

IN THE STATE COURT OF GWINNETT COUNTY  
STATE OF GEORGIA

SUSAN HAMILTON, Individually )  
and as Executor of The Estate of )  
Peter G. Hamilton, )  
 )  
Plaintiff, ) CIVIL ACTION FILE  
 )  
v. ) NO. 16-C-07084-1  
 )  
ACADEMY ORTHOPEDICS, LLC )  
and MICHAEL J. KALSON, M.D., )  
 )  
Defendants. )

**PRETRIAL 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: Steven A. Pickens, Esq.  
David G. McGee, Esq.  
Mahaffey Pickens Tucker, LLP  
1550 N. Brown Road, Suite 125  
Lawrenceville, Georgia 30043  
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dmcgee@mptlawfirm.com

Defendants: Daniel J. Huff, Esq.  
Christian P. Dennis, Esq.  
Huff, Powell & Bailey, LLC  
999 Peachtree Street, NE Suite 950  
Atlanta, GA 30309  
Phone: (404) 892-4022  
DHuff@HuffPowellBailey.com  
CDennis@HuffPowellBailey.com

Other:

**(2) The estimated time required for trial is: 4 days.**

- (a) Plaintiff estimates it will take 2 days to present their evidence.
- (b) Defendants estimate it will take 1-2 days to present their evidence.

**(3) There are no motions or other matters pending for consideration by the court except as follows:**

**For the Plaintiff:**

- (a) Plaintiff's Motions in Limine.
- (b) Plaintiff reserves the right to file additional motions as necessary prior to trial.

**For the Defendants:**

- (a) Defendants' Motions in Limine.
- (b) The Defendants reserve the right to file additional motions as necessary prior to trial.

**(4) The jury will be qualified as to relationship with the following:**

**For the Plaintiff:**

- (a) Plaintiff Susan Hamilton;
- (b) Peter G. Hamilton (deceased);
- (c) Michael J. Kalson, M.D.;
- (d) Academy Orthopedics, LLC;
- (e) Steven A. Pickens or any partner in Mahaffey Pickens Tucker, LLP; and
- (f) The Medical Protective Company

**For the Defendants:**

- (a) Susan Hamilton or anyone related by blood or marriage to Susan Hamilton;
- (b) Peter G. Hamilton or anyone related by blood or marriage to Peter Hamilton;
- (c) Michael J. Kalson, M.D. or anyone related by blood or marriage to Michael J. Kalson, M.D.;
- (d) Academy Orthopedics, LLC and its directors, officers, agents, and employees;
- (e) Steven A. Pickens, Esq. or anyone associated with Mahaffey Pickens Tucker, LLP;

The Defendants object to additional jury qualifications by any counsel with respect to professional liability insurance companies and their affiliated entities on the basis that reference to the fact and availability of insurance coverage is unfairly prejudicial to Defendants and will be addressed by the court.

- (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.**

**The parties have an ongoing obligation under O.C.G.A. §§ 9-11-33 and 9-11-34, and each party requests the other to provide updated and supplemental discovery responses to the discovery requests that were timely served during this case. The parties reserve the right to seek discovery of any evidence or witness first identified and/or listed by the opposing party in this pretrial report.**

**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 Christmas night 2014, 72-year-old Peter Hamilton tripped and fell. He broke his left arm. The break occurred where the upper arm bone (the humerus) begins to turn into the ball that fits into the shoulder joint. Mr. Hamilton was taken to Gwinnett Medical Center. Dr. Kalson was the trauma surgeon on call. The x-rays were electronically sent to Dr. Kalson on the evening of December 25<sup>th</sup>. He reviewed the x-rays in his home. Seeing it was not an emergency, Dr. Kalson initially intended to send him home in a sling. However, Mr. Hamilton was admitted to the hospital.

The following day, Dr. Kalson came to the hospital and performed a non-emergency internal fixation with open reduction procedure to attempt to repair Mr. Hamilton's shoulder. Dr. Kalson decided to attempt to repair this complicated shoulder fracture himself even though shoulder surgery was less than 5% of his practice and he was battling chronic back pain.

