

IN THE STATE COURT OF FULTON COUNTY

STATE OF GEORGIA

MICHAEL VOTTA,)
Plaintiff,) CIVIL ACTION
v.) FILE NO. 17EV004311
JACOB GOLDBERG; HOWARD GOLDBERG;)
CINDY GOLDBERG; and PHUONG NGOC LUONG,)
jointly and severally,)
Defendants.)

CONSOLIDATED PRE-TRIAL ORDER

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

1

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

Plaintiff:

J. Matthew Dwyer, Jr.
Dwyer Law
2100 RiverEdge Parkway
Suite 700
Atlanta, Georgia 30328
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matt@thedwyerlawgroup.com

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Defendants (Jacob Goldberg, Howard Goldberg and Cindy Goldberg):

Hilliard V. Castilla, Esq.
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900 Circle 75 Parkway
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Defendant (Phuong Ngoc Luong):

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2.

The estimated time required for trial is three (3) days.

3.

The Plaintiff's Motions in Limine are as follows:

1. Prohibiting any argument, evidence, testimony, or implication that plaintiff had at access to a collateral source for payment of his medical expenses. "Impeachment by evidence of collateral sources is only allowed if the false testimony is related to a material issue in the case."

Warren v. Ballard, 266 Ga. 408, 410 (1996).

"The collateral source rule bars a tortfeasor from offering evidence that a claimant has received payment from a third party-such as an insurer-for damage caused by the tortfeasor's conduct. 'This is because a tortfeasor is not allowed to benefit by its wrongful conduct or to mitigate its liability by collateral sources provided by others.' Generally, therefore, a claimant may sue a tortfeasor and seek recovery for damages caused by tortious conduct, even if the claimant has been reimbursed by his insurer." Wardlaw v. Ivey, 297 Ga. App. 240, 244 (2009) (citing and quoting Hoe flick v. Bradley, 282 Ga. App. 123, 124 (2006)).

2. Prohibiting any argument, evidence, testimony, suggestion, or implication, that a verdict against the defendant will have an adverse financial impact on the defendant. "The general rule is that evidence of the wealth or worldly circumstances of a party litigant is never admissible, except in those cases where position or wealth is necessarily involved."

Northwestern University v. Crisp, 211 Ga. 636, 641 (1955). Here, the worldly circumstance of the defendant is irrelevant to issues of negligence, proximate cause, or damages.

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

4. Prohibiting any evidence relating to the plaintiff's criminal record insofar as "the probative value of admitting the evidence substantially outweighs its prejudicial effect" to the plaintiff. O.C.G.A. § 24-9-84.1(a)(2).

5. Prohibiting any testimony, comment, implication, or question, regarding when plaintiff hired an attorney, when he decided to file a lawsuit, or if anyone encouraged him to file suit. Such evidence is irrelevant to the issues presented.

6. Prohibiting defense counsel from attempting to use medical records, employment records, or academic records prepared by doctors or administrators to "refresh" the memories of any witnesses other than the doctors. In McEntyre v. McRae, 240 Ga. App. 148 (1999) the defense sought to "refresh" the plaintiff's memory through the use of a letter prepared by the plaintiff's employer. The trial court refused the defense's request and defendant appealed. "Although a witness may refresh her memory by referring to a writing prepared by herself or prepared by another at her direction or in her presence, "[w]hen the document is prepared by a third person not in the presence of a witness, the memory is not refreshed by such memorandum and such testimony is inadmissible. [Cit.]" *Atlanta Fire Systems v. Alexander Underwriters &c.*, 185 Ga.App. 873, 875(4), 366 S.E.2d 197 (1988); *Zilinmon v. State*, 234 Ga. 535, 537(3), 216 S.E.2d 830 (1975). The trial court did not err in refusing to allow McEntyre to show McRae the letter written by McRae's employer to McEntyre's counsel." McEntyre, 240 Ga. App. at 149. Any attempt by defense counsel to "refresh" a witness's memory by use of a medical record

would be improper since the records were not prepared by the witness's, at the witnesses' request or in their presence.

