockdale Hospital, LLC d//b/a Rockdale Medical Center:

Daniel J. Huff, Esq.
Sharonda Barnes, Esq.
Huff Powell Bailey
999 Peachtree Street, NE, Suite 950
Atlanta, GA 30309
404-892-4022 (tel)

2.

The parties estimate the entire time required for trial as 7-10 days.

3.

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

For the Plaintiffs:

Plaintiffs expect to file Motions in Limine and a Trial Brief on Anticipated Issues.

For Defendants Tamaurus Sutton, M.D. and Emerginet, LLC:

Defendants joint Motion to Limit the Testimony of Plaintiffs' Expert Imoigele Aisiku, M.D., is pending. Dr. Sutton and EmergiNet reserve the right to file motions in limine and other motions necessary to address evidentiary issues at trial.

For Defendant Rockdale Hospital, LLC d//b/a Rockdale Medical Center:

The Defendants jointly filed a Motion to Exclude Certain Opinion Testimony of Imoigele Aisiku, M.D., which will be argued on January 6, 2016. This Defendant expects to file motions in limine in advance of trial, Defendant reserves the right to file any additional Motions in Limine, other pretrial motions, or any other motions that may be necessary during the trial of this case, without interfering or delaying trial.

4.

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

Plaintiffs:

1. Shawn and Janice K. Evans
2. Lloyd N. Bell, Esq.
3. James O. Wilson, Esq.
4. Lawrence Schlachter, M.D.
5. Tamaurus Sutton, M.D.
6. Emerginet LLC
7. Rockdale Hospital, LLC
8. MAG Mutual Insurance Company,
9. Steadfast Insurance Company and
10. Safety National Casualty Company
11. Accord Corporation

For Defendants Tamaurus Sutton, M.D. and EmergiNet, LLC:

1. Shawn Evans
2. Janice Evans
3. James Wilson, Esq.

4. Wilson Law Atlanta
5. Larry Schlachter, Esq.
6. Schlachter Law Firm
7. Lloyd Bell, Esq.
8. Bell Law Firm
9. Tamaurus Sutton, MD
10. EmergiNet, LLC
11. MAG Mutual Insurance Company
12. Rockdale Hospital, LLC

Defendants object to the jury being qualified as to relationship with Paul Weathington, Heather McGrotty and Weathington Smith as none have a financial interest in the outcome of this case.

For Defendant Rockdale Hospital, LLC d/b/a Rockdale Medical Center:

- (1) Janice K. Evans
- (2) Shawn G. Evans
- (3) James O. Wilson, Jr.
- (4) Lawrence B. Schlachter
- (5) Lloyd N. Bell
- (6) Schlachter Law Firm
- (7) Bell Law Firm
- (8) Rockdale Hospital, LLC

The Defendants object to any jury qualifications for any individual entity that does not have a financial interests in the outcome of the case.

5.

- (a) All discovery has been completed, unless otherwise noted, and the Court will

not consider any further motions to compel discovery except for good cause shown. The parties, however, shall be permitted to take depositions of any person(s) for the preservation of evidence for use at trial.

(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 of or non-joinder of any parties.

(c) The parties reserve the right to engage in further discovery relating to those witnesses and documents that any party discloses in the Pretrial Order if such witnesses and documents were not previously disclosed in the discovery process.

(d) The parties reserve the right to depose any individual identified by any party for the first time in the “may call” portion of this order.

(e) The parties reserve the right to depose any physician or medical provider for the preservation of evidence for use at trial.

For Tamaurus Sutton, MD and EmergiNet, LLC:

The parties have agreed to the discovery depositions of Janice Evans’ friends and co-workers whom Plaintiff may call at the trial of this case as fact and/or damage witnesses. The depositions will occur at a mutually agreeable time and place and will not delay the specially set trial of this case.

For Defendant Rockdale Hospital, LLC d//b/a Rockdale Medical Center:

This Defendant, as previously agreed to by Plaintiffs’ counsel, will take the discovery depositions of Plaintiffs’ co-workers and friends expected to testify at trial. Otherwise, discovery is complete. Defendants reserve the right to conduct further discovery, including depositions, regarding any witnesses listed herein by Plaintiffs, which witnesses have not been

identified previously.

It also reserves the right to conduct further discovery regarding any documentary or physical evidence listed herein by the Plaintiffs that was not identified previously.

6.

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

During the late afternoon or early evening of Saturday, January 14, 2012, Janice Evans and her husband Shawn had dinner at a Mexican restaurant near their home. Neither experienced any stomach problems after the meal and they went to sleep around their normal time that night. Around midnight Janice woke up complaining of head pain, and she went into another room and vomited. She continued to experience headache, nausea and vomiting as well as some diarrhea Sunday.

On Monday January 16 Janice was still sick to her stomach and still had a headache. When Shawn came home from work that afternoon, they decided that Janice needed to go to the ER. Since it was the closest hospital to their home, Shawn and Janice went to Rockdale Medical Center ER. They arrived around 8 p.m. and were triaged soon thereafter by Nurse Hal Hildreath.

