

No. 2015-0173

In the Supreme Court of Ohio

**ORIGINAL ACTION SEEKING WRIT OF
PROHIBITION**

STATE ex rel. AYMAN DAHMAN, M.D., ET AL.,

Relators,

v.

THE HONORABLE BRIAN J. CORRIGAN, ET AL.

Respondents.

**BRIEF OF RELATORS AYMAN DAHMAN, M.D. AND
MARY JO ALVERSON, CNM IN OPPOSITION TO
RESPONDENTS' MOTION TO DISMISS**

TIMOTHY J. MCGINTY, Prosecuting
Attorney of Cuyahoga County, Ohio
CHARLES E. HANNAN * (0037153)
Assistant Prosecuting Attorney
**Counsel of Record*
The Justice Center, Courts Tower, 8th Floor
1200 Ontario Street
Cleveland, OH 44113
Telephone: 216.443.7758
Facsimile: 216.443.7602
channan@prosecutor.cuyahogacounty.us

Counsel for Respondents

ANNA MOORE CARULAS (0037161)
DOUGLAS G. LEAK (0045554)
COUNSEL OF RECORD
Roetzel & Andress, LPA
One Cleveland Center, Suite 900
1375 East Ninth Street
Cleveland, OH 44114
Telephone: 216.623.0150
Facsimile: 216.623.0134
acarulas@ralaw.com
dleak@ralaw.com

Counsel for Relators

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel.) CASE NO. 2015-0173
AYMAN DAHMAN, M.D. AND)
MARY JO ALVERSON, CNM) ORIGINAL ACTION SEEKING WRIT OF
6900 Pearl Road, Suite 300) PROHIBITION
Middleburg Hts., OH 44130)
)
Relators,) **BRIEF OF RELATORS AYMAN**
) **DAHMAN, M.D. AND MARY JO**
vs.) **ALVERSON, CNM IN OPPOSITION TO**
) **RESPONDENTS' MOTION TO DISMISS**
)
THE HONORABLE BRIAN J.)
CORRIGAN)
Courtroom 22-A)
Cuyahoga County Common Pleas Court)
1200 Ontario Street)
Cleveland, OH 44113)
)
THE HONORABLE JOHN J. RUSSO)
Courtroom 16-D)
Cuyahoga County Common Pleas Court)
1200 Ontario Street)
Cleveland, OH 44113)
)
Respondents.)

Relators Ayman Dahman, M.D. and Mary Jo Alverson, CNM hereby request that this Court deny Respondents' Motion to Dismiss because Relators' Writ of Prohibition undoubtedly states a claim upon which relief can be granted. More specifically, it is patently and unambiguously clear that Respondents Judge Brian J. Corrigan and Judge John J. Russo lacked judicial authority to issue Orders transferring the underlying medical malpractice action for a jury trial directly to Visiting Judge Lillian Greene in violation of Rule 36 of the Rules of Superintendence for the Courts of Ohio, which explicitly mandates the assignment of cases to a judge "by lot," i.e. randomly.

Although an unwritten system has been in place for years in Cuyahoga County to allow for Visiting Judges to handle trials when the originally assigned judge is unavailable, Cuyahoga County does not have any local rules that provide guidance as to how the assignments take place and to assure that the transfer of a case to a Visiting Judge preserves the absolute requirement of “random assignment” per Rule 36 of the Rules of Superintendence. As such, the longstanding practice has been that assignments to a Visiting Judge be by agreement of all parties – an express waiver of the parties’ entitlement to a randomly assigned trial judge. In the event that the parties could not agree to waive their right to having the originally assigned judge handle the trial, then the trial is continued to a date on which the assigned judge is available.

Further proof of Respondents’ continued lack of judicial authority pertaining to Cuyahoga County’s Visiting Judge Program has materialized since the filing of Relators’ Writ of Prohibition.¹ Even after the trial of February 2, 2015 before Visiting Judge Greene was continued and Respondent Judge Corrigan’s unavailability for the original trial date was effectively moot, the case was not returned to Respondent Judge Corrigan’s regularly assigned docket. Instead, the entire case was assigned directly to Visiting Judge Lillian Greene for full and final disposition. In other words, Visiting Judge Greene has replaced originally assigned Respondent Judge Corrigan as the newly assigned Judge.

Relators filed a Motion to Return the Case to the Docket of Judge Corrigan on February 12, 2015. This Motion has not been ruled upon. Also, there are pending Motions to Continue a purportedly new trial date. Although Visiting Judge Greene correctly believed that she did not have jurisdiction/authority to rule upon pending motions, this case remains with

¹ Relators are filing a Motion for Leave to Amend their Complaint for Writ of Prohibition with this Court in conjunction with the filing of this Brief in Opposition.

Visiting Judge Greene even though there does not exist the requisite “conflict” and/or “unavailability” of Respondent Judge Corrigan in order to trigger the Visiting Judge Program.

Finally, contrary to Respondents’ position, a dismissal of Relators’ Writs will inevitably result in irreparable harm for which there exists no other adequate remedy in the course of the law. Prompt and immediate review by this Court is essential in order to resolve Cuyahoga County’s failure to have the appropriate rule(s) in place to properly transfer/assign cases away from the randomly assigned judge to a Visiting Judge without the parties’ consent. Guidance is needed by this Court to ensure that Cuyahoga County’s Visiting Judge Program preserves the protections of Rule 36 of the Rules of Superintendence. At the same time, this Court’s review and disposition of this Writ will prevent Relators from suffering irreparable harm that cannot be avoided by other legal means.

The reasons for denying Respondents’ Motion to Dismiss are set forth in the attached Memorandum.

Respectfully submitted,

s/Douglas G. Leak

ANNA MOORE CARULAS (0037161)

DOUGLAS G. LEAK (0045554)

COUNSEL OF RECORD

Roetzel & Andress, LPA

1375 East 9th Street, 9th Floor

Cleveland, OH 44114

Telephone: 216.623.0150

Facsimile: 216.623.0134

acarulas@ralaw.com

dleak@ralaw.com

Attorneys for Relators

MEMORANDUM

I. INTRODUCTION

The crux of Relators Ayman Dahman, M.D. and Mary Jo Alverson, CNM's Writ of Prohibition is that Respondents The Honorable Brian J. Corrigan and The Honorable John J. Russo lacked subject matter jurisdiction to order the transfer of the underlying medical malpractice action to one particular Visiting Judge instead of transferring/assigning the case "by lot" (randomly) in violation of the dictates of Rule 36 of the Rules of Superintendence for the Courts of Ohio. For several factual and legal reasons as set forth in Relators' Writ of Prohibition, Relators have sufficiently stated a claim upon which relief can be granted. Relators adequately aver in their Writ of Prohibition Respondents' lack of judicial authority that is patently clear and unambiguous.² For example, Relators' Writ adequately alleges the following with supporting evidentiary proof:

12. This original action stems from a medical malpractice action brought by Austin Hastings, a minor, by and through his parents, natural guardians and next friends, Michelle and Brian Hastings, against Relators Dr. Hahman and Ms. Alverson, among others.
13. The underlying medical malpractice action involves the alleged birth injury suffered by Austin Hastings at the time of his delivery.
14. On June 26, 2012, the Hastings filed a Complaint for medical malpractice against Relators and other defendants in *Hastings, et al. v. Southwest General Health Center, et al.*, Cuyahoga County Common Pleas case No. 785788, (Exhibit A).³

² Relators' proposed Amended Complaint will reflect recent developments in the underlying case that further confirm Respondents' lack of subject matter jurisdiction. Once again, this case has now been directly and permanently assigned to Visiting Judge Greene for full and final disposition as opposed to remaining with originally assigned Respondent Judge Corrigan.

³ The Exhibits refer to those attached to Relators' Complaint for Writ of Prohibition.

15. On October 17, 2012, Relators filed an Answer denying all of the Hastings' allegations of negligence. (*Id.*)
16. On June 25, 2014, Respondent Judge Corrigan scheduled the case for a jury trial to commence on February 2, 2015 (*Id.*)
17. At the final pre-trial of January 15, 2015, Respondent Corrigan advised counsel that the trial would likely be handled by a visiting judge, although the identity of the judges or the process for selection was not provided.
18. Thereafter, on January 22, 2015, counsel received an email from Respondent Corrigan's office advising of the two options for visiting judges in February, and there was a response by Relators' counsel as to which selection would be agreeable. (Exhibit B.) Over the subsequent week, there was an expectation on the part of all counsel that the case was scheduled to be transferred to Judge William Coyne for trial, per agreement of all parties. (In fact, on January 27, 2015, a discussion took place between all counsel that they were agreeable to Judge Coyne.)
19. On January 29, 2015, Respondent Corrigan's office informed all counsel that she was informed that "there has been a change in the visiting judge schedule for February. The judges are Judge Coyne and Judge Lillian Greene." (Exhibit C.)
20. Respondent Corrigan's office in the same correspondence, told all counsel that she had been told that "because Judge Greene has seniority and your case is first on the list, she [Judge Greene] will be hearing your case on Monday [February 2, 2015]."
21. There was no explanation as to the identity of the list or any rule, policy, guidelines, etc. as to the basis of saying that "because Judge Greene has seniority and your case is first on the list, she will be hearing your case on Monday." (*Id.*)
22. In response to this notification, on the same day, January 29, 2015, counsel for Relators informed Respondent Corrigan's office of her client's objection to this assignment in violation of Superintendence Rule 36, which requires that their trial be conducted by a randomly assigned judge. (Exhibit D.)

23. Further dialogue took place as to a possible compromise to Respondent Corrigan handling the trial, if all counsel could agree to the presumed, alternative “non-randomly assigned visiting judge” – specifically Judge Coyne. (*Id.*)
24. On January 30, 2015, a conference call took place between all counsel of record and Administrative Judge, Respondent Russo. Relators’ counsel advised the Court that they did not consent to the transfer of the case as indicated was the new plan, as the assignment did not comply with Superintendence Rule 36. In response, Respondent Russo inquired if the parties would agree to try the case before visiting Judge William Coyne. While counsel for Relators and counsel for co-defendants would agree to such an assignment, counsel for Plaintiffs would not agree and instead insisted that the case be tried per “the seniority list” and proceed before Visiting Judge Lillian Greene. (See attached Affidavit.)
25. In response, Respondent Russo advised the parties that he would be compelling them to appear before Judge Lillian Greene for trial on Monday, February 2, 2015, but that the parties could come down that afternoon at 4:30 pm and place their positions on the record. Respondent Russo further indicated that thereafter Relators’ counsel could choose to file the appropriate action. (*Id.*)
26. Shortly thereafter, Respondent Russo’s office called back and indicated there would not be a hearing that afternoon, but that the parties should appear before Judge Lillian Greene on Monday morning, February 2, 2015. (*Id.*)
27. Thereafter, on January 30, 2015, Respondent Judge Corrigan issued an Order referring the case to Respondent Judge Russo for reassignment to a visiting judge for trial. (Exhibit A.)
28. Further, on January 30, 2015, Respondent Russo issued a separate Order transferring the case to Visiting Judge Greene for trial. In his Order of January 30, 2015, Respondent Russo references no rule, policy, guideline, etc. as to the basis for transferring the case to Visiting Judge Greene. (*Id.*)
29. Thereafter, on January 30, 2015, Relators filed a Notice of Objection to Re-Assignment of Trial Judge and Intention to File Writ of Prohibition. (*Id.*)

* * *

31. Respondent Judges Corrigan and Russo have exercised judicial and/or quasi-judicial power by transferring/ assigning the case of *Hastings v. Southwest General Health Center, et al.* away from the randomly assigned presiding judge to an alternative judge without the consent of the parties.
32. Rule 36(B)(1) of the Rules of Superintendence for the Courts of Ohio requires that there be an Individual Assignment System in which cases are assigned “by lot to a judge,” i.e., randomly.
33. Rule 36(B)(1) is an absolute right of the parties and one that can be altered only upon express waiver of the parties.
34. Cuyahoga County does not have a local rule authorizing Judges Corrigan and Russo to directly transfer/assign a case to another judge who is not randomly assigned “by lot.”
35. Cuyahoga County does not have a local rule directing Judges Corrigan and Russo on how to properly transfer/assign cases to a visiting judge by lot (randomly) in accordance with Rule 36 of the Rules of Superintendence for the Courts of Ohio.
36. Further, Respondent Judges Corrigan and Russo have exercised judicial and/or quasi-judicial power by transferring/assigning the case of *Hastings v. Southwest General Health Center, et al.* directly to one particular visiting judge on a reported rotation based on seniority, as opposed to a system to assure that this process is “by lot.”
37. Judges Corrigan and Russo lacked subject matter jurisdiction pursuant to Rule 36 of the Rules of Superintendence for the Courts of Ohio to directly transfer/assign a case to a non-randomly assigned judge without consent and further to one particular visiting judge as opposed to a corresponding transferring/assigning system in which case are transferred/assigned by lot (randomly) to a visiting judge.
38. In this case, the Orders of Judge Corrigan and Judge Russo to transfer/assign the case away from the randomly “by lot” assigned judge to an alternative visiting judge without the parties’ consent, violate the dictates of Rule 36 of the Rules of Superintendence for the Courts of Ohio.

