



Defendants: For Defendants Laroy P. Penix, M.D., Northeast Georgia Physicians Group, Inc. and Northeast Georgia Medical Center, Inc.:

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For Defendants Edward F. McDonald, M.D. and The Longstreet Clinic P.C.:

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**(2) The estimated time required for trial:**

By Plaintiffs and Defendants: 8-9 days

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

For Plaintiffs: Plaintiffs' Motions in Limine. The parties will take trial depositions depending on witness availability, and additional motions in limine may arise from those.

For Defendants:

The Defendants will file motions *in limine* contemporaneously with, or prior to, the submission of this proposed consolidated pretrial order. The Defendants reserve the right to file other necessary motions prior to and during the trial of this case.

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

For Plaintiff:

- a) Parties;
- b) Plaintiffs' counsel, Kate and Matt Cook and Jonathan Parrish;
- c) Any owner or shareholder of Defendant The Longstreet Clinic, P.C.;
- d) Any owner or shareholder of Defendant Northeast Georgia Physicians Group, Inc.;
- e) Officers, employees or shareholders of Mag Mutual Insurance;
- f) Officers, employees or shareholders of Endurance American Specialty Insurance Company; and
- g) Officers, employees or shareholders of Illinois Union Insurance Company.

Plaintiffs request the Court permit *voir dire* questions to the jury, individually and *en masse*, to determine any interest in or knowledge about the case, or certain other matters, which may affect their capacity or desirability to serve as jurors, all toward the end of making appropriate challenges for cause and peremptory challenges.

For Defendants:

- 1. Kelly Adams, M.D.
- 2. Joseph Daniel Adams
- 3. Laroy Penix, M.D.
- 4. Edward Frank McDonald, M.D.
- 5. Jonathan A. Parrish
- 6. Matthew E. Cook
- 7. Kate V. Cook
- 8. Officers, directors, and employees of The Longstreet Clinic, P.C.

9. Officers, directors, and employees of Northeast Georgia Physicians Group, Inc.
10. Officers, directors and employees of Northeast Georgia Medical Center, Inc.
11. Officers, agents, employees and policy holders of MAG Mutual Insurance Company

(5)

- a. **All discovery has been completed, unless otherwise noted below, 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.**

By Plaintiffs: Plaintiffs reserve the right to take any deposition for the preservation of evidence of any witness who is not available for trial. Plaintiffs reserve the right to conduct further discovery regarding any documentary or physical evidence listed herein by the Plaintiffs that was not identified previously during discovery. Defendants have also supplemented discovery in the last few days that Plaintiffs are reviewing and that may require further discovery from Plaintiffs.

By Defendants:

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. Defendants anticipate at least one evidentiary deposition of a defense expert. Defendants have also requested that the Plaintiffs supplement all discovery responses prior to trial, including but not limited to updated medical records and bills, updated work status for both Plaintiffs, updated income information for both Plaintiffs. Defendants reserve the right to conduct further discovery regarding any documentary or physical evidence listed herein by the Plaintiffs that was not identified previously during discovery.

- 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 non-joinder of any parties.**

Based on information provided by Defendants Northeast Georgia Medical Center, Inc., Northeast Georgia Physicians Group, Inc. and Laroy P. Penix, M.D., it appears that Northeast Georgia Physicians Group, Inc. was Defendant Penix's employer at the relevant time and Northeast Georgia Medical Center, Inc. is a misjoined party and should be dismissed from the case.

By Defendants

All parties reserve the right to take the depositions of any witnesses identified at any time prior to trial, including those individuals identified in each other's portion of the pretrial order. All parties reserve their right to take depositions of any witness for the preservation of evidence or use at trial. Any such depositions shall not delay the trial.

By Plaintiffs

Discovery is closed. The Court should not permit further discovery depositions other than to preserve evidence for trial save some issue regarding newly disclosed evidence to permit unfair surprise.

**(6) The following is Plaintiff's brief and succinct outline of the case and contentions:**

On January 31, 2013, while at work, Dr. Kelly Adams experienced a sudden onset of disturbing neurological symptoms including double vision, the inability to speak, extreme dizziness, near syncope and a burning pain in the back of her head. These symptoms were consistent with a Transient Ischemic Attack ("TIA"). A coworker noticed Dr. Adams' condition and took her immediately to the ER department of the hospital in a wheelchair.

Because of the concerning nature of the symptoms, the ER doctor, Dr. Donald Freeman, consulted Dr. Laroy Penix, a neurologist employed by Northeast Georgia Physicians Group, Inc., for instructions on how to treat Dr. Adams. Dr. Freeman believed that Dr. Adams might have suffered a dissected carotid artery. Dr. Penix ordered an MRI of the brain and a CTA study to determine if Dr. Adams had suffered an ischemic stroke or had some defect in her vessels that could have produced a clot and caused an ischemic stroke.