7. Prohibiting any argument comparing a plaintiff's personal injury lawsuit to playing the lottery, a game of chance, or "an opportunity". Any such argument is improper and should be excluded.

There is no Georgia authority what has addressed this issue. However, the Supreme Court of South Dakota considered this issue, and its opinion in Schoon v. Looby, 2003 S.D. 123,670 N.W. 2d 885 (2003) is enlightening and instructive. In Schoon, the plaintiff in a medical malpractice case appealed from a defense verdict and the denial of a motion for new trial. The basis for the appeal was improper comments made by defense counsel during final argument. Those comments included referring to the lawsuit as the plaintiffs' quest for "lotto or power ball or whatever they call it, lets really roll the dice big." Schoon, 670 S.W. 2d at 890.

In reversing the trial court's denial of the plaintiff's motion for new trial, the South Dakota Supreme Court wrote:

Defense counsel's accusation that plaintiff was trying to hit the lottery by her lawsuit demeaned not only the plaintiff but also the judicial system itself. The comments denigrated the fairness, integrity and public perception of the judicial system. Counsel's reference to playing lotto or power ball, or rolling the dice, were only meant to inflame the jury and were beyond the bounds of proper final argument. These comments would not have gone unheeded by the jury. The judge and jury rely on the lawyers to present their arguments to help the jury sort out the evidence and understand how the law applies to the facts. Interposing remarks such as we see here add nothing to that objective, and can only be meant to persuade the jury to decide the case based on passion and prejudice. Id. at 891. (Emphasis Supplied)

Because of the prejudicial and inflammatory nature of such an argument, any suggestion that Plaintiff's interest is in such things as "hitting it big, gambling, or playing the lottery" - rather than in compensation for actual injuries sustained - should be precluded as demeaning not only to the plaintiff, but to the judicial system itself.

The Defendants' Goldberg's Motions in Limine are as follows:

- (1) Excluding testimony from any expert witness concerning the causation of the collision or the issuance of a traffic citation. McMichan v. Moattar, 221 Ga. App. 230 (1996); Clough v. Greyhound Corporation, 91 Ga. App. 246, 247 (1954).
- (2) Excluding any testimony or evidence concerning allegedly negligent acts or traffic violations by the defendant on other occasions. Georgia Power v. Hubbard, 142 Ga. App. 531, 533 (1977).
- (3) Excluding any reference to liability insurance and asks that all witnesses be instructed specifically not to respond to any question with the mention of liability insurance. Cincinnati Insurance v. Raybitz, 205 Ga. App. 174 (1992); Minnick v. Jackson, 64 Ga. App. 554, 561 (1941).
- (4) Excluding any reference to a purported inability to make payment for any medical bills or expenses. Warren v. Ballard, 266 Ga. 408, 410 (1996). See also, Worthy v. Kendall, 222 Ga. App. 324 (1996).
- (5) Excluding any questioning in Voir Dire by counsel concerning insurance unless the prospective jurors have stated, in response to an inquiry concerning current employment, that they presently work for an insurance company. Gonzalez v. Wells, 213 Ga. App. 494, 495 (1994).

(6) Disallowing any argument or allegation suggesting that the jurors should put themselves in the position of the plaintiff in awarding damages. Myrick v. Stephanos, 220 Ga. App. 520, 523 (1996); Doe v. Moss, 120 Ga. App. 762, 767 (1969).

The Defendant Luong reserves the right to file Motions in Limine.

4.

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

- (a) Are you related by blood or marriage to Michael Votta or J. Matthew Dwyer, Jr. or William Q. Bird?
- (b) Are you related by blood or marriage to Jacob Goldberg or Howard Goldberg or Cindy Goldberg?
- (c) Are you related by blood or marriage to Phuong Ngoc Luong?
- (d) Are you a policyholder, officer, director or employee of State Farm Mutual Automobile Insurance Company?
- (e) Are you a policyholder, officer, director or employee of State Farm Fire and Casualty Company of Bloomington, Illinois?
- (f) Are you an officer, director or employee of Progressive Mountain Insurance Company?

