

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

TRACY NIX,

Plaintiff,

v.

ADVANCED UROLOGY INSTITUTE OF
GEORGIA, PC,

Defendant.

Civil Action File No.

Plaintiff, TRACY NIX, by and through their undersigned counsel, EISENBERG & BAUM, LLP, hereby files this Complaint against Defendant, ADVANCED UROLOGY INSTITUTE OF GEORGIA and alleges as follows:

PRELIMINARY STATEMENT

1. Plaintiff, Tracy Nix is a profoundly deaf individual whose preferred and most effective means of communication is American Sign Language (“ASL”). In early 2018, Ms. Nix sought medical care at Defendant’s facilities for a severe urological infection. Prior to her appointment, she advised Defendant that she was deaf and requested a certified ASL interpreter. Ms. Nix also specified that in light of the gynecological/urological nature of her appointment, she would prefer a female interpreter.

2. At her appointment, Defendant presented Ms. Nix with Dalton Belew, a man who Defendant held out as a certified interpreter and a medical professional. Mr. Belew also explicitly told Ms. Nix that he was a certified interpreter and a nurse. In reliance on these

representations, Ms. Nix allowed Mr. Belew to follow her throughout her appointment. This included Mr. Belew's following Ms. Nix into two exam rooms where she was required to partially undress, revealing her pubic area, in order to receive ultrasound examinations. Mr. Belew remained in the examination rooms with Ms. Nix and watched her throughout these examinations despite the fact that Ms. Nix was partially naked and her private areas were exposed.

3. After the second ultrasound and upon questioning by Ms. Nix about Mr. Belew's extremely poor signing skills, Mr. Belew admitted to Ms. Nix that he was neither a certified interpreter nor a nurse. Instead, Mr. Belew stated that he was a friend of a staff member who knew some ASL signs and was asked by Defendant to wear scrubs with Defendant's insignia and interpret for Ms. Nix.

4. By falsely representing to Ms. Nix that Mr. Belew was a medical professional and a certified interpreter and by allowing him to intrude on intimate and private interactions between Ms. Nix and medical staff, Defendant put Ms. Nix in a highly vulnerable and distressing situation that she would never have allowed had Defendant and Mr. Belew not made misrepresentations to her about Mr. Belew's identify. In so doing, Defendant committed fraud, acted with gross negligence, and intentionally inflicted emotional distress upon Tracy Nix.

5. Furthermore, as a result of Defendant's failure to provide Ms. Nix with a certified interpreter, she was unable to understand her medical condition or the treatment she received. Ms. Nix required a certified interpreter in order to effectively communicate in a medical setting. Defendant failed to provide such an interpreter or any other auxiliary aid or device for that matter. Instead, Defendant forced Ms. Nix to attempt to communicate with a man fraudulently posed as a certified interpreter and nurse who lacked proficiency in even the most basic of signs.

When it became apparent that Mr. Belew lacked the ASL proficiency to communicate with Ms. Nix, she was then forced to communicate with medical staff through written notes. However, Ms. Nix was unable to effectively communicate through these methods. Accordingly, Advanced Urology both hindered and prevented Plaintiff from benefitting from its services, and discriminated against Ms. Nix unlawfully, on the basis of her disability of deafness by failing to provide the auxiliary aids and services necessary to ensure effective communication with her.

6. Based on Plaintiff's allegations herein, it is evident that Defendant has engaged in both negligent and fraudulent behavior and intentionally inflicted emotional distress upon Plaintiff. It is also clear that Defendant failed to implement policies, procedures, and practices respecting the civil rights and communication needs of deaf individuals. Consequently, Plaintiff brings this lawsuit to compel Defendant to cease unlawful discriminatory practices and implement policies and procedures that will ensure effective communication, full and equal enjoyment, and a meaningful opportunity for Plaintiff and other deaf individuals to participate in and benefit from Defendant's services.

7. Plaintiff seeks injunctive relief, compensatory damages, punitive damages as well as an award of attorneys' fees, costs, and disbursements pursuant to Ga. Code Ann. §§ 51-12-4, 51-12-5, 51-12-5.1, 51-12-7, Ga. Code Ann. § 10-1-399, and/or common law.

8. Furthermore, Plaintiff seeks declaratory, injunctive, and equitable relief; compensatory and exemplary damages; and attorneys' fees and costs to redress Defendant's unlawful discrimination on the basis of Plaintiff's disability in violation of Title III of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12181 et seq.; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 ("RA"); Section 1557 of the Patient Protection and Affordable Care Act, Ga. Code Ann. § 30-4-2, and other state and common law causes of action.

THE PARTIES

9. Plaintiff TRACY NIX brings this action as a resident of Loganville, Georgia. Ms. Nix is a profoundly deaf individual who communicates primarily in American Sign Language. Ms. Nix is substantially limited in the major life activities of hearing and speaking. She is an individual with a disability within the meaning of federal and state civil rights laws.

10. Defendant ADVANCED UROLOGY INSTITUTE OF GEORGIA, PC is a medical facility, which was incorporated in Georgia and has its principal place of business at 1557 Janmar Road, Snellville, Georgia 30078. Defendant is a place of public accommodation under federal and state antidiscrimination laws and is a recipient of federal financial assistance, including Medicare and/or Medicaid reimbursements. Defendant is therefore subject to the requirements of Title III of the Americans with Disabilities Act, Section 1557 of the Patient Protection and Affordable Care Act, Section 504 of the Rehabilitation Act; Ga. Code Ann. § 30-4-2; and Georgia state tort law.

JURISDICTION & VENUE

11. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1343 for Plaintiff's claims arising under federal law and supplemental jurisdiction pursuant to 28 U.S.C. § 1367 for Plaintiff's claims arising under state law and/or common law.

12. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because both Plaintiff and Defendant are residents of the district. Additionally, the acts and omissions giving rise to this Complaint occurred within this District.

STATEMENT OF FACTS

13. Tracy Nix is a profoundly deaf individual who communicates primarily through

American Sign Language.

14. Tracy Nix has limited proficiency in written English, and requires auxiliary aids and services to communicate effectively in a medical setting. In most cases, Plaintiff requires a certified ASL interpreter to effectively communicate in a medical setting.