The signs and symptoms of ischemic stroke are identical to those of TIA. The standard of care for a patient presenting with a suspected TIA requires the physician to search for sources of emboli. This is done by looking at blood flow in the brain, the neck, and the heart. On January 31, 2013, Dr. Penix directed testing to rule out blood flow problems in the brain and neck, but he did not order or direct anyone to order an echocardiogram to rule out a potential cardiac source of embolism.

At the time of her presentation to the emergency department, Dr. Adams had never experienced a migraine headache and had no history of headache disorder. Without finishing the workup for TIA, Dr. Penix concluded that the differential diagnosis for Dr. Adams included benign positional vertigo and basilar migraine. Basilar migraine is a very rare form of migraine that is considered a TIA mimic. Dr. Penix instructed Dr. Adams to follow up with an ear, nose and throat (“ENT”) doctor to have her ears checked and to follow up with Dr. Edward F. McDonald, a neurologist, on an outpatient basis.

Dr. Adams followed Dr. Penix’ advice and on February 6, 2013 saw Dr. McDonald, who was and is a partner with Longstreet Clinic, P.C. Dr. McDonald interviewed Dr. Adams about the January 31, 2013 incident and initially considered the possibility that Dr. Adams had suffered a TIA. Dr. McDonald’s record of the symptoms on January 31, 2013 included dizziness and double

vision. However, even though the standard of care required that an echocardiogram be performed when TIA is in the differential diagnosis, Dr. McDonald likewise failed to order an echocardiogram or similar test to look for a cardiac condition that could have caused a TIA, and instead concluded that Dr. Adams had simply experienced a classic migraine headache.

Dr. Adams remained under the care of Dr. McDonald for treatment of migraine headaches for the next 8 to 9 months. On September 17, 2013, Dr. Adams suffered another event similar to the event she experienced on January 31, 2013. She was taken to the emergency department at Northeast Georgia Medical Center. The emergency room physician contacted the on call neurologist who recognized that Dr. Adams might be experiencing a TIA and placed her on the TIA Pathway. The standard order set for the TIA Pathway included an echocardiogram. The echocardiogram revealed that Dr. Adams had a left ventricular myxoma (a tumor in the left ventricle of her heart) and brain imaging revealed that the September 17, 2013 event was a posterior circulation ischemic stroke. The practitioners providing care to Dr. Adams at the hospital believed that the myxoma caused both her January 31, 2013 TIA and her September 17, 2013 stroke. The practitioners caring for Dr. Adams after her September 17, 2013 presentation surgically removed the myxoma on September 19, 2013. The myxoma was immediately removed because of the high risk of embolization in order to prevent another stroke.

Dr. Adams's stroke caused significant brain injury, which has resulted in various deficits including losing half of her vision in each eye, interference with her visual processing speed, memory deficits and other problems including severe post-stroke headaches and chronic fatigue. Dr. Adams was diagnosed with a seizure disorder as a result of brain damage from her stroke. Dr. Adams is not permitted to drive in the State of Georgia.

As a result of Dr. Adams' stroke injury, she is no longer able to practice medicine as a neonatologist. Dr. Adams has suffered significant economic loss. Dr. Adams' quality of life has been negatively affected, including her life with her husband and family. Daniel Adams has suffered a loss of consortium of his wife.

Plaintiffs allege that Dr. Penix breached the standard of care by excluding TIA from his differential without ordering an echocardiogram. Alternatively, Dr. Penix breached the standard of care by allowing TIA to remain in his differential and failing to order an echocardiogram or arrange for an echocardiogram on an outpatient basis during the following days. Dr. McDonald violated the standard of care by excluding TIA from his differential diagnosis without performing an echocardiogram. Dr. McDonald violated the standard of care on February 6, 2013 by failing to review the medical records from the hospital to ensure that an echocardiogram had been performed. Alternatively, Dr. McDonald breached the standard of care by allowing TIA to remain in his differential and failing to order an echocardiogram or arrange for an echocardiogram during the following days.

Further, Plaintiffs allege that Dr. Penix's negligence rises to the level of gross negligence, as that term is used under Georgia law. However, based on the evidence and pleadings, the emergency room standard set forth in O.C.G.A. § 51-1-29.5 is not applicable in this case. Therefore, there should not be any mention of gross negligence at trial and the jury should not be charged on gross negligence. Plaintiffs are filing an appropriate motion on this issue.

If Drs. Penix and McDonald met the standard of care, the tumor in Dr. Adams' heart would have been discovered, removed and her stroke related injuries and losses would have been prevented.

Plaintiffs seek compensatory damages for the negligence of Drs. Penix and McDonald. Such damages include past and future medical bills, past and future lost income, past and future mental and physical pain and suffering and Daniel Adams' loss of consortium.