39. The Orders of Judge Corrigan and Judge Russo are not based upon any rules or guidelines that would allow the parties to understand the process and assure that this process preserves the protections of Rule 36 of the Rules of Superintendence for the Courts of Ohio.
40. Further, the Order of Judge Russo assigning the case to one particular visiting judge according to a list that is based on seniority is inconsistent with the dictates of Rule 36 of the Rules of Superintendence for the Courts of Ohio and, consequently, Judges Corrigan and Russo lacked subject matter jurisdiction to enter such orders of transfer/assignment.
41. Since Judges Corrigan and Russo improperly transferred/assigned the case to one particular visiting judge instead of transferring/assigning the case by lot (randomly), both Judge Corrigan and Judge Russo lacked subject matter jurisdiction to issue their respective Orders of January 30, 2015 transferring/assigning the case to Judge Greene to conduct the jury trial on February 2, 2015.
42. Respondent Judges Corrigan and Russo's respective exercise of judicial and/or quasi-judicial power by ordering the transfer/assignment to Judge Greene for trial was unauthorized by law.
43. Relators lack an adequate remedy at law that will timely and wholly prevent Respondent Judges Corrigan and Russo from improperly transferring/assigning this case to Judge Greene.
44. Relators are entitled to a Writ of Prohibition preventing Respondent Judges Corrigan and Russo from acting in a judicial and/or quasi-judicial manner with a patent and ambiguous lack of jurisdiction and authority.
45. Relators are entitled to a Writ of Prohibition ordering Respondent Judges Corrigan and Russo to cease and desist their respective Orders transferring/assigning the case to Judge Greene for trial.

(Relators' Complaint for Writ of Prohibition, ¶¶12-29; 31-45.)

Relators' Complaint for Writ of Prohibition states good grounds for relief as a result of Respondents' exercising of jurisdiction that is not authorized by law.

Relators respectfully submit that Respondents improperly transferred/assigned this case to Visiting Judge Greene for trial and, now, for full and final disposition of all matters. This is a clear violation of Rule 36 of the Rules of Superintendence. Respondents have acted without jurisdiction and have effectively compromised all litigants' rights in Cuyahoga County to have their cases tried before a randomly assigned Judge. Relators urge this Court to deny Respondents' Motion to Dismiss in order to permit the presentation of evidence and the submission of merit briefs.

II. STATEMENTS OF THE CASE AND FACTS

This case was transferred to Visiting Judge Greene for a trial to commence on February 2, 2015.⁴ The only basis for this case being transferred to Visiting Judge Greene was "the unavailability of original Judge Brian J. Corrigan." (See Orders of January 30, 2015, Exhibit "A" to Complaint for Writ of Prohibition.)

Relators took issue with the manner in which this case was transferred to Visiting Judge Greene. More specifically, Relators objected to the transfer of this case to Visiting Judge Greene because: (1) the transfer was without authority per local rules and was inconsistent with the long-established practice in Cuyahoga County of obtaining the parties' consent; and (2) the transfer to Visiting Judge Greene was not done randomly - in violation of Rule 36 of the Rules of Superintendence for the Courts of Ohio. Consequently, on February 1, 2015, Relators e-filed with this Court a Complaint for Writ of Prohibition and Alternative Writ.⁵

Additionally, after a conference conducted by Visiting Judge Greene on the morning of February 2, 2015 to discuss the procedural issues with the Writ of Prohibition, Respondents left

⁴ At this point, Relators will not repeat all of the chronology of events surrounding the transfer of this case to Visiting Judge Greene for trial. Those events are set forth in Relators' Complaint for Writ of Prohibition and above in the Introduction section, pp. 5-9 (Writ of Prohibition at ¶¶ 12-29).

⁵ Relators' Complaint for Writ of Prohibition was docketed on February 2, 2015.

that conference with a good faith belief that Visiting Judge Greene could not be fair and impartial toward Relators. As such, Relators filed an Affidavit of Disqualification against Visiting Judge Greene on February 2, 2015. (See Exhibit “A” attached hereto.)⁶ These proceedings immediately stayed the proceedings with Visiting Judge Greene, including the trial.

On February 5, 2015, this Court denied the Affidavit of Disqualification. However, it must be noted that this Court did not instruct Visiting Judge Greene to proceed with the case. Instead, this Court stated that “[t]he case **may** proceed before Judge Greene.” (See Exhibit “B” attached hereto.) By this time, this case could not proceed to trial due to scheduling issues with the parties and their respective expert witnesses. In fact, on February 5, 2015, Co-Defendant Dr. O’Neill filed a Motion to Continue the trial date since she was no longer available for trial. (See Exhibit “C,” attached hereto, the most recent Docket for the underlying case.)

On Friday, February 6, 2015, the parties were informed that this case would not proceed to trial at that time. (See Affidavit of Anna M. Carulas, Esq. attached hereto as Exhibit “D”.) The parties were further instructed to appear before Visiting Judge Greene on the morning of Monday, February 9, 2015 because Visiting Judge Greene would now be handling this entire case, i.e. to rule upon the pending motions and to conduct the trial. (*Id.*)

On February 9, 2015, the parties appeared before Visiting Judge Greene. At the outset of the conference, Relators’ counsel raised an objection on jurisdictional grounds to Visiting Judge Greene proceeding with the rescheduling of the trial and the handling of the case going forward. It was agreed that the parties could note their objections on the record but, logistically, a trial date would first be set. (*Id.*)

⁶ The Exhibits attached to this Brief in Opposition are the supporting attachments to Relators’ proposed Amended Complaint. So, in considering Respondents’ Motion to Dismiss, Relators’ supplemental support for their writ is attached to their proposed Amended Complaint for Writ of Prohibition.

The parties were advised that because Visiting Judge Greene was scheduled to serve as a Visiting Judge during the month of April that the trial would be rescheduled during that time. The date of April 6, 2015 was selected, despite the fact that counsel for Relators advised that she was already engaged counsel for trial of the case of *Churchill v. LabCorp* in Franklin County and, further, that Relator Dr. Dahman was scheduled to be on vacation that week. The objection was placed on the record. At this time, an issue was raised as to who should rule on motions and Judge Greene indicated that motions should be filed with Respondent, Judge Corrigan. (*Id.*) (*See also* transcript of Feb. 9, 2015 hearing, attached hereto as Exhibit “E”).

Although the trial date of April 6, 2015 was never journalized, there is an Entry on the Docket without an attached Order which states:

Visiting Judge Lillian J. Greene Assigned to case (Manually).

(Exhibit “C”).

On February 12, 2015, Relators filed a Motion to Return This Case to The Docket of Judge Brian J. Corrigan for Ruling on the Motions to Continue, Motions in Limine, Trial and Final Disposition of the Case. (*Id.*) Relators moved Respondent Judge Corrigan to issue an Order returning this case to his regularly assigned docket in order to rule upon a pending Motion to Continue the Trial Date, reschedule a trial date and future handling of this case. The bases for returning this case to Respondent Judge Corrigan’s docket were: (1) the reason for the original transfer of this case for trial to the Visiting Judge Program no longer existed, i.e. Respondent Judge Corrigan’s unavailability for the February 2, 2015 trial date was now moot; and (2) this case should remain assigned to Respondent Judge Corrigan until final disposition.

Presently pending before Respondent Judge Corrigan are the Motion to Return this case to his docket and two Motions to Continue the trial date. Counsel for Relators was recently

advised that the parties are to choose a trial date for trial of the case before Judge Greene (Exhibit D).

So, as it stands now, Respondent Judge Corrigan is not unavailable for a trial. Yet, Respondent Judge Corrigan has transferred/assigned this case to Visiting Judge Greene for full and final disposition.

III. LAW AND ARGUMENT

Instead of addressing the sufficiency of Relators' allegations in their Writ of Prohibition as required by Civ. R. 12(B)(6), Respondents are improperly requesting this Court to summarily dispose of this case on its merits without the presentation of evidence or submission of merit briefs. Despite Respondents' claims, Relators have alleged sufficient facts and legal grounds in their Writ to defeat Respondents' Civ. R. 12(B)(6) Motion to Dismiss.

A Civ. R. 12(B)(6) motion to dismiss for failure to state a claim may be granted only when it appears beyond doubt from the face of the petition, presuming the allegations contained therein are true, that the relator can prove no facts which would warrant the relief sought. *State ex rel. Bush v. Spurlock*, 42 Ohio St.3d 77, 537 N.E.2d 641 (1989). A motion to dismiss should be denied where the petition contains, with sufficient particularity, a statement of the relief sought and provides the respondent with reasonable notice of the claim asserted. *State ex rel. Hanson vs. Guernsey*, 65 Ohio St.3d 545, 605 N.E.2d 378 (1992). In addressing a motion to dismiss pursuant to Civ. R. 12(B)(6), all factual allegations are presumed true and all reasonable inferences are made in the non-moving party's favor. *Goudlock v. Voorhies*, 119 Ohio St.3d 398, 2008-Ohio-4787, 894 N.E.2d 692.

Civil Rule 12(B)(6) motions attack the sufficiency of the complaint and may not be used to summarily review the merits of a petition for relief. *State ex rel. Horwitz v. Cuyahoga Cty*

Court of Common Pleas, Probate Div., 650 Ohio St.3d 323, 603 N.E.2d 1005 (1992). A dismissal pursuant to Civ. R. 12(B)(6) based upon the merits is unusual and should be granted with great caution rather than setting forth a new standard. *State ex rel. Edwards v. Toledo City Sch. Dist. Bd. Of Educ.*, 72 Ohio St.3d 106, 647 N.E.2d 799 (1995).

In this case, instead of addressing the sufficiency of Relators' allegations in their Writ of Prohibition, Respondents are simply asking this Court to engage in a summary review of the merits without the benefit of the presentation of evidence or the submission of merit briefs. Respondents' Civ. R. 12(B)(6) Motion lacks merit because it fails to adequately refute Relators' allegations that relief in Prohibition is available in order to restrain Respondents from acting in excess of his lawful jurisdiction.

Respondents exceeded their lawful subject matter jurisdiction by erroneously transferring/assigning the underlying medical malpractice trial directly to one judge instead of through a system that would ensure a trial before a randomly selected judge as required by Rule 36 of the Rules of Superintendence. Respondents' Motion to Dismiss must be denied so that this case can proceed on the merits.

A. Relators' Writ of Prohibition States Good Grounds for Relief in Prohibition Because Respondents' Conduct Lacks Subject Matter Jurisdiction

In order to obtain a writ of prohibition, the relator must show that (1) the court against whom the writ is sought is exercising or about to exercise judicial power; (2) the exercise of that power is authorized by law; and (3) denial of the writ will simply result in jury for which no other adequate remedy exists in the ordinary course of the law. *State ex rel. Cleveland Elec. Illum. Co. v. Cuyahoga Cty Court of Common Pleas*, 88 Ohio St.3d 447, 727, N.E. 2d 900 (2000). If a respondent patently and unambiguously lacks jurisdiction, a writ of prohibition will not only correct the results of the jurisdictionally unauthorized action, but will also prevent any

future unauthorized exercise of jurisdiction. *State ex rel. Engelhart v. Russo*, 131 Ohio St.3d 137, 961 N.E. 2d 118, 2012-Ohio-47. The third requirement of a lack of an adequate remedy of law need not be proven in cases of patent and unambiguous lack of jurisdiction. *State ex rel. Cleveland v. Sutula*, 127 Ohio St.3d 131, 937 N.E. 2d 88, 2010-Ohio-5039.

In the instant case, there is no dispute that Respondents were exercising judicial power in transferring/assigning this case to Visiting Judge Lillian Greene. The fundamental question in this case is whether the exercise of judicial power by Respondents patently and unambiguously lacked jurisdiction. The reasons that follow, Relators' Writ of Prohibition sufficiently pleads facts showing that Respondents' exercise of judicial power was patently and unambiguously unauthorized by law.

1. Respondents Did Not Have Jurisdiction to Transfer/Assign This Case for Trial on a Non-Random Basis

Rule 36(B)(1) of the Rules of Superintendence for the Courts of Ohio requires that there be an Individual Assignment System in which cases are assigned "by lot to a judge," i.e., randomly. Rule 36(B)(1) is an absolute right of the parties and one that can be altered only upon express waiver of the parties.

Cuyahoga County does not have a local rule authorizing Respondents Judge Corrigan and Judge Russo to directly transfer/assign a case to another judge who is not randomly assigned "by lot." Cuyahoga County does not have a local rule directing Respondents Judge Corrigan and Judge Russo on how to properly transfer/assign cases to a visiting judge by lot (randomly) in accordance with Rule 36 of the Rules of Superintendence for the Courts of Ohio.

Further, Respondents Judge Corrigan and Judge Russo have exercised judicial and/or quasi-judicial power by transferring/assigning this case directly to one particular visiting judge

on a reported rotation based on seniority, as opposed to a system to assure that this process is “by lot.” Respondents Judge Corrigan and Judge Russo lacked subject matter jurisdiction pursuant to Rule 36 of the Rules of Superintendence for the Courts of Ohio to directly transfer/assign a case to a non-randomly assigned judge without consent and further to one particular visiting judge as opposed to a corresponding transferring/assigning system in which cases are transferred/assigned by lot (randomly) to a visiting judge.

The Orders of Respondents Judge Corrigan and Judge Russo to transfer/assign the case away from the randomly “by lot” assigned judge to an alternative visiting judge, without the parties’ consent, violate the dictates of Rule 36 of the Rules of Superintendence for the Courts of Ohio. The Orders of Respondents Judge Corrigan and Judge Russo are not based upon any rules or guidelines that would allow the parties to understand the process and assure that this process preserves the protections of Rule 36 of the Rules of Superintendence for the Courts of Ohio. Further, the Order of Respondent Judge Russo assigning the case to one particular visiting judge according to a list that is based on seniority is inconsistent with the dictates of Rule 36 of the Rules of Superintendence for the Courts of Ohio and, consequently, Respondents Judge Corrigan and Judge Russo lacked subject matter jurisdiction to enter such orders of transfer/assignment.

Additionally, Respondent Judge Corrigan continues to lack subject matter jurisdiction to permanently transfer/assign this case to Visiting Judge Greene despite the fact that he is not unavailable. Respondent Judge Corrigan has effectively created a separate and independent docket for Visiting Judge Greene as opposed to maintaining this case on his originally assigned docket. Clearly, the permanent transfer/assignment to Visiting Judge Greene violates Rule 36 of the Rules of Superintendence.

Respondents Judge Corrigan and Judge Russo's respective exercise of judicial and/or quasi-judicial power by ordering the transfer/assignment to Judge Greene for trial was unauthorized by law. As such, Relators are entitled to a Writ of Prohibition preventing Respondents Judge Corrigan and Judge Russo from acting in a judicial and/or quasi-judicial manner with a patent and ambiguous lack of jurisdiction and authority.