15. On January 30, 2018 Plaintiff visited her primary care physician who referred her to Defendant's facilities to receive testing and treatment for an abnormal bladder culture.

16. On February 5, 2018, in alignment with her doctor's referral, Ms. Nix made an appointment with Advanced Urology's Snellville location to see Dr. Dev. Mally on February 7, 2018.

17. On February 6, 2018, Ms. Nix contacted Defendant to formally request a qualified ASL interpreter for her appointment. During this call, Plaintiff spoke to Practice Director Missy Sterling. Ms. Sterling asked Plaintiff why she needed an interpreter and why she could not bring a family member to interpret for her. Plaintiff explained that she required a certified interpreter in order for her to effectively communicate with medical staff. Ms. Sterling told Plaintiff that she would check into the possibility of providing an interpreter and would get back to her.

18. Several hours later, Ms. Sterling called Ms. Nix and stated, "Good News! We got you a certified interpreter for your appointment." At this time, Plaintiff specified that she would prefer a female ASL interpreter because the urological nature of her appointment might require examination of her private areas.

19. Ms. Sterling advised Plaintiff that Defendant's staff had contacted all of the ASL agencies and that no female interpreters were available, but that they had been able to secure the services of a male interpreter. Plaintiff asked if the male interpreter would leave the examination room if the doctor needed to examine Plaintiff or needed Plaintiff to undress. Ms. Sterling

assured Plaintiff that the male interpreter would leave the room in such an instance and that Plaintiff would also be accompanied by a female PA throughout the appointment.

20. Because she understood that the interpreter would be a certified professional, Plaintiff acquiesced to a male certified interpreter, but clarified that for future appointments she would be more comfortable with female interpreters.

21. On February 7, 2018, Plaintiff arrived at Advanced Urology for her scheduled appointment. After 30 minutes of completing paperwork, Plaintiff inquired about the interpreter. Through a message typed onto a computer screen, a staff member informed Plaintiff that the interpreter was on his way.

22. Approximately one hour later, a young man dressed in scrubs bearing Defendant's name approached Ms. Nix and introduced himself as "Dalton," (full name Dalton Belew) a certified ASL interpreter and nurse.

23. Immediately, Ms. Nix noticed that Mr. Belew's sign language skills were extremely poor. He struggled to understand Plaintiff's signs, relied heavily on finger spelling, and finger spelled very slowly. Confused, Plaintiff asked again if Mr. Belew was a certified interpreter. He confirmed that he was. She again asked if he was a nurse. He confirmed that he was.

24. At that time, a nurse named Amanda called Plaintiff back for her appointment and Mr. Belew followed. Amanda led Plaintiff into a bathroom where she began to instruct Plaintiff on how to take a urine sample. Mr. Belew, who had followed Amanda and Plaintiff into the bathroom, attempted to interpret these instructions, but was unable to do so as a result of his poor signing. Dalton even struggled to finger spell the name "Amanda." Dalton's difficulty made Amanda laugh.

25. Amanda, Plaintiff, and Mr. Belew then entered the examination room where Amanda began talking. Plaintiff waited for Mr. Belew to begin interpreting, but he did not. Plaintiff motioned for the nurse to stop speaking. Mr. Belew attempted to interpret what the Amanda had said, but was unable to effectively do so as a result of his poor signing.

26. Eventually, Mr. Belew communicated that Plaintiff needed to pull her pants down partially to the point where she was exposed so that Amanda could administer an ultrasound.

27. Plaintiff was extremely uncomfortable undressing with Mr. Belew in the room, but did not object to his presence because he was a nurse.

28. Mr. Belew remained in the exam room for the ultrasound and watched as Plaintiff pulled her pants down and received the test. This made Plaintiff feel very embarrassed.

29. After administering the ultrasound, Amanda began to ask Plaintiff a number of questions. Mr. Belew was unable to translate any of these questions. As a result, Plaintiff was forced to reach for a pen and paper and to ask Amanda to communicate with her through writing.

30. Plaintiff and the nurse continued to attempt to communicate through notes as Mr. Belew stood watching silently. Because of her limited English abilities and the complicated medical nature of the interaction, it was difficult for Ms. Nix to communicate this way.

31. Amanda did not question Mr. Belew about his inability to interpret. She also did not pause the interaction to inform supervisors or facility staff that Mr. Belew was unable to interpret, regardless of the fact that his lack of ability was obvious.

32. After Ms. Nix and Amanda's exchange via writing, Amanda and Mr. Belew left the room.

33. Several minutes later, Mr. Belew returned with Dr. Mally who introduced himself and began talking. Mr. Belew stood silently and failed to begin signing.

34. Plaintiff gestured for Dr. Mally to stop talking and asked Mr. Belew, “What is he saying?” Mr. Belew replied by signing “I’m sorry,” however, Mr. Belew even used the simple sign for ‘sorry’ incorrectly.

35. Confused by his inability to communicate in ASL, Dalton asked Plaintiff “Does your bladder hurt” by using extremely poor signing.

36. Frustrated, Plaintiff again reached for pen and paper and began to attempt to communicate with Dr. Mally through writing. Through the notes, Dr Mally, informed Plaintiff that he required a more invasive ultrasound. Again, because of her limited English abilities and the complicated medical nature of the interaction, it was difficult for Ms. Nix to communicate this way.

37. Dr. Mally then left the room. He did not question Mr. Belew about his inability to interpret. He also did not pause the interaction to inform supervisors or administrative staff that Mr. Belew was unable to interpret regardless of the fact that his lack of ability was obvious.

38. Once Dr. Mally had left the room, Ms. Nix was left alone in the examination room with Mr. Belew.

39. Plaintiff asked Mr. Belew, “How are you a certified interpreter if you can’t communicate with me? Where did you learn sign language?” Mr. Belew responded, “My deaf friend taught me.” Plaintiff asked Mr. Belew if he ever took ASL classes in college. Mr. Belew said that he did not.