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

**The following is a brief and succinct outline of the case and contentions of Defendants Edward F. McDonald, M.D. and The Longstreet Clinic, P.C.:**

Plaintiff, Kelly Adams, is a physician practicing the specialty of neonatology. On January 31, 2013 she was at work at Northeast Georgia Medical Center when she experienced a fainting sensation, problems with balance an episode of vertigo, headache and other symptoms. She went to the emergency room where she was seen by an emergency room physician, Dr. Freeman. Dr. Freeman consulted a neurologist, Defendant Penix. After an exam and an appropriate workup, including a negative MRI of the brain and CTA of the neck, Dr. Penix's opinion was that the patient had experienced "benign positional vertigo vs. a basilar migraine." She was discharged from the emergency room and told to follow up with her ENT and a neurologist.

On February 4, 2013 Dr. Adams was examined by Dr. Scott Stewart, a specialist in ear, nose and throat. She was found to have Eustachian tube dysfunction, vestibular neuritis and a headache.

On February 6, 2013, Dr. Adams presented to Defendant Edward McDonald, M.D. Dr. McDonald is a board-certified neurologist, and a partner in The Longstreet Clinic, a multispecialty medical group (which also employs Dr. Kelly Adams). Prior to seeing Dr. McDonald, the chief complaint given was that the patient had had "possible TIA/migraine." Dr. McDonald took a proper history and performed a proper physical examination pertinent to the complaint made. His assessment was "migraine classical without intractable migraine, cervical radiculopathy."

From February to September 3, 2013, Dr. Adams presented to Dr. McDonald several times to seek treatment for continuing migraines. Over that time, Dr. McDonald prescribed her migraine medications that seemed to control and relieve the migraines. Dr. Adams was taking migraine medications. On September 17, 2013, Dr. Adams presented to the emergency room at Northeast Georgia Medical Center with complaints of a left sided headache, right facial numbness and right arm paresthesia. During that admission to the Medical Center she was diagnosed as having a stroke. An echocardiogram revealed that Dr. Adams had a myxoma in her heart. The myxoma was surgically removed the following day.

Dr. Adams continued to see Dr. McDonald as a patient on a number of occasions, with the last visit being in June 2015. Shortly thereafter, Plaintiffs filed this suit alleging that the Defendants negligently misdiagnosed Dr. Adams and failed to order an echocardiogram in January-February 2013, which they allege could have revealed the cardiac condition that ultimately led to her stroke.

Dr. McDonald and The Longstreet Clinic deny any negligence and contend that the care and treatment administered by Dr. McDonald fully met the applicable standard of care, and that no act or omission by these Defendants caused any injury to Plaintiffs. Moreover, if the jury finds that the symptoms Dr. Adams experienced from January to September 2013 were caused by the myxoma (rather than migraines or some other cause), Defendants contend that the lawsuit would be barred by the statute of limitations as a matter of law.

Note: These Defendants object to the Court reading or otherwise presenting to the jury the parties outline of the case and contentions.

**The following is a brief and succinct outline of the case and contentions of Defendants Laroy P. Penix, M.D., Northeast Georgia Physicians Group, Inc., and Northeast Georgia Medical Center, Inc.:**

These Defendants deny any and all liability, deny that any breaches of the standard of care occurred, and further deny that any act or failure to act taken on the part of any agent or representative of these defendants, or any of them have any proximate cause or causative effect upon any injury alleged to have been received by the Plaintiffs.

More specifically, Defendant Penix contends that on or about January 31, 2013 he was called in as a consultant by Emergency Department physician, Donald Freeman, who was then responsible for the care and treatment of Plaintiff Kelly Adams. As such, Dr. Penix appropriately fulfilled his obligations as a consultant and made his opinions known to Dr. Freeman and to Plaintiff, Kelly Adams. In so doing Dr. Penix at all times complied with the standard of care applicable to him and rendered appropriate care. He denies negligence, and moreover denies gross negligence as that term would be applied to him based upon the care and treatment rendered in the Emergency Department. He further contends that the care and treatment provided by him to Ms. Adams was at least equal to if not exceeding the applicable standard of care, and he therefore denies any and all responsibility for any injuries or damages suffered by the Plaintiff.

The Defendant Northeast Georgia Physicians Group, Inc. has the same contentions as does Dr. Penix. It is admitted and will be stipulated that NGPG, Inc. was all times pertinent hereto the employer of Dr. Penix, and that the only basis for liability against NGPG is its position as employer of Dr. Penix. Because Dr. Penix comported with the standard of care, there is no basis for any liability as to NGPG, and any and all liability, responsibility or causation issues are all denied.

Northeast Georgia Medical Center, Inc. contends that there is no basis for this lawsuit to have been filed or proceed against it. There are no allegations that any agent or employee of Northeast Georgia Medical Center, Inc. committed any act or failure of act which would subject it to liability, except the erroneous allegation that it is the employer of Dr. Penix. Northeast Georgia Medical Center is not the employer of Dr. Penix, has no employment or agency relationship with him, and should be dismissed from this lawsuit. Northeast Georgia Medical Center, Inc. operates the hospital facility known as Northeast Georgia Medical Center and appropriately has signage that addresses the issues of apparent or ostensible agency, and this Defendant simply contends that it is neither the real, actual or apparent employer of any person who is alleged to have been negligent in this case.