For ten (10) days after the surgery, Pete Hamilton continued to suffer excruciating pain. He told Dr. Kalson that his shoulder still hurt terribly when he saw him for his follow up on the 11<sup>th</sup> day after surgery. Mr. Hamilton also told Dr. Kalson that he and his wife Suzy had been in Georgia visiting his daughter for Christmas and would soon be returning to their home in Maine. Dr. Kalson took x-rays of his shoulder and palpated his shoulder and then told Mr. Hamilton everything looked good. Dr. Kalson recommended he start pendulum exercises and also gave him a prescription for more pain medicine.

For the next two months Pete Hamilton suffered agonizing pain in his shoulder. He could not move it at all. It hurt all the time, but the slightest movement would send shockwaves of pain through his body. The ride back to Maine was miserable. After enduring this constant pain for over two months, Mr. Hamilton sought help from orthopedic surgeon Dr. Donald Endrizzi in Portland, Maine.

On his initial visit with Mr. Hamilton, Dr. Endrizzi took a set of x-rays of Mr. Hamilton's shoulder. He immediately saw that Dr. Kalson had left in the Drill Guide that was supposed to have been removed before he completed his surgery. Dr. Endrizzi also noticed that the repair had fallen apart with complete loss of reduction and that two of the locking screws had already backed out over a centimeter. When Dr. Endrizzi reviewed the x-rays that Dr. Kalson had taken eleven (11) days after surgery, he also saw that just eleven (11) days after surgery fixation had been lost with at least one (1) of the screws backing out and that the alignment was not anatomical.

Due to Mr. Hamilton's prior heart surgery in July of 2014 and the medications he was on, Dr. Endrizzi had to wait over three (3) months before he could perform surgery to repair Dr. Kalson's failed fixation. To repair the damage, Dr. Endrizzi had to perform a reverse partial shoulder replacement. After the procedure while in the recovery room, Mr. Hamilton suffered a heart attack (his second). Dr. Paul Sweeney, Mr. Hamilton's treating cardiologist, testified that this heart attack was caused by the stress of surgery and that he would not have suffered this heart attack if the second surgery had not been performed.

Plaintiff is suing Dr. Kalson for multiple negligent acts and omissions that include but are not limited to: leaving a drill guide in his shoulder that has prominently stamped on its face "Do Not Implant;" failing to tighten the locking screws into place;

leaving his shoulder in such a condition at the conclusion of his December 26<sup>th</sup> surgery that it had no chance of healing; failing to notice on his January 6<sup>th</sup> follow up visit that the drill guide was in place and that fixation had been lost and instructing him to do pendulum exercises after fixation had been lost; and failing to come up with a plan to fix his shoulder at that time. Because of these negligent acts and omissions, much of what turned out to be one of the last years of Mr. Hamilton's life was spent in agonizing pain from his shoulder being broken with loose screws in his bone. Dr. Kalson's negligence not only prevented Mr. Hamilton's shoulder from healing but it exacerbated its condition to the point he had to have the reverse shoulder replacement that left his arm so weakened and with such a limited range of motion he could no longer perform routine daily simple tasks such as driving an automobile.

During the pendency of this action, Mr. Hamilton passed away and his wife Suzy Hamilton was appointed as the Executor of the Estate of Peter G. Hamilton and substituted as Plaintiff. Mrs. Hamilton also has brought an individual claim for her loss of consortium.

**(7) The following is the Defendants brief and succinct outline of the case and contentions:**

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

**Defendants' Outline:**

**Procedural Synopsis:**

The Plaintiff filed suit on December 2, 2016 against Defendant Dr. Michael Kalson and Defendant Academy Orthopedics, LLC, based on the actions of Dr. Kalson. The Plaintiff asserted against the Defendants, the following claims: Medical Negligence (Count I), Res Ipsa Loquitor (Count II), Loss of Consortium (Count III), and Attorney's

Fees (Count IV). On March 21, 2017, Mr. Hamilton passed away. On May 12, 2017, Ms. Susan Hamilton (wife of Mr. Hamilton) was appointed Executor of the Estate of Peter G. Hamilton. On August 3, 2017, the Court Ordered Susan Hamilton, as Executor of the Estate of Peter G. Hamilton, Deceased be substituted as Plaintiff. All claims remain. There are no wrongful-death claims. Trial was specially set, and no discovery dispute arose or exists.