40. Plaintiff immediately texted her husband, Jeff Nix, to come to the appointment in order to help her communicate with medical staff because it had become clear to her that Mr. Belew was not an effective interpreter. Plaintiff still understood Mr. Belew to be a nurse employed by Defendant.

41. Plaintiff was then lead by a nurse into an ultrasound room. Mr. Belew followed. The nurse gestured for Plaintiff to partially undress and lay down on the exam table. Mr. Belew did not leave the room.

42. Mr. Belew remained in the exam room for the duration of Plaintiff's ultrasound. He watched throughout and looked at the computer screen on which Plaintiff's medical information was listed.

43. The nurse gestured for Plaintiff to breathe in and out. As Plaintiff did so, she saw Mr. Belew peering around the nurse to watch her as she lay partially naked on the exam table and to look at Plaintiff's personal and private medical information on the computer screen.

44. Mr. Belew's presence and his manner of watching her made Plaintiff deeply uncomfortable and embarrassed. Plaintiff calmed herself by repeatedly telling herself that it was ok because he was a nurse.

45. The nurse finished the ultrasound, Plaintiff cleaned herself, and pulled up her pants all while Mr. Belew remained in the room.

46. At this point, Plaintiff informed the nurse that her husband had arrived and was waiting in the lobby. The nurse left the room to retrieve Plaintiff's husband.

47. When Plaintiff and Mr. Belew left the exam room, Plaintiff's husband was waiting for them in the hallway. Plaintiff informed her husband that she did not believe that Mr. Belew was a qualified interpreter.

48. Amanda approached Mr. and Ms. Nix and Mr. Belew to discuss sample medications and to ask Ms. Nix to sign several documents. Before Plaintiff signed the documents, Mr. Nix asked Mr. Belew, "Do you work here?" Mr. Belew said no. Mr. Nix asked, "Do you work in the other building?" Mr. Belew responded, "I don't work in any of the

buildings. I don't work here. I don't have a job. I'm not an interpreter or a nurse." Mr. Nix asked Mr. Belew, "Then what are you doing here." Mr. Belew responded, "My friend who works here told me that they needed someone who knows sign language and asked if I could come and sign for a patient. I said yes. But I'm sorry, I'm sorry, I don't work here. I'm not a certified interpreter. I know this is wrong. I will tell the doctors that this is wrong."

49. Angered to have learned that Mr. Belew was neither an interpreter nor a nurse, Plaintiff angrily told Mr. Belew, "You told me you were a nurse! You said you were a certified interpreter!" Mr. Belew responded, "I know. I'm sorry."

50. Plaintiff's husband asked to speak to a manger and the Nix's were lead to an adjacent building to speak with Melinda Moore. Before beginning their conversation with Ms. Moore stated that she would prefer to have an interpreter present and called for one to come to her office.

51. Dalton Belew appeared in Ms. Moore's office shortly thereafter as Defendant's interpreter.

52. Plaintiff and her husband then recounted their experiences with Mr. Belew and medical staff and informed Ms. Moore that it was wildly inappropriate for Defendant to have used and presented Mr. Belew as an interpreter and a medical professional in such a way.

53. Ms. Moore apologized profusely. Mr. Nix demanded that Plaintiff's copay be refunded. Ms. Moore assured him that it would.

54. Plaintiff and her husband left Defendant's facility.

55. Later, when she went to retrieve medications prescribed by a different physician, Plaintiff discovered that Dr. Mally had prescribed her a number of medications after her appointment in Defendant's facilities. Plaintiff had no idea that such medication had been

prescribed because she had not been able to effectively communicate with Medical staff.

56. On February 8, 2018, Ms. Moore sent Ms. Nix an email asking for her to forgive Defendant for “any confusion that there may have been on our part.” In addition, she advised that Defendant would provide a qualified ASL interpreter for Ms. Nix’s next visit.

57. Upon information and belief, Defendant hired Dalton Belew to perform interpretive services in return for financial payment.

58. Upon information and belief, Defendant asked Dalton Belew to wear scrubs with the Advanced Urology insignia on them in order to convey the impression that he was a member of Defendant’s medical staff.

59. Upon information and belief, Defendant knew that Mr. Belew was not a certified interpreter.

60. Defendant knew that Dalton Belew was not a medical professional.

61. Defendant had knowledge that Plaintiff was uncomfortable with the idea of a male interpreter being present during personal medical examinations.

62. In spite of this knowledge, Defendant abetted Dalton Belew in his posing as a medical professional and as a certified interpreter and allowed him to participate in and witness private and intimate medical interactions between Plaintiff, her doctor, and medical staff.

63. Upon information and belief, Defendant’s staff, including Dr. Mally and the nurse, Amanda, knew that Mr. Belew was not a medical professional on Defendant’s staff.

64. Upon information and belief, members of Defendant’s staff knew that Dalton Belew was not a certified interpreter.

65. Defendant had a duty to inquire as to Dalton Belew’s certification status.

66. Defendant failed to fulfill the duties that it owed to Ms. Nix as a patient.

67. Defendant also engaged in affirmative actions that it knew or should have known would emotionally distress Ms. Nix.

68. As a result of the misrepresentations that Plaintiff faced in Defendant's facilities, the invasions of privacy that she was forced to endure, and the highly vulnerable position in which Defendant placed her, Plaintiff has experienced fear, anxiety, indignity, humiliation, emotional distress, and trauma.

69. Further, Defendant knew or should have known of its obligations under the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act, and the Affordable Care Act, to provide accommodations to individuals with disabilities, including individuals who are deaf or hard of hearing, and to develop policies to promote compliance with these statutes.

70. Staff at Advanced Urology were aware that Ms. Nix was deaf and required a certified interpreter in order to effectively communicate with Defendant's staff.

71. Defendant failed to provide Plaintiff with an ASL interpreter or any other auxiliary aid or device. Instead, Defendant forced Plaintiff to communicate with a Dalton Belew who was not proficient in ASL but who Defendant fraudulently held out to Plaintiff as a certified interpreter and medical professional. Mr. Belew was completely incapable of enabling communication between Plaintiff and Defendant's staff.