By Defendant Luong:

The Plaintiff and Plaintiff's attorneys and anyone else with a contingent interest in the case.

By Defendants' Goldberg:

The parties and counsel for the Plaintiff.

5.

- (A). Discovery in this case will be completed so as not to delay any trial, unless

otherwise noted. 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 or nonjoinder of any parties.

6.

The Plaintiff's brief and succinct outline of the case and contentions are attached hereto as Exhibit "A".

7.

The Defendants' Jacob Goldberg, Howard Goldberg and Cindy Goldberg's brief and succinct outline of the case and contentions are attached hereto as Exhibit "B" and Defendant Phuong Ngoc Luong's brief and succinct outline of the case and contentions is attached hereto as Exhibit "B-1".

8.

The Plaintiff contends the issues for determination by the jury are as follows:

- (a) Liability;
- (b) Causation;
- (c) Damages; and
- (d) Attorneys fees and expenses of litigation.

The Defendant Luong contends the issues for determination by the jury are as follows:

- (a) Negligence, if any, on the part of the Defendant Luong, as negligence has been admitted by Defendant Goldberg;
- (b) Proximate cause;

- (c) Damages; and
- (d) Mitigation of damages.

The Defendants' Goldberg contend the issues for determination by the jury are as follows:

- (a) Whether Defendant Phuong Ngoc Luong contributed to causing the accident; and
- (b) Damages.

9.

Specifications of negligence including applicable code sections are as follows: See attached Exhibit "C" for Plaintiff's specifications of negligence. See attached Exhibit "D" for Defendants' Jacob Goldberg, Howard Goldberg and Cindy Goldberg's specifications of negligence and Exhibit "D-1" for Defendant Phuong Ngoc Luong's specifications of negligence.

10.

If the case is based on a contract, either oral or written, the terms of the contract are as follows (or, the contract is attached as an Exhibit to this order); Not applicable.

By Plaintiff: The types of damages and the applicable measure of those damages are stated as follows: medical and hospital expenses, lost wages, and pain and suffering, attorney's fees and expenses of litigation.

Plaintiff's medical expenses through October 23, 2017 are as follows (copies of which have been provided to defense counsel):

1.	Grady EMS	11/27/16	\$ 2,069.35
2.	Emory Medical Care Foundation	11/27/16, 11/28/16, 11/29/16, 11/30/16, 12/1/16, 12/2/16, 12/5/16, 12/6/16, 12/7/16, 12/8/16, 12/9/16, 1/13/17, 2/24/17, 4/28/17, 10/23/17	\$ 8,319.00
3.	Grady Hospital	11/27/16 - 12/9/16, 12/16/16, 1/13/17, 2/24/17, 4/28/17	\$147,770.50
4.	Emory Clinic	12/9/16, 12/10/16, 12/11/16, 12/12/16, 12/13/16, 12/14/16, 12/15/16, 12/16/16, 12/17/16, 12/18/16, 12/19/16, 12/21/16, 12/22/16, 12/23/16, 12/24/16	\$ 10,544.00
5.	Mount Vernon Internal Medicine	12/28/16	\$ 213.00
6.	Soft Touch Medical, LLC	12/21/16, 1/21/17, 2/21/17	\$ 810.85
7.	Emory University Hospital	12/9/16 - 12/24/16	\$ 61,956.40
8.	Benchmark Physical Therapy	2/27/17 - 11/10/17	\$ 4,682.00
9.	Visiting Nurse Health System	12/27/16, 12/30/16, 1/3/17 1/5/17, 1/10/17, 1/12/17, 1/17/17	\$ 1,640.00
10.	Northside Radiology Associates	12/19/17	\$ 265.00
11.	Northside Hospital	12/19/17, 1/3/18	\$ 6,614.00
		Total	\$244,884.10

The medical treatment of the Plaintiff is ongoing and any bills submitted from 1/4/18 on that are obtained by the Plaintiff will be tendered as evidence. They will be exhibited to defense counsel as soon as they are received.