Janice informed Nurse Hildreath that she had a headache, nausea, and vomiting, which she believed to be related to her recent meal at a Mexican restaurant. The triage nurse documented the vomiting and diarrhea but didn't document the headache complaint. Nurse Hildreath checked her vital signs and noted a blood pressure of 213/105. He did not obtain Janice's blood pressure history or inquire as to any symptoms she might have as a result of her blood pressure. Based on her complaints of nausea and vomiting, Mr. Hildreath and/or the physician assistant place Janice on the ER's abdominal treatment tract and various tests and medications were started per the protocols for that tract.

Janice was moved from triage and assigned to her primary nurse, Trina Williams. Ms. Williams did her initial assessment around 8:37 p.m., which was limited to a gastrointestinal assessment only. A nurse re-checked Janice's vitals at 8:55 pm. and her blood pressure remained high, 218/99.

At about 9:05 p.m. Janice was seen by Dr. Sutton, the emergency department doctor. Dr. Sutton's notes indicate that the nausea/vomiting/diarrhea which had lasted for two days started "after eating Mexican food". This was the only history he obtained from Janice. His physical exam and review of systems showed nothing more than what was contained in the abdominal history of present illness obtained during triage. Dr. Sutton saw Janice a second time at 10:45 p.m. to discuss her blood pressure and his concern that it was too high. However he did not evaluate her to determine if she was experiencing any symptoms related to her blood pressure. During this interaction with Dr. Sutton, Janice told him that she was nauseous and "had a bad headache". Dr. Sutton did not evaluate Janice's headache complaint.

Within 20 minutes of Dr. Sutton's second visit, Janice asked nurse Williams for pain medicine for her headache. The nurse advised Dr. Sutton of Janice's headache and request for medication. He ordered morphine, but did not re-examine Janice after her headache complaint.

Shortly before midnight Dr. Sutton saw Janice a third time. He again failed to evaluate her hypertension and failed to obtain a history concerning her headache. At 11:58 pm Sutton entered his discharge order. His diagnosis at the time was "HTN (hypertension)/nausea/vomiting". At 12:28 a.m. (morning of Jan. 17), Janice's blood pressure was **228/87**. The discharge nurse, Linda Donaghy, did not object to Janice's discharge even though her systolic blood pressure was higher than it was upon her admission to the emergency department four and one half hours earlier.

Janice and Shawn left the ER at 12:30 am on the morning of January 17th without ever having the emergency department doctor or the emergency department nurses obtain a history of her headache or evaluate her hypertension. From Tuesday until Saturday Janice's condition remained about the same. Around 8 pm on the night of Saturday, January 21st, her condition began to worsen and she presented back to the ER Sunday morning with complaints of headache and dizziness. A CT scan of her head showed a brain hemorrhage and swelling caused by an aneurysm which had ruptured before her visit to the ER on the 16th. She was transferred to Emory for surgery, but Janice's blood vessels were then in severe spasm so surgery was not possible at that time. Because of the vasospasm Janice suffered multiple strokes with resulting severe brain damage. Janice is now unable to communicate verbally, is totally disabled and 100 per cent dependent upon Shawn and others for all activities of daily living. Shawn Evans has suffered the loss of his wife's consortium.

Had Dr. Sutton and the Emergency Department nurses properly evaluated Janice's hypertension and obtained a history of her headache complaints she would have received a CT scan on the 16th, as the standard of care required, and the ruptured aneurysm would have been seen and treated before severe vasospasm occurred, and Janice would likely have returned to work shortly after.

Defendants violated the standard of care in the following respects:

EmergiNet/Dr. Sutton:

- (1) failure to evaluate Janice's high blood pressure; and
- (2) failure to obtain a history of her headache; and
- (3) failure to obtain a CT scan of Janice's head which would have disclosed the intracranial hemorrhage.

Rockdale Hospital:

- (1) the nursing staff failed to properly assess Janice's high blood pressure;
- (2) the nursing staff failed to properly assess Janice's headache, and
- (3) the nursing staff failed to advocate for Janice.

NOTE: The parties object to any of the respective contention statements being read to the jury. Such outlines may be argumentative, contain information not supported by the evidence, or information that may be subject to exclusion pursuant to the parties' motions in limine.

For Defendant Rockdale Hospital, LLC d/b/a Rockdale Medical Center:

This Defendant objects to the Court reading or otherwise presenting to the jury the Plaintiff's outline of the case and contentions.

7.

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

For Defendants Tamaurus Sutton, M.D. and EmergiNet, LLC:

Dr. Sutton did not commit gross negligence and/or he met the standard of care applicable to physicians generally under similar circumstances and like surrounding conditions at all times while providing care and treatment to Janice Evans in the emergency department at Rockdale Medical Center (RMC) on January 16 and 17, 2012. No act or omission on Dr. Sutton's part proximately caused or contributed to Janice Evans' alleged injuries and/or damages.

Janice Evans presented to the RMC emergency department at approximately 8 p.m. on January 16, 2012 with a chief complaint of dehydration and nausea and vomiting. She also complained of diarrhea which had resolved 24-hours earlier. Dr. Sutton was assigned Ms. Evans as a patient and obtained a history, review of systems and conducted a physical examination. Dr.