72. When Mr. Belew was unable to interpret for Plaintiff, she was forced to attempt to communicate with medical staff by writing back and forth through short notes. However, notes are not an effective means of communication for Plaintiff in a medical setting generally. Furthermore, these communications regarded medication, tests in the form of ultrasounds, and other complicated medical information inappropriate for discussion via written notes.

73. Without the aid of an interpreter, Plaintiff was deprived of her right to provide

informed consent to testing or treatment and to maintain privacy with regard to her medical information. She was also unable to effectively communicate with the medical staff concerning details of her diagnosis, prognosis or treatment. Further, Ms. Nix was given limited opportunity to ask questions concerning her treatment.

74. As a result of Defendant's failure to ensure effective communication with Ms. Nix, she received services that were objectively substandard and that were inferior to those provided to hearing individuals.

75. Plaintiff is entitled to equal access to services offered by Defendant as are enjoyed by non-disabled persons.

76. Defendant has intentionally prevented Ms. Nix from benefitting from its services by failing to provide the ASL interpreters necessary for her participation and care.

77. Defendant discriminated against Plaintiff with deliberate indifference to her rights and to her communication needs, causing Plaintiff to suffer humiliation, frustration, and emotional distress.

78. Defendant's wrongful and intentional discrimination against Ms. Nix on the basis of her disability is reflected by the Defendant's failure to train employees and promulgate policies of non-discrimination against deaf individuals.

79. Plaintiff would seek out services and receive care in Defendant's facilities again, but is being prevented from doing so by Defendant's discrimination against her on the basis of her disability and by her fear that she would encounter similar violated and frightening.

**CLAIM I: VIOLATIONS OF TITLE III OF THE AMERICANS WITH
DISABILITIES ACT**

80. Plaintiff repeats and re-alleges all preceding paragraphs in support of this claim.

81. At all times relevant to this action, Title III of the ADA, 42 U.S.C. § 12181, et seq., has been in full force and effect and has applied to Defendant's conduct.

82. Defendant owns, leases, and/or operates a place of public accommodation within the meaning of Title III of the ADA, 42 U.S.C. § 12181(7) (D).

83. At all times relevant to this action, Plaintiff has been substantially limited in the major life activities of hearing, speaking, and seeing and is an individual with a disability within the meaning of the ADA, 42 U.S.C. § 12102(2).

84. Title III of the ADA provides that “[n]o individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.” 42 U.S.C. § 12182(a).

85. Title III of the ADA provides that “[i]t shall be discriminatory to subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.” 42 U.S.C. § 12182(b)(1)(A)(i).

86. Title III of the ADA provides that “[i]t shall be discriminatory to afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.” 42 U.S.C. § 12182(b)(1)(A)(ii).

87. Title III of the ADA provides that “[i]t shall be discriminatory to provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.” 42 U.S.C. § 12182(b)(1)(A)(iii).

88. Federal regulations implementing Title III of the ADA provide that “[a] public accommodation shall furnish appropriate auxiliary aids and services where necessary to ensure effective communication with individuals with disabilities.” 28 C.F.R. § 36.303(c)(1).

89. Title III of the ADA mandates that public accommodations “take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services.” 42 U.S.C. § 12182(b)(2)(A)(iii); see also Cal. Civ. Code § 51.5; Cal Civ. Code § 54.1.

90. Pursuant to Title III of the ADA, Defendant has an affirmative duty to provide accommodations for Ms. Nix so that she may participate in Defendant’s services as would any other non-disabled participant.

91. The ADA and its promulgating regulations specifically instruct that the type of auxiliary aid or service provided shall be based on the “method of communication used by the individual, the nature, length, and complexity of the communication involve, and the context in which the communication is taking place,” rather affordability of the auxiliary aid or service. 28 C.F.R. §36.303(c)(1)(ii).

92. Defendant discriminated against Plaintiff, on the basis of her disability, in violation of Title III of the ADA and its implementing regulations.

93. As set out above, injunctive relief is warranted to ensure that Defendant's actions will not recur with Plaintiff and/or additional deaf persons.

94. Plaintiff is therefore entitled to injunctive relief, as well as an award of attorneys' fees, costs, and disbursements pursuant to the ADA, 42 U.S.C. § 12188(a)(1), and/or common law.

CLAIM II: VIOLATION OF SECTION 504 OF THE REHABILITATION ACT

95. Plaintiff repeats and re-alleges all preceding paragraphs in support of this claim.

96. At all times relevant to this action, Section 504 of the Rehabilitation Act, 29 U.S.C. § 794 was in full force and effect and applied to the Defendant's conduct.

97. At all times relevant to this action, Plaintiff has had substantial impairment to the major life activities of hearing, speaking, and seeing within the meaning of the Rehabilitation Act regulations at 45 C.F.R. § 84.3(j). Accordingly, she is an individual with a disability as defined under 29 U.S.C. § 708(20)(B), Section 504, as amended.

98. At all times relevant to this action, Defendant has received federal funds, and has therefore been a program or activity receiving federal financial assistance pursuant to 29 U.S.C. § 794(b).

99. Pursuant to Section 504, "No otherwise qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance" 29 U.S.C. § 794.

100. Defendant has discriminated against Plaintiff solely on the basis of her disability

by denying her meaningful access to the services, programs, and benefits the Defendant offers to other individuals, and by refusing to provide auxiliary aids and services necessary to ensure effective communication, in violation of Section 504 of the Rehabilitation Act. 29 U.S.C. § 794.

101. Defendant further discriminated against the individual Plaintiff by failing to ensure effective communication through the specific provision of qualified in-person interpreters.

102. Plaintiff is therefore entitled to compensatory damages, injunctive relief, and an award of attorney's fees, costs, and disbursements, pursuant to 29 U.S.C. § 794(a).

**CLAIM III: VIOLATIONS OF SECTION 1557 OF THE PATIENT PROTECTION
AND AFFORDABLE CARE ACT**

103. Plaintiff repeats and re-alleges all preceding paragraphs in support of this claim.

104. At all times relevant to this action, Section 1557 of the Patient Protection and Affordable Care Act ("Section 1557"), 42 USC § 18116 was in full force and effect and applied to the Defendant's conduct.