All these Defendants further submit that they are not liable and that they have committed no act or failure to act that has any causative effect upon the injuries alleged.

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

Plaintiff's List of Issues:

- (a) Whether Defendants breached any duty of due care to Plaintiffs in their care and treatment of Dr. Kelly Adams;
- (b) Whether Defendants' breaches of their duties of care caused injury to Plaintiffs; and
- (c) The amount of compensatory damages.

Defendant List of Issues:

By Defendants Edward F. McDonald, M.D. and The Longstreet Clinic, P.C.:

- (a) Whether Dr. McDonald exercised that degree of care and skill normally exercised by physicians generally under the same or similar circumstances;
- (b) Whether any alleged act or omission on the part of Dr. McDonald was the proximate cause of any injury to Kelly Adams;
- (c) What damages, if any, resulted from the alleged negligent acts or omissions of Dr. McDonald, if liability against him is found; and
- (d) Whether the symptoms Kelly Adams experienced between January 31, 2013 and September 2013 were caused by (1) the myxoma; or (2) migraines or some other cause.

By Defendants Laroy P. Penix, M.D., Northeast Georgia Physicians Group, Inc. and Northeast Georgia Medical Center, Inc.:

- a) Liability, that is whether or not there were any breaches of the applicable standard of care by any of these Defendants or any of their agents, servants or employees. This would include issues concerning gross negligence in an emergency department setting;
- b) Proximate causation, if any, of Plaintiff's injuries. This may include issues of whether Plaintiff has any responsibility, being a trained medical doctor, and/or if

anyone not a party to this lawsuit committed any act which proximately caused, in whole or in part, any of Plaintiff's injuries;

- c) Damages;
- d) Whether Kelly Adams' myxoma caused her to experience any symptoms between January and September, 2013.

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

Plaintiff's Specifications:

Dr. Penix

Dr. Penix breached the standard of care by excluding TIA from his differential without ordering an echocardiogram. Alternatively, Dr. Penix breached the standard of care by allowing TIA to remain in his differential and failing to order an echocardiogram or arrange for an echocardiogram on an outpatient basis during the following days. Dr. Penix violated the standard of care by starting a workup for ischemic stroke or TIA, but failing to complete the workup by failing to order an echocardiogram or arrange for one on an outpatient basis.

Dr. McDonald

Dr. McDonald violated the standard of care on February 6, 2013 by failing to review the medical records from the hospital to ensure that an echocardiogram had been performed. Dr. McDonald violated the standard of care by excluding TIA from his differential without performing an echocardiogram. Alternatively, Dr. McDonald breached the standard of care by allowing TIA to remain in his differential and failing to order an echocardiogram or arrange for an echocardiogram during the following days.

Defendants' Specifications:

Defendants deny they were negligent and deny that they caused or contributed to Ms. Bradley's alleged injuries. Defendants request that the Plaintiffs set forth their specific allegations

of negligence against each Defendant fully and completely in this Consolidated Pretrial Order 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, the 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 the damages are stated as follows:**

Plaintiff's Statement:

Plaintiffs Kelly Adams, M.D. and Joseph Daniel Adams seek all compensatory damages as provided for by Georgia law including damages for past, present and future mental and physical pain and suffering, past and future medical expenses, past and future lost income and loss of consortium claims, in such amounts to be determined by the proof at trial and the enlightened conscience of a fair and impartial jury.

Defendants' Statement:

All Defendants deny that the Plaintiffs are 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.**

This case does not involve divorce.

- (13) The following facts are stipulated:**

By Plaintiff and Defendants:

The following facts are stipulated:

By the Plaintiffs:

- (a) The authenticity of the medical records and films.

By Defendants Edward F. McDonald, M.D. and The Longstreet Clinic, P.C.:

- (a) At all relevant times, Edward F. McDonald, M.D. was an agent and employee of The Longstreet Clinic, P.C.
- (b) Complete medical records and imaging of Plaintiff Kelly Adams that the parties are in the process of assembling to be authenticated and tendered by stipulation.

By Defendants Laroy P. Penix, M.D., Northeast Georgia Physicians Group, Inc. and Northeast Georgia Medical Center, Inc.:

The parties will be able to stipulate as to the authenticity of medical records and diagnostic studies that were performed. Northeast Georgia Physicians Group, Inc. and Dr. Penix are willing to stipulate that Northeast Georgia Physicians Group, Inc. was all times pertinent to this lawsuit the employer of Dr. Penix.

**(14) The following is a list of all documentary and physical evidence that will be tendered at the trial by the 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 Plaintiffs:

See Plaintiffs' Exhibit List attached hereto as Exhibit "A".