**Pertinent Events:**

On December 25, 2014, Mr. Peter Hamilton sustained a fall and injured his shoulder. He was taken to Gwinnett Medical Center emergency room where x-rays showed a comminuted fracture of the left proximal humerus. Surgical repair was recommended, and Dr. Michael Kalson was the on-call surgeon. Dr. Kalson recommended Mr. Hamilton be stabilized and discharged with a plan for him undergo surgical repair in Maine due to various considerations, such as Mr. Hamilton's transient status and the nature of the injury. Further, Dr. Kalson believed a surgeon in Maine would likely better treat Mr. Hamilton due to an on-going relationship and follow-up care and monitoring. Mr. Hamilton and his family wanted to be treated then and Dr. Kalson operated on Mr. Hamilton.

On December 26, 2014, Dr. Kalson performed an open reduction and internal fixation (ORIF) with an OptiLock locking plate and screws. During an ORIF, an Optilock plate drill guide is used to help align and accurately place fixation screws to the metal plate to secure the shoulder joint and allow it to heal. The guide slides over the plate and has its own locking screw. Dr. Kalson used the drill guide when he performed the ORIF on Mr. Hamilton. The drill guide was not removed at the end of the surgery.

On January 6, 2015, Dr. Kalson evaluated Mr. Hamilton during his first post-op visit. Dr. Kalson did not observe the Optilock plate drill guide that he left in Mr. Hamilton's shoulder. In March 2015, Mr. Hamilton continued to have shoulder problems. He had moved to Maine and Dr. Donald Endrizzi, a Maine orthopedist, examined Mr. Hamilton and discovered the Optilock plate drill guide. Dr. Endrizzi also discovered that the screws inserted through the drill guide and plate either did not lock or did not remain locked, as they were visibly loose on the x-ray imaging. Importantly, the imaging also

reflected a nonunion, Dr. Endrizzi's primary diagnosis. Dr. Endrizzi recommended a second surgery upon clearance from a cardiologist, because Mr. Hamilton suffered from heart disease and previously underwent a double bypass surgery. Mr. Hamilton also was on Plavix. Accordingly, Mr. Hamilton's cardiologist prohibited him from immediately undergoing the second surgery until the Plavix treatment was complete.

On June 10, 2015, Mr. Hamilton saw Dr. Endrizzi for a preoperative history and physical. Dr. Endrizzi performed x-rays and based on these findings, Dr. Endrizzi recommended a total shoulder arthroplasty with removal of hardware.

On July 1, 2015, Dr. Endrizzi admitted Mr. Hamilton to Maine Medical Center with a diagnosis of nonunion left proximal humerus fracture. Mr. Hamilton was cleared by cardiology prior to surgery. Dr. Endrizzi performed a reverse shoulder arthroplasty with removal of the hardware placed by Dr. Kalson. Preoperative evaluation included an aspiration which did not show infection. Mr. Hamilton had a complicated postop course and was subsequently diagnosed with a non-ST-elevated myocardial infarction, acute on chronic renal failure, and a septic joint. Cardiology was consulted and recommended a heparin drip for 48 hours. After an echocardiogram, Cardiology decided to waive invasive testing after Mr. Hamilton's discharge. His meds were renal dosed, and his renal function stabilized prior to discharge. The intraoperative wound cultures grew *Propionibacterium*. Infectious Disease was consulted and recommended IV Rocephin at home.

On July 8, 2015, Mr. Hamilton was discharged home in stable condition. On July 14, 2015 and August 15, 2015, shoulder x-rays showed a stable arthroplasty. On July 29, 2015, Mr. Hamilton underwent a diagnostic heart catheterization which showed no new coronary obstructions and patent grafts and stents; however, he had high filling pressures and one incidence of supraventricular tachycardia, so he was admitted for observation.

On March 21, 2017, Mr. Hamilton died. There are no wrongful-death claims.

**Defendants' Synopsis of Plaintiff's Contentions:**

The Plaintiff contends that Dr. Kalson failed to remove the Optilock plate drill guide from Mr. Hamilton's surgical field. The Plaintiff also alleges deviations from the standard of care regarding drill guide retention, anatomic reduction, securing the OptiLock plate and screws, and post-op treatment planning. The Plaintiff contends that

because of these alleged deviations from the standard of care, Mr. Hamilton had to undergo a second surgery because of a nonunion fracture. The Plaintiff further contends that Mr. Hamilton's second surgery triggered a myocardial infarction requiring a heart catheterization and a deterioration in Mr. Hamilton's cardiac function.