Sutton then ordered multiple labs, IV fluids, nausea medication and an abdominal x-ray. Throughout the course of her ED visit, Ms. Evans was noted to have high blood pressure. Ms. Evans indicated her blood pressure was always high, she had treated with her PCP and endocrinologist and she was allergic to all blood pressure medications.

Three (3) hours after arriving in the ED, Ms. Evans requested medication for a headache which she described as throbbing and 8 out of 10 on the pain scale. Dr. Sutton ordered 2 mg Morphine IV. Approximately 45 minutes later, Ms. Evans was pain free. At discharge, Dr. Sutton saw Ms. Evans for a third time. During this assessment, Dr. Sutton inquired about her headache and also counseled Ms. Evans regarding her blood pressure, the fact a systolic blood pressure in the 200s was too high, the need for Ms. Evans to see her PCP during the week and for her to return to the ED if her condition worsened. Ms. Evans was discharged home at approximately 12:30 a.m. on January 17, 2012 with diagnoses of nausea/vomiting and hypertension. Although her condition worsened later that day, Ms. Evans did not return to the ED until January 22, 2012 wherein a CT of the head revealed a brain hemorrhage. Despite this unfortunate outcome, Dr. Sutton's care was appropriate and did not cause or contribute to Ms. Evans' injuries and damages.

NOTE: Defendants' outline of the case is being written for the benefit of the Court. Defendant objects to this outline of the case and contentions being read to the jury as facts other than those contained herein may become important during the trial of the case, depending upon the evidence presented during Plaintiff's case in chief. Should the Court wish to read an outline of the case to the jury, Defendants would like the opportunity to draft a more thorough outline for the jury that is tailored to the evidence presented at trial.

For Defendant Rockdale Hospital, LLC d/b/a Rockdale Medical Center:

On January 16, 2012, Janice Evans presented to the emergency department at Rockdale Hospital, complaining of nausea, vomiting, and dehydration. Ms. Evans had high blood pressure at the time and reported a history of high blood pressure and allergies to blood pressure medications. She was evaluated by Dr. Tamaurus Sutton and discharged with instructions to follow up with her primary care physician that week. Throughout the time Ms. Evans was in the emergency department, the nurses reported Ms. Evans' complaints to Dr. Sutton and followed his orders.

During the week following January 16, 2012, Mrs. Evans worsened. On January 22, 2012, the Evans called an ambulance reporting problems with balance and other complaints. A CT scan of the head taken at Rockdale Hospital's emergency department on January 22, 2012, showed a hemorrhage, and Mrs. Evans was transferred to Emory University Hospital.

The nurses and staff at Rockdale Hospital, LLC did not commit gross negligence and/or they complied with the standard of care at all times during their care and treatment of Janice Evans, and no act or omission on their part caused or contributed to any injury to Plaintiffs.

8.

The issues for determination by the jury are as follows:

For the Plaintiffs:

- a. Negligence;
- b. Loss of Consortium;
- c. Causation;
- d. Damages.

On behalf of all Defendants:

- a) Whether plaintiff has proven by clear and convincing evidence that Dr. Sutton and the nurses acted with gross negligence while providing care and treatment to Janice Evans on January 16 and 17, 2012 in the emergency department at RMC;
- b) Whether gross negligence of Dr. Sutton and the nurses was the proximate cause of Janice Evans' injuries;
- c) What damages, if any, resulted from the alleged gross negligence of Dr. Sutton and the nurses; and
- d) Whether Janice Evans was contributorily negligent.

OR, depending on the evidence:

- a) Whether Dr. Sutton and the nurses met the standard of care applicable to physicians and nurses generally under similar circumstances and like surrounding conditions at all times while providing care and treatment to Janice Evans on January 16 and 17, 2012 in the emergency department at RMC;
- b) Whether any such breach of the standard of care by Dr. Sutton and the nurses was the proximate cause of Janice Evans' injuries;
- c) What damages, if any, resulted from the alleged negligent acts and omissions of Dr. Sutton and the nurses; and
- e) Whether Janice Evans was contributorily negligent.

9.

Specifications of negligence including the applicable code sections are as follows:

- (a) Plaintiffs: Defendant Emerginet/Sutton failed to comply with the standard of care

as set forth in the depositions of Plaintiff's standard of care experts, Dr. Imoigele Aisiku and Dr. Richard Serra as set forth in their respective depositions, to wit: failure to perform appropriate medical evaluation of Janice Evans.

Defendant Rockdale Hospital, LLC failed to comply with the standard of care as set forth in the depositions of Plaintiff's standard of care experts, Todd Keith, RN and Judith Climenson, RN, as set forth in their respective depositions, to wit: failure to perform an appropriate nursing evaluation of Janice Evans and failure to advocate for Janice.

(b) For Defendants Tamaurus Sutton, M.D. and Emerginet, LLC:

Defendants deny any and all allegations of negligence and maintain that Dr. Sutton complied with the applicable standard of care at all times relevant to his care of Janice Evans.

(c) For Defendant Rockdale Hospital, LLC d/b/a Rockdale Medical Center:

This Defendant denies that it was negligent or that it caused or contributed to the Plaintiffs' injuries. Defendant requests that the Plaintiffs set forth their specific allegations of negligence fully and completely as required under the Georgia Civil Practice Act.

10.

