

IN THE STATE COURT OF BIBB COUNTY  
STATE OF GEORGIA

  
Patricia M. Graves, Clerk of State Court  
Bibb County, Georgia

FORREST DAVID REISE,

Plaintiff,

v.

THE ENT CENTER OF CENTRAL §  
GEORGIA, P.C., MATTHEW §  
JERLES, M.D., §

Defendants. §  
§  
§  
§  
§  
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§

CIVIL ACTION NO. 83845

**CONSOLIDATED PRE-TRIAL ORDER**

The following constitutes the 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 trial are as follows:

**PLAINTIFF:** Jeffery W. Lasky and Daniel C. Justus, Lasky Cooper Law, 120 West Liberty Street, Savannah, Georgia 31401, 912-232-6423.

**DEFENDANTS:** Emmitte H. Griggs and Elizabeth L. Ford Chambless, Higdon, Richardson, Katz & Griggs, LLP

P. O. Box 18086, Macon, Georgia 31209-8086.

2. The estimated time required for trial is three to five days.

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

**PLAINTIFF:** Defendants have filed a Motion for Summary Judgment that is currently pending before the court. Plaintiff filed his response to Defendant's Motion for Summary Judgment on January 6, 2020. Plaintiff will file Motions in Limine prior to the date prescribed by the court at the

Pre-Trial Conference.

**DEFENDANTS:** Defendants presently have pending before the Court a motion for summary judgment. The basis of Defendants' motion is that Plaintiff cannot prove within a reasonable degree of medical certainty or probability that his Stage IV osteoradionecrosis requiring surgery was proximately caused by acts or omissions constituting professional negligence on the part of Defendants.

In addition, on or before any deadline set by the Court, Defendants anticipate filing motions in limine. Defendants further reserve the right to file additional motions in limine prior to and up through the time of trial to address any additional issues which might become apparent during preparation for trial. Defendants further reserve the right to file additional motions and trial briefs, as necessary, so long as said motions do not interfere with or delay trial.

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

**PLAINTIFF:**

- a) Are you or any member of your immediate family an officer, director, agent, employee or shareholder of MagMutual Insurance Company?
- b) Are you or any member of your immediate family an officer, director, agent, employee or shareholder of The ENT Center of Central Georgia, P.C.?
- c) Are you or any member of your immediate family related by blood or marriage to Defendant Matthew Jerles, M.D.?
- d) The Plaintiff reserves the right to conduct individual and group voir dire to determine the qualifications of the respective jury panel.

**DEFENDANTS:**

- e) Plaintiff David Reise;
- f) Dr. Matthew Jerles;
- g) Directors, officers, agents and employees of the ENT Center of Central Georgia, P.C.;
- h) Mr. Jeff Lasky and any member of the law firm of Lasky Cooper Law who has a financial interest in the outcome of this matter;
- i) Officers, agents, employees and policyholders of MAG Mutual Insurance Company; and
- j) Defendants reserve the right to conduct individual and group voir dire to determine the qualifications of the jury panel.

5.

- a) All discovery has been completed with the exception of the for use at trial deposition of Dr. Clifton David Fuller, Plaintiff's treating radiation oncologist at M.D. Anderson. All trial depositions shall be taken by February 1, 2020. The parties stipulate to amend this date if necessary with Court approval.
- b) 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.

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

The Defendant admitted in his deposition that he breached the standard of care as it related to his care and treatment of the Plaintiff. Based on his admission, negligence has been established as a matter of law. The only issues for the jury to decide are causation and damages. However, as set forth below, certain facts surrounding the breach of the standard of care will have to be presented to

the jury because of the relationship between the breach and the issues of causation and damages.

**NEGLIGENCE:**

On November 29, 2012 Plaintiff presented to Defendant Jerles for a lump in his left upper neck that had been increasing in size. Immediately before the arriving for his appointment, Plaintiff faxed to Defendant Jerles a November 28, 2012 MRI report of the mass in his neck. The MRI report was highly suggestive that the mass in the side of his neck was cancer. Defendant Jerles has admitted that he received the MRI report but never reviewed it.