Defendants deny all allegations of negligence and contend that Dr. Kalson's care and treatment of Mr. Hamilton met or exceeded the applicable standard of care at all relevant times, *except with respect to the retained drill guide*. Furthermore, Defendants contend that no allegedly negligent act or omission on the part of Dr. Kalson, especially the retained drill guide, caused or contributed to Mr. Hamilton's claimed injuries and damages.

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

**For the Plaintiff:**

1. Whether Dr. Kalson breached the applicable standards of care; and
2. Determination of the amount of special and general damages to be awarded to Plaintiff for the harm caused by Dr. Kalson's multiple breaches of the standards of care.

**For the Defendants:**

1. Whether the care and treatment provided by Dr. Michael J. Kalson deviated from the standard of care practiced by physicians generally under like and similar circumstances while providing care to Peter Hamilton;
2. If the care and treatment provided by Dr. Michael J. Kalson did not comply with the applicable standard of care, did any negligent act or omission by Dr. Kalson proximately cause injuries to Peter Hamilton?
3. If the Defendants were negligent, and if their negligence proximately caused Peter Hamilton's injuries, what are the Plaintiff's damages that are fair to all parties?



**(9) Specifications of negligence including applicable code sections are as follows:**

**For the Plaintiff:**

Plaintiff contends Defendants committed medical malpractice by breaching the standard of care required by the medical profession in multiple ways.

**For the Defendants:**

The Defendants deny any and all allegations of negligence, causal injury, and further deny that the Plaintiff is entitled to recover any damages under any theory.

**(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):**

This case is not based on a contract.

**(11) The types of damages and the applicable measure of those damages are stated as follows:**

**For the Plaintiff:**

A. Damages for Mr. Hamilton's injuries caused by Dr. Kalson's negligence.

Plaintiff contends that Mr. Hamilton's excruciating pain, loss of mobility in his left arm, and loss of enjoyment of life during his last few years of life could have been avoided if Defendant Kalson had exercised the ordinary standard of care required of orthopedic surgeons, and therefore the jury should return a verdict in finding that Defendants owe the Plaintiff general damages for Mr. Hamilton's pain and suffering as well as special damages.

The special damages that Plaintiff is entitled to receive are comprised of the following medical expenses incurred by Mr. Hamilton as a result of Defendants' medical negligence:

• Maine Medical Center	\$94,663.59
• Maine Medical Partners	\$7,459.00
Total:	\$102,122.59

B. Damages for Plaintiff's loss of consortium.

As a result of Defendant Kalson's medical negligence, Plaintiff was required to take care of her invalid husband and had to do almost everything for him. For instance, Plaintiff had to perform many services Mr. Hamilton could perform prior to the surgery performed by Dr. Kalson. Plaintiff also had to assist with Mr. Hamilton's medical care, and Mr. Hamilton's chronic pain affected their relationship in other ways. Accordingly, the jury should return a verdict in finding that Defendants owe Plaintiff general damages for her loss of consortium.

*Defendants' Objection: The Defendants object to special damages not listed by the Plaintiff in this pre-trial order and/or which are not supported by the evidence or exhibits that have previously been exchanged between the parties.*

**For the Defendants:**

The Defendants deny any and all allegations of negligence, causal injury, and further deny that the Plaintiff is entitled to recover any damages under any theory.

**(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:**

No stipulations made at this time. It is anticipated that the parties will stipulate to a joint medical records exhibit for use at trial.