If the case is based on a contract, either oral or written, the terms of the contract are as follows (or, contract is attached as an Exhibit to this Order):

This case is not based on contract.

11.

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

For the Plaintiffs:

1. Past General Damages: General damages constituting just compensation

for Plaintiff Janice Evans's pain and suffering from January 16, 2012 until the time of trial, pursuant to O.C.G.A. § 51-12-4.

2. Past Expenses: Special damages constituting reimbursement for medical, hospital, lost wages and other related expenses from January 16, 2012, until the time of trial pursuant to O.C.G.A. § 51-12-7. The measure of these damages is the amount of expenses and lost wages incurred as a result of the injury, disease or disability as proven in any manner to permit calculation of the amount with reasonable certainty. *Whitley v. Ditta*, 209 Ga. App. 553 (1993). *See also* O.C.G.A. §§ 51-12-2, 51-12-3 and 51-12-13.
3. Future General Damages: General damages constituting just compensation for Plaintiff's pain and suffering from the date of trial throughout the remainder of her life pursuant to O.C.G.A. § 51-12-4; *Baxter v. Bryan*, 122 Ga. App. 817 (1970). The measure of such damage is the enlightened conscience of a fair and impartial jury.
4. Future Expenses: Special damages constituting just compensation for future medical expenses and future lost wages for Plaintiff throughout the remainder of her life, pursuant to O.C.G. A. § 51-12-7. The measure of these damages is the value of such expenses as are reasonably necessary.
5. Past Loss and Future Loss of Consortium: General damages constituting just compensation for loss of consortium beginning January 16, 2012 and continuing through the duration of Janice K. Evans' injury. The measure

of these damages is an amount to be determined by the enlightened conscience of a fair and impartial jury.

For Defendants Tamaurus Sutton, M.D. and Emerginet, LLC:

Defendants deny that Plaintiffs are entitled to any damages whatsoever. Defendants object to the admissibility of any medical bills/expenses not actually incurred by the Plaintiff.

For Defendant Rockdale Hospital, LLC d/b/a Rockdale Medical Center:

This Defendant contends that the Plaintiffs are not entitled to any damages.

12.

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

Not applicable.

13.

The following facts are stipulated:

For the Plaintiffs: None at this time.

For Defendants Tamaurus Sutton, M.D. and EmergiNet, LLC:

Dr. Sutton and EmergiNet admit Dr. Sutton was acting in the course and scope of his employment with EmergiNet at all times while providing care and treatment to Janice Evans in the emergency department at RMC on January 16 and 17, 2012.

For Defendant Rockdale Hospital, LLC d/b/a Rockdale Medical Center:

None at this time.

14.

The following is a list of all documentary and physical evidence that will be tendered at the trial by the parties. 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, and copies provided to opposing counsel, prior to trial so as not to delay the trial before the jury.

By the Plaintiffs: See attached exhibit list attached to this Order as Exhibit A. Plaintiffs reserve the right to amend and/or supplement this list of documentary evidence and physical evidence upon giving reasonable advance notice prior to trial of such additional evidence to opposing counsel. Plaintiff also reserves the right to revise the order of trial exhibits listed in Exhibit A prior to trial

For Defendants Tamaurus Sutton, M.D. and EmergiNet, LLC:

1. Medical records (including any and all diagnostic and radiological studies) and bills of Ms. Janice Evans from:
 - (a) Rockdale Medical Center
 - (b) Emory University Hospital
 - (c) The Emory Clinic
 - (d) Budd Terrace
 - (e) Atlanta Allergy & Asthma Clinic
 - (f) National EMS
 - (g) Internal Medicine Associates/Grace Loy, MD
 - (h) Atlanta Neurological Associates/William Bikoff, MD
 - (i) Wesley Woods Geriatric Hospital
 - (j) Family Care of Hillandale/Kenneth Barnwell, MD
 - (k) East Atlanta Gastroenterology Associates/Sami Khan, MD
 - (l) Southeastern Lung Care/David Miller, MD

- (m) Visiting Nurse Health System
 - (n) The Women's Center
 - (o) Sauquoit Medical Group
 - (p) Mohawk Valley Women's Health/Lauren Giustra, MD
 - (q) Faxton St. Luke's Healthcare
 - (r) Shepherd Center/Shepherd Pathways
2. Pharmacy records and bills of Ms. Evans from:
 - (a) CVS
 3. Ms. Evans' employment records from US Airways
 4. *Curriculum vitae* of Tamaurus Sutton, M.D.;
 5. *Curriculum vitae* of Sean Sue, MD;
 6. *Curriculum vitae* of Rob Rogers, MD;
 7. *Curriculum vitae* of Roberto Heros, MD;
 8. Internal Medicine Associates appointment scheduling records;
 9. Plaintiff and Janice Evans' text messages and Janice Evans' Facebook posts produced by Plaintiff in discovery;
 10. Documents produced by plaintiff's experts or provided to plaintiff's experts by plaintiff's counsel;
 11. Any document or category of documents listed by Plaintiff and Co-Defendant RMC herein;
 12. Any document produced by Plaintiff or Defendants in discovery;
 13. Plaintiffs' discovery responses;
 14. All exhibits to any deposition;

15. Any document for purposes of impeachment of any witness;
16. Medical literature;
17. Demonstrative exhibits;
18. Anatomical models and any diagrams, videotapes, or other demonstrative aids to be used by a witness to explain their testimony; and
19. Pleadings, including, but not limited to, the following:
 - a. Plaintiff's Complaint and any amendments thereto

Defendants reserve the right to amend their list of exhibits prior to the time of trial and in accordance with Georgia law. The parties reserve all objections, including those to authenticity and admissibility, until the time the parties can inspect the opposing parties' documentary and physical evidence.