105. At all times relevant to this action, Section 1557, 42 USC § 18116, incorporated the definition of disability in the Rehabilitation Act, 29 U.S.C. §705(9).

106. At all times relevant to this action, Plaintiff had substantial limitations to the major life activity of hearing, speaking, and seeing and was an individual with a disability within the meaning of the Rehabilitation Act, 29 U.S.C. § 705(9) and of Section 1557, 42 USC § 18116.

107. At all times relevant to this action, Plaintiff's primary language for communication was American Sign Language and not English; and Plaintiff had limited ability to read, write, speak, or understand English, and was an individual with limited English proficiency within the meaning of Section 1557, 45 C.F.R. §92.4.

108. At all times relevant to this action, Defendant received federal financial assistance, including Medicare reimbursements, and was principally engaged in the business of providing health care in the form of urological care services. Therefore, Defendant is a health program or activity receiving federal financial assistance pursuant to 42 U.S.C. § 18116(a).

109. Pursuant to Section 1557, “an individual shall not, on the ground prohibited under . . . section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity, any part of which is receiving Federal financial assistance . . .” 42 USC § 18116.

110. Defendant has discriminated and continues to discriminate against Plaintiff solely on the basis of her disability and her limited English proficiency by denying her meaningful access to the services, programs, and benefits Defendant offers to other individuals by refusing to provide auxiliary aids and services necessary to ensure effective communication in violation of Section 1557, 42 U.S.C. § 18116.

111. Defendant discriminated against Plaintiff by failing to ensure effective communication through the providing of qualified sign language interpreters.

112. Absent injunctive relief there is a clear risk that Defendant’s actions will recur again with Plaintiff and other Deaf patients.

113. Plaintiff is therefore entitled to seek and recover compensatory damages for the injuries and loss they sustained as a result of Defendant’s discriminatory conduct and deliberate indifference as hereinbefore alleged, pursuant to 42 U.S.C. §18116(a).

114. Plaintiff is further entitled to an award of attorney’s fees, costs, and disbursements pursuant to 42 U.S.C. § 18116(a), the Rehabilitation Act, 29 U.S.C. §794(a).

CLAIM IV: VIOLATIONS OF THE GEORGIA CODE ANNOTATED § 30-4-2

115. Plaintiff repeats and re-alleges all preceding paragraphs in support of this claim.

116. At all times relevant to this action, Ga. Code Ann. § 30-4-2 has been in full force and effect and has applied to Defendant's conduct.

117. Defendant owns, leases, and/or operates a place of public accommodation within the meaning of Ga. Code Ann. §§ 30-3-2 & 30-4-2(a).

118. At all times relevant to this action, Plaintiff has been "person whose hearing is totally impaired or whose hearing is so seriously impaired as to prohibit the person from understanding oral communications spoken in a normal conversational tone" and is an individual with the disability of deafness within the meaning of the Ga. Code Ann. § 30-1-1.

119. Pursuant to Ga. Code Ann. § 30-4-2 (a), "deaf persons are entitled to full and equal accommodations, advantages, facilities, and privileges on all common carriers, airplanes, motor vehicles, railroad trains, motor buses, streetcars, boats, or any other public conveyances or modes of transportation and at hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons.

120. Defendant has discriminated against Plaintiff solely on the basis of her disability by denying her full and equal accommodations, advantages, facilities, and privileges of its services by refusing to provide the interpreters Plaintiff required to effectively communicate to the same extent as non-disabled persons in violation of Ga. Code Ann. § 30-4-2.

121. Absent injunctive relief there is a clear risk that Defendant's actions will recur again with Plaintiff and other Deaf patients.

122. Plaintiff is therefore entitled to seek fines and damages pursuant to Code Ga. Ann.

§ 30-4-4.

CLAIM V: VIOLATION OF THE GEORGIA FAIR BUSINESS PRACTICES ACT
OF 1975

123. Plaintiff repeats and re-alleges all preceding paragraphs in support of this claim.

124. Pursuant to Ga. Code Ann. § 10-1-393, “(a) Unfair or deceptive acts or practices in the conduct of consumer transactions and consumer acts or practices in trade or commerce are declared unlawful. (b) By way of illustration only and without limiting the scope of subsection (a) of this Code section, the following practices are declared unlawful:

(1) Passing off goods or services as those of another;

(2) Causing actual confusion or actual misunderstanding as to the source, sponsorship, approval, or certification of goods or services;”

125. Plaintiff was a consumer of Defendant’s medical care services.

126. Defendant intentionally and knowingly caused actual confusion and misunderstanding concerning the sponsorship, approval, and certification of the interpretive services offered to Plaintiff through Mr. Belew.

127. Plaintiff is therefore entitled to punitive damages pursuant to Ga. Code Ann. § 10-1-399.

CLAIM VI: FRAUD

128. Plaintiff repeats and re-alleges all preceding paragraphs in support of this claim.

129. Pursuant to Ga. Code Ann. § 23-2-52, “Misrepresentation of a material fact, made willfully to deceive or recklessly without knowledge and acted on by the opposite party or made innocently and mistakenly and acted on by the opposite party, constitutes legal fraud.”

130. Pursuant to Ga. Code Ann. § 23-2-53, “Suppression of a material fact which a party is under an obligation to communicate constitutes fraud. The obligation to communicate may arise from the confidential relations of the parties or from the particular circumstances of the

case.”

131. Pursuant to Ga. Code Ann. § 51-6-1, “Fraud, accompanied by damage to the party defrauded, always gives a right of action to the injured party.”

132. Pursuant to Ga. Code Ann. § 51-6-4, “A fraud may be committed by acts as well as words.”

133. Pursuant to Ga. Code Ann. § 51-6-2 “(a) Willful misrepresentation of a material fact, made to induce another to act, upon which such person acts to his injury, will give him a right of action. Mere concealment of a material fact, unless done in such a manner as to deceive and mislead, will not support an action. (b) In all cases of deceit, knowledge of the falsehood constitutes an essential element of the tort. A fraudulent or reckless representation of facts as true when they are not, if intended to deceive, is equivalent to a knowledge of their falsehood even if the party making the representation does not know that such facts are false.”