2. After the Continuance of the Trial Date at Issue, Respondents Continue to Lack Jurisdiction to Permanently Assign This Case to Visiting Judge Greene for Full and Final Disposition Even Though Respondent Judge Corrigan is Not Unavailable

The Cuyahoga County Court of Common Pleas has not adopted a local rule pursuant to Rule 36(B)(2) of The Rules of Superintendence with respect to the assignment of cases to the Visiting Judge Program. As evidenced by the Orders of January 30, 2015, however, it cannot be disputed that a prerequisite for the transfer of a case away from the originally randomly assigned presiding judge is the "unavailability" of the presiding judge, i.e. Respondent Judge Corrigan in this case. Indeed, the original transfer of the case from Respondent Judge Corrigan to "a visiting judge" was "**because of a conflict on the docket of the original judge.**" (See Exhibit "B" hereto, Order of January 30, 2015.) Further, the specific assignment to Visiting Judge Greene for trial was "**due to the unavailability of Original Judge Brian J. Corrigan.**" (*Id.*)

In addition to the original transfer of the case on January 30, 2015 being unauthorized, there cannot be any question that there is absolutely no authority for this case to be presently assigned on a permanent basis to Visiting Judge Lillian Greene, when Respondent Judge Corrigan was no longer "unavailable."

Rule 36(B)(1) of the Ohio Rules of Superintendence specifically states that:

Upon the filing in or transfer to the court or a division of the court, a case immediately is assigned by lot to a judge of the division, who becomes primarily responsible for the determination of every issue and proceeding in the case until its termination. All preliminary matters, including requests for continuances, shall be submitted for disposition to the judge to whom the case has been assigned, **or if the assigned judge is unavailable**, to the administrative judge.

(Emphasis added.)

Rule 36(D) also specifically provides that dismissed and refiled cases must be returned to the judge originally assigned “by lot.” Further, case law across Ohio has consistently held that the only circumstance in which the originally assigned judge does not handle the case is in the event of the “unavailability” of the original judge. See *Silverman vs. American Income Life Ins. Co. of Indianapolis*, 10th Dist. Nos. 01AP-338, 01AP-339, 2001-Ohio-8890; see also *Levy vs. Stokes*, 8th Dist. Nos. 38070 and 38071, 1978 WL 218304 (Dec. 14, 1978)(the originally assigned judge is responsible for the determination of every proceeding in the case until its termination unless the assigned judge is “unavailable.”)

Here, the February 2, 2015 trial date was cancelled. Indisputably, no new trial date was ever journalized. As such, it logically follows that without any trial date scheduled, Respondent Judge Corrigan cannot conceivably be unavailable for the purpose of the Visiting Judge Program. Consequently, Visiting Judge Greene cannot be assigned this case. Yet, Visiting Judge Greene is presently assigned as the judge to handle all matters in replacement of originally assigned Respondent Judge Corrigan.

It is anticipated that Respondents will argue that this case should remain with Visiting Judge Greene since she was previously assigned to try this case on February 2, 2015 and the ruling on the Affidavit of Disqualification stated the case **may** proceed before Judge Greene. First of all, there is no provision in the Ohio Rules of Superintendence, Cuyahoga County Local

Rules or case law that supports a permanent re-assignment of a case to a Visiting Judge, when there is no evidence that the presiding judge is “unavailable.” Secondly, the determination on the Affidavit of Disqualification was not a jurisdictional determination and did not order that further proceedings and trial should proceed before Visiting Judge Greene. Indeed, the Visiting Judge Program is not intended to permanently reassign a case to a Visiting Judge for full and final disposition. To allow such a practice could effectively create an individual docket system for a Visiting Judge without the controls assured by the random assignment requirement.

This Court addressed this issue in the matter of *State ex rel. Peffer v. Russo*, 110 Ohio St.3d 175, 2006-Ohio-4092, 852 N.E. 2d 170. In *Peffer*, this Court stated:

The case was called to trial on July 13, 2005, but because Judge Russo was conducting a criminal trial, she offered to have the case assigned to a visiting judge. The parties refused⁷ but indicated that they would stipulate to have the case submitted to a private judge.

Peffer, supra at ¶3. Subsequent to this, one of the parties withdrew consent to the transfer to a private judge. Because the case had not yet proceeded to trial, the proper route was for the case to be returned to the judge originally assigned “by lot.” *Id.* at ¶16.

Respondent Judge Corrigan is the originally assigned judge pursuant to the Rules of Superintendence and Respondent Judge Corrigan cannot presently be deemed unavailable for the purpose of a trial date set in the future. Consequently, this case should have been returned to the docket of Respondent Judge Corrigan for final disposition.

Additionally, currently pending are two separate Motions for Continuance. The bases for these pending Motions to Continue is that the April 6, 2015 date selected for Visiting Judge Greene’s month of duty in April conflicts with Defendants’ prescheduled family vacations.

⁷ The Plaintiff’s attorneys in the above-cited *Peffer* case are the same firm as in this lawsuit. The refusal of all parties in the *Peffer* case to the transfer of the case to a retired visiting judge is the standard practice referred to in this Writ.

Pursuant to Rule 36(B)(1) of The Rules of Superintendence for the Courts of Ohio, the originally assigned judge to a case is the only Judge authorized to rule on these Motions. Rule 36(B)(1) states that Respondent Judge Corrigan:

becomes primarily responsible for the determination of every issue and proceeding in the case until its termination. **All preliminary matters, including requests for continuances, shall be submitted for disposition to the judge to whom the case has been assigned** or, if the assigned judge is unavailable, to the administrative judge.

(Emphasis added.)

Since Rule 36(B)(1) explicitly states that the assigned judge must rule upon requests for continuances, this case should have been returned to Respondent Judge Corrigan's docket. By recently instructing Visiting Judge Greene to rule upon the Motions to Continue and assume the case for full and final disposition, Respondent Judge Corrigan has continued to act without jurisdiction.

B. Respondents' Motion to Dismiss Should Be Denied Because Relators Do Not Have an Adequate Remedy of Law

As previously mentioned, in cases of patent and unambiguous lack of jurisdiction, the requirement of a lack of an adequate remedy at law need not be proven because alternative remedies, like an appeal, would be immaterial or meaningless. *State ex rel. State v. Lewis*, 99 Ohio St.3d 97, 2003-Ohio-2476, 789 N.E.2d 195. In this case, it is patently and unambiguously clear that Respondents lacked jurisdiction to transfer/assign this case for trial on a non-random basis, without consent. Consequently, whether Relators are entitled to an adequate remedy at law is immaterial to their Writ for Prohibition.

However, if this Court is inclined to find that Respondents were not patently and/or unambiguously without jurisdiction, Relators remain without an adequate remedy at law. There exists no adequate remedy of law that would eliminate the irreparable harm that would inevitably

result if Relators are required to proceed with trial in this medical negligence action that was not properly transferred/assigned by lot (randomly) to a judge in accordance with Rule 36 of the Rules of Superintendence.

Additionally, the time and expenses (i.e. attorney's fees, expert fees, court time, etc.) that will inevitably involve a trial, a direct appeal and potentially a second trial would be overwhelming. Trial of medical malpractice cases are extremely complicated, expensive and time consuming. To proceed now with an improperly transferred/assigned case for trial with an adverse result to Relators will undoubtedly result in an appeal from a trial that would likely result in a new trial, a second trial and potentially a second appeal. Relators' Writ would assure that a properly transferred/assigned case for trial would be conducted in the appropriate manner in the first instance.

This case warrants prompt and orderly disposition so that there is not a waste of judicial resources, costs, expenses, etc. This Court's consideration of Relators' Writ of Prohibition will avoid the unnecessary litigation costs that will inevitably be incurred with a trial, an appeal and potentially a second trial. More importantly, the irreparable harm to the judicial system and all litigants throughout Cuyahoga County is clear and convincing. In other words, this Court's consideration herein would be beneficial to the prompt and orderly disposition of justice.

Despite Respondents' argument to the contrary, Relators do not have an adequate remedy at law that would eliminate the irreparable harm that they would ultimately suffer if required to proceed with a trial before a non-randomly assigned judge.

IV. CONCLUSION

In denying Relators their right to have this medical malpractice case tried before a randomly assigned judge, Respondents have clearly exceeded their jurisdictional authority. It is

patently and unambiguously clear that Respondents erroneously transferred/assigned this case in violation of Rule 36 of the Rules of Superintendence and, therefore, they lacked judicial authority in this case. Additionally, Respondents have further acted without jurisdiction by permanently and directly transferring/assigning this case to Visiting Judge Greene for full and final disposition where the requisite “unavailability” of Respondent Judge Corrigan no longer exists.

In their Writ of Prohibition, Relators have sufficiently alleged the grounds upon which they are entitled to relief. To the contrary, Respondents’ Motion to Dismiss does not sufficiently challenge Relators’ allegations and, thus, their Motion to Dismiss is without merit. Accordingly, this Court should deny Respondent’s Motion to Dismiss and this original action should proceed on its merits so that evidence and merit briefs can be submitted for this Court’s consideration.

Respectfully submitted,

s/Douglas G. Leak

Anna Moore Carulas (0037161)
Douglas G. Leak, Esq. (0045554)
COUNSEL OF RECORD
Roetzel & Andress, LPA
1375 East 9th Street, 9th Floor
Cleveland, OH 44114
Telephone: 216.623.0150
Facsimile: 216.623.0134
acarulas@ralaw.com
dleak@ralaw.com
Attorneys for Relators

PROOF OF SERVICE

A copy of the foregoing was served March 9, 2015 via e-mail to:

Pamela Pantages
The Becker Law Firm, LPA
134 Middle Avenue
Elyria, OH 44035
ppantages@beckerlawlpa.com
Attorney for the Hastings Plaintiffs

Paul Flowers
Paul W. Flowers Co., LPA
Terminal Tower, 35th Floor
50 Public Square
Cleveland, Ohio 44113
pwf@pwfco.com
Attorney for the Hastings Plaintiffs

David Krause
Reminger Co., LPA
101 W. Prospect Avenue, Suite 1400
Cleveland, OH 44115
dkrause@reminger.com
Attorney for Johanna O'Neill, M.D. and Southwest General Medical Group, Inc.

s/ Douglas G. Leak

Douglas G. Leak, Esq. (0045554)

IN THE SUPREME COURT OF OHIO

IN RE:)	CASE NO. _____
)	
)	<i>Hastings, et al. v. Southwest General</i>
DISQUALIFICATION OF)	<i>Health Center, et al.</i>
JUDGE LILLIAN GREENE,)	Cuyahoga County Court of
CUYAHOGA COUNTY COURT OF)	Common Pleas Case No. 785788
COMMON PLEAS)	
)	AFFIDAVIT OF DISQUALIFICATION
)	
)	

Now comes Anna Moore Carulas, Esq., being first duly sworn and having personal knowledge of the facts contained herein, according to law, deposes and states the following:

1. This Affidavit of Disqualification is being filed less than seven days prior to the next hearing date because compliance with the seven-day statutory deadline for filing this Affidavit of Disqualification was impossible, since the direct incidence of bias and prejudice of Judge Greene did not occur until the morning of February 2, 2015.

2. Affiant is trial counsel for Defendants Ayman Dahman, MD and Mary Jo Alverson, CNM in the Cuyahoga County Court of Common Pleas case styled *Hastings, et al. v. Southwest General Health Center, et al.*, and thus, I have personal knowledge of all the events at issue herein.

3. On Sunday, February 1, 2015, Defendants, Ayman Dahman, M.D. and Mary Jo Alverson, CNM filed a Writ of Prohibition and Motion for Emergency Stay and Expedited Alternative Writ objecting to the process of re-assigning a case from the randomly-assigned judge to a retired visiting judge, in violation of Rule 36 of the Rules of Superintendence, in the absence of a Cuyahoga County local rule supporting such a transfer and absent consent. (See Ohio Supreme Court Case No. 2015-0173.)

EXHIBIT A

4. On the morning of February 2, 2015, all counsel on the above-captioned case appeared for the first time before retired visiting judge, Lillian E. Greene, pursuant to the Order entered on Friday afternoon, January 30, 2015 by Judges Brian J. Corrigan and John J. Russo transferring this case for jury trial before Judge Greene.

5. At that time, I advised Judge Greene that as counsel for Defendants, Ayman Dahman and Mary Jo Alverson, CNM, we had filed a Complaint for Writ of Prohibition in conjunction with a Motion for Emergency Stay and Expedited Alternative Writ pertaining to the circumstances surrounding the manner in which this case was transferred away from the presiding judge.

6. In response, Pamela Pantages, counsel for Plaintiffs, advised Judge Greene that I had raised an objection of my client ProAssurance specifically about her, given a case Judge Greene had handled for a ProAssurance-insured in the past. After description of the case, Judge Greene indicated that she remembered the case and circumstances involved.

7. By way of background, the *Harris (nee McCleod) v. Mt. Sinai Medical Center* matter was a case wherein the Plaintiffs' counsel was Geoffrey Feigert from Michigan. This case was "spun" from Judge Lillian E. Greene to visiting judge, Robert Lawther. After a 3-week trial, the jury returned a \$30 million verdict against the ProAssurance-insured obstetrician. The ProAssurance-insured defendant filed a Motion for New Trial based on the irregularities of the proceedings, the conduct of Plaintiffs' counsel and the excessive award. The trial judge, Judge Lawther, wrote an extensive opinion and rationale as to why a new trial should be granted for the defense. Thereafter, Judge Greene reinstated the \$30 million verdict for the Plaintiffs. The case proceeded to the appellate level and then subsequently to the Ohio Supreme Court, where Judge Lawther's granting of a new trial was sustained.