Plaintiffs object to Defendants using any exhibit not listed on their exhibit list which is presently available to Defendants or to using any exhibit previously requested by Plaintiff and not produced by Defendants. For any exhibit not presently available to Defendants, Plaintiffs object to the use of any exhibit not provided to Plaintiffs for review at least 3 days before trial. Plaintiffs also reserve the right to amend the Exhibit List upon 3 days' notice to opposing counsel. Plaintiffs reserve objections as to the authenticity and admissibility of Defendants' exhibits until the same are tendered at trial. Plaintiffs reserve the right to object to any documents and exhibits tendered by the Defendants until Plaintiffs have an opportunity to review and examine such documents and

exhibits. Plaintiffs reserve the right to introduce documentary evidence in rebuttal. By listing exhibits, Plaintiffs do not waive any right to object to the admissibility of such items.

b. By Defendants:

By Defendants Edward F. McDonald, M.D. and The Longstreet Clinic, P.C.:

- (1) Medical records and radiology films of Kelly Adams from:
  - a. Northeast Georgia Medical Center
  - b. The Longstreet Clinic
  - c. Dr. Scott Stewart, Northeast Georgia Otolaryngology
  - d. Dr. Daniel Cobb, Gainesville Neurology Group
  - e. Dr. John Givogre, Lanier Interventional Pain Center
  - f. Dr. Jason Peragallo, Emory Clinic
  - g. James Mullins, PhD, NEGMC Rehab Institute
  - h. Northeast Georgia Physician's Group
  - i. Dr. Bernardine King, Gainesville Heart & Vascular Group
  - j. Dr. April Spurling
  - k. Dr. Fadi Nahab, Emory Clinic
  - l. Northeast Georgia Diagnostic Clinic
- (2) Plaintiffs' Complaint
- (3) Any medical journal and textbook articles written by the Plaintiffs' experts
- (4) All pleadings, including the discovery responses of the parties
- (5) Demonstrative evidence and exhibits
- (6) All materials obtained or produced during discovery
- (7) Any exhibits attached to any of the depositions taken in this case
- (8) Any documents generated by the Plaintiffs' experts in relationship to this case
- (9) Any documents provided to the Plaintiffs' experts by the Plaintiffs or Plaintiffs' counsel
- (10) Medical charts, diagrams, blow-ups, and animations
- (11) Any document listed by any other party to this action

These Defendants reserve all objections, including those to authenticity and admissibility,

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

Defendants reserve the right to amend their lists of documentary and physical evidence by giving notice prior to trial of any such additional documentary and physical evidence to opposing counsel. Further, Defendants reserve the right to use impeachment materials and demonstrative aids as allowed by law without being listed herein. Defendants object to the admissibility of any documentary or physical evidence not previously identified and produced during discovery.

By Defendants Laroy P. Penix, M.D., Northeast Georgia Physicians Group, Inc.  
and Northeast Georgia Medical Center, Inc.:

- (1) Medical records and radiology films of Kelly Adams from:
  - a. Northeast Georgia Medical Center
  - b. The Longstreet Clinic
  - c. Dr. Scott Stewart, Northeast Georgia Otolaryngology
  - d. Dr. Daniel Cobb, Gainesville Neurology Group
  - e. Dr. John Givogre, Lanier Interventional Pain Center
  - f. Dr. Jason Peragallo, Emory Clinic
  - g. James Mullins, PhD, NEGMC Rehab Institute
  - h. Northeast Georgia Physician's Group
  - i. Dr. Bernardine King, Gainesville Heart & Vascular Group
  - j. Dr. April Spurling
  - k. Dr. Fadi Nahab, Emory Clinic
  - l. Northeast Georgia Diagnostic Clinic
- (2) Plaintiffs' Complaint
- (3) Any medical journal and textbook articles written by the Plaintiffs' experts
- (4) All pleadings, including the discovery responses of the parties
- (5) Demonstrative evidence and exhibits

- (6) All materials obtained or produced during discovery
- (7) Any exhibits attached to any of the depositions taken in this case
- (8) Any documents generated by the Plaintiffs' experts in relationship to this case
- (9) Any documents provided to the Plaintiffs' experts by the Plaintiffs or Plaintiffs' counsel
- (10) Medical charts, diagrams, blow-ups, and animations
- (11) Any document listed by any other party to this action
- (12) Photographs of the signage in public view at Northeast Georgia Medical Center Emergency Department in January, 2013
- (13) NEGMC TIA/Stroke order sets and protocols.

These Defendants reserve all objections, including those to authenticity and admissibility, until the time the Defendants have the opportunity to inspect Plaintiffs' documentary and physical evidence. Defendants do not stipulate to the authenticity of documents identified by the Plaintiffs but will attempt to stipulate to the authenticity of as many documents as possible prior to trial. Defendants reserve the right to object to any proposed documentary and/or physical evidence until it is properly authenticated and tendered.

Defendants reserve the right to amend their lists of documentary and physical evidence by giving notice prior to trial of any such additional documentary and physical evidence to opposing counsel. Further, Defendants reserve the right to use impeachment materials and demonstrative aids as allowed by law without being listed herein. Defendants object to the admissibility of any documentary or physical evidence not previously identified and produced during discovery.