By Defendant Luong: Defendant Luong objects to the type and measure of damages set forth by the Plaintiff above. Defendant shows that the Plaintiff is barred from recovery of any special damages not specifically pleaded in accordance with O.C.G.A. 9-11-9(g). The Plaintiff has plead special damages in the amount of \$244,884.10. The Plaintiff is barred from recovering any further special damages. Defendant further shows that the Plaintiff's recovery, if any, for medical expenses would be limited to those medical expenses incurred as a proximate cause of the incident, and further limited to those expenses which were reasonable and necessary. Defendant does not consent to Plaintiff's claims of damages.

By Defendants' Goldberg: Defendants' Goldberg object to special damages which have not been disclosed during discovery.

12.

The case does not involve divorce.

13.

The following facts are stipulated: None.

14.

The following is a list of all documentary and physical evidence that will be tendered at the trial by Plaintiff 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) By the Plaintiff:

See Exhibit "E" attached hereto.

(b) By the Defendants' Jacob Goldberg, Howard Goldberg and Cindy Goldberg:

See Exhibit "F" attached hereto.

(c) By the Defendant Phuong Ngoc Luong:

See Exhibit "F-1" attached hereto.

(d) Medical Records introduced under O.C.G.A. §24-8-803(6): All medical records a party intends to introduce under O.C.G.A. §24-8-803(6) must be **specifically identified** as such in the Consolidated Pre-Trial Order.

15.

Special authorities relied upon Plaintiff relating to peculiar evidentiary or other legal questions are as follows: None known at this time but should issues develop, they will be called to the Court's attention.

16.

Special authorities relied upon by Defendant Luong relating to peculiar evidentiary or other legal questions are as follows: The Plaintiff is barred from asserting special damages not specifically pled. O.C.G.A. § 9-11-9 (g).

Defendant Luong is unaware of any other peculiar evidentiary or legal questions at this time, but should any arise, the Defendant will bring authority to resolve same to the Court's attention.

Defendants' Goldberg state: Plaintiff may not seek special damages not specifically outlined in the Complaint. O.C.G.A. §9-11-9(g). Additional special authorities will be provided at trial.

17.

Requests to charge from Plaintiff and Defendant Luong have been filed herewith as called for by the Court.

Defendants' Goldberg state: All requests to charge anticipated at the time of trial will be filed in accordance with Rule 10.3.

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

Any witness whose deposition was taken, who is unavailable for trial pursuant to O.C.G.A. § 9-11-32, or is a medical care provider of the Plaintiff.

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

For Defendant Luong:

- (1) Any person listed in Paragraph 19 below, or who have been deposed prior to trial and is unable to attend for a legally sufficient reason.
- (2) The parties shall be permitted to take the deposition for use at trial, or to use any deposition taken by another party, of the Plaintiff's healthcare providers, custodian of any medical records, any witness whose deposition was taken who is unavailable to attend trial pursuant to O.C.G.A. § 9-11-32, and any person listed by any other party.

For Defendants' Goldberg:

The Defendants reserve the right to call by deposition persons listed in paragraph 19 who are unavailable at the time of trial. Defendants may submit medical narratives designated in compliance with the requirements of O.C.G.A. § 24-3-18 and other provisions of Georgia law.

The following are lists of witnesses:

- (a) Plaintiff will present at trial: Plaintiff
- (b) Plaintiff may have present at trial: Michael Votta, Mala Badreddine, Gene Hanratty, Suzanne Shull, Dr. Mara Schenker, Dr. William Reissman, Dr. Bryan Morse, Dr. Dale Strasser, Dr. Sharon Tinanoff, Dr. John Keating, Dr. Dan Schlatterer, Ryan Reed, P.T., Jillian Burns, P.T., and doctors seen by Mr. Votta between now and the actual trial, family members

and friends as to damages: Nancy Votta, Greg Prokopchak, Susan Dill and J. Matthew Dwyer, Jr. and William Q. Bird as to the issue of attorneys fees, and any witnesses necessary for rebuttal.

(c) Defendants' Jacob Goldberg, Howard Goldberg and Cindy Goldberg will have present at trial: None.