8. I responded by indicating that my clients were objecting to being compelled against their consent to appear before any judge other than the randomly assigned presiding judge. Counsel from my office, Attorney Douglas Leak, was also present and indicated that, in light of the filing of the Complaint for Writ of Prohibition and Motion for Emergency Stay and Expedited Alternative Writ, the trial should not go forward until resolution by the Ohio Supreme Court.

9. In response, Judge Greene stated that she was not anxious for this trial to go forward, as it sounds as if “there is a vengeance from 10 years ago.” She continued the trial for one day and advised counsel to further research the issue and return to appear in front of her the following morning, February 3, 2015.

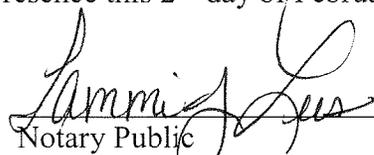
10. Judge Greene’s comment that she perceives the Defendants as acting with vengeance towards her raises a justifiable objection about her ability to be unbiased and unprejudiced in trying this case involving my clients.

Wherefore, this Court should enter an Order disqualifying Judge Lillian E. Greene from presiding over this case.



Anna Moore Carulas (0037161)
Roetzel & Andress, LPA
1375 East 9th Street, 9th Floor
Cleveland, OH 44114
216.623.0150 / 216.623.0134 fax
acarulas@ralaw.com
*Attorney for Defendants Ayman Dahman, MD
and Mary Jo Alverson, CNM*

SWORN TO BEFORE ME and subscribed in my presence this 2nd day of February, 2015.



Notary Public

TAMMI J. LEES, Atty.
NOTARY PUBLIC STATE OF OHIO
My commission expires on **expiration date**
Section 1476.01, R.C.

PROOF OF SERVICE

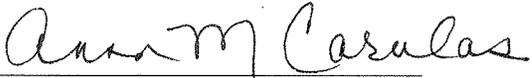
A copy of the foregoing was served February 2, 2015 via e-mail to:

Judge Lillian E. Greene
Cuyahoga County Common Pleas Court
Courtroom 3A, Old Courthouse
One Lakeside Avenue
Cleveland, OH 44113

Pamela Pantages
The Becker Law Firm, LPA
134 Middle Avenue
Elyria, OH 44035
ppantages@beckerlawlpa.com
Attorney for the Hastings Plaintiffs

Paul Flowers
Paul W. Flowers Co., LPA
Terminal Tower, 35th Floor
50 Public Square
Cleveland, Ohio 44113
pwf@pwfco.com
Attorney for the Hastings Plaintiffs

David Krause
Reminger Co., LPA
101 W. Prospect Avenue, Suite 1400
Cleveland, OH 44115
dkrause@reminger.com
Attorney for Johanna O'Neill, M.D. and Southwest General Medical Group, Inc.



Anna Moore Carulas, Esq.

IN THE SUPREME COURT OF OHIO

AUSTIN HASTINGS, ET AL.,

Common Pleas Case No. CV 12 785788

Plaintiffs,

From the Cuyahoga County
Court of Common Pleas

vs.

SOUTHWEST GENERAL HEALTH
CENTER, ET AL.,

Supreme Court Case No. 15-AP-008

Defendants.

Judgment Entry

Anna Moore Carulas, defense counsel in the underlying case, has filed an affidavit with the clerk of this court under R.C. 2701.03 seeking to disqualify Judge Lillian Greene, a retired judge sitting by assignment, from presiding over the trial in case No. CV 12 785788 in the Cuyahoga County Court of Common Pleas.

Carulas claims that at a February 2, 2015 conference—the first meeting between counsel and Judge Greene—plaintiffs’ counsel brought up the fact that Carulas had previously expressed an objection to Judge Greene hearing the underlying case because the judge had ruled against defendants’ insurance carrier in an unrelated matter. According to Carulas, Judge Greene responded that she was not anxious for this trial to go forward if “there is a vengeance from 10 years ago.” Carulas concludes that Judge Greene’s comment “that she perceives the Defendants as acting with vengeance toward her raises a justifiable objection about her ability to be unbiased and unprejudiced in trying this case.” *See Carulas Aff.* at 1-3.

Judge Greene has responded with her own affidavit, averring that she has no bias or prejudice against any party in the underlying proceeding. Judge Greene further states that nothing about the prior case involving defendants’ insurance carrier—which the judge presided

EXHIBIT B

over more than ten years ago—will have an effect on how she conducts the underlying trial. And the judge disputes Carulas’s characterization of her remarks at the February 2 conference. According to Judge Greene, her actual comment upon learning of Carulas’s previous objection was that it “sounded like a vengeance of what happened 10 years ago which has no place in a courthouse or courtroom.” *See* Judge Greene Aff. at 2-3.

Pamela Pantages, counsel for plaintiffs, has also filed an affidavit, averring that Carulas misquoted Judge Greene. According to Pantages, after Judge Greene was apprised of Carulas’s objection, the judge responded that it sounded like a vengeance from ten years ago, “which has no place in the courtroom.” *See* Pantages Aff. at ¶ 15-22.

For the reasons explained below, no basis has been established to order the disqualification of Judge Greene.

As an initial matter, the timeliness of the affidavit warrants discussion. R.C. 2701.03(B) requires that an affidavit of disqualification must be filed “not less than seven calendar days before the day on which the next hearing in the proceeding is scheduled.” This statutory deadline may be set aside, however, “when compliance with the provision is impossible,” such as when the alleged bias or prejudice occurs fewer than seven days before the hearing date. *In re Disqualification of Leskovyansky*, 88 Ohio St.3d 1210, 723 N.E.2d 1099 (1999); *Disciplinary Counsel v. Squire*, 116 Ohio St.3d 110, 2007-Ohio-5588, 876 N.E.2d 933, ¶ 27. Here, Carulas filed her affidavit of disqualification on February 2, 2015, although a hearing was scheduled for the following day. Carulas contends that the affidavit could not have been filed earlier because the “direct incidence of bias and prejudice” occurred at the February 2 conference. *See* Carulas Aff. at ¶ 1, 9. In light of Carulas’s averments, the clerk properly accepted the affidavit for filing

despite the seven-day requirement in R.C. 2701.03(B). See *In re Disqualification of Squire*, 110 Ohio St.3d 1202, 2005-Ohio-7157, 850 N.E.2d 709, ¶ 3.

Turning to the merits, Carulas has not set forth sufficient grounds for disqualification. First, the fact that Judge Greene ruled against defendants' insurance carrier in a prior case does not demonstrate that the judge was then or is now biased against defendants. "State and federal courts have been virtually unanimous in holding that—absent a showing of actual bias—a judge who presided over prior proceedings involving one or more parties presently before the court is not thereby disqualified from presiding over later proceedings involving the same parties." *In re Disqualification of Bryant*, 117 Ohio St.3d 1251, 2006-Ohio-7227, 885 N.E.2d 246, ¶ 4. This principle is especially true here, where defendants' insurance carrier is not a party to the underlying case, and apparently ten years have passed since Judge Greene's previous action involving the insurance company.

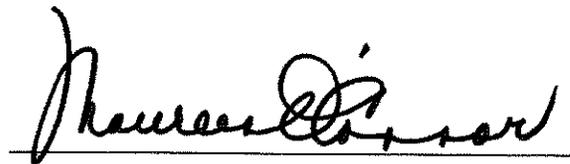
Second, Judge Greene's alleged "vengeance" comment at the February 2 conference does not conclusively demonstrate that she is biased or prejudiced against defendants. In disqualification requests, "[t]he term 'bias or prejudice' 'implies a hostile feeling or spirit of ill-will or undue friendship or favoritism toward one of the litigants or his attorney, with the formation of a fixed anticipatory judgment on the part of the judge, as contradistinguished from an open state of mind which will be governed by the law and the facts.' " *In re Disqualification of O'Neill*, 100 Ohio St.3d 1232, 2002-Ohio-7479, 798 N.E.2d 17, ¶ 14, quoting *State ex rel. Pratt v. Weygandt*, 164 Ohio St. 463, 469, 132 N.E.2d 191 (1956). Here, Judge Greene's choice of words upon learning of Carulas's previous objection may not have been ideal. Attorneys should be free to challenge, in appropriate legal settings, a court's perceived partiality without the court misconstruing the intent of the challenge. See *Disciplinary Counsel v. Shimko*, 134

Ohio St.3d 544, 2012-Ohio-5694, 983 N.E.2d 1300, ¶ 32. However, the judge's comment, by itself, does not prove that the judge has hostile feelings or a spirit of ill will toward Carulas or her clients, nor does the comment indicate any fixed anticipatory judgment in the underlying case warranting the judge's removal. See *In re Disqualification of Corrigan*, 105 Ohio St.3d 1243, 2004-Ohio-7354, 826 N.E.2d 302 (judge's choice of words was not ideal but the affidavits did not establish that the judge was unable to decide the remaining issues in the case fairly and impartially).

"The statutory right to seek disqualification of a judge is an extraordinary remedy. A judge is presumed to follow the law and not to be biased, and the appearance of bias or prejudice must be compelling to overcome these presumptions." *In re Disqualification of George*, 100 Ohio St.3d 1241, 2003-Ohio-5489, 798 N.E.2d 23, ¶ 5. Given Judge Greene's assurances that she will hear this case fairly and impartially, those presumptions have not been overcome.

For the reasons stated above, the affidavit of disqualification is denied. The case may proceed before Judge Greene.

Dated this 5th day of February, 2015.



MAUREEN O'CONNOR
Chief Justice

Copies to: Sandra H. Grosko, Clerk
Hon. Lillian Greene
Hon. John Russo, Administrative Judge
Cuyahoga County Clerk of Courts
Anna Moore Carulas, Esq.
Pamela Pantages, Esq.
Paul Flowers, Esq.
David Krause, Esq.

Print

CASE INFORMATION

CV-12-785788 AUSTIN HASTINGS, A MINOR ETAL vs. SOUTHWEST GENERAL HEALTH CENTER ETAL

Docket Information

Filing Date	Side	Type	Description	Image
03/02/2015	P	MO	MOTION FILED FOR PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) PAMELA E PANTAGES 0046840 PLAINTIFFS' BRIEF OPPOSING TRIAL MOTIONS OF DEFENDANTS DAHMAN AND ALVERSON WITH MOTION FOR SANCTIONS AGAINST SAID DEFENDANTS AND THEIR COUNSEL AND REQUEST FOR A HEARING ON COSTS AND ATTORNEY FEES	
02/12/2015	D	MO	DEFENDANT(S) AYMAN DAHMAN(D3) and MARY JO ALVERSON, CNM (D5)'S MOTION FOR CONTINUANCE ANNA MOORE CARULAS 0037161. ^F^ MOTION TO CONTINUE TRIAL DATE OF APRIL 6, 2015	
02/12/2015	D	MO	MOTION FILED FOR DEFENDANT(S) AYMAN DAHMAN(D3) and MARY JO ALVERSON, CNM(D5) ANNA MOORE CARULAS 0037161 MOTION TO RETURN THIS CASE TO THE DOCKET OF JUDGE BRIAN J. CORRIGAN FOR RULING ON THE MOTIONS TO CONTINUE, MOTIONS IN LIMINE, TRIAL AND FINAL DISPOSITION OF THE CASE	
02/09/2015	D	MO	DEFENDANT(S) JOHANNANA O'NEILL(D2) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6)'S MOTION FOR CONTINUANCE DAVID H KRAUSE 0070577. ^F^ DEFENDANT, JOHANNA O'NEILL., M.D.'S MOTION FOR CONTINUANCE OF TRIAL SET FOR APRIL 6, 2015	
02/09/2015	N/A	OT	JUDGMENT ENTRY FILED.	
02/09/2015	N/A	SF	VISITING JUDGE LILLIAN J GREENE ASSIGNED TO CASE (MANUALLY).	
02/05/2015	D2	MO	D2 JOHANNANA O'NEILL'S MOTION FOR CONTINUANCE DAVID H KRAUSE 0070577. ^F^ MOTION FOR CONTINUANCE OF TRIAL AND PRETRIAL CONFERENCE	
02/04/2015	N/A	CS	COURT REPORTER FEE	
02/04/2015	N/A	JE	CASE CALLED FOR TRIAL. CONTINUED TO 2/3/15. NOTICE ISSUED.	
02/04/2015	P	JE	AFFIDAVIT OF DISQUALIFICATION FILED 2/2/15. CASE STAYED PENDING SUPREME COURT OF OHIO RULING. NOTICE ISSUED.	
02/03/2015	N/A	JE	HAVING RECEIVED PLAINTIFF'S NOTICE OF PARTIAL VOLUNTARY DISMISSAL, PLAINTIFF'S CLAIMS AGAINST DEFENDANT SOUTHWEST GENERAL HEALTH CENTER ARE HEREBY DISMISSED WITHOUT PREJUDICE. ALL OTHER CLAIMS REMAIN UNAFFECTED. NOTICE ISSUED	
02/03/2015	P	NT	NOTICE FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) ATTORNEY PAMELA E PANTAGES 0046840 PLAINTIFFS' NOTICE OF FILING AFFIDAVIT OF HASTINGS COUNSEL OPPOSING DISQUALIFICATION OF HON. JUDGE LILLIAN GREENE	
02/03/2015	D	NT	NOTICE OF APPEARANCE, FILED DEFENDANT(S) AYMAN DAHMAN(D3) and MARY JO ALVERSON, CNM(D5) ANNA MOORE CARULAS 0037161.	
02/02/2015	D	NT	NOTICE FILED BY DEFENDANT(S) AYMAN DAHMAN(D3) and MARY JO ALVERSON, CNM(D5) ATTORNEY ANNA MOORE CARULAS 0037161 DEFENDANTS AYMAN DAHMAN, M.D. AND MARY JO ALVERSON, CNM, S	