134. Pursuant to relevant case law, “The five elements of fraud and deceit in Georgia are: (1) false representation made by the defendant; (2) scienter; (3) an intention to induce the plaintiff to act or refrain from acting in reliance by the plaintiff; (4) justifiable reliance by the plaintiff; (5) damage to the plaintiff.” *Cavalier Carpets, Inc. v Caylor*, 746 F.2d 749, 758, n. 25 [11th Cir 1984]; *City Dodge, Inc. v. Gardner*, 232 Ga. 766, 769 n. 1, 208 S.E.2d 794, 797 n. 1 (1974). *See also, e.g., Hayes v. Irwin*, 541 F. Supp. 397, 438 (N.D.Ga.1982), *aff’d*, 729 F.2d 1466 (11th Cir. 1984).

135. Defendant, by and through its agents, employees or representatives, knowingly and willfully made false representations of material facts to Plaintiff Tracy Nix indicating that Mr. Dalton Belew was both a certified ASL interpreter and a medical professional 1) by

telling Plaintiff that they had hired a certified interpreter through an interpreter agency and 2) by dressing Mr. Belew in medical scrubs bearing Defendant's insignia.

136. Defendant, by and through its agents, employees or representatives, knew at the time that all such representations were false and baseless.

137. Defendant knew and intended that Tracy Nix would rely on its false representations in allowing Mr. Belew to interpret for her and to accompany her into her private medical appointments.

138. Tracy Nix was unaware of the falsities of Defendant's statements and justifiably relied on Defendant's false representations in allowing Mr. Belew to accompany her into her private medical appointments.

139. Defendant's fraudulent representations proximately caused Tracy Nix to suffer severe emotional distress and other damages.

140. Accordingly, Defendant committed legal fraud in violation of the Ga. Code Ann. and its implementing regulations.

141. Defendant is further liable for those fraudulent acts undertaken by Dalton Belew.

142. Pursuant to Ga. Code Ann. § 51-1-2, "For the negligence of one person to be properly imputable to another, the one to whom it is imputed must stand in such a relation or privity to the negligent person as to create the relation of principal and agent."

143. Pursuant to Ga. Code Ann. § 51-2-2, "Every person shall be liable for torts committed by his wife, his child, or his servant by his command or in the prosecution and within the scope of his business, whether the same are committed by negligence or voluntarily."

144. Pursuant to Ga. Code Ann. § 51-2-5, "An employer is liable for the negligence of a contractor:

1. When the work is wrongful in itself or, if done in the ordinary manner, would result in a nuisance;
2. If, according to the employer's previous knowledge and experience, the work to be done is in its nature dangerous to others however carefully performed;
3. If the wrongful act is the violation of a duty imposed by express contract upon the employer;
4. If the wrongful act is the violation of a duty imposed by statute;
5. If the employer retains the right to direct or control the time and manner of executing the work or interferes and assumes control so as to create the relation of master and servant or so that an injury results which is traceable to his interference; or
6. If the employer ratifies the unauthorized wrong of the independent contractor.”

145. Dalton Belew knowingly and willfully made false representations of material facts to Plaintiff Tracy Nix when he explicitly told her that he was a certified interpreter and a nurse.

146. Mr. Belew knew at the time that all such representations were false and baseless.

147. Mr. Belew knew and intended that Tracy Nix would rely on its false representations in allowing Mr. Belew to interpret for her and to accompany her into her private medical appointments.

148. Tracy Nix was unaware of the falsities of Mr. Belew’s statements and justifiably relied on those false representations in allowing Mr. Belew to accompany her into her private medical appointments.

149. Mr. Belew's fraudulent representations proximately caused Tracy Nix to suffer severe emotional distress and other damages.

150. Accordingly, Mr. Belew committed legal fraud in violation of the Ga. Code Ann. and its implementing regulations.

151. During the events at issue here, Mr. Belew served as the agent of Defendant and acted within the scope of his employment by Defendant.

152. Accordingly, Defendant is liable for the torts committed by Mr. Belew.

153. In the alternative, Mr. Belew functioned as an independent contractor under Defendant's employ.

154. However, Defendant retained the right to direct or control the time and manner of executing Mr. Belew's work or interferes and assumes control so as to create the relation of master and servant or so that an injury results which is traceable to his interference.

155. Accordingly, Defendant is liable for the torts committed by Mr. Belew.

156. As set out above, injunctive relief is warranted to ensure that Defendant's actions will not recur with Plaintiff and/or additional persons.

157. Plaintiff is therefore entitled to injunctive relief, compensatory damages, punitive damages as well as an award of attorneys' fees, costs, and disbursements pursuant to Ga. Code Ann. §§ 51-12-4, 51-12-5, 51-12-5.1, 51-12-7 and/or common law.

CLAIM VII: NEGLIGENCE

158. Plaintiff repeats and re-alleges all preceding paragraphs in support of this claim.

159. Pursuant to Ga. Code Ann. § 51-1-2, "ordinary diligence is that degree of care which is exercised by ordinarily prudent persons under the same or similar circumstances. As applied to the preservation of property, the term "ordinary diligence" means that care which every prudent man takes of his own property of a similar nature. The absence of such diligence is

termed ordinary negligence.”

160. Defendant had a duty to Tracy Nix to provide safe, properly licensed, properly vetted, interpretive services to Plaintiff.

161. Defendant also had a duty to provide Tracy Nix with medical services in a safe and private environment.

162. Defendant breached its duties of ordinary care to Tracy Nix in the following particulars:

1. by providing an unlicensed and uncertified interpreter to Tracy Nix;
2. by allowing Mr. Belew, to accompany Ms. Nix into private medical appointments;
3. by allowing Mr. Belew to see Ms. Nix in partial states of undress;
4. by leaving Ms. Nix in rooms alone with Mr. Belew – a man who is neither an interpreter nor a medical professional.
5. By failing to provide effective communication to Plaintiff, etc.