(d) Defendants' Jacob Goldberg, Howard Goldberg and Cindy Goldberg may have present at trial: Defendants; the investigating officer, Plaintiff's healthcare providers and medical personnel who have performed tests or procedures; persons identified by Plaintiff; medical providers and personnel who have reviewed Plaintiff's medical records or diagnostic tests; witnesses identified by other parties; rebuttal or impeachment witnesses.

Additionally, Plaintiff objects to the generic ". . . Plaintiff's healthcare providers. . ." or "medical personnel", or "medical providers and personnel who have reviewed Plaintiff's medical records or diagnostic tests" and asks the Court to disallow any witness who is not listed by specific name. This is an attempt by Defendants to deprive the Plaintiff of an opportunity to meet with and/or depose said witnesses in effect depriving Plaintiff of his right of discovery. The purpose of a Pre-Trial Order is to prevent surprise and trial by ambush. Specific names are to be provided in the interests of fair play and in not slowing down the trial and/or taking up the Court's time during trial to deal with issues that may relate to the nonspecified witnesses.

The parties object to the opposing party calling any witness not specifically listed in the Pre-Trial Order or otherwise identified in discovery. The parties reserve the right to call as a rebuttal witness any person of whom the parties become aware at trial and whose testimony can rebut any testimony given by the opposite party or any witnesses for the opposing party.

(e) Defendant Phuong Ngoc Luong will have present at trial: Gene Hanratty.

- (f) Defendant Phuong Ngoc Luong may have present at trial:
1. Phuong Luong;
 2. Investigating Officers in video and listed on accident report;
 3. Any of the Plaintiff's treating medical providers who treated the Plaintiff prior to or subsequent to the accident;
 4. Representatives of the Plaintiff's employers;
 5. Custodian of any employment or medical records; and
 6. Any witness listed by the Plaintiff.

Additionally, Plaintiff objects to the generic ". . .any of Plaintiff's treating medical providers. . ." or "medical providers", "custodian of any records", "representative(s) of Plaintiff's employers. . .", or "any witness to the accident", ". . .custodian of any employment or medical records. . ." and asks the Court to disallow any witness who is not listed by specific name. This is an attempt by Defendant to deprive the Plaintiff of an opportunity to meet with and/or depose said witnesses in effect depriving Plaintiff of his right of discovery. The purpose of a Pre-Trial Order is to prevent surprise and trial by ambush. Specific names are to be provided in the interests of fair play and in not slowing down the trial and/or taking up the Court's time during trial to deal with issues that may relate to the nonspecified witnesses.

The parties object to the opposing party calling any witness not specifically listed in the Pre-Trial Order or otherwise identified in discovery. The parties reserve the right to call as a rebuttal witness any person of whom the parties become aware at trial and whose testimony can rebut any testimony given by the opposite party or any witnesses for the opposing party.

20.

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

By the Plaintiff:

- (a) We, the Jury, find in favor of the Plaintiff and award damages in the amount of
\$ _____;

(Do NOT reduce this number if you find fault of any party. The Judge will do that based on the percentages below).

- (b) The percentages of fault are as follows: *(If you find that any of the following are not liable, then put 0% next to their name.)*

_____ % - Defendant(s) Goldberg

_____ % - Defendant Luong.

Percentages must total 100%

- (c) We, the Jury, find in favor of the Defendants' Jacob Goldberg and/or Howard Goldberg and/or Cindy Goldberg and/or Phuong Ngoc Luong and award the Plaintiff nothing; or

- (d) We, the jury, as to attorneys' fees and expenses of litigation, find:

- (1) in favor of the Plaintiff and award \$ _____; or
(2) in favor of the Defendants.

By the Defendant Luong:

A proposed verdict form will be submitted by the Defendant at trial. However, the Defendant objects to the Plaintiff's proposed verdict form as it is not legally sufficient.

Plaintiff's reply is that the directive for the Pre-Trial Order requires the parties to submit Jury Verdict Forms and if the Plaintiff is to submit its proposed form as it did, the Defendants should do likewise.