EXHIBIT C

02/01/2015	P	BR	NOTICE OF FILING OF AFFIDAVIT OF DISQUALIFICATION AND REQUEST FOR STAY OF JURY TRIAL BEFORE VISITING JUDGE LILLIAN GREENE REPLY BRIEF FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) PAMELA E PANTAGES 0046840 PLAINTIFFS' BRIEF IN OPPOSITION TO DEFENDANTS' MOTION IN LIMINE TO EXCLUDE CROSS EXAMINATION OR COMMENT BY PLAINTIFFS' COUNSEL AS TO UNSUBSTANTIATED ALLEGATIONS ABOUT MICHAEL G. ROSS, M.D.	
02/01/2015	P	MO	MOTION IN LIMINE PLAINTIFFS' MOTION IN LIMINE TO PRECLUDE EXPERT OPINIONS NOT SUPPORTED BY SCIENTIFICALLY VALID INFORMATION	
02/01/2015	P	MO	MOTION FILED FOR PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) PAMELA E PANTAGES 0046840 PLAINTIFFS' MOTION TO EXCLUDE THE STANDARD OF CARE TESTIMONY OF SUNEET CHAUHAN, M.D.	
02/01/2015	P	MO	MOTION IN LIMINE PLAINTIFFS' MOTION IN LIMINE TO PRECLUDE EXPERT OPINIONS NOT GIVEN TO A REASONABLE DEGREE OF MEDICAL PROBABILITY	
01/30/2015	P	BR	REPLY BRIEF FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) PAMELA E PANTAGES 0046840 PLAINTIFFS' BRIEF IN OPPOSITION TO DEFENDANTS' MOTIONS TO PRECLUDE OR EXCLUDE THE DAY IN THE LIFE VIDEO	
01/30/2015	P	BR	REPLY BRIEF FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) PAMELA E PANTAGES 0046840 PLAINTIFFS' BRIEF OPPOSING DEFENDANTS' MOTION TO PRECLUDE REFERENCE TO CONDUCT WHICH IS NOT THE PROXIMATE CAUSE OF INJURY	
01/30/2015	D	NT	NOTICE FILED BY DEFENDANT(S) AYMAN DAHMAN(D3) and MARY JO ALVERSON, CNM(D5) ATTORNEY ANNA MOORE CARULAS 0037161 NOTICE OF OBJECTION TO RE-ASSIGNMENT OF TRIAL JUDGE AND INTENTION TO FILE WRIT OF PROHIBITION	
01/30/2015	P	BR	REPLY BRIEF FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) PAMELA E PANTAGES 0046840 PLAINTIFFS' BRIEF OPPOSING DEFENDANTS' MOTION TO PRECLUDE ADMISSION OF EXPERT REPORTS	
01/30/2015	P	BR	REPLY BRIEF FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) PAMELA E PANTAGES 0046840 PLAINTIFFS' BRIEF OPPOSING DEFENDANTS' MOTION IN LIMINE TO PRECLUDE EVIDENCE OF OTHER LAWSUITS AND/OR MEDICAL CARE INVOLVING OTHER PATIENTS	
01/30/2015	P	MO	MOTION IN LIMINE MOTION IN LIMINE OF PLAINTIFFS TO PRECLUDE ARGUMENT THAT: (1) DEFENDANTS DID THEIR BEST OR (2) A VERDICT AGAINST DEFENDANTS WOULD AFFECT FUTURE MEDICAL CARE IN THE COMMUNITY	
01/30/2015	P	BR	REPLY BRIEF FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) PAMELA E PANTAGES 0046840 PLAINTIFFS' BRIEF OPPOSING MOTION TO PRECLUDE ANALOGY OF THE STANDARD OF CARE TO RULES OF THE ROAD OR JUROR EXPECTATIONS	
01/30/2015	P	OT	GENERAL PLEADING FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) ATTORNEY PAMELA E PANTAGES 0046840 PLAINTIFFS' RESPONSE TO DEFENDANT'S MOTION TO PRECLUDE DEPOSITION TESTIMONY UNTIL OBJECTIONS ARE RULED UPON	
01/30/2015	P	OT	GENERAL PLEADING FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) ATTORNEY PAMELA	

			E PANTAGES 0046840 PLAINTIFFS' PROPOSED JURY INSTRUCTIONS AND GENERAL VERDICT FORMS	
01/30/2015	P	OT	GENERAL PLEADING FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) ATTORNEY PAMELA E PANTAGES 0046840 PLAINTIFFS' PROPOSED JURY INTERROGATORIES	
01/30/2015	P	NT	NOTICE FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) ATTORNEY PAMELA E PANTAGES 0046840 PLAINTIFFS' NOTICE OF PARTIAL VOLUNTARY DISMISSAL	
01/30/2015	P	MO	MOTION FILED FOR PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) PAMELA E PANTAGES 0046840 PLAINTIFFS' MOTION FOR LEAVE TO INTERLINEALLY CORRECT COMPLAINT	
01/30/2015	N/A	JE	BECAUSE OF A CONFLICT ON THE DOCKET OF THE ORIGINAL JUDGE THIS CASE IS HEREBY REFERRED TO THE PRESIDING/ADMINISTRATIVE JUDGE FOR RESASSIGNMENT TO A VISITING JUDGE FOR TRIAL. NOTICE ISSUED	
01/30/2015	N/A	JE	DUE TO THE UNAVAILABILITY OF ORIGINAL JUDGE BRIAN J. CORRIGAN, THIS CASE IS HEREBY TRANSFERRED TO THE VISITING JUDGE LILLIAN J. GREENE FOR TRAIL. NOTICE ISSUED	
01/30/2015	D	NT	TRANSCRIPT FILED DEFENDANT(S) AYMAN DAHMAN(D3) and MARY JO ALVERSON, CNM(D5), ANNA MOORE CARULAS 0037161 DEPOSITION MICHAEL ROSS MD	
01/29/2015	D	NT	TRANSCRIPT FILED DEFENDANT(S) JOHNNANNA O'NEILL(D2) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6), DAVID H KRAUSE 0070577 NOTICE OF FILING DEPOSITION TRANSCRIPT	
01/29/2015	D	NT	TRANSCRIPT FILED DEFENDANT(S) JOHNNANNA O'NEILL(D2) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6), DAVID H KRAUSE 0070577 NOTICE OF FILING DEPOSITION TRANSCRIPT	
01/29/2015	D	NT	TRANSCRIPT FILED DEFENDANT(S) JOHNNANNA O'NEILL(D2) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6), DAVID H KRAUSE 0070577 NOTICE OF FILING DEPOSITION TRANSCRIPT	
01/29/2015	D	NT	TRANSCRIPT FILED DEFENDANT(S) JOHNNANNA O'NEILL(D2) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6), DAVID H KRAUSE 0070577 NOTICE OF FILING DEPOSITION TRANSCRIPT	
01/29/2015	D	MO	MOTION FILED FOR DEFENDANT(S) JOHNNANNA O'NEILL(D2) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6) DAVID H KRAUSE 0070577 DEFENDANTS JOHANNA O'NEILL, D.O. AND SOUTHWEST GENERAL MEDICAL GROUP, INC.'S MOTION TO EXCLUDE DAY IN THE LIFE OF AUSTIN HASTINGS VIDEO	
01/29/2015	D	NT	TRANSCRIPT FILED DEFENDANT(S) JOHNNANNA O'NEILL(D2) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6), DAVID H KRAUSE 0070577 NOTICE OF FILING DEPOSITION TRANSCRIPT	
01/29/2015	D	NT	TRANSCRIPT FILED DEFENDANT(S) JOHNNANNA O'NEILL(D2) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6), DAVID H KRAUSE 0070577 NOTICE OF FILING DEPOSITION TRANSCRIPT	
01/29/2015	D	NT	NOTICE FILED BY DEFENDANT(S) JOHNNANNA O'NEILL(D2) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6) ATTORNEY DAVID H KRAUSE 0070577 NOTICE OF FILING DEPOSITION TRANSCRIPTS	
01/29/2015	D	MO	MOTION FILED FOR DEFENDANT(S) AYMAN DAHMAN(D3) and MARY JO ALVERSON, CNM(D5) ANNA MOORE CARULAS 0037161 DEFENDANTS AYMAN DAHMAN, M.D. AND MARY JO ALVERSON, CNM'S MOTION TO EXCLUDE DAY IN THE LIFE OF AUSTIN HASTINGS VIDEO	
01/29/2015	P	MO	MOTION FILED FOR PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) PAMELA E PANTAGES 0046840 PLAINTIFFS' MOTION TO COMPEL DEFENSE POWERPOINTS OR IN THE	

			ALTERNATIVE MOTION TO EXCLUDE DEFENSE EXPERT MICHAEL ROSS, M.D.	
01/29/2015	P	MO	MOTION IN LIMINE PLAINTIFFS' OMNIBUS MOTION IN LIMINE	
01/29/2015	P1	SR	SUBPOENA FOR: CUSTODIAN OF RECORDS C/O OB-GYN ASSOCIATES, LLC SERVED JANUARY 23, 2015 UPON CHERYL KOHOUT .	
01/28/2015	P	NT	NOTICE FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) ATTORNEY PAMELA E PANTAGES 0046840 OBJECTIONS STILL IN ISSUE REGARDING DISCOVERY DEPOSITION OF: PATRICAI ELLEN GARRETT, R.N.	
01/28/2015	P	NT	NOTICE FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) ATTORNEY PAMELA E PANTAGES 0046840 OBJECTIONS STILL IN ISSUE REGARDING DISCOVERY DEPOSITION OF DARLENE MCDEVITT, R.N.	
01/28/2015	P	NT	NOTICE FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) ATTORNEY PAMELA E PANTAGES 0046840 OBJECTIONS STILL IN ISSUE REGARDING DISCOVERY DEPOSITION OF: DONNA RITER, R.N.	
01/28/2015	P	NT	NOTICE FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) ATTORNEY PAMELA E PANTAGES 0046840 PLAINTIFFS' NOTICE OF FILING DEPOSITION TRANSCRIPT	
01/28/2015	P	NT	NOTICE FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) ATTORNEY PAMELA E PANTAGES 0046840 PLAINTIFFS' NOTICE OF FILING DEPOSITION TRANSCRIPT	
01/28/2015	P	NT	NOTICE FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) ATTORNEY PAMELA E PANTAGES 0046840 PLAINTIFFS' NOTICE OF FILING DEPOSITION TRANSCRIPT	
01/28/2015	P	NT	NOTICE FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) ATTORNEY PAMELA E PANTAGES 0046840 PLAINTIFFS' NOTICE OF FILING DEPOSITION TRANSCRIPT	
01/28/2015	P	NT	NOTICE FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) ATTORNEY PAMELA E PANTAGES 0046840 PLAINTIFFS' NOTICE OF FILING DEPOSITION TRANSCRIPT	
01/28/2015	P	NT	NOTICE FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) ATTORNEY PAMELA E PANTAGES 0046840 PLAINTIFFS' NOTICE OF FILING DEPOSITION TRANSCRIPT	
01/28/2015	P	NT	NOTICE FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) ATTORNEY PAMELA E PANTAGES 0046840 PLAINTIFFS' NOTICE OF FILING DEPOSITION TRANSCRIPT	
01/28/2015	P	NT	TRANSCRIPT FILED PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3), PAMELA E PANTAGES 0046840 PLAINTIFFS' NOTICE OF FILING DEPOSITION TRANSCRIPT	
01/28/2015	P	NT	TRANSCRIPT FILED PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3), PAMELA E PANTAGES 0046840 PLAINTIFFS' NOTICE OF FILING DEPOSITION TRANSCRIPT	
01/27/2015	D	BR	BRIEF FILED BY DEFENDANT(S) AYMAN DAHMAN(D3) and MARY JO ALVERSON, CNM(D5) ANNA MOORE CARULAS 0037161 BRIEF IN OPPOSITION TO PLAINTIFFS' MOTION TO EQUALIZE PEREMPTORY CHALLENGES AND TO PROHIBIT FRIENDLY CROSS EXAMINATIONS BY DEFENSE COUNSEL	