163. Defendant's actions and omissions proximately caused Tracy Nix' severe emotional distress and other damages.

164. Accordingly, Defendant was negligent as defined by Georgia state law.

165. Plaintiff is therefore entitled to injunctive relief, compensatory damages, punitive damages as well as an award of attorneys' fees, costs, and disbursements pursuant to Ga. Code Ann. §§ 51-12-4, 51-12-5, 51-12-5.1, 51-12-7 and/or common law.

CLAIM VIII: NEGLIGENT HIRING BY ADVANCED UROLOGY

166. Plaintiff repeats and re-alleges all preceding paragraphs in support of this claim.

167. At all times relevant to this action, Ga. Code Ann. § 34-7-20 has been in full force and effect and has applied to Defendant's conduct.

168. Pursuant to Ga. Code Ann. § 34-7-20, “The employer is bound to exercise ordinary care

in the selection of employees and not to retain them after knowledge of incompetency.

169. As an individual with no training in ASL interpretation and with no background in medical services, Dalton Belew was incompetent to serve as an ASL interpreter for Ms. Nix in Defendant's facilities.

170. Upon information and belief, Defendant knew that Mr. Belew was incompetent and hired him nonetheless.

171. Defendant's actions and omissions in hiring Mr. Belew proximately caused Tracy Nix' severe emotional distress and other damages.

172. Accordingly, Defendant engaged in negligent hiring as defined by Ga. Code Ann. § 34-7-20 and its implementing regulations.

173. Plaintiff is therefore entitled to injunctive relief, compensatory damages, punitive damages as well as an award of attorneys' fees, costs, and disbursements pursuant to Ga. Code Ann. §§ 51-12-4, 51-12-5, 51-12-5.1, 51-12-7 and/or common law.

CLAIM IX: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

174. Plaintiff repeats and re-alleges all preceding paragraphs in support of this claim.

175. Georgia law recognizes the tort of intentional infliction of emotional distress. *Thomas v. Ronald A. Edwards Constr. Co.*, 163 Ga. App. 202 (293 SE2d 383) (1982); *Dunn v. Western Union Tel. Co.*, 2 Ga. App. 845 (59 SE 189) (1907).

176. The elements of a cause for intentional infliction of emotional distress are for intentional infliction of emotional distress are: (1) intentional or reckless conduct; (2) that is extreme and outrageous; (3) a causal connection between the wrongful conduct and the emotional distress; and (4) severe emotional distress. *Bridges v. Winn-Dixie Atlanta*, 176 Ga. App. 227, 230 (1) (335 SE2d 445) (1985); *Jarrard v Ups*, 242 Ga App 58, 59, 529 SE2d 144, 146 (2000).

177. Defendant engaged in, instigated, and directed a course of extreme and outrageous conduct with the intention of causing, or reckless disregard of the probability of causing, emotional distress to Plaintiff.
178. As a proximate result of the acts alleged herein Plaintiff suffered severe or extreme emotional distress, entitling her to damages in an amount to be proven at trial.
179. As set out above, Defendant is further liable for those fraudulent acts undertaken by Dalton Belew.
180. Dalton Belew engaged in, instigated, and directed a course of extreme and outrageous conduct with the intention of causing, or reckless disregard of the probability of causing, emotional distress to Plaintiff.
181. Plaintiff is therefore entitled to injunctive relief, compensatory damages, punitive damages as well as an award of attorneys' fees, costs, and disbursements pursuant to Ga. Code Ann. §§ 51-12-4, 51-12-5, 51-12-5.1, 51-12-7 and/or common law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court grant the following relief:

- a. Enter a declaratory judgment, pursuant to Rule 57 of the Federal Rules of Civil Procedure, stating that Defendant's policies, procedures, and practices have subjected Plaintiff to unlawful discrimination in violation of Title III of the Americans with Disabilities Act, Section 504 of the RA, Section 1557 of the Patient Protection and Affordable Care Act.
- b. Enjoin Defendant from implementing or enforcing any policy, procedure, or practice that discriminates against deaf and hard-of-hearing individuals;
- c. Order Defendant:
 - i. to develop, implement, promulgate, and comply with a policy prohibiting

future discrimination against Plaintiff or other deaf or hard of hearing individuals by failing to provide effective communication;

- ii. to develop, implement, promulgate, and comply with a policy to ensure that Defendant will consider the communication needs of deaf individuals who seek Defendant's goods and/or services and will affirmatively work with deaf individuals to provide effective auxiliary aids and services to make their services accessible;
- iii. to train all its employees, staff, and other agents on a regular basis about the rights of individuals who are deaf, hard of hearing, under the ADA and other federal, state, and local civil rights laws.

d. Award to Plaintiff:

- i. Compensatory damages pursuant to Title III of the ADA, Section 504 of the Rehabilitation Act, Section 1557 of the Patient Protection and Affordable Care Act, Ga. Code Ann. § 30-4-2, and Ga. Code Ann. §§ 51-12-4, 51-12-5.
- ii. Punitive damages pursuant to O.C.G.A. § 51-12-5.1 and Ga. Code Ann. § 10-1-399.
- iii. Reasonable costs and attorneys' fees pursuant to the ADA, the RA, the ACA, and O.C.G.A. § 51-12-5.7;
- iv. Interest on all amounts at the highest rates and from the earliest dates allowed by law;
- v. Any and all other relief that this Court finds necessary and appropriate.

JURY DEMAND

Plaintiff demands trial by jury for all of the issues a jury properly may decide, and for all

of the requested relief that a jury may award.