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

At this time, Plaintiffs do not anticipate any peculiar evidentiary or other legal questions other than those that have been or may be raised in pre-trial motions. Plaintiffs do request the opportunity to submit trial memoranda or briefing to address any such issues which may arise at trial, including motions on jury charges

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

**By Defendants Edward F. McDonald, M.D. and The Longstreet Clinic, P.C.:**

These Defendants reserve the right to submit legal authority on any unanticipated question that may arise during the course of this trial by trial brief or citations to request to charge.

**By Defendants Laroy P. Penix, M.D., Northeast Georgia Physicians Group, Inc. and Northeast Georgia Medical Center, Inc.:**

These Defendants reserve the right to file appropriate trial briefs and/or motions in limine addressing issues that may come to light.

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

The Defendants request that a written copy of the charge be provided to the jury. Plaintiffs do not believe a copy of the charge should be given to the jury.

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

Provided by Plaintiffs: Any person previously deposed or to be deposed in this case, any person necessary to authenticate any documents or evidence offered at trial, and any person who is outside the subpoena power of the Court or otherwise unavailable to appear in person. Plaintiffs also reserve the right to use any deposition to impeach any witness.

Provided by Defendants:

**By Defendants Edward F. McDonald, M.D. and The Longstreet Clinic, P.C.:**

The Defendants reserve the right to present testimony by deposition of persons identified in Paragraph 19 who are unavailable to attend trial for legally sufficient reasons. The Defendant objects to other party's presentation of any witness by deposition without the requisite showing of unavailability. The Defendants reserve the right to take any evidentiary depositions prior to trial and these may be introduced at the time of trial. Defendants also reserve their right to use deposition testimony for purposes of impeachment or of any other witness as provided in paragraph 5 above.

**For Defendants Laroy P. Penix, M.D., Northeast Georgia Physicians Group, Inc. and Northeast Georgia Medical Center, Inc.:**

The Defendants reserve the right to present testimony by deposition of persons identified in Paragraph 19 who are unavailable to attend trial for legally sufficient reasons. The Defendant objects to other party's presentation of any witness by deposition without the requisite showing of unavailability. The Defendants reserve the right to take any evidentiary depositions prior to trial and these may be introduced at the time of trial. Defendants also reserve their right to use deposition testimony for purposes of impeachment or of any other witness as provided in paragraph 5 above.

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

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

- a. Plaintiff will have present at trial: Plaintiffs Kelly Adams, M.D. and Daniel Adams.
- b. Plaintiff may have present at trial: *See Exhibit B.*
- c. Defendants Edward F. McDonald, M.D. and The Longstreet Clinic, P.C. **will** have present at trial:

(1) Edward F. McDonald, M.D.

d. Defendants Edward F. McDonald, M.D. and The Longstreet Clinic, P.C. *may* have present at trial:

- (1) Laroy Penix, M.D.
- (2) Kelly Adams, M.D.
- (3) Joseph Daniel Adams
- (4) Howard Kirshner, M.D.
- (5) Jay Schecter, M.D.
- (6) Robert Adams, M.D.
- (7) Armando Castillo, M.D.
- (8) Mimi Collins
- (9) Alan Wolfe, M.D.
- (10) Scott Stewart, M.D.
- (11) Donald Freeman, M.D.
- (12) Paul Merlis, M.D.
- (13) Daniel Cobb, M.D.
- (14) Debbie Edwards
- (15) Debbie Pressley
- (16) Craig Peplin
- (17) Fadi Nahab, M.D.
- (18) Jason Peragallo, M.D.
- (19) April Spurling, O.D.
- (20) Cynthia Cabrerra, M.D.
- (21) Bernadine King, M.D.
- (22) James Mullin, Ph.D.
- (23) Eva Perra, NP
- (24) John Rothrock, M.D.
- (25) Kevin Sheth, M.D.
- (26) John Sass, Ph.D.
- (27) Timothy Thomas, M.D.
- (28) Frank Adams, PhD
- (29) John Givogre, M.D.
- (30) Ashley W. Zimmerman, NP-C
- (31) Jennifer C. Lafond
- (32) Ronald G. Beebe, M.D.
- (33) Jan Hughes, Ph.D.
- (34) Malcom Traxler, M.D.
- (35) James P. Mullin, Psy. Ph.D., ABP
- (36) Jennifer Pascarella, ED.S
- (37) Any witness identified by any other party
- (38) Any healthcare provider identified in the medical records of Kelly Adams
- (39) Any records custodian to authenticate records and documents produced in discovery
- (40) Any witness previously identified by any party in the discovery process

- (41) Any witness listed by the Plaintiffs, including expert witnesses
- (42) Any witness needed for impeachment purposes

These Defendants object to any witness being called to testify at trial who has not properly been included in the pre-trial order. Defendants reserve the right to call any witness listed by Plaintiff in this Consolidated Pretrial Order or disclosed during discovery. Defendants further 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.