By the Defendants' Goldberg:

The Defendants' Goldberg ask for a General Verdict Form. Defendants' Goldberg reserve the right to submit a special verdict form at trial.

21.

- (a) The possibilities of settling the case according to the Defendants' Goldberg are: poor.
- (b) The parties do want the case reported.
- (c) The cost of takedown will be shared 1/3 - Plaintiff, 1/3 - Jacob Goldberg, Howard Goldberg and Cindy Goldberg and 1/3 - Phuong Ngoc Luong.
- (d) Other matters: Plaintiff's counsel is hereby notified pursuant to O.C.G.A. §§ 24-8-803(6) and 24-9-902(11) of the Defendant Luong's intent to tender the documents identified in Paragraph 14(b), subsection 1 at trial, all documents have been produced in discovery. The parties agree that no party is entitled to unilaterally amend the Consolidated Pre-Trial Order after it is entered by the Court.

Plaintiff's response is that the Defendant has not provided proper notice under O.C.G.A. §§24-8-809(6) and 24-9-902(11).

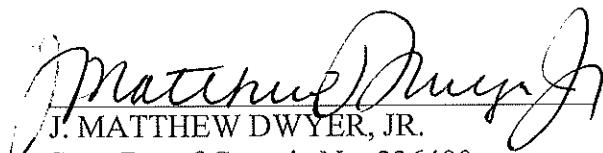
The law requires that the specific documents be provided to the adverse party sufficiently in advance of their offer into evidence to provide an adverse party with a fair opportunity to challenge such record or declaration and this Defendant has not done that.

As to the "categories" listed above, the Defendant is to provide the specific document or page to the Plaintiff at this time. Otherwise Plaintiff is deprived of the right to investigate, meet with witnesses who might be made be made the entries and the circumstances surrounding those entries.

If the Defendant does not provide the specific documents to the Plaintiff at this time, then the Defendant should not be allowed to introduce the documents at the time of trial.

a. Deposition Objections: Prior to trial, counsel shall make a good faith effort to resolve any objections in depositions to be presented at trial. **All unresolved objections, together with argument and citations, shall be filed, with a copy to the Court, no later than 15 days prior to trial.** Any objections not brought before the Court fifteen (15) days prior to trial shall be deemed waived.

b. Medical Narratives: Notice of intent to use medical narratives **must be filed with the Court no later than the filing of the Consolidated Pretrial Order** and all proposed narratives **must be filed with the Court no later than 60 days prior to trial**. Counsel shall make a good faith effort to resolve any objections to proposed medical narrative reports. The Court shall rule on any objections timely filed, pursuant to O.C.G.A. § 24-8-826, without oral argument unless a hearing is ordered by the Court upon request of either party at the time of filing.



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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.

This _____ day of _____, 2018.

PATSY PORTER, Judge
STATE COURT OF FULTON COUNTY

EXHIBIT "A"

PLAINTIFF'S OUTLINE AND CONTENTIONS

On or about November 27, 2016, Plaintiff was a pedestrian waiting for the light to cross Peachtree Road in the south cross walk to cross Peachtree Road to Peachtree Way when a 2010 Toyota Rav 4 owned by the Defendants Howard Goldberg and Cindy Goldberg and driven by the Defendant Jacob Goldberg struck him and pinned him up against a large metal utility pole on the sidewalk of the westside of Peachtree Road. The Defendants Goldberg were negligent for failure to yield while turning left. The Defendant Phuong Ngoc Luong is upon information and belief negligent for striking the Goldberg vehicle partially causing it to strike the Plaintiff. Plaintiff sustained serious injuries in said collision such as a severely fractured left tibia including the tibial plateau and a severe fracture to his left fibula, as well as multiple pubic rami fractures to the right and left pelvic area; severe bruises to his left hip, buttocks and right hip and buttocks. The negligence of the Defendants was the proximate cause of the injuries sustained by Plaintiff. As a result of said injuries, Plaintiff has incurred or will incur in the immediate future medical expenses in excess of \$244,884.10 to date. Expenses are still being incurred, and the exact amount of medical expenses will be supplied by amendment. As a further result of the collision, Plaintiff continues to endure pain and suffering, mental anxiety and disability because of serious injuries sustained in the collision. The Defendants have been stubbornly litigious in the face of a clear liability claim and Plaintiff contends he is entitled to attorneys' fees and expenses of litigation.