Defendant Jerles believed that the mass in the neck was just a cyst and performed a fine needle aspiration of the mass during the initial visit of November 29, 2012. Despite the aspiration, the mass continued to increase in size. On February 8, 2013, Defendant Jerles surgically removed the mass. During the surgery the mass ruptured several times with the fluid from the ruptured mass spreading into and around the surgical field.

The pathology report confirmed that the ruptured mass was cancerous. After receiving the pathology report, Defendant Jerles scoped Plaintiff's throat and discovered a cancerous tumor at the base of Plaintiff's tongue. Given the cancer diagnosis, Plaintiff sought treatment at M.D. Anderson Cancer Center.

**CAUSATION:**

Plaintiff received treatment at M.D. Anderson which included radiation and chemotherapy. According to Dr. David Fuller, Plaintiff's treating radiation oncologist, the rupture of the tumor and spillage of cancer cells into the side of Plaintiff's neck required that the dose of radiation and size of the radiation field had to be increased. As a direct result of the spillage, Plaintiff's mandible (jaw bone) received a high dose of radiation and a larger portion of the mandible received that high dose

of radiation.

According to Dr. Fuller, the treatment necessitated by the Defendants' breach of the standard of care and resulting tumor spillage, caused a significant increase in Plaintiff's risk of a serious complication to his mandible known as osteoradionecrosis (ORN). Plaintiff's expert witness, Dr. Stephanie Haas-Kogan, the Department Chair of Radiation Oncology at Brigham and Women's Hospital at Harvard Medical School, has testified that Plaintiff would not have gotten ORN if there was no tumor spillage which occurred due to Defendant's admitted breach of the Standard of Care. Defendants' expert witness, Dr. Jimmy Caudell, the Radiation Oncology Head and Neck Service Chief at Moffitt Cancer Center, has testified that if the spillage had not occurred that Plaintiff's risk of ORN would have been approximately 0.01 percent.

**DAMAGES:**

After his treatment was completed at M.D. Anderson, Plaintiff was diagnosed with Stage 4 ORN. He received treatment from Dr. Robert Marx, the Chief of the Oral and Maxillofacial Surgery Division at University of Miami. The Stage 4 ORN caused the left side of Plaintiff's jaw to fracture which required the surgical removal of the left half Plaintiff's mandible. The removed mandible was replaced by an implanted titanium plate. As a result of the ORN, Plaintiff incurred significant medical bills, past pain and suffering and continues to have permanent damages including scarring, pain, numbness of his lips and mouth, and a reduction in his ability to open his mouth. These limitations affects many of the Plaintiff's activities of daily living including but not limited to his ability to chew, drink and kiss.

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

- a) On November 28, 2012, Plaintiff had an MRI of his face and neck. The clinical indication for the MRI was that Plaintiff had a mass in the left side of his neck.
- b) The interpreting radiologist (Dr. L. Daniel Strawn) reported that the images were concerning for “squamous cell carcinoma of the left hypopharynx with a necrotic left neck node.” Plaintiff, himself a healthcare professional, reviewed the report of the MRI but never discussed with Dr. Jerles Dr. Strawn’s concern for a malignancy at the bottom part of his throat/base of his tongue.
- c) Admittedly, through inadvertence, Dr. Jerles failed to review Dr. Strawn’s report of November 28, 2012. Dr. Jerles further failed to review all of the images of the MRI. Finally, prior to surgically resecting the mass from the left side of Plaintiff’s neck on February 8, 2013, Dr. Jerles failed to perform fiberoptic laryngoscopy to examine the bottom of Plaintiff’s throat/base of his tongue.
- d) As a result of these mistakes on the part of Dr. Jerles and the cytology report of a November 29, 2012, fine needle aspiration of the mass in Plaintiff’s left neck, Dr. Jerles mistakenly determined that the left neck mass was a branchial cleft cyst. In actuality, the mass was a metastatic lymph node associated with a primary HPV-positive oropharyngeal squamous cell carcinoma located at the base of Plaintiff’s tongue (as documented by Dr. Strawn in his November 28, 2012, report).
- e) As a result of Dr. Jerles’ mistaken diagnosis and Plaintiff’s failure to have discussed with him Dr. Strawn’s report of the November 28, 2012, MRI, Dr. Jerles attempted to surgically resect the left neck mass on or about February 8, 2013. In doing so, the mass partially erupted several times spilling fluid into the surgical site.
- f) Ultimately, pathological examination determined that the resected neck mass was