- e. Defendants Laroy P. Penix, M.D., Northeast Georgia Physicians Group, Inc., and Northeast Georgia Medical Center, Inc. *will* have present at trial:

Laroy Penix, MD

- f. Defendants Laroy P. Penix, M.D., Northeast Georgia Physicians Group, Inc., and Northeast Georgia Medical Center, Inc. *may* have present at trial:

- (1) Kelly Adams, M.D.
- (2) Jay Schecter, M.D.
- (3) Robert Adams, M.D.
- (4) Armando Castillo, M.D.
- (5) Mimi Collins
- (6) Alan Wolfe, M.D.
- (7) Scott Stewart, M.D.
- (8) Donald Freeman, M.D.
- (9) Paul Merlis, M.D.
- (10) Daniel Cobb, M.D.
- (11) Debbie Eubanks
- (12) Denise McGee
- (13) Thalia Blackwell
- (14) Debbie Edwards
- (15) Craig Peplin
- (16) Fadi Nahab, M.D.
- (17) Jason Peragallo, M.D.
- (18) Howard Kirshner, M.D.
- (19) Cynthia Cabrerra, M.D.

- (20) Bernadine King, M.D.
- (21) James Mullin, Ph.D.
- (22) Eva Perra, NP
- (23) Debbie Cannon
- (24) Janessa Alonzo
- (25) Judy Phelps
- (26) Charlotte McDonald
- (27) Robin Bagley, RN
- (28) Leigh Wilson, RN
- (29) Jennifer Day, PA
- (30) John Jaques, PA-C
- (31) John Givogre, M.D.
- (32) Ashley W. Zimmerman, NP-C
- (33) Jan Hughes, Ph.D.
- (34) Jennifer C. Lafond
- (35) Ronald G. Beebe, M.D.
- (36) James P. Mullin, Psy. Ph.D., ABPP
- (37) Jennifer Pascarella, ED.S
- (38) Any witness previously identified and properly listed by any other party
- (39) Any healthcare provider identified in the medical records of Kelly Adams
- (40) Any records custodian to authenticate records and documents produced in discovery
- (41) Any witness needed for impeachment purposes

These Defendants object to any witness being called to testify at trial who has not been previously disclosed in response to discovery or who has not properly been included in the pre-trial order. Defendants further 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.

**The parties may rely on the representation by the designated party that he/she will have a witness present unless notice to the contrary is given in sufficient time prior to trial to allow the other party to subpoena the witness or obtain his/her testimony by other means.**

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

Provided by Plaintiff:

Plaintiffs request permission to submit a proposed verdict form after the case has closed based on the evidence.

Provided by Defendants:

Defendants contend that a verdict form is required which complies with the Court of Appeals' mandate in Adams v. McDonald, 346 Ga. App. 464 (2018). Defendants will submit a proposed verdict form prior to trial.

**(21) a. The possibilities of settling the case are:**

Poor.

**b.** The parties **do** want the case reported, including voir dire, opening statements, and closing arguments.

**c.** The cost of take-down will be split **equally among the parties.**

**d.** Other matters:

For the Plaintiffs:

There are no other special matters.

For Defendants Edward F. McDonald, M.D. and The Longstreet Clinic, P.C.

Twelve jurors will be required at trial.

For Defendants Laroy P. Penix, M.D., Northeast Georgia Physicians Group, Inc., and Northeast Georgia Medical Center, Inc.:

The case was originally filed in Gwinnett Superior Court and later transferred. These Defendants insist on their right to and demand a trial by jury of twelve.

Dated this 13th day of May, 2019.

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Longstreet Clinic*

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 \_\_\_\_\_, 2019.

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HONORABLE DIANE BESSEN  
Judge, Fulton County State Court

**Exhibit A**  
**Plaintiffs' Exhibit List**

1. Frank Adams, Ph.D.'s File
2. John Rothrock, M.D.'s File
3. John Sass, Ph.D.'s File
4. Kevin N. Sheth, M.D.'s File
5. Timothy Thomas, M.D.'s File
6. Robert Adams, M.D.'s File
7. Howard Kirschner, M.D.'s File
8. Jay Schecter, M.D.'s File
9. Medical Records of Kelly Adams
  - 9.1 Affiliated Psychological & Medical Consultants
  - 9.2 April Spurling, O.D.
  - 9.3 eMedical Associates
  - 9.4 The Emory Clinic
  - 9.5 Gainesville Heart and Vascular Group
  - 9.6 Gainesville Neurology Group
  - 9.7 Lanier Interventional Pain Center
  - 9.8 The Longstreet Clinic
  - 9.9 Northeast Georgia Medical Center
  - 9.10 Northeast Georgia Physicians Group
  - 9.11 Northeast Georgia Otolaryngology
  - 9.12 Diagnostic Images and Reports of Kelly Adams
10. Kelly Adams' Medical Bills and/or Summary thereof