Demonstrative exhibits not to be tendered into evidence may be used as allowed by law regardless of whether they are listed in this pre-trial order. Exhibits may be re-numbered prior to trial. 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 need not be listed in this pre-trial order.

For Defendant Rockdale Hospital, LLC d/b/a Rockdale Medical Center:

- 1) Medical Records from Rockdale Medical Center
- 2) Medical Records from National EMS
- 3) Medical Records from Emory University Hospital
- 4) Medical Records from Emory Clinic
- 5) Medical Records from Atlanta Allergy and Asthma Clinic/ Dr. Linda Guydon

- 6) Medical Records from Southeastern Lung Care/ Dr. David Miller
- 7) Medical Records from Family Care of Hillandale/ Dr. Kenneth Barnwell
- 8) Medical Records from Internal Medicine Associates/ Dr. Grace Loy
- 9) Medical Records from East Atlanta Gastroenterology Associates/ Dr. Sami Khan
- 10) Medical Records from Atlanta Neurological Associates/ Dr. William Bikoff
- 11) Medical Records from Visiting Nurse Health System
- 12) Medical Records from Wesley Woods Geriatric Hospital
- 13) Medical Records from Budd Terrace Nursing Home
- 14) Medical Records from Bridgewater Family Practice/ Dr. Michael Manning
- 15) Medical Records from The Women's Center/ Dr. Stephanie Gordon
- 16) Medical Records from Faxton St. Luke's Healthcare
- 17) Medical Records from Mohawk Valley Women's Health
- 18) Medical Records from Sanquoit Medical Group
- 19) Medical Records from Dr. Thomas Webb
- 20) Medical Records from Shepherd Center
- 21) Medical Records from Shepherd Pathways
- 22) Pharmacy Records from CVS
- 23) Radiology Films from Rockdale Medical Center
- 24) Radiology Films from Emory University Hospital
- 25) Documents produced by US Airways
- 26) Curriculum Vitae of Brian Kornblatt, M.D.
- 27) Curriculum Vitae of Sean Sue, M.D.

- 28) Curriculum Vitae of Robert Rogers, M.D.
- 29) Curriculum Vitae of Leslie Hanchey, R.N.
- 30) Curriculum Vitae of Roberto Heros, M.D.
- 31) Curriculum Vitae of David James, R.N.
- 32) Any medical journal and textbook articles written by the Plaintiffs' expert
- 33) All pleadings, including the discovery responses of the parties
- 34) Demonstrative evidence and exhibits
- 35) All materials obtained or produced during discovery
- 36) Any exhibits attached to any of the depositions taken in this case
- 37) Any documents generated by the Plaintiffs' experts in relationship to this case
- 38) Any documents provided to the Plaintiffs' experts by the Plaintiffs or Plaintiffs' counsel
- 39) Medical charts, diagrams, blow-ups, and animations
- 40) Any document listed by any other party to this action.
- 41) Medical literature

This Defendant respectfully requests the right to amend this list of documentary and physical evidence by giving appropriate notice to opposing counsel prior to the trial. Additionally, Defendant reserves the right to object to any proposed documentary and/or physical evidence until it is properly authenticated and tendered. Further, this Defendant reserves the right to use impeachment materials and demonstrative aids as allowed by law without being listed herein. This Defendant objects to the admissibility of any documentary or physical evidence not previously identified and produced during discovery.

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

Plaintiff reserves the right to provide the Court with additional motions or trial briefs as necessitated by pre-trial activities, and authorities and briefs on issues that may arise before or during the trial.

16.

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

For Defendants Tamaurus Sutton, M.D. and Emerginet, LLC:

Any authority for evidentiary and legal questions as will be set forth in Defendants' motions in limine, proposed jury charges, pre-trial motions, and trial briefs. Defendants reserve the right to file additional briefs on special authorities pertaining to evidentiary or legal questions should the need arise at trial.

For Defendant Rockdale Hospital, LLC d/b/a Rockdale Medical Center:

None at this time, but this Defendant reserves the right to file trial briefs and motions in limine and will cite to particular authorities as appropriate in those pleadings. In particular, but not limited to the same, this Defendant will file a Trial Brief supporting its position that a copy of the jury charges be given to the jury.

17.

All requests to charge anticipated at the time of trial will be filed in accordance with the applicable uniform rule, local rules, or Court order.

The parties will file their respective Requests to Charge prior to the time of trial as instructed by The Court.

The parties reserve the right to propose additional requests to charge after the commencement of trial in the event that issues arise at trial for which additional charges are needed.

18.