HPV-positive oropharyngeal squamous cell carcinoma and fiberoptic laryngoscopy revealed the primary lesion at the base of Plaintiff's tongue. Upon learning of the diagnosis, Plaintiff elected to seek treatment at MD Anderson in Houston, Texas.

- g) Plaintiff's primary treating physicians at MD Anderson were Dr. Clifton David Fuller (head and neck radiation oncologist), Dr. William Nassib William (medical oncologist) and Dr. Richard C. Cardoso (oral and maxillofacial surgeon).
- h) Dr. Fuller and Dr. William treated Plaintiff's HPV-positive oropharyngeal squamous cell carcinoma with a combination of radiation therapy and chemotherapy. The treatment administered was pursuant to a treatment protocol/clinical trial sponsored by the National Cancer Institute (RTOG 1016).
- i) As a result of the metastatic node partially erupting several times during the surgical resection of February 8, 2013, Dr. Fuller administered somewhat higher doses of radiation to a larger volume (percentage) of Plaintiff's left mandible.
- j) By the spring of 2014 (May 21, 2014), Plaintiff was beginning to evidence clinical signs of osteoradionecrosis of the left mandible, a recognized complication of radiation therapy administered for the treatment of HPV-positive oropharyngeal squamous cell carcinoma.
- k) Unfortunately, Plaintiff's osteoradionecrosis of the mandible ultimately resulted in his oral and maxillofacial surgeons at MD Anderson referring him to Dr. Robert E. Marx (an oral and maxillofacial surgeon in Miami) for sequestrectomy (removal of devitalized bone) and reconstruction of his left mandible.
- l) Dr. Marx reconstructed Plaintiff's left mandible on December 3, 2015, and Plaintiff

was discharged from the hospital on December 6, 2015.

- m) Plaintiff had an excellent response to Dr. Marx' surgery, the surgery resolved Plaintiff's osteoradionecrosis and Plaintiff has not seen Dr. Marx since May 24, 2016, even though as of that date Dr. Marx wished to see Plaintiff on a six-month surveillance protocol.
- n) The treatment provided to Plaintiff at MD Anderson resulted in a cure of his HPV-positive oropharyngeal squamous cell carcinoma. Plaintiff contends that but for the change in radiation treatment plan made to account for the issue of tumor spillage, he more likely than not would not have developed Grade IV mandibular osteoradionecrosis requiring surgery.
- o) Defendants contend that Plaintiff cannot prove within a reasonable degree of medical certainty that the change in radiation treatment plan proximately caused his left mandibular osteoradionecrosis and the surgery necessary to treat that condition. Accordingly, Defendants contend as follows:

- i. Plaintiff could have avoided the consequences of Defendant Jerles' negligence by the exercise of ordinary care (discussing with Dr. Jerles Dr. Strawn's report of the November 28, 2012, MRI which clearly documented concern for a malignancy at the base of his tongue), and thus, Plaintiff cannot recover damages;
- ii. Plaintiff cannot recover damages because he cannot prove within a reasonable degree of medical certainty that the change in radiation treatment plan proximately caused his Grade IV osteoradionecrosis. At best, Plaintiff's evidence is that the change in radiation treatment plan increased his risk of



developing mandibular osteoradionecrosis. With that being said, one of his experts acknowledges that with the change in radiation treatment plan, at worst he had an 88% probability of not developing mandibular osteoradionecrosis and Plaintiff's other expert acknowledges that at worst, Plaintiff had a 75% probability of not developing osteoradionecrosis;