11. Discovery Responses of Defendants
12. Discovery Responses of Plaintiffs
13. 1949 Annuity Mortality Table
14. Affidavit of Amelia Collins
15. Photos and Videos of Kelly Adams
16. Demonstrative exhibits regarding homonymous hemianopia
17. Videos, Articles, Journals, other media regarding embolism/myxoma/TIA/ischemic stroke
18. Any document produced by Defendants or Plaintiffs
19. Plaintiff reserves the right to use any of the following items as exhibits:

Any Pleading in this Case

Any documents necessary for purposes of impeachment, cross examination or rebuttal including any learned/authoritative treatise used to cross-examine an expert;

Any exhibits, diagrams or other documents referenced or created by any expert;

Any document or exhibit used or marked at any deposition;

Any pleadings, briefs, hearing transcripts, motions, request for admission, discovery requests and any responses or supplements thereto exchanged;

All documents, emails, correspondence or other communications exchanged between Plaintiffs' counsel and Defense counsel;

Any depositions taken in this case and exhibits used at such depositions;

Demonstrative exhibits, including but not limited to any of the above identified exhibits which may be used as a demonstrative exhibit;

Any document produced in response to any third party request;

Any redaction, privilege log, or document index provided by Defendants or Plaintiffs;

Any affidavit given;

and

Any exhibits listed by Defendants.

**Exhibit B**

**Plaintiffs' May Call Witness List**

1. Frank Adams, Ph.D.
2. Robert J. Adams, M.D.
3. Janessa Alonzo
4. Robin Bagley
5. Ronald Beebe, M.D.
6. Alexander Benz, M.D.
7. John A. Burns, M.D.
8. Cynthia Cabrera, M.D.
9. Debbie Cannon
10. Armando Castillo, M.D.
11. Colby Chastain, M.D.
12. Kimberly Chastain, M.D.
13. Daniel Cobb, M.D.
14. Amelia Collins
15. Jamie E. Collins, CCC-SLP
16. Wendy Coto-Puckett, M.D.
17. Takele T. Demesilassie, M.D.
18. Irvine Duplan, M.D.
19. Debbie Edwards
20. J. Robert Evans, M.D.
21. Donald Freeman, M.D.
22. John L. Givogre, M.D.

23. John C. Hastings, M.D.
24. Elizabeth Hawkins, DPT, ATC
25. Mike Hollifield, M.D.
26. Kristen Houghland, M.D.
27. Sonia S. Hunter, CCC-SLP
28. John Jaques, PA-C
29. Eileen Javellana, M.D.
30. David P. Johnson, M.D.
31. Bernardine King, M.D.
32. Howard Kirschner, M.D.
33. Brett A. Krummert, M.D.
34. Haley Lee, OT
35. Holmes B. Marchman, M.D.
36. Leslie McClain
37. Charlotte McDonald
38. Edward McDonald, M.D.
39. Paul Merlis, M.D.
40. James Mullins, M.D.
41. Fadi Nahab, M.D.
42. Laroy Penix, M.D.
43. Craig Peplin
44. Jason Peragallo, M.D.
45. Eva Parra

46. Judy Phelps
47. Frances Plott
48. J. Alan Plott
49. Kathleen Plott
50. Hila Prather
51. Nitya M. Reddy, M.D.
52. John Rothrock, M.D.
53. John Sass, Ph.D.
54. Jay Schecter, M.D.
55. Syed N. Shamsi, M.D.
56. Kevin N. Sheth, M.D.
57. April Spurling, O.D.
58. Scott Stewart, M.D.
59. Timothy Thomas, M.D.
60. Malcomb Traxler, M.D.
61. Alan D. Winston, M.D.
62. J. Alan Wolfe, M.D.
- ~~63.~~ Ashley W. Zimmerman, NP-C
64. Any of Plaintiff's medical providers;
65. Any person identified in discovery or the documents exchanged in discovery by the parties;
66. Any current or former employee of Northeast Georgia Medical Center, Inc.;
67. Any current or former employee of Northeast Georgia Physicians Group, Inc.;
68. Any current or former employee of The Longstreet Clinic, P.C.;

69. Any person necessary to establish the cost of future medical procedures for Plaintiff

Kelly Adams;

70. Any person necessary for impeachment;

71. Any person deposed or to be deposed in this case;

72. Any person necessary to authenticate any documents or evidence;

73. Any person identified or listed by Defendants;

74. Any witnesses to the incident that is the subject of this lawsuit; and

75. Any person necessary for purposes of rebuttal.

***Plaintiffs reserve the right to amend this list of witnesses by giving at least five (5) days written notice prior to trial of any such additional witnesses to opposing counsel.***



*Attorneys for Defendant McDonald & The Longstreet Clinic*

Dated this, the 13th day of May, 2019.

/s/ Jonathan A. Parrish

Jonathan A. Parrish

Ga. Bar No. 263008