Plaintiff endured horrible pain and suffering resulting in surgery, 13 days in Grady Hospital, 14 days in Emory University Hospital, was bedridden for many weeks then in a wheelchair and was not able to walk for more than three (3) months.

EXHIBIT "B"

DEFENDANTS' JACOB GOLDBERG, HOWARD GOLDBERG AND
CINDY GOLDBERG'S OUTLINE AND CONTENTIONS

The accident occurred on November 27, 2016 when a vehicle operated by Defendant Phuong Ngoc Luong struck the vehicle operated by Defendant Jacob Goldberg, causing Defendant Jacob Goldberg's vehicle to strike the Plaintiff. At the time of the accident, Defendant Jacob Goldberg did not reside with his parents Howard and Cindy Goldberg. Plaintiff has successfully recovered from injuries sustained in the accident.

EXHIBIT "B-1"

DEFENDANT PHUONG NGOC LUONG'S OUTLINE AND CONTENTIONS

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

Defendant Jacob Goldberg turned left suddenly and without warning in front of Ms. Luong and failed to yield, caused the accident. As a result of Defendant Jacob Goldberg's actions, his vehicle struck the Plaintiff. Defendant Luong denies she was negligent in any manner or that the accident in question was the proximate cause of the Plaintiff's alleged injuries. Defendant Luong denies the Plaintiff is entitled to recover from her in any amount.

EXHIBIT "C"

PLAINTIFF'S SPECIFICATIONS OF NEGLIGENCE

Defendant(s) violated:

O.C.G.A. §40-6-71 (failure to yield while turning left);

O.C.G.A. §13-6-11

And all other code sections that may be proven by the evidence actually elicited at trial.

EXHIBIT "D"

DEFENDANTS' JACOB GOLDBERG, HOWARD GOLDBERG AND
CINDY GOLDBERG'S SPECIFICATIONS OF NEGLIGENCE

None.

EXHIBIT "D-1"

DEFENDANT PHUONG NGOC LUONG'S
SPECIFICATIONS OF NEGLIGENCE

By Defendant Luong:

Common law principles of negligence, proximate, cause, damages, and mitigation of damage.

EXHIBIT "E"

PLAINTIFF'S DOCUMENTARY AND PHYSICAL EVIDENCE

Plaintiff may introduce the following documentary evidence:

1. Bills from Grady EMS
2. Bills from Emory Medical Care Foundation
3. Bills from Grady Hospital
4. Bills from Emory Clinic
5. Bills from Mount Vernon Internal Medicine
6. Bills from Soft Touch Medical, LLC
7. Bills from Emory University Hospital
8. Bills from Benchmark Physical Therapy
9. Bills from Visiting Nurse Health System
10. Bills from Northside Radiology Associates
11. Bills from Northside Hospital
12. Contingent Fee Agreement between Plaintiff and Bird Law Group, P.C. and Dwyer Law Group
13. Bills related to expenses of litigation
14. Photographs of the vehicles
15. Photographs of the Plaintiff
16. Photographs of the Plaintiff and Plaintiff's family
17. X-rays and positives of X-rays of Plaintiff's injured body parts
18. Certified medical records from Grady Hospital
19. Certified medical records from Emory Hospital
20. Medical Narrative of Dr. Mara L. Schenker dated 2/28/18
21. C.V. of Dr. Mara L. Schenker
22. IME of Dr. John G. Keating dated 11/29/17 and Discharge Summary Addendum dated 3/26/18
23. C.V. of Dr. John Keating
24. Police report
25. Standard Annuity Mortality Table
26. Additional bills incurred by Plaintiff up to time of trial
27. Defendants' Answers to the Complaint
28. Pleadings filed in the case
29. Any evidence necessary for impeachment or rebuttal

Plaintiff anticipates the possibility of using other evidence that he does not presently have in her possession, and should this possibility come about, then such evidence will be exhibited to counsel for Defendants at least seven (7) business days prior to trial.