- iii. In the alternative, should a jury determine that Plaintiff could not have avoided the consequences of Defendants' negligence and should the jury determine that the evidence establishes that his osteoradionecrosis was proximately caused by the change in radiation treatment plan, Plaintiff's conduct in failing to discuss with Dr. Jerles Dr. Strawn's report of the November 28, 2012, MRI nonetheless constitutes failure to exercise ordinary care for his own well-being and his comparative negligence combined with Defendant's negligence in proximately causing the injury for which he seeks to recover. Accordingly, the amount of Plaintiff's recovery must be reduced in the proportion that his negligence compares to Defendants' negligence.

**NOTE:** The parties show that their brief and succinct outline of the case and contentions is for the benefit of the Court only and Defendants object to the Court reading to the jury either the Plaintiff's brief and succinct outline of the case and contentions or the Defendants' brief and succinct outline of the case and contentions.

8. The issues for determination by the jury are as follows:

**PLAINTIFF:**

- a) Whether Defendants' negligence, which has been admitted, caused Plaintiff's injuries and damages.
- b) The amount of monetary damages to be awarded.
- c) All other issues relating to causation and damages.

**DEFENDANTS:**

- d) Whether Plaintiff could have avoided the consequences of Defendant Jerles' negligence by the exercise of ordinary care?
- e) Whether Plaintiff was negligent in failing to discuss with Defendant Jerles the report of the November 28, 2012, MRI which clearly documented concern for a squamous cell carcinoma of the left hypopharynx with a necrotic left neck node?
  - i. If so, did Plaintiff's negligence combine with Defendant Jerles' negligence in necessitating the change in radiation treatment plan made to account for the issue of tumor spillage?
    - 1. If so, what was the portion of Plaintiff's negligence in comparison to that of Defendant Jerles?
- f) Whether the change in radiation treatment plan made to account for the issue of tumor spillage during the surgical resection of February 8, 2013, proximately caused Plaintiff's Grade IV osteoradionecrosis and the surgical treatment thereof?
  - i. If so --damages-- medical expenses and pain and suffering.

9. Specifications of negligence including applicable code sections are as follows:

**PLAINTIFF:** The Defendant has admitted negligence. The only issues to be decided by the jury are causation and damages.

**DEFENDANTS:** O.C.G.A. § 51-11-7 – effect of plaintiff's failure to avoid consequences of

defendant's negligence; O.C.G.A. § 51-12-33 – reduction and apportionment of award or bar of recovery according to percentage of fault of parties and non-parties.

10. This case is not based on a contract.

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

**PLAINTIFF:**

a) Special damages:

Special damages constituting reimbursement for medical, hospital and other related expenses from the date of the incident through the time of trial, and into the future, pursuant to O.C.G.A. § 51-12-4 and § 51-12-7. The measure of these damages is the reasonable value of such expense as was reasonable and necessary.

b) Past mental and physical pain and suffering:

General damages constituting just compensation for Plaintiff's pain and suffering, both physical and mental, as well as, his loss of enjoyment of life from the date of the incident until the time of trial, pursuant to O.C.G.A. § 51-12-4. The measure of such damages is to be determined by the enlightened conscious of a fair and impartial jury.

c) Future mental and physical pain and suffering:

General damages constituting just compensation for Plaintiff's pain and suffering, both physical and mental, as well as his loss of enjoyment of life from the date of the trial throughout the remainder of this life, pursuant to O.C.G.A. § 51-12-4. The measure of these damages is to be determined by the enlightened conscious of a fair and impartial jury.

d) Damages stated with specificity: Plaintiff's special damages are as follows:

<u>Providers</u>	<u>Dates of Service</u>	<u>Charge</u>
University of Miami (Dr. Marx)	7/7/15 - 12/3/15	\$19,200.94
Navicent Health - Hyperbaric	7/24/15 - 8/31/15	\$67,471.00
Jackson South	12/3/15 - 12/6/15	\$52,770.21
<b>TOTAL:</b>		<b>\$139,442.15</b>

**DEFENDANTS:** Defendants contend that Plaintiff is not entitled to any award of damages. However, should the jury find in favor of Plaintiff, the applicable damages in this case are the medical expenses proximately caused by Defendants' negligence and Plaintiff's pain and suffering proximately caused by Defendants' negligence.

12. This case does not involve divorce.

13. The following facts are stipulated:

**PLAINTIFF:** Negligence of Defendant Jerles. At the time to the breach of the standard of care, Defendant Jerles was an employee and was acting within the scope of his employment with Defendant The ENT Center of Central Georgia, P.C. Jurisdiction and venue in this Honorable Court. Plaintiff is willing to discuss reasonable stipulations in order to narrow the issues and expedite trial.

**DEFENDANTS:**

- a) Defendants stipulate that at all times relevant hereto, Dr. Matthew Jerles was acting within the course and scope of his employment with The ENT Center of Central Georgia, P.C. Defendants further stipulate that a physician-patient relationship existed between Dr. Jerles and Plaintiff Dr. Reise.
- b) Defendants stipulate that various acts or omissions on the part of Defendant Jerles

during his care and treatment of Plaintiff Dr. Reise constituted professional negligence.

- c) Defendants are agreeable that if, at trial, either party elects to refer to or offer into evidence any medical or hospital records which have been properly certified, no records custodian will be required by any party to be called as a witness to lay a foundation for the authentication or admission of any such medical or hospital records. Defendants agree that all such records are authentic, but do not agree that all such records are admissible.
- d) Defendants are agreeable to the use of copies of records in lieu of originals.
- e) Defendants are agreeable as is reasonably practical to advising Plaintiff in advance of trial of the existence and nature of any demonstrative evidence, such as blowups, charts, diagrams, or illustrations they intend to use during the case and permit Plaintiff to inspect said demonstrative evidence assuming that Plaintiff is willing to extend the same courtesy to Defendants.
- f) Defendants are agreeable to advising Plaintiff and the Court at the close of trial each day whom they intend to call as witnesses the next trial day assuming that Plaintiff is willing to extend the same courtesy to Defendants.
- g) Defendants agree that it is unnecessary for any party to ask hypothetical questions of their respective expert witnesses in order to elicit their expert opinion testimony.

14. The following is a list of all documentary and physical evidence that may be tendered at the trial by the parties. 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.

All exhibits shall be marked for identification and submitted to opposing counsel for review and objection at least twenty-one (21) calendar days prior to the Monday of the week of trial. All objections to any exhibit for any reason shall be filed at least fourteen (14) calendar days prior to the Monday of the week of trial. All responses to each objection thereto shall be filed at least seven (7) days prior to the Monday of the week of trial. (Deadlines to be discussed and agreed upon at pretrial).

**PLAINTIFF:**

- a) MRI Report of 11/28/2012
- b) Radiation Plan after spillage of cancer cells from M.D. Anderson;
- c) Radiation Plan if no spillage of cancer cells from M.D. Anderson;
- d) Dose Volume Histogram from Radiation Plan with and without spillage;
- e) Photographs of Plaintiff before his injury;
- f) Photographs of Plaintiff's injuries;
- g) Photographs of Plaintiff's therapy devices;
- h) Haas-Kogan Literature from Deposition;
- i) Plaintiff's medical bills and records from M.D. Anderson;
- j) Plaintiff's medical bills and records from University of Miami and Dr. Robert Marx;
- k) Plaintiff's medical bills and records from Plaintiff's Navicent Health Hyperbaric Treatment;
- l) Plaintiff's medical bills and records from Jackson South;
- m) Text messages between the Plaintiff and Defendant Jerles;
- n) Any exhibit listed by Defendant;

- o) Plaintiff reserves his right to amend this list of exhibits based on any documents that may be produced after the entry of this Pretrial Order.