**(14) The following is a list of all documentary and physical evidence that will be tendered at the trial by the Plaintiff. 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 the trial so as not to delay the trial before the jury.**

*Note: The parties have not stipulated the authenticity or admissibility of all documents/exhibits listed by the other side, and the parties currently reserve all objections available under Georgia law as to said documents/exhibits. The parties' counsel, however, will work together prior to trial to attempt to reach stipulations regarding the authenticity and/or admissibility of the listed documents/exhibits.*

**a. By the Plaintiff:**

- Exhibits from Peter's evidentiary depo:
  - Video clip of Peter Hamilton winning the Daytona 500
  - Photograph of Peter Hamilton in a driving uniform
  - Photograph of Maurice Petty and Peter's crew chief
  - Photograph of Maurice Petty with trophies they won
  - Photograph of Peter Hamilton and Richard Petty who was Peter's boss and teammate when they won that race
  - Photograph of Peter Hamilton's 1970 Plymouth Superbird, and a promotional picture of Peter Hamilton for Chrysler with a Plymouth jacket on
  - Photograph of Peter, Susan Hamilton and Linda Vaughn
    - Photograph of Peter Hamilton just before heart attack at a neighbor's wedding
    - Photograph of Peter Hamilton with his grandchildren at the NASCAR museum in Charlotte, NC
    - Photograph of Peter Hamilton and his friends on a boat
    - Photograph of Peter Hamilton outside of Boston, Norwood Arena
- Mr. Hamilton's redacted medical records from Maine Medical Partners (orthopedics)
- Mr. Hamilton's redacted billing records from Maine Medical Partners (orthopedics)
- Mr. Hamilton's redacted medical records from Maine Medical Partners, MaineHealth Cardiology
- Mr. Hamilton's redacted billing records from Maine Medical Partners, MaineHealth Cardiology
- Mr. Hamilton's redacted medical records from Maine Medical Center
- Mr. Hamilton's redacted billing records from Maine Medical Center
- Mr. Hamilton's redacted medical records from Academy Orthopedics
- Mr. Hamilton's redacted medical records from Gwinnett Medical Center
- Imaging from Maine Medical Center
- Imaging from Maine Medical Partners
- Imaging from Gwinnett Medical Center

- Imaging from Academy Orthopedics
- N. Douglas Boardman, III, M.D.'s Curriculum Vitae
- Paul Sweeney, M.D.'s Curriculum Vitae
- Donald Endrizzi, M.D.'s Curriculum Vitae
- Biomet OptiLock plate, screws, and drill guide that were removed from Mr. Hamilton's shoulder by Dr. Endrizzi
- All exhibits to any deposition in this case
- All documents produced by the Parties during discovery
- Any document listed in the Defendants' exhibit list

**b. By the Defendants:**

1. Peter Hamilton's Medical Records, including but not limited to:
  - a. Gwinnett Medical Center
  - b. Academy Orthopedics
  - c. Emory Johns Creek
  - d. Gwinnett Heart Specialists
  - e. Maine Medical Center
  - f. Maine Medical Partners
  - g. Maine Healthcare at Home
  - h. CVS
  - i. Robert Clayton, MD
  - j. Maine Nephrology Associates
  - k. Kennebunk Nursing Center
  - l. Malathy Sundaram, MD
  - m. Cardiovascular and Thoracic Surgeons – Dr. Justicz
2. Imaging from Gwinnett Medical Center
3. Imaging from Maine Medical Center

4. Imaging from Academy Orthopedics
5. OptiLock User's Guide and Instructions
6. Optilock Device
7. Photos of Optilock device;
8. Exhibits to any deposition;
9. Curriculum Vitae of all experts;
10. Medical illustrations and demonstrative exhibits including audio materials, videos, computer screen captures, charts, models, diagrams, timelines, PowerPoint presentations, photographs and blow-ups;
11. All documents produced by the Parties during discovery;
12. Any document generated by the Plaintiff's experts in relationship to this case;
13. Any exhibit listed in the Plaintiff's exhibit lists;

Defendants reserve the right to supplement the identification of any documentary evidence. Defendants further reserve the right to use additional documents for purposes of cross-examination, impeachment or rebuttal. Defendants further reserve the right to object to any documentary and/or physical evidence proposed by the Plaintiff that has not been produced during discovery. Defendants reserve the right to introduce any other documentary evidence identified by the Plaintiff.

Defendants reserve the right to introduce into evidence charts or other demonstrative materials and aids for use at trial. Defendants reserve the right to object to any document where admissibility has not been stipulated.

Defendants object to any textbook, reference book, article or item of medical literature being introduced into evidence. Defendants do not stipulate to the authenticity of any exhibit

listed by the opposing party until the marked exhibit is made available for inspection.

Defendants further reserve the right to object to the exhibits listed based on any other basis authorized by law.