01/26/2015	D	OT	GENERAL PLEADING FILED BY DEFENDANT(S) AYMAN DAHMAN(D3) and MARY JO ALVERSON, CNM(D5) ATTORNEY ANNA MOORE CARULAS 0037161 PROPOSED VERDICT FORMS OF DEFENDANTS AYMAN DAHMAN MD AND MARY JO ALVERSON CNM	
01/26/2015	D	OT	GENERAL PLEADING FILED BY DEFENDANT(S) AYMAN DAHMAN(D3) and MARY JO ALVERSON, CNM(D5) ATTORNEY ANNA MOORE CARULAS 0037161 DEFENDANTS AYMAN DAHMAN, MD AND MARY JO ALVERSON, CNM,S PROPOSED JURY INTERROGATORIES	
01/26/2015	D	OT	GENERAL PLEADING FILED BY DEFENDANT(S) AYMAN DAHMAN(D3) and MARY JO ALVERSON, CNM(D5) ATTORNEY ANNA MOORE CARULAS 0037161 DEFENDANTS AYMAN DAHMAN MD AND MARY JO ALVERSON, CNM,S AMENDED PROPOSED JURY INSTRUCTIONS	
01/26/2015	D	OT	GENERAL PLEADING FILED BY DEFENDANT(S) AYMAN DAHMAN(D3) and MARY JO ALVERSON, CNM(D5) ATTORNEY ANNA MOORE CARULAS 0037161 AMENDED TRIAL BRIEF OF DEFENDANTS AYMAN DAHMAN, MD AND MARY JO ALVERSON, CNM	
01/26/2015	D	BR	BRIEF FILED BY DEFENDANT(S) JOHANNNA O'NEILL(D2) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6) DAVID H KRAUSE 0070577 DEFENDANTS, JOHANNA O'NEILL, M.D. AND SOUTHWEST GENERAL MEDICAL GROUP, INC'S BENCH BRIEF REGARDING PEREMPTORY CHALLENGES	
01/26/2015	D	BR	BRIEF FILED BY DEFENDANT(S) JOHANNNA O'NEILL(D2) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6) DAVID H KRAUSE 0070577 DEFENDANTS, JOHANNA O'NEILL, MD AND SOUTHWEST GENERAL MEDICAL GROUP, INC'S BENCH BRIEF IN SUPPORT OF THE USE OF A NARRATIVE JURY INTERROGATORY	
01/26/2015	D	MO	MOTION IN LIMINE DEFENDANTS, JOHANNA O'NEILL, MD AND SOUTHWEST GENERAL MEDICAL GROUP, INC'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OF OTHER LAWSUITS AND OR MEDICAL CARE INVOLVING OTHER PATIENTS	
01/26/2015	D	OT	GENERAL PLEADING FILED BY DEFENDANT(S) JOHANNNA O'NEILL(D2) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6) ATTORNEY DAVID H KRAUSE 0070577 DEFENDANTS, JOHANNA O'NEILL, MD AND SOUTHWEST GENERAL MEDICAL GROUP, INC.'S FIRST PROPOSED JURY INTERROGATORIES AND VERDICT FORMS	
01/26/2015	D	MO	MOTION FILED FOR DEFENDANT(S) JOHANNNA O'NEILL(D2) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6) DAVID H KRAUSE 0070577 DEFENDANTS, JOHANNA O'NEILL, MD AND SOUTHWEST GENERAL MEDICAL GROUP, INC'S MOTION TO PRECLUDE REFERENCE TO CONDUCT WHICH IS NOT THE PROXIMATE CAUSE OF INJURY	
01/26/2015	D	MO	MOTION FILED FOR DEFENDANT(S) JOHANNNA O'NEILL(D2) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6) DAVID H KRAUSE 0070577 DEFENDANTS, JOHANNA O'NEILL, MD AND SOUTHWEST GENERAL MEDICAL GROUP, INC'S MOTION TO PRECLUDE ADMISSION OF EXPERT REPORTS	
01/26/2015	D	MO	MOTION FILED FOR DEFENDANT(S) JOHANNNA O'NEILL(D2) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6) DAVID H KRAUSE 0070577 DEFENDANTS, JOHANNA O'NEILL, MD AND SOUTHWEST GENERAL MEDICAL GROUP, INC'S MOTION TO PRECLUDE PLAINTIFF FROM PRESENTING DEPOSITION TESTIMONY TO THE JURY UNLESS THE COURT RULES UPON OBJECTIONS	
01/26/2015	D	MO	MOTION FILED FOR DEFENDANT(S) JOHANNNA O'NEILL(D2) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6) DAVID H KRAUSE 0070577 DEFENDANTS, JOHANNA O'NEILL, MD AND SOUTHWEST GENERAL MEDICAL GROUP, INC'S MOTION TO PRECLUDE ANALOGY OF STANDARD OF CARE TO RULES OF ROAD OR JUROR EXPECTATIONS	
01/26/2015	D	MO		

			MOTION IN LIMINE DEFENDANTS; MOTION IN LIMINE TO EXCLUDE CROSS EXAMINATION OR COMMENT BY PLAINTIFFS; COUNSEL AS TO UNSUBSTANTIATED ALLEGATIONS AND UNRELATED COLLATERAL ISSUES CONCERNING DEFENSE EXPERT WITNESS, MICHAEL ROSS, MD	
01/21/2015	P	MO	MOTION FILED FOR PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) PAMELA E PANTAGES 0046840 PLAINTIFFS' MOTION TO EQUALIZE PEREMPTORY CHALLENGES AND TO PROHIBIT FRIENDLY CROSS EXAMINATION BY DEFENSE COUNSEL	
01/21/2015	P	BR	REPLY BRIEF FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) PAMELA E PANTAGES 0046840 PLAINTIFFS' BRIEF OPPOSING DEFENDANTS' MOTION TO COMPEL THE MINOR PLAINTIFF'S PRESENCE DURING THE DEFENSE'S VOIR DIRE	
01/21/2015	D	MO	MOTION FILED FOR DEFENDANT(S) AYMAN DAHMAN(D3) and MARY JO ALVERSON, CNM(D5) ANNA MOORE CARULAS 0037161 MOTION OF DEFENDANTS AYMAN DAHMAN, MD AND MARY JO ALVERSON, CNM TO JOIN IN MOTION TO COMPEL AUSTIN HASTINGS' PRESENCE DURING VOIR DIRE	
01/16/2015	D	MO	MOTION FILED FOR DEFENDANT(S) JOHANNA O'NEILL(D2) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6) DAVID H KRAUSE 0070577 DEFENDANTS' MOTION TO COMPEL AUSTIN HASTINGS PRESENCE DURING VOIR DIRE	
01/16/2015	N/A	JE	DEFENDANTS JOHANNA O'NEILL, DO AND SOUTHWEST GENERAL MEDICAL GROUP, INC.'S MOTION TO COMPEL PLAINTIFF'S COUNSEL TO PRODUCE AUSTIN HASTINGS FOR MEETING WITH DEFENSE COUNSEL, FILED 01/08/2015, IS GRANTED. DEFENDANTS SHALL BE PERMITTED TO MEET AUSTIN HASTINGS BY 1/25/2015. PLAINTIFFS' MOTION TO PERMIT PLAINTIFFS ATTENDANCE AT THE FINAL PRETRIAL CONFERENCE, FILED 01/13/2015, IS GRANTED. DEFENDANTS AYMAN DAHMAN AND MARY JO ALVERSON, CNM'S MOTION TO COMPEL DEFENSE COUNSEL'S OPPORTUNITY TO MEET THE MINOR PLAINTIFF, AUSTIN HASTINGS, FILED 01/07/2015, IS GRANTED. DEFENSE COUNSEL SHALL BE PERMITTED TO MEET AUSTIN HASTINGS BY 1/25/2015. DEFENDANT SOUTHWEST GENERAL HEALTH CENTER'S MOTION TO COMPEL DEFENSE COUNSEL'S OPPORTUNITY TO MEET THE MINOR PLAINTIFF, AUSTIN HASTINGS, OR IN THE ALTERNATIVE TO PROHIBIT TESTIMONY FROM PLAINTIFF'S NEUROLOGY EXPERT, DANIEL ADLER, M.D. AS TO HIS NEWLY PRODUCED EXPERT REPORT OF DECEMBER 12, 2014 ATTESTING TO THE LIFE CARE PLAN, FILED 01/08/2015, IS MOOT. NOTICE ISSUED	
01/15/2015	D	BR	BRIEF FILED BY DEFENDANT(S) JOHANNA O'NEILL(D2) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6) DAVID H KRAUSE 0070577 DEFENDANTS' TRIAL BRIEF AND EXHIBIT LIST.	
01/15/2015	D	OT	GENERAL PLEADING FILED BY DEFENDANT(S) JOHANNA O'NEILL(D2) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6) ATTORNEY DAVID H KRAUSE 0070577 DEFENDANTS' PROPOSED JURY INSTRUCTIONS	
01/15/2015	D	BR	REPLY BRIEF FILED BY DEFENDANT(S) AYMAN DAHMAN(D3) and MARY JO ALVERSON, CNM(D5) ANNA MOORE CARULAS 0037161 REPLY BRIEF OF DEFENDANTS DAHMAN AND ALVERSON IN SUPPORT OF MOTION TO COMPEL DEFENSE COUNSEL'S OPPORTUNITY TO MEET THE MINOR PLAINTIFF, AUSTIN HASTINGS	
01/14/2015	D1	OT	GENERAL PLEADING FILED BY D1 SOUTHWEST GENERAL HEALTH CENTER ATTORNEY WILLIAM A MEADOWS 0037243 DEFENDANT SOUTHWEST GENERAL HEALTH CENTER'S FIRST PROPOSED SET OF JURY INSTRUCTIONS	
01/14/2015	D	OT	GENERAL PLEADING FILED BY DEFENDANT(S) AYMAN DAHMAN(D3) and MARY JO ALVERSON, CNM(D5) ATTORNEY ANNA MOORE CARULAS	

			0037161 DEFENDANTS AYMAN DAHMAN, MD AND MARY JO ALVERSON, CNM'S PROPOSED JURY INSTRUCTIONS	
01/14/2015	D	OT	GENERAL PLEADING FILED BY DEFENDANT(S) AYMAN DAHMAN(D3) and MARY JO ALVERSON, CNM(D5) ATTORNEY ANNA MOORE CARULAS 0037161 TRIAL BRIEF OF DEFENDANTS AYMAN DAHMAN, MD AND MARY JO ALVERSON CNM	
01/13/2015	P	BR	BRIEF FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) PAMELA E PANTAGES 0046840 PLAINTIFFS TRIAL BRIEF WITH LISTS OF WITNESSES AND EXHIBITS	
01/13/2015	P	MO	MOTION FILED FOR PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) PAMELA E PANTAGES 0046840 PLAINTIFFS MOTION TO PERMIT PLAINTIFFS ATTENDANCE AT THE FINAL PRETRIAL CONFERENCE 01/16/2015 - MOOT	
01/13/2015	P	BR	REPLY BRIEF FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) PAMELA E PANTAGES 0046840 PLAINTIFFS BRIEF OPPOSING DEFENDANTS JOINT MOTION TO COMPEL SECOND EXAMINATION OF MINOR PLAINTIFF AND TO EXCLUDE PLAINTIFFS EXPERTS TIMELY SUPPLEMENTAL REPORT	
01/12/2015	D1	OT	GENERAL PLEADING FILED BY D1 SOUTHWEST GENERAL HEALTH CENTER ATTORNEY WILLIAM A MEADOWS 0037243 DEFENDANT SOUTHWEST GENERAL HEALTH CENTER'S FINAL PRETRIAL STATEMENT	
01/08/2015	D	MO	MOTION FILED FOR DEFENDANT(S) JOHANNNA O'NEILL(D2) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6) DAVID H KRAUSE 0070577 DEFENDANTS, JOHANNA O'NEILL, DO AND SOUTHWEST GENERAL MEDICAL GROUP, INC.'S MOTION TO COMPEL PLAINTIFF TO PRODUCE AUSTIN HASTINGS FOR MEETING WITH DEFENSE COUNSEL OR ALTERNATIVELY TO PROHIBIT NEW OPINIONS OF DR. ADLER REGARDING LIFE CARE PLAN AND TO PROHIBIT PHOTOGRAPHS AND/OR VIDEO NOT PREVIOUSLY PRODUCED. 01/16/2015 - GRANTED	
01/08/2015	D2	OT	GENERAL PLEADING FILED BY D2 JOHANNNA O'NEILL ATTORNEY DAVID H KRAUSE 0070577 DEFENDANTS, JOHANNA O'NEILL, DO AND SOUTHWEST GENERAL MEDICAL GROUP, INC.'S FINAL PRETRIAL STATEMENT	
01/08/2015	D1	MO	MOTION FILED FOR D1 SOUTHWEST GENERAL HEALTH CENTER WILLIAM A MEADOWS 0037243 DEFENDANT SOUTHWEST GENERAL HEALTH CENTER'S MOTION TO COMPEL DEFENSE COUNSEL'S OPPORTUNITY TO MEET THE MINOR PLAINTIFF, AUSTIN HASTINGS, OR IN THE ALTERNATIVE TO PROHIBIT TESTIMONY FROM PLAINTIFF'S NEUROLOGY EXPERT, DANIEL ADLER, M.D. AS TO HIS NEWLY PRODUCED EXPERT REPORT OF DECEMBER 12, 2014 ATTESTING TO THE LIFE CARE PLAN 01/16/2015 - MOOT	
01/07/2015	D	MO	MOTION FILED FOR DEFENDANT(S) AYMAN DAHMAN(D3) and MARY JO ALVERSON, CNM(D5) ANNA MOORE CARULAS 0037161 MOTION TO COMPEL DEFENSE COUNSEL'S OPPORTUNITY TO MEET THE MINOR PLAINTIFF, AUSTIN HASTINGS, OR IN THE ALTERNATIVE TO PROHIBIT TESTIMONY FROM PLAINTIFFS' NEUROLOGY EXPERT, DR. ADLER, AS TO HIS NEWLY PRODUCED EXPERT REPORT OF 12/12/14 ATTESTING TO THE LIFE CARE PLAN 01/16/2015 - GRANTED	
07/02/2014	N/A	SC	FINAL PRETRIAL SCHEDULED FOR 07/28/2014 AT 10:00 AM IS CANCELLED. JUDGE: BRIAN J CORRIGAN (312) REASON: UNKNOWN (notice sent).	
07/02/2014	N/A	SC	TRIAL BY JURY SCHEDULED FOR 08/18/2014 AT 09:00 AM IS CANCELLED. JUDGE: BRIAN J CORRIGAN (312) REASON: UNKNOWN (notice sent).	
06/26/2014	D1	NT	NOTICE OF SUBSTITUTION OF COUNSEL FILED NOTICE OF SUBSTITUTION OF COUNSEL	