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

For the Plaintiffs: Any medical providers listed in Section 14 above as well as any witness listed in paragraph 19(a) or (b) who becomes unavailable to attend trial in person. Depositions (or portions thereof) of all live witnesses may be introduced for purposes of impeachment. Any objection to the depositions or questions or arguments in the depositions shall be called to the attention of the Court prior to the trial. Plaintiffs object to the Defendants' introduction of testimony by deposition absent a showing of unavailability.

For Defendants Tamaurus Sutton, M.D. and Emerginet, LLC:

To the extent Defendants' expert witnesses or other witnesses are unable to attend in person, the Defendants will arrange for evidentiary depositions of such witnesses for use at trial. Defendants reserve the right to take any evidentiary depositions prior to trial and these may be introduced at the time of trial. Any objections to the depositions or questions or arguments in the deposition shall be called to the attention of the Court prior to trial.

Defendants reserve the right to use previous deposition testimony for the purposes of impeachment and all other purposes allowed by law. Defendant objects to any deposition being used as testimony on the grounds that it is cumulative and prejudicial.

For Defendant Rockdale Hospital, LLC d/b/a Rockdale Medical Center:

To the extent Defendant's expert witnesses or other witnesses are unable to attend in person, the Defendant will arrange for evidentiary depositions of such witnesses for use at trial. Defendant reserve the right to take any evidentiary depositions prior to trial and these may be introduced at the time of trial. Any objections to the depositions or questions or arguments in the deposition shall be called to the attention of the Court prior to trial.

This Defendant objects to the presentation of any witness by deposition without the requisite showing of unavailability. This Defendant reserves the right to use deposition testimony for purposes of impeachment.

19.

I. For the Plaintiffs:

a. Plaintiffs will have present at trial: Shawn G. Evans and Janice K. Evans

b. Plaintiffs may have present at trial:

1. Imoigele Aisika, MD
2. Charles Cawley, MD
3. Judith Climenson, RN
4. Payal Fadia, MD
5. Erena Figler
6. Jacqueline Baldini
7. Francis Rushing, PhD
8. Cathy Gregg-Smith
9. Todd Keith, RN
10. Kenneth Liu, MD
11. Anthony Mancuso, MD
12. Karen O'Donnell, RN
13. Richard Serra, MD
14. Melinda Armstrong, PA
15. Linda Donaghy, RN

16. Hal Hildreath, RN
17. Tamaurus Sutton, MD
18. Trina Williams, RN
19. Karen Young, RN
20. Leslie Hanchey, RN
21. Roberto Heros, MD
22. John Holmes, MD
23. Brian Kornblath, MD
24. Robert Rogers, MD
25. Sean Sue, MD
26. Jordan Amadio, M.D.
27. Dr. Dahkharghani
28. Dr. Thomas Loehfelm
29. Dr. Owen Samuels
30. Dr. Hemali Desai
31. Jennifer Kolenda, N.P.
32. Dr. Scott Hwang
33. Dr. Albert Schuette
34. Dr. Jane Gilmore
35. Dr. Shannon Hill
36. Dr. Peter Harri
37. Dr. C.J. Harrison
38. Dr. Ashley Aiken
39. Dr. Prem Kandiah
40. Dr. Abk Turakhia
41. Dr. Meryle Eklund
42. Dr. Arun Krishnan
43. Shane Hornbuckle
44. Grace Loy, M.D.
45. William Bikoff, M.D.
46. Al Smith

47. Iris Smith
48. Tom Langston
49. Elizabeth Langston
50. Linda Guydon, M.D.
51. David James, RN
52. Regina Hofele
53. Connie Collum
54. Ellen Richman
55. Linda Gailey
56. Pam Corbitt
57. Bruce G. Evans
58. Lateisha S. Taylor
59. Jacqueline Montague
60. Ronnie Davis
61. Elizabeth White
62. Sami Khan, M.D.
63. Kenneth Barnwell, M.D.
64. David Miller, M.D.
65. Michael Manning, M.D.
66. Stephanie Gordon, M.D.
67. Thomas Webb, optometrist
68. Any records custodian needed for authentication.
69. Any witness identified by either Defendant.

Plaintiffs reserve the right to amend and supplement the foregoing list of potential witnesses upon reasonable notice so as not to constitute an unjust surprise or impose undue delay upon the trial of the case.

Plaintiffs object to any witness on Defendants' "may call" list that is not identified by name.

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

The Plaintiffs reserve the right to call other witnesses for the purposes of impeachment or rebuttal without first naming them in the pre-trial order.

II. Defendants Tamaurus Sutton, M.D. and EmergiNet, LLC:

a. Defendants will have present at trial:

Tamaurus Sutton, M.D.

b. Defendants may have present at trial:

1. Shawn Evans;
2. Melinda Armstrong, PA;
3. Hal Hildreath, RN;
4. Trina Williams, RN;
5. Linda Donaghy, RN;
6. Karen Young, RN;
7. John Holmes, MD;
8. Sean Sue, MD;
9. Rob Rogers, MD;
10. Roberto Heros, MD;
11. Kenneth Liu, MD;
12. Charles Cawley, MD;
13. Erena Figler;
14. Payal Fadia, MD;
15. Any healthcare provider not otherwise listed above who is identified in any medical records set forth in Paragraph 14 above;
16. Any witness listed by Plaintiff or Co-Defendant in their portions of the Pre-trial Order;

17. Any witness necessary for purposes of record authentication and/or foundational requirements;

The parties reserve the right to amend their lists of witnesses prior to or during trial in accordance with Georgia law.