**(15) Special authorities relied upon by Plaintiff relating to peculiar evidentiary or other legal questions are as follows:**

Any special authorities will be provided at the time of trial.

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

Defendants reserve the right to file motions and trial briefs on any other peculiar evidentiary or legal questions that may arise.

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

**(18) The testimony of the following persons may be introduced by depositions: 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 the Plaintiff:**

- (a) Peter Hamilton (Mr. Hamilton passed away after giving an evidentiary deposition in this action.)
- (b) Dr. Donald Endrizzi
- (c) Dr. Paul Sweeney

**For the Defendant:**

None, absent a showing of unavailability. The Defendants reserve the right to take videotaped evidentiary depositions for preservation of evidence and use at trial and will arrange for such deposition in the event that any witness is unavailable to appear for trial. The Defendants also reserve the right to take the deposition of any witness whose attendance cannot be compelled by subpoena or who cannot be present at trial due to legally sufficient reasons.

**Any objections to the depositions or questions or arguments in the depositions shall be called to the attention of the Court prior to use.**

**All objections to any portion of a designated deposition shall be called to the attention of the Court prior to trial. The parties reserve the right to use any depositions (or portions thereof) at trial to the extent permitted by the Civil Practice Act or other applicable law.**

**(19) The following are lists of witnesses the**

**a. Plaintiff will have present at trial:**

1. Susan Hamilton
2. Peter Hamilton (Mr. Hamilton passed away after giving an evidentiary deposition in this action)

**b. Plaintiff may have present at trial:**

1. Donald Endrizzi, M.D.
2. Paul W. Sweeney, M.D.
3. Michael J. Kalson, M.D.
4. Rebecca Hamilton Wells
5. Any witness listed by the Defendants
6. Any person identified by either party in their responses to Interrogatories

**c. Defendants will have present at trial:**

1. Michael Kalson, M.D.

**d. Defendants may have present at trial:**

1. W. Scott Kimmerly, M.D.
2. William Rogers, Jr. M.D.
3. Donald Endrizzi, MD
4. Paul Sweeney, MD
5. Douglas Boardman, MD
6. Peter Hamilton
7. Susan Hamilton
8. Any individual identified in Peter Hamilton's medical records;
9. Any individual identified in the Plaintiff's discovery responses;
10. Any witness needed to authenticate any medical record listed in this pretrial order
11. Any nurse, physician or other healthcare provider identified in any of the medical records listed in this pretrial order
12. Any person listed in the Plaintiff's portion of this Pretrial Order;

Defendants reserve the right to add and call additional “may call” witnesses, providing names and addresses of same to opposing counsel prior to trial so as not to prejudice the Plaintiff.

**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/her testimony by other means.**

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

**Plaintiff’s form of the verdict:**

We the jury find for:

\_\_\_\_\_ Plaintiff in the amount of \$ \_\_\_\_\_.

Or

\_\_\_\_\_ Defendants.

**Defendant’s form of the verdict:**

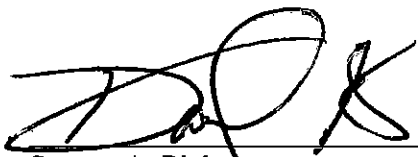
The parties will submit a verdict form to the Court prior to submission of the case to the jury.

- (21) a. The possibilities of settling this case are: Medium
- b. The parties do want the case reported, including voir dire, opening and closing statements.
- c. The cost of take-down will be paid by: the parties, shared equally.
- d. Other matters:
1. The case will be tried to a jury of twelve (12) with two (2) alternates.

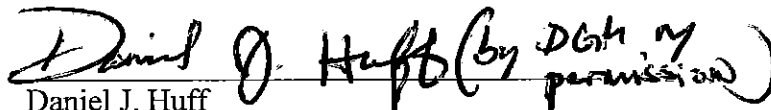


Submitted this 10<sup>th</sup> day of May, 2018.

**ORDER PREPARED AND SUBMITTED BY:**



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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 supercedes the pleadings which may not be further amended except by order of the court to prevent manifest injustice.

So Ordered this \_\_\_ day of \_\_\_\_\_, 2018.

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Hon. Emily J. Brantley  
Judge, State Court of Gwinnett County