**DEFENDANTS:**

- a) Plaintiff's records from The ENT Center of Central Georgia, P.C.;
- b) Plaintiff's records from MD Anderson;
- c) Plaintiff's records from Dr. Robert Marx;
- d) Dr. L. Daniel Strawn's report of the MRI of November 28, 2012;
- e) Demonstrative exhibits, to include medical illustrations and enlargements of the medical records set forth hereinabove;
- f) Any documents attached as exhibits to any deposition taken in this case;
- g) All documents produced by Plaintiff during discovery;
- h) Plaintiff's pleadings and discovery;
- i) CV for Dr. James J. Caudell, Jr.;
- j) Any document identified by Plaintiff in his portion of the pretrial order;
- k) Dose volume histograms;
- l) Fee schedules for Plaintiff's experts;
- m) Documents for impeachment or rebuttal; and
- n) Documentary evidence or literature relied upon by any expert.

Defendants reserve the right to examine documents disclosed in this proposed consolidated Pretrial Order not previously disclosed by Plaintiff, and thus, do not at this time stipulate to the authenticity or admissibility of those documents. Defendants further reserve the right to supplement their list to include documents/exhibits omitted inadvertently. Defendants specifically reserve all

objections to the admissibility of all or parts of any documents identified by Plaintiff.

15. Special authorities relied upon by Plaintiff relating to peculiar evidentiary or other legal questions are as follows: Plaintiff does not foresee any peculiarly evidentiary or legal questions arising during the trial of the case but will submit authorities upon any issue which might be requested by the Court. Plaintiff reserves the right to file a trial brief in response to any such brief filed by the Defendants and/or Motions in Limine.

16. Special authorities relied upon by Defendant relating to peculiar evidentiary or other legal questions are as follows: Defendants do not know of any peculiar evidentiary or legal issues at this time beyond the causation issue which is the subject of Defendants' motion for summary judgment. Otherwise, Defendants will file motions in limine and reserve the right to file supplemental motions in limine to address any issues which might further become apparent during preparation for trial. Defendants further reserve the right to file other motions and trial briefs as might ultimately be necessary.

17. All requests to charge anticipated at the time of trial will be filed in accordance with Rule 10.3 or otherwise as ordered by the Court. Additionally, all parties respectfully reserve the right to add further charges at the time the jury is charged based on evidence produced at trial not otherwise anticipated or contemplated at the time trial began.

18. The testimony of the following person(s) may be introduced by depositions.

**PLAINTIFF:**

Plaintiff reserves the right to introduce for use at trial depositions of any witness who is beyond the subpoena power of the Court or is otherwise unavailable. Plaintiff may also introduce by deposition the testimony of any "may call" witness listed by Defendants who becomes unavailable for trial. Plaintiff may also introduce all or part of the deposition of any party as permitted by



O.C.G.A. § 9-11-32.

Plaintiff may present for use at trial videotaped depositions of Dr. David Fuller and Dr. Robert Marx. Plaintiff may also present portions of the videotaped discovery depositions of Dr. William N. William and Dr. Richard Cardoso.

All parties are to file all original deposition designations at least fourteen (14) calendar days prior to the Monday of the trial week if the depositions are to be used at trial. All objections to any testimony to be offered by deposition shall also be presented in writing to the Court at least ten (10) calendar days prior to the Monday of the trial week. Any response shall be filed at least seven (7) calendar days prior to the Monday of the trial week. (Deadlines to be discussed and agreed upon at pretrial).

**DEFENDANTS:**

- a) Plaintiff Dr. David Reise;
- b) Dr. Clifton Fuller;
- c) Dr. William William;
- d) Dr. Daphne Haas-Kogan;
- e) Dr. James J. Caudell, Jr.;
- f) Any witness whose deposition is taken for preservation of evidence or use at trial;
- g) Any witness who is unavailable at the time of trial.