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

III. For Defendant Rockdale Hospital, LLC d/b/a Rockdale Medical Center:

(a) Defendant will have present at trial:

(b) Defendant may have present at trial:

- (1) Harold Hildreath, R.N.
- (2) Trina Williams, R.N.
- (3) Linda Donaghy, R.N.
- (4) Karen Young, R.N.
- (5) Tamaurus Sutton, M.D.
- (6) Melinda Armstrong, P.A.
- (7) John Holmes, M.D.
- (8) Shawn Evans
- (9) Leslie Hanchey, R.N.
- (10) David James, R.N.
- (11) Brian Kornblatt, M.D.
- (12) Sean Sue, M.D.
- (13) Robert Rogers, M.D.
- (14) Roberto Heros, M.D.
- (15) Jordan Amadio, M.D.
- (16) Dr. Dahkharghani
- (17) Dr. Thomas Loehfelm
- (18) Dr. Owen Samuels

- (19) Dr. Hemali Desai
- (20) Jennifer Kolenda, N.P.
- (21) Dr. Scott Hwang
- (22) Dr. Michael Cawley
- (23) Dr. Albert Schuette
- (24) Dr. Jane Gilmore
- (25) Dr. Shannon Hill
- (26) Dr. Peter Harri
- (27) Dr. C.J. Harrison
- (28) Dr. Ashley Aiken
- (29) Dr. Prem Kandiah
- (30) Dr. Schuette
- (31) Dr. Abk Turakhia
- (32) Dr. Meryle Eklund
- (33) Dr. Arun Krishnan
- (34) Erena Figler
- (35) Kenneth Liu, M.D.
- (36) Payal Fadia, M.D.
- (37) Grace Loy, M.D.
- (38) William Bikoff, M.D.
- (39) Linda Guydon, M.D.
- (40) Sami Khan, M.D.
- (41) Kenneth Barnwell, M.D.
- (42) David Miller, M.D.
- (43) Michael Manning, M.D.
- (44) Stephanie Gordon, M.D.
- (45) Thomas Webb, optometrist
- (46) Any witness identified by any other party
- (47) Any healthcare provider identified in the medical records of Mrs. Evans
- (48) Any records custodian to authenticate records and documents produced in discovery
- (49) Any witness previously identified by any party in the discovery process
- (50) Any witness listed by the Plaintiffs, including expert witnesses

(51) Any witness needed for impeachment purposes

The Defendants respectfully reserve the right to supplement this list prior to trial. Further, the Defendants object to any witness being called to testify at trial who has not properly been included in the pre-trial order. Opposing counsel may rely on a representation that the designated party will have a witness present unless notice to the contrary is given in sufficient time prior to trial to allow the other party to subpoena the witness or obtain his testimony by other means.

20.

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

For the Plaintiffs:

VERDICT

CHECK ALL THAT APPLY

1. We the jury, hereby find in favor of Plaintiff Janice Evans and against Defendant(s) as follows:

- a. Past Medical Expenses in the amount of \$_____.
- b. Future Medical Expenses in the amount of \$_____.
- c. Past Lost Wages in the amount of \$_____.
- d. Future Lost Wages in the amount of \$_____.
- e. Past Pain and Suffering in the amount of \$_____.
- f. Future Pain and Suffering in the amount of \$_____.

2. We the jury, hereby find in favor of Plaintiff Shawn Evans and against Defendant (s) as follows:

- a. Loss of Consortium in the amount of \$_____.

Note: If you have found against either one or more of the defendants, please proceed to Section

2.

2. We the jury, apportion percentages of fault among the parties as follows (note: the percentages must add up to 100%):

- a. Defendant Rockdale Hospital, LLC %_____.
- b. Defendant Emerginet/Sutton %_____.
- c. Janice Evans %_____.
- d. Shawn Evans %_____.

Or:

3. [] We the jury find for the Defendants.

This _____ date of February, 2016.

Foreperson

For Defendants Tamaurus Sutton, M.D. and Emerginet, LLC:

The parties will work together to submit a mutually agreeable verdict form at the trial of this matter.

For Defendant Rockdale Hospital, LLC d/b/a Rockdale Medical Center:

The parties will submit a verdict form to the Court prior to submission of the case to the jury.

21.

(a) For Plaintiff: The possibilities of settling the case are exceedingly poor as defendants choose to place their own interests above the interests of their patient to whom they caused catastrophic injury.

For Defendants: The possibilities of settling the case are poor.

- (b) The parties do want the case reported.
- (c) The costs of takedown will be shared equally by the parties.
- (d) No other matters at this time.

This 22nd day of December, 2015.