06/26/2014	D	NT	NOTICE OF SUBSTITUTION OF COUNSEL FILED NOTICE OF SUBSTITUTION OF COUNSEL	
06/25/2014	N/A	JE	PRE-TRIAL HELD 6/19/2014. TRIAL IS SET FOR 2/2/2015 AT 9:00 A.M. FINAL PRE-TRIAL SET FOR 1/15/2015 AT 8:30 A.M. PRETRIAL ORDER TO BE COMPLETED BY FINAL PRETRIAL. 1.) WITNESS LIST 2.) LIST OF PROPOSED EXHIBITS. 3.) LIST OF STIPULATIONS TO BE PRESENTED. 4.) TRIAL BRIEFS. 5.) PROPOSED JURY INSTRUCTIONS. FINAL PRETRIAL SET FOR 01/15/2015 AT 08:30 AM. TRIAL BY JURY SET FOR 02/02/2015 AT 09:00 AM. NOTICE ISSUED	
06/12/2014	N/A	JE	DEFENDANT(S) SOUTHWEST GENERAL HEALTH CENTER, JOHANNA O'NEILL, AYMAN DAHMAN, MARY JO ALVERSON, CNM AND SOUTHWEST GENERAL MEDICAL GROUP, INC.'S JOINT MOTION TO CONTINUE DEFENSE EXPERT REPORT DEADLINE AND TRIAL DATE, FILED 05/27/2014, IS GRANTED. DEFENDANTS' EXPERT REPORT DEADLINE IS EXTENDED TO 7/28/2014. THE 8/18/2014 TRIAL DATE IS VACATED. A PRE-TRIAL FOR THE PURPOSE OF SELECTING A NEW TRIAL DATE IS SET FOR 6/19/2014 AT 9:15 A.M. NOTICE ISSUED	
06/12/2014	N/A	JE	PRETRIAL SET FOR 06/19/2014 AT 09:15 AM. NOTICE ISSUED	
06/10/2014	D	MO	DEFENDANT(S) AYMAN DAHMAN(D3) and MARY JO ALVERSON, CNM (D5)'S MOTION FOR CONTINUANCE ANNA MOORE CARULAS 0037161. ^F^ SUPPLEMENT TO DEFENDANTS' JOINT MOTION FOR EXTENSION OF EXPERT DEADLINES AND MOTION TO CONTINUE TRIAL 06/11/2014 - GRANTED	
06/03/2014	P	BR	REPLY BRIEF FILED BY PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) ROMNEY B CULLERS 0053668 PLAINTIFFS' BRIEF IN OPPOSITION TO DEFENDANTS' JOINT MOTION TO CONTINUE DEFENSE EXPERT REPORT DEADLINE AND TRIAL DATE	
05/27/2014	D	MO	DEFENDANT(S) SOUTHWEST GENERAL HEALTH CENTER(D1), JOHANNA O'NEILL(D2), AYMAN DAHMAN(D3), MARY JO ALVERSON, CNM(D5) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6)'S MOTION FOR CONTINUANCE ANNA MOORE CARULAS 0037161. ^F^ DEFENDANTS' JOINT MOTION TO CONTINUE DEFENSE EXPERT REPORT DEADLINE AND TRIAL DATE 06/12/2014 - GRANTED	
04/30/2014	D	NT	NOTICE FILED BY DEFENDANT(S) SOUTHWEST GENERAL HEALTH CENTER(D1) and JOHANNA O'NEILL(D2) ATTORNEY MARILENA DISILVIO 0064575 INDEPENDENT MEDICAL EXAMINATION	
04/29/2014	N/A	JE	DEFENDANTS SOUTHWEST GENERAL HEALTH CENTER AND JOHANNA O'NEIL, M.D.'S MOTION TO COMPEL PLAINTIFFS' DEPOSITIONS, FILED 04/01/2014, IS UNOPPOSED AND GRANTED. PLAINTIFFS ARE ORDERED TO SUBMIT TO DEPOSITIONS WITHIN 30 DAYS OF THIS ORDER. NOTICE ISSUED	
04/01/2014	D	MO	MOTION FILED FOR DEFENDANT(S) SOUTHWEST GENERAL HEALTH CENTER(D1) and JOHANNA O'NEILL(D2) MARILENA DISILVIO 0064575 DEFENDANTS SOUTHWEST GENERAL HEALTH CENTER AND JOHANNA O'NEIL, M.D.'S MOTION TO COMPEL PLAINTIFFS' DEPOSITIONS 04/29/2014 - GRANTED	
03/31/2014	N/A	JE	PLAINTIFFS' MOTION TO COMPEL DISCOVERY DEPOSITIONS OF DEFENDANTS, FILED 02/06/2014, IS MOOT. PLAINTIFF'S COUNSEL HAS INFORMED THE COURT THAT THE DISCOVERY DEPOSITIONS THAT ARE THE SUBJECT OF THE MOTION HAVE BEEN COMPLETED. NOTICE ISSUED	
03/14/2014	D1	MO	D1 SOUTHWEST GENERAL HEALTH CENTER JMOTION TO COMPEL PLAINTIFFS' ANSWERS AND RESPONSES TO DISCOVERY MARILENA DISILVIO 0064575 04/24/2014 - MOOT	
02/18/2014	N/A	JE	THE COURT HAS RECEIVED PLAINTIFF'S NOTICE OF PARTIAL VOLUNTARY DISMISSAL. DEFENDANT SAYED MASSOOMI, M.D. IS THUS HEREBY DISMISSED WITHOUT PREJUDICE. ALL OTHER CLAIMS	

AGAINST ALL REMAINING DEFENDANTS REMAIN PENDING. NOTICE ISSUED

02/13/2014 P NT NOTICE OF APPEARANCE, FILED PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) PAMELA E PANTAGES 0046840. PLAINTIFFS' NOTICE OF APPEARANCE OF CO-COUNSEL

02/13/2014 D5 BR BRIEF FILED BY D5 MARY JO ALVERSON, CNM ANNA MOORE CARULAS 0037161 DEFENDANT MARY JO ALVERSON, CNM'S RESPONSE TO PLAINTIFFS' MOTION TO COMPEL DISCOVERY DEPOSITIONS OF DEFENDANTS

02/13/2014 D1 BR DEFENDANTS BRIEF IN OPPOSITION TO PLAINTIFFS' MOTION TO COMPEL DISCOVERY DEPOSITIONS OF DEFENDANTS. MARILENA DISILVIO (0064575)

02/11/2014 P NT NOTICE OF APPEARANCE, FILED PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) PAMELA E PANTAGES 0046840. PLAINTIFFS' NOTICE OF APPEARANCE OF CO-COUNSEL

02/11/2014 P NT NOTICE OF PLAINTIFFS' NOTICE OF PARTIAL VOLUNTARY DISMISSAL

02/11/2014 P NT NOTICE OF PLAINTIFFS' NOTICE OF PARTIAL VOLUNTARY DISMISSAL

02/06/2014 P MO MOTION FILED FOR PLAINTIFF(S) AUSTIN HASTINGS(P1), MICHELLE HASTINGS(P2) and BRIAN HASTINGS(P3) PAMELA E PANTAGES 0046840 PLAINTIFFS' MOTION TO COMPEL DISCOVERY DEPOSITIONS OF DEFENDANTS 03/31/2014 - MOOT

10/24/2013 N/A JE PRE-TRIAL HELD 10/23/2013. NEW DEADLINES ARE AS FOLLOWS: DISCOVERY CUT-OFF 2/28/2014. PLAINTIFF'S EXPERT REPORT DUE 3/27/2014. DEFENDANT'S EXPERT REPORT DUE 5/27/2014. FINAL PRE-TRIAL SET FOR 7/28/2014 AT 10:00 A.M. TRIAL SET FOR 8/18/2014 AT 9:00 A.M. PRETRIAL ORDER TO BE COMPLETED BY FINAL PRETRIAL. 1.) WITNESS LIST 2.) LIST OF PROPOSED EXHIBITS. 3.) LIST OF STIPLUATIONS TO BE PRESENTED. 4.) TRIAL BRIEFS. 5.) PROPOSED JURY INSTRUCTIONS. NOTICE ISSUED 

10/23/2013 N/A SC TRIAL BY JURY PREVIOUSLY SCHEDULED FOR 03/03/2014 AT 09:00 AM IS RESCHEDULED FOR 08/18/2014 AT 09:00 AM (Notice Sent).

10/23/2013 N/A SC TRIAL BY JURY SCHEDULED FOR 03/03/2014 AT 09:00 AM IS CANCELLED. JUDGE: BRIAN J CORRIGAN (312) REASON: UNKNOWN (notice sent).

10/23/2013 N/A SC FINAL PRE-TRIAL PREVIOUSLY SCHEDULED FOR 01/28/2014 AT 08:30 AM IS RESCHEDULED FOR 07/28/2014 AT 10:00 AM (Notice Sent).

10/23/2013 N/A SC FINAL PRE-TRIAL SCHEDULED FOR 01/28/2014 AT 08:30 AM IS CANCELLED. JUDGE: BRIAN J CORRIGAN (312) REASON: UNKNOWN (notice sent).

10/09/2013 N/A JE DEFENDANTS' MOTION FOR PRE-TRIAL, FILED 9/10/13, IS GRANTED. PRE-TRIAL IS SET FOR 10/23/13 AT 9:15 A.M. NOTICE ISSUED 

10/04/2013 N/A SC PRE-TRIAL SET FOR 10/23/2013 AT 09:15 AM.

09/10/2013 D MO DEFENDANT(S) JOHANNNA O'NEILL(D2) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6) MOTION FOR PRETRIAL MARILENA DISILVIO 0064575 10/09/2013 - GRANTED

02/13/2013 N/A JE PRE-TRIAL HELD ON 02/07/2013. PLAINTIFF'S EXPERT REPORT: 6/1/13. DEFENDANT'S EXPERT REPORT: 9/1/13. FINAL PRETRIAL SET FOR 01/28/2014 AT 08:30 AM. JURY TRIAL SET FOR 03/03/2014 AT 09:00 AM. PRETRIAL ORDER TO BE COMPLETED BY FINAL PRETRIAL. 1.) WITNESS LIST 2.) LIST OF PROPOSED EXHIBITS. 3.) LIST OF STIPLUATIONS TO BE PRESENTED. 4.) TRIAL BRIEFS. 5.) PROPOSED JURY INSTRUCTIONS. NOTICE ISSUED 

11/13/2012 D OT DEFENDANT(S) SOUTHWEST GENERAL HEALTH CENTER(D1), JOHANNNA O'NEILL(D2) and SOUTHWEST GENERAL MEDICAL GROUP,

INC.(D6) STIPULATION LEAVE TO RESPOND TO PLTF'S FIRST SET OF DISCOVERY REQUESTS. MARILENA DISILVIO 0064575

10/18/2012 N/A JE CASE MGMNT CONFERENCE HELD ON 10/17/2012. PRETRIAL SET FOR 02/07/2013 AT 08:30 AM. NOTICE ISSUED 

10/17/2012 D AN DEFENDANT(S) AYMAN DAHMAN(D3) and MARY JO ALVERSON, CNM(D5) ANSWER. WITH JURY DEMAND ANNA MOORE CARULAS 0037161

10/16/2012 D OT DEFENDANT(S) SOUTHWEST GENERAL HEALTH CENTER(D1) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6) STIPULATED LEAVE TO RESPOND TO PLTF'S. FIRST SET OF DISCOVERY REQUESTS. MARILENA DISILVIO 0064575

10/05/2012 D4 AN D4 SAYED MASSOOMI ANSWER. WITH JURY DEMAND RONALD A MINGUS 0047217

09/26/2012 D4 SR CERTIFIED MAIL RECEIPT NO. 20074837 RETURNED BY U.S. MAIL DEPARTMENT 09/26/2012 MASSOOMI MD/SAYED/ MAIL RECEIVED AT ADDRESS 09/24/2012 SIGNED BY OTHER.

09/25/2012 D5 SR CERTIFIED MAIL RECEIPT NO. 20074852 RETURNED 09/25/2012 FAILURE OF SERVICE ON DEFENDANT ALVERSON, CNM/MARY/JO - UNABLE TO FORWARD NOTICE MAILED TO PLAINTIFF(S) ATTORNEY

09/24/2012 N/A SR SCHEDULE ATTORNEY NOTICE. NOTICE GENERATED FOR ALVERSON, CNM/MARY/JO ON 09/24/2012 16:53:54

09/24/2012 N/A SR SCHEDULE ATTORNEY NOTICE. NOTICE GENERATED FOR MASSOOMI/SAYED/ ON 09/24/2012 16:53:54

09/24/2012 N/A SR SCHEDULE ATTORNEY NOTICE. NOTICE GENERATED FOR DAHMAN/AYMAN/ ON 09/24/2012 16:53:54

09/24/2012 N/A SR SCHEDULE ATTORNEY NOTICE. NOTICE GENERATED FOR O'NEILL/JOHANNANA/ ON 09/24/2012 16:53:54

09/24/2012 N/A SR SCHEDULE ATTORNEY NOTICE. NOTICE GENERATED FOR DISILVIO/MARILENA/ ON 09/24/2012 16:53:54

09/24/2012 N/A SR SCHEDULE ATTORNEY NOTICE. NOTICE GENERATED FOR PANTAGES/PAMELA/E ON 09/24/2012 16:53:54

09/24/2012 N/A SC CASE MGMNT CONFERENCE SET FOR 10/17/2012 AT 08:30 AM.

09/21/2012 D3 SR CERTIFIED MAIL RECEIPT NO. 20074831 RETURNED BY U.S. MAIL DEPARTMENT 09/20/2012 DAHMAN MD/AYMAN/ MAIL RECEIVED AT ADDRESS 09/19/2012 SIGNED BY OTHER.

09/18/2012 D4 SR SUMS COMPLAINT(20074837) SENT BY CERTIFIED MAIL. TO: SAYED MASSOOMI MD SOUTHWEST MEDICAL CARE 18697 BAGLEY ROAD STE C 07 MIDDLEBURG HEIGHTS, OH 44130-0000 

09/18/2012 D5 SR SUMS COMPLAINT(20074852) SENT BY CERTIFIED MAIL. TO: MARY JO ALVERSON, CNM 6789 RIDGE ROAD #201 PARMA, OH 44129-0000 

09/18/2012 D3 SR SUMS COMPLAINT(20074831) SENT BY CERTIFIED MAIL. TO: AYMAN DAHMAN MD OB ASSOCIATES LLC 6900 PEARL ROAD STE 300 CLEVELAND, OH 44130-0000 

09/14/2012 D5 CS WRIT FEE

09/14/2012 D4 CS WRIT FEE

09/14/2012 D3 CS WRIT FEE

09/11/2012 D5 SR INSTRUCTION FOR SERVICE ON COMPLAINT SENT BY CERTIFIED MAIL TO MARY JO ALVERSON CNM FILED.

09/11/2012 D4 SR INSTRUCTION FOR SERVICE ON COMPLAINT SENT BY CERTIFIED MAIL TO SAYED MASSOOMI MD FILED.