EXHIBIT "F"

**DEFENDANTS' JACOB GOLDBERG, HOWARD GOLDBERG AND
CINDY GOLDBERG'S DOCUMENTARY AND PHYSICAL EVIDENCE**

- 1) Pleadings;
- 2) Documents on file with this Court;
- 3) Discovery responses of, and documents produced by, the Plaintiff;
- 4) Documents for impeachment or rebuttal;
- 5) Documents identified by another party;
- 6) Photographs of the scene and vehicles;
- 7) Evidence relating to other claims or injuries of Plaintiff;
- 8) Exhibits to depositions;
- 9) Evidence of collateral source payments; and
- 10) Any of the Plaintiff's healthcare records or bills.

Plaintiff demands that the specific records and bills be identified and shown to the Plaintiff so that Plaintiff has the opportunity to depose any witness necessary. None of these documents have been provided to Plaintiff other than six (6) photos of the scene and vehicles.

To resolve any misunderstandings or disputes that would unnecessarily take up valuable time of the Court or slow down the trial, Plaintiff suggests all documents that may be used by either party be pre-numbered and exchanged with opposing counsel at least seven (7) days prior to trial.

Listing for example of generalized "documents" or "evidence relating to other claims or injuries. . ." without showing Plaintiff particular pages is an attempt by Defendants to deprive Plaintiff of an opportunity to meet with and/or depose witnesses thus depriving Plaintiff of his right of discovery. The purpose of a Pre-Trial Order is to prevent surprise and trial by ambush. Specific pages are to be provided in the interests of fair play and in not slowing down the trial

and/or taking up the Court's time during trial to deal with issues that may relate to the nonspecified documents.

EXHIBIT "F-1"

DEFENDANT PHUONG NGOC LUONG'S
DOCUMENTARY AND PHYSICAL EVIDENCE

- (1) Selected portions of the Plaintiff's medical records and bills from their treating physicians, past and present, including but not limited to:
 - Any and all of the Plaintiff's treating medical providers;
- (2) Selected portions of the Plaintiff's employment records, past and present;
- (3) Tax returns of the Plaintiffs;
- (4) Any and all documents produced by non-parties in response to Request for Production of Documents;
- (5) Any documents produced by any party during discovery;
- (6) Any document needed for impeachment;
- (7) Deposition of Plaintiff and any exhibits thereto;
- (8) Demonstrative aids, exhibits, blow-ups;
- (9) Photographs and videos of the accident scene from all accidents the Plaintiff has been involved in;
- (10) Photographs of the vehicles from all accidents the Plaintiff has been involved in;
- (11) A diagram of the collision scene from all accidents the Plaintiff has been involved in;
- (12) Google map images of the collision scene from all accidents the Plaintiff has been involved in;
- (13) The police report created by the investigating officer from all accidents the Plaintiff has been involved in;

- (14) Any x-ray films, MRI films, or other diagnostic studies concerning the Plaintiff;
- (15) Any documents listed by the Plaintiff.
- (16) Reports, if any, from the Defendant's named experts below.

The above constitutes proper notice under O.C.G.A. §§ 24-8-803(6) and 24-9-902(11) of the Defendant's intent to use the documents identified in this Paragraph, or any portions thereof, at trial and of the Plaintiff's opportunity to review these records.

Plaintiff objects to Defendant Luong's #1 and #2 above. Listing of "generalized" documents without showing Plaintiff particular pages is an attempt by Defendants to deprive Plaintiff of an opportunity to meet with and/or depose witnesses thus depriving Plaintiff of his right of discovery. The purpose of a Pre-Trial Order is to prevent surprise and trial by ambush. Specific pages are to be provided in the interests of fair play and in not slowing down the trial and/or taking up the Court's time during trial to deal with issues that may relate to the nonspecified documents.