<p><u>/s/ Lloyd N. Bell</u> LLOYD N. BELL Georgia Bar No. 048800 BELL LAW FIRM 1201 Peachtree St. N.E., Suite 2000 Atlanta, GA 30361 404-249-6767 (tel) 404-249-6764 (fax)</p> <p><u>/s/ James O. Wilson, Jr.</u> James O. Wilson, Jr., Esq. P.O. Box 667 Marietta, GA 30061 770-427-2476</p> <p>Lawrence B. Schlachter, MD, JD 602 Macy Dr. Roswell, GA 30076 770-552-8362 (tel)</p> <p><i>Attorneys for Plaintiffs Shawn G. Evans, Individually and as Guardian of Janice K. Evans</i></p>	<p><u>/s/ Paul E. Weathington</u> Paul E. Weathington, Esq. Georgia Bar No. 743120 Heather McGrotty, Esq. Georgia Bar No. 127020 WEATHINGTON SMITH, PC 191 Peachtree St., Suite 3900 Atlanta, GA 30303 404-524-1600 (tel)</p> <p><i>Attorneys for Defendants Tamaurus Sutton, MD and EmergiNet, LLC</i></p> <p><u>/s/ Dan Huff</u> Dan Huff, Esq. GA Bar No: 374860 Sharonda Barnes, Esq GA Bar No: 245438 999 Peachtree Street, N.E. Atlanta, Ga. 30309-3915 404-892-4022 (tel)</p> <p><i>Attorneys for Rockdale Hospital, LLC d/b/a Rockdale Medical Center</i></p>
--	--

It is hereby ordered that the foregoing, including the attachments thereto, constitutes the PRE-TRIAL 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.

IT IS SO ORDERED, this the _____ day of _____, 2015.

HONORABLE JOHNNY PANOS
Judge, State Court of DeKalb County

EXHIBIT A - PLAINTIFFS' LIST OF TRIAL EXHIBITS

- 1) The Complete Medical Chart of Janice K. Evans, Radiology Films from Rockdale Medical Center including:
 - a. Medical Records from Rockdale Medical Center
 - b. Medical Records from National EMS
 - c. Medical Records from Emory University Hospital
 - d. Medical Records from Emory Clinic
 - e. Medical Records from Atlanta Allergy and Asthma Clinic/ Dr. Linda Guydon
 - f. Medical Records from Southeastern Lung Care/ Dr. David Miller
 - g. Medical Records from Family Care of Hillandale/ Dr. Kenneth Barnwell
 - h. Medical Records from Internal Medicine Associates/ Dr. Grace Loy
 - i. Medical Records from East Atlanta Gastroenterology Associates/ Dr. Sami Khan
 - j. Medical Records from Atlanta Neurological Associates/ Dr. William Bikoff
 - k. Medical Records from Visiting Nurse Health System
 - l. Medical Records from Wesley Woods Geriatric Hospital
 - m. Medical Records from Budd Terrace Nursing Home
 - n. Medical Records from Bridgewater Family Practice/ Dr. Michael Manning
 - o. Medical Records from The Women's Center/ Dr. Stephanie Gordon
 - p. Medical Records from Faxton St. Luke's Healthcare
 - q. Medical Records from Mohawk Valley Women's Health

- r. Medical Records from Sanquoit Medical Group
 - s. Medical Records from Dr. Thomas Webb
 - t. Medical Records from Shepherd Center
 - u. Medical Records from Shepherd Pathways
 - v. Pharmacy Records from CVS
- 2) Radiology Films from Emory University Hospital 
 - 3) Life Care Plan by Cathy Gregg-Smith
 - 4) Economic Report by Francis Rushing, PhD
 - 5) Curriculum Vitae of Imoigele Aisika, MD
 - 6) Curriculum Vitae of Charles Crawley, MD
 - 7) Curriculum Vitae of Judith Climenson, RN
 - 8) Curriculum Vitae of Cathy Gregg-Smith
 - 9) Curriculum Vitae of Todd Keith, RN
 - 10) Curriculum Vitae of Kenneth Liu, M.D.
 - 11) Curriculum Vitae of Anthony Mancuso, MD
 - 12) Curriculum Vitae of Karen O'Donnell, RN
 - 13) Curriculum Vitae of Richard Serra, MD
 - 14) Any documents generated by the Defendants' experts in relationship to this case
 - 15) Any documents provided to the Defendants' experts by the Defendants or their counsel
 - 16) Janice Evens' employment records 
 - 17) Janice Evans medical bills
 - 18) Videos of Janice Evans

- 19) Family Photographs of Plaintiffs
- 20) Plaintiff and Janice Evans' text messages and Janice Evans' Facebook posts
- 21) 1949 Mortality Table;
- 22) Text messages between Janice Evans and friends
- 23) Exemplars for medical equipment and/or procedures;
- 24) Medical illustrations and other visual aids;
- 25) Medical charts, diagrams, blow-ups, and animations
- 26) Medical articles;
- 27) Photographs, videotapes, DVDs, CDs, illustrations and diagrams for medical and illustrative purposes;
- 28) Photographs, videotapes, DVDs, CDs, illustrations and diagrams for purposes of rebuttal and or impeachment;
- 29) Any and all CVs produced by any expert or physician;
- 30) Any documents identified or tendered by Defendants;
- 31) Any document identified as an exhibit by Defendants
- 32) Any documents produced by Plaintiffs in the course of discovery;
- 33) All pleadings and discovery on file at time of trial;
- 34) Exhibits to any motions filed in this case;
- 35) Any document produced by a party or non-party during the course of discovery;
- 36) Any document for the purpose of impeachment.