Dated: October 5, 2018

Respectfully submitted,

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212-353-1708 (fax)
Attorneys for Plaintiff

By:



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/s/ James Radford
James Radford
Georgia Bar No. 108007

CIVIL COVER SHEET

The JS44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

I. (a) PLAINTIFF(S)

TRACY NIX

DEFENDANT(S)

ADVANCED UROLOGY INSTITUTE OF GEORGIA, PC,

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Walton
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Gwinnett
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)

Andrew Rozynski, 24 Union Square East, Fourth Floor
New York, NY 10003, 212-353-8700,
arozynski@eandblaw.com and James Radford, 315
W.Ponce de Leon Ave., Decatur, GA 30030, (678)
271-0302, james@decaturlegal.com

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. GOVERNMENT PLAINTIFF
- 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)
- 2 U.S. GOVERNMENT DEFENDANT
- 4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) (FOR DIVERSITY CASES ONLY)

- | PLF | DEF | | PLF | DEF | |
|----------------------------|----------------------------|---|----------------------------|----------------------------|---|
| <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | CITIZEN OF THIS STATE | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 | INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | CITIZEN OF ANOTHER STATE | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | CITIZEN OR SUBJECT OF A FOREIGN COUNTRY | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 | FOREIGN NATION |

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 ORIGINAL PROCEEDING
- 2 REMOVED FROM STATE COURT
- 3 REMANDED FROM APPELLATE COURT
- 4 REINSTATED OR REOPENED
- 5 TRANSFERRED FROM ANOTHER DISTRICT (Specify District)
- 6 MULTIDISTRICT LITIGATION - TRANSFER
- 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT
- 8 MULTIDISTRICT LITIGATION - DIRECT FILE

V. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

This is an action for discrimination on the basis of disability, brought pursuant to Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. § 12131, and Section 504 of the Rehabilitation Act of 1973 (Rehabilitation Act), 29 U.S.C. § 701.

(IF COMPLEX, CHECK REASON BELOW)

- 1. Unusually large number of parties.
- 2. Unusually large number of claims or defenses.
- 3. Factual issues are exceptionally complex.
- 4. Greater than normal volume of evidence.
- 5. Extended discovery period is needed.
- 6. Problems locating or preserving evidence.
- 7. Pending parallel investigations or actions by government.
- 8. Multiple use of experts.
- 9. Need for discovery outside United States boundaries.
- 10. Existence of highly technical issues and proof.

CONTINUED ON REVERSE

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT \$ _____ APPLYING IFP _____ MAG. JUDGE (IFP) _____
 JUDGE _____ MAG. JUDGE _____ (Referral) NATURE OF SUIT _____ CAUSE OF ACTION _____

VI. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK

- 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- 152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
- 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- 110 INSURANCE
- 120 MARINE
- 130 MILLER ACT
- 140 NEGOTIABLE INSTRUMENT
- 151 MEDICARE ACT
- 160 STOCKHOLDERS' SUITS
- 190 OTHER CONTRACT
- 195 CONTRACT PRODUCT LIABILITY
- 196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 210 LAND CONDEMNATION
- 220 FORECLOSURE
- 230 RENT LEASE & EJECTMENT
- 240 TORTS TO LAND
- 245 TORT PRODUCT LIABILITY
- 290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- 310 AIRPLANE
- 315 AIRPLANE PRODUCT LIABILITY
- 320 ASSAULT, LIBEL & SLANDER
- 330 FEDERAL EMPLOYERS' LIABILITY
- 340 MARINE
- 345 MARINE PRODUCT LIABILITY
- 350 MOTOR VEHICLE
- 355 MOTOR VEHICLE PRODUCT LIABILITY
- 360 OTHER PERSONAL INJURY
- 362 PERSONAL INJURY - MEDICAL MALPRACTICE
- 365 PERSONAL INJURY - PRODUCT LIABILITY
- 367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
- 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 370 OTHER FRAUD
- 371 TRUTH IN LENDING
- 380 OTHER PERSONAL PROPERTY DAMAGE
- 385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- 422 APPEAL 28 USC 158
- 423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- 440 OTHER CIVIL RIGHTS
- 441 VOTING
- 442 EMPLOYMENT
- 443 HOUSING/ ACCOMMODATIONS
- 445 AMERICANS with DISABILITIES - Employment
- 446 AMERICANS with DISABILITIES - Other
- 448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- 462 NATURALIZATION APPLICATION
- 465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- 463 HABEAS CORPUS- Alien Detainee
- 510 MOTIONS TO VACATE SENTENCE
- 530 HABEAS CORPUS
- 535 HABEAS CORPUS DEATH PENALTY
- 540 MANDAMUS & OTHER
- 550 CIVIL RIGHTS - Filed Pro se
- 555 PRISON CONDITION(S) - Filed Pro se
- 560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- 550 CIVIL RIGHTS - Filed by Counsel
- 555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
- 690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- 710 FAIR LABOR STANDARDS ACT
- 720 LABOR/MGMT. RELATIONS
- 740 RAILWAY LABOR ACT
- 751 FAMILY and MEDICAL LEAVE ACT
- 790 OTHER LABOR LITIGATION
- 791 EMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- 820 COPYRIGHTS
- 840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- 830 PATENT
- 835 PATENT-ABBREVIATED NEW DRUG APPLICATIONS (ANDA) - a/k/a Hatch-Waxman cases

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- 861 HIA (1395f)
- 862 BLACK LUNG (923)
- 863 DIWC (405(g))
- 863 DIWW (405(g))
- 864 SSID TITLE XVI
- 865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- 870 TAXES (U.S. Plaintiff or Defendant)
- 871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- 375 FALSE CLAIMS ACT
- 376 Qui Tam 31 USC 3729(a)
- 400 STATE REAPPORTIONMENT
- 430 BANKS AND BANKING
- 450 COMMERCE/ICC RATES/ETC.
- 460 DEPORTATION
- 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
- 480 CONSUMER CREDIT
- 490 CABLE/SATELLITE TV
- 890 OTHER STATUTORY ACTIONS
- 891 AGRICULTURAL ACTS
- 893 ENVIRONMENTAL MATTERS
- 895 FREEDOM OF INFORMATION ACT
- 899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION
- 950 CONSTITUTIONALITY OF STATE STATUTES

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- 410 ANTI-TRUST
- 850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- 896 ARBITRATION (Confirm / Vacate / Order / Modify)

*** PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

VII. REQUESTED IN COMPLAINT:

CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$ _____

JURY DEMAND YES NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

VIII. RELATED/REFILED CASE(S) IF ANY

JUDGE _____ DOCKET NO. _____

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
- 5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
- 6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. _____, WHICH WAS DISMISSED. This case IS IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.

/s/ James Radford

October 5, 2018

SIGNATURE OF ATTORNEY OF RECORD

DATE