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

19. The following are lists of witnesses:

**PLAINTIFF:**

- a) Plaintiff will have present at trial.
  - i. Plaintiff David Reise.
- b) Plaintiff may have present at trial.
  - i. Dr. Clifton David Fuller
  - ii. Dr. Daphne Haas-Kogan
  - iii. Dr. Robert Marx
  - iv. Rhonda Carby
  - v. Julie Manson
  - vi. Donna McAnear
  - vii. Dr. Sanford Dukes
  - viii. Dr. Jimmy Caudell
  - ix. Dr. Matthew Jerles
- c) Plaintiff reserves the right to call any witness or expert witness listed by Defendants.
- d) Plaintiff reserves the right to call other witnesses for impeachment or rebuttal as the need for the same arises during the course of the trial.

**DEFENDANTS:**

- a) Defendant will have present at trial.
  - i. Dr. Matthew Jerles; and
  - ii. Dr. James J. Caudell, Jr. by video deposition.
- b) Defendant may have present at trial.
  - i. Dr. Sandy Duke;
  - ii. Any witness listed by Plaintiff; and
  - iii. Any individual deposed in this lawsuit.

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

20. The form of all possible verdicts to be considered by the jury is as follows:

**PLAINTIFF**: Plaintiff has attached a Proposed Verdict Form as Exhibit “B”.

**DEFENDANTS**: The parties will attempt to agree upon a verdict form prior to trial. Alternatively, the parties will provide the Court with separate proposed verdict forms.

21.

- a) The possibilities of settling the case are fair. The parties have mediated the case without reaching settlement. However, Plaintiff remains willing to consider any reasonable settlement offer from Defendants.
- b) The parties do want the case reported, including voir dire.
- c) The cost of takedown will be shared.
- d) Other matters: None.

*[Signatures to follow]*

This 9<sup>th</sup> day of January, 2020.

**LASKY COOPER LAW**

/s/ Daniel C. Justus  
JEFFREY W. LASKY  
GEORGIA STATE BAR NO. 438525

DANIEL C. JUSTUS  
GEORGIA STATE BAR NO. 211381  
*Attorneys for Plaintiff*

P. O. Box 9086  
Savannah, Georgia 31412  
912-232-6423

[jlasky@laskycooperlaw.com](mailto:jlasky@laskycooperlaw.com)  
[djustus@laskycooperlaw.com](mailto:djustus@laskycooperlaw.com)

**CHAMBLESS, HIGDON, RICHARDSON,  
KATZ & GRIGGS, LLP**

/s/ Emmitte H. Griggs  
EMMITTE H. GRIGGS  
GEORGIA STATE BAR NO. 312085

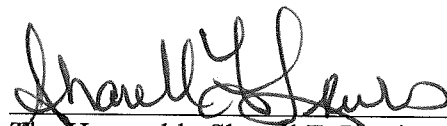
/s/ Elizabeth L. Ford  
ELIZABETH L. FORD  
GEORGIA STATE BAR NO. 750034

*Attorney for Defendants The ENT Center of Central  
Georgia, P.C. and Matthew Jerles, M.D.*

P. O. Box 18086  
Macon, Georgia 31209  
478-745-1181  
[sharden@chrkglaw.com](mailto:sharden@chrkglaw.com)  
[eford@chrkglaw.com](mailto:eford@chrkglaw.com)

It is **HEREBY ORDERED** that the foregoing, including the attachments thereto, constitutes the PRE-TRIAL ORDER in the above-captioned case and supersedes the pleadings which may not be further amended, except by order of the Court to prevent manifest injustice.

SO ORDERED this <sup>7<sup>th</sup></sup> day of <sup>February</sup> ~~January~~, 2020.



\_\_\_\_\_  
The Honorable Sharell F. Lewis  
Judge, State Court of Bibb County, Georgia