09/11/2012 D3 SR INSTRUCTION FOR SERVICE ON COMPLAINT SENT BY CERTIFIED MAIL TO AYMAN DAHMAN MD FILED.

08/14/2012 D AN DEFENDANT(S) SOUTHWEST GENERAL HEALTH CENTER(D1) and SOUTHWEST GENERAL MEDICAL GROUP, INC.(D6) ANSWER ON BEHALF OF DEFTS. SOUTHWEST GENERAL HEALTH CENTER, SOUTHWEST GENERAL MEDICAL GROUP, INC. AND JOHANNA O'NEILL, M.D.. WITH JURY DEMAND MARILENA DISILVIO 0064575

08/03/2012	D6	SR	CERTIFIED MAIL RECEIPT NO. 19653145 RETURNED BY U.S. MAIL DEPARTMENT 08/03/2012 SOUTHWEST GENERAL MEDICAL GROUP, INC. MAIL RECEIVED AT ADDRESS 08/01/2012 SIGNED BY OTHER.	
07/30/2012	D4	SR	CERTIFIED MAIL RECEIPT NO. 19653143 RETURNED 07/30/2012 FAILURE OF SERVICE ON DEFENDANT MASSOOMI MD/SAYED/ - ATTEMPTED NOT KNOWN NOTICE MAILED TO PLAINTIFF(S) ATTORNEY	
07/24/2012	D1	SR	CERTIFIED MAIL RECEIPT NO. 19653140 RETURNED BY U.S. MAIL DEPARTMENT 07/23/2012 SOUTHWEST GENERAL HEALTH CENTER MAIL RECEIVED AT ADDRESS 07/20/2012 SIGNED BY OTHER.	
07/23/2012	D2	SR	CERTIFIED MAIL RECEIPT NO. 19653141 RETURNED BY U.S. MAIL DEPARTMENT 07/20/2012 O'NEILL MD/JOHANNANA/ MAIL RECEIVED AT ADDRESS 07/19/2012 SIGNED BY OTHER.	
07/23/2012	D3	SR	CERTIFIED MAIL RECEIPT NO. 19653142 RETURNED 07/23/2012 FAILURE OF SERVICE ON DEFENDANT DAHMAN MD/AYMAN/ - NO REASON INDICATED NOTICE MAILED TO PLAINTIFF(S) ATTORNEY	
07/23/2012	D5	SR	CERTIFIED MAIL RECEIPT NO. 19653144 RETURNED 07/23/2012 FAILURE OF SERVICE ON DEFENDANT ALVERSON, CNM/MARY/JO - NO REASON INDICATED NOTICE MAILED TO PLAINTIFF(S) ATTORNEY	
07/18/2012	D6	SR	SUMS COMPLAINT(19653145) SENT BY CERTIFIED MAIL. TO: SOUTHWEST GENERAL MEDICAL GROUP, INC. 7215 OLD OAK BLVD., SUITE A-416 MIDDLEBURG HEIGHTS, OH 44130-0000	
07/18/2012	D5	SR	SUMS COMPLAINT(19653144) SENT BY CERTIFIED MAIL. TO: MARY JO ALVERSON, CNM 7215 OLD OAK BLVD., SUITE A-416 MIDDLEBURG HEIGHTS, OH 44130-0000	
07/18/2012	D4	SR	SUMS COMPLAINT(19653143) SENT BY CERTIFIED MAIL. TO: SAYED MASSOOMI MD 18697 BAGLEY ROAD MIDDLEBURG HTS, OH 44103-0000	
07/18/2012	D3	SR	SUMS COMPLAINT(19653142) SENT BY CERTIFIED MAIL. TO: AYMAN DAHMAN MD 7215 OLD OAK BLVD., SUITE A-416 MIDDLEBURG HEIGHTS, OH 44130-0000	
07/18/2012	D2	SR	SUMS COMPLAINT(19653141) SENT BY CERTIFIED MAIL. TO: JOHANNANA O'NEILL MD 7215 OLD OAK BLVD., SUITE A-416 MIDDLEBURG HEIGHTS, OH 44130-0000	
07/18/2012	D1	SR	SUMS COMPLAINT(19653140) SENT BY CERTIFIED MAIL. TO: SOUTHWEST GENERAL HEALTH CENTER 18697 BAGLEY ROAD MIDDLEBURG HTS, OH 44103-0000	
07/03/2012	D6	CS	WRIT FEE	
07/03/2012	D5	CS	WRIT FEE	
07/03/2012	D4	CS	WRIT FEE	
07/03/2012	D3	CS	WRIT FEE	
07/03/2012	D2	CS	WRIT FEE	
07/03/2012	D1	CS	WRIT FEE	
06/26/2012	N/A	SF	JUDGE BRIAN J CORRIGAN ASSIGNED (RANDOM)	
06/26/2012	P1	SF	LEGAL RESEARCH	
06/26/2012	P1	SF	LEGAL NEWS	
06/26/2012	P1	SF	LEGAL AID	
06/26/2012	P1	SF	COURT SPECIAL PROJECTS FUND	
06/26/2012	P1	SF	COMPUTER FEE	
06/26/2012	P1	SF	CLERK'S FEE	
06/26/2012	P1	SF	DEPOSIT AMOUNT PAID THE BECKER LAW FIRM CO LPA	
06/26/2012	P1	SF	DEPOSIT AMOUNT PAID THE BECKER LAW FIRM CO LPA	
06/26/2012	N/A	SF	CASE FILED	
06/26/2012	P1	SR	COMPLAINT WITH JURY DEMAND FILED. SERVICE REQUEST - SUMMONS BY CERTIFIED MAIL TO THE DEFENDANT(S).	

Only the official court records available from the Cuyahoga County Clerk of Courts, available in person, should be relied upon as accurate and current.

For questions/comments please [click here](#).
Copyright © 2015 [PROWARE](#). All Rights Reserved. 1.0.111

STATE OF OHIO)
) ss. AFFIDAVIT OF ANNA M. CARULAS, ESQ.
CUYAHOGA COUNTY)

Now comes Anna M. Carulas, Esq., who deposes and states the following:

1. On the morning of February 2, 2015, Visiting Judge Greene conducted a conference with all counsel to discuss the status of the trial.
2. Relators' counsel left that conference with a good faith belief that Visiting Judge Greene could not be fair and impartial toward them.
3. On February 2, 2015, Relators filed an Affidavit of Disqualification with the Ohio Supreme Court.
4. On February 5, 2015, Chief Justice Maureen O'Connor denied the Affidavit of Disqualification.
5. In denying the Affidavit of Disqualification, Chief Justice O'Connor merely stated that "[t]he case may proceed before Judge Greene."
6. The February 2, 2015 trial date was ultimately continued.
7. With the February 2, 2015 trial continued, Respondent Judge Corrigan's previous "unavailability" became moot.
8. Instead of the case being returned to Respondent Judge Corrigan, the parties were instructed by Respondent Judge Corrigan to appear before Visiting Judge Greene in order to obtain a new trial date.
9. Over Relators' objection the parties appeared before Visiting Judge Greene on February 9, 2015 and a trial date of April 6, 2015 was scheduled but never journalized.
10. At this hearing of Feb 9, 2015, Relators stated their objections to the initial transfer as well as Visiting Judge Greene's continuing jurisdiction over this matter. At this hearing, the issue as to future motions was raised and Visiting Judge Greene explicitly stated that those matters should be returned and addressed by Respondent Judge Corrigan.
11. Although the trial date of April 6, 2015 was never journalized, there is an Entry on the Docket without an attached Order which states: "Visiting Judge Lillian J. Greene assigned to case (manually)."
12. Due to conflicts with the April 6, 2015 trial date, Relators and Codefendants filed Motions for Continuances on February 10, 2015 and February 12, 2015, respectively.

EXHIBIT D

13. On February 12, 2015, Relators filed a Motion to Return This Case to the Docket of Respondent Judge Corrigan for Ruling on the Motions to Continue, Motions in Limine, Trial and Final Disposition.

14. There has been no ruling on either the Motions to Continue or the Motion to Return This Case to the Docket of Respondent Judge Corrigan.

15. The parties have been informed that Visiting Judge Greene will rule on the Motions to Continue.

16. The parties have been instructed to select a new trial date for a trial before Visiting Judge Greene.

17. Respondent Judge Corrigan has effectively transferred/assigned this case to Visiting Judge Greene for full and final disposition on the absence of the requisite "unavailability" of Respondent Judge Corrigan.

18. To date, over Relators' objections, the parties are coordinating a new trial date before Visiting Judge Greene.

FURTHER AFFIDAVIT SAYETH NAUGHT.



Anna M. Carulas, Esq.

SWORN TO BEFORE ME and subscribed in my presence this 9th day of March, 2015.

ROBERT D. YETTERSON, ATTY.
1000 W. 10TH ST., SUITE 1000
MIDLAND, TEXAS 79701-1000
SECTION 207.001, C.R.C.

Notary Public

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Michelle C. Jones, RPR, CRR
Official Court Reporter
Cuyahoga County, Ohio

1 **MONDAY MORNING SESSION**

2 **FEBRUARY 9, 2015**

3 THE COURT: This is case
4 number CV 785788, the caption is Hastings, et
5 al. versus Southwest Health Center, et al. The
6 case was transferred to this visiting judge by
7 the sitting judge, Brian Corrigan.

8 Because of -- this case was set for
9 trial -- what date was that?

10 MS. CARULAS: The 2nd.

11 THE COURT: It was set for
12 trial the 2nd of February. In the -- before
13 the trial began counsel for the defense, and
14 that would be I -- I don't have -- Ann
15 Carulas --

16 MS. CARULAS: It's Anna
17 Carulas and Attorney Douglas Leak.

18 THE COURT: And Attorney
19 Douglas Leak filed a writ of prohibition, that
20 matter is still pending in the Supreme Court.
21 There was also filed an application for
22 disqualification of this Court, Judge Lillian
23 Greene, and that was denied by the Supreme
24 Court.

25 In denying, they indicated that the

1 case would proceed before Judge Lillian
2 J. Greene.

3 We're here today to pick a new date
4 for the trial. As much as the writ is still
5 pending, counsel wanted to address that.

6 MR. LEAK: Yes, Your Honor,
7 before we set the trial date, we have to raise
8 an objection to these proceedings for a few
9 grounds. Number one, we have a pending writ
10 of prohibition, that we say this Court does
11 not have subject matter jurisdiction. So we
12 need to be consistent with our writ of
13 prohibition, that we are still objecting to
14 these proceedings going forward.

15 Also, under the circumstances as we
16 sit here today, we were initially sent here
17 from across the street because of Judge
18 Corrigan's unavailability. Obviously now,
19 since we don't have a trial date, Judge
20 Corrigan cannot logically be unavailable. So
21 through the system of the visiting judge
22 system, we believe that this case should go
23 back to Judge Corrigan, to set a trial date.
24 And if he comes unavailable down the road,
25 we -- you know, we can address that.

1 But right now, Judge Corrigan should
2 be available for setting a trial date.

3 So we're objecting to these
4 proceedings of setting a trial date.

5 To clarify, the affidavit of
6 disqualification, when it was denied, it
7 wasn't that the Supreme Court instructed you
8 to proceed, it said you may.

9 And once again, under these
10 circumstances that we're objecting to the
11 transfer, initially, and the reason that we're
12 here right now, we don't believe we should be
13 in front of a visiting judge, because Judge
14 Corrigan is obviously -- can still be
15 available for trial.

16 THE COURT: Okay. Anyone
17 else?

18 MS. PANTAGES: Yes, Your Honor.
19 Just to reiterate the process that got us in
20 this situation to begin with, we had a
21 final --

22 THE COURT: Briefly, just
23 briefly.

24 MS. PANTAGES: Real quick. We
25 had a final pretrial on January 15th where

1 Judge Corrigan indicated that he was not
2 available and that he was going to transfer
3 the case across the street. There was no
4 objection from any party. We also were acting
5 under the presumption that that's what was
6 going to happen.

7 A week later we got notice from Judge
8 Corrigan's staff attorney that we had been
9 transferred to the VJ docket and that she
10 hadn't gotten the assignment from
11 Administrative Judge Russo yet, but it looked
12 like the VJ roster for February was either
13 going to be Patrick Kelly or William Coyne.

14 Attorney Carulas sent an e-mail,
15 indicating her objection to Judge Kelly,
16 because of a plaintiff's verdict on appeal --
17 I'm sorry, Your Honor I need to make a record,
18 I apologize, then followed by another
19 objection when we found out it was you.

20 At no point in time did they ever
21 object to getting transferred. In fact, they
22 were saying affirmatively, that they would be
23 happy with Judge Coyne.

24 Ultimately, we were assigned to you.

25 We know the progression that went on

1 last week, where there were two pleadings that
2 were filed in the Ohio Supreme Court on Monday
3 morning. That prevented us from getting
4 started Monday morning. Those were denied
5 before the Ohio Supreme Court Monday
6 afternoon.

7 You instructed us to be here on
8 Tuesday, ready to pick a jury. We were here
9 on Tuesday.

10 Tuesday morning they filed the
11 affidavit of disqualification. We were told
12 that we were stayed until Thursday. During
13 that process, Mr. Cullers and I moved our
14 expert witnesses from Tuesday to Wednesday, to
15 Thursday, to next week, incurring tremendous
16 amount of expense and inconvenience.

17 Ultimately, we found out on Friday
18 afternoon that the affidavit of
19 disqualification had been denied on Thursday
20 afternoon, meaning we could have gone forward
21 on Friday, we were ready to go. We were
22 unable to do that.

23 Now we're here, and we're hearing
24 that the case should be sent back to Judge
25 Corrigan, notwithstanding the denial of the

1 motions for emergency stay and the expedited
2 writ and the affidavit of disqualification.

3 If the Court sends back this case to
4 Judge Corrigan, then their abuse of process
5 worked. And we object to that strongly.

6 There is another case sitting in this
7 courtroom, ready to proceed with you, as
8 assigned through the Cuyahoga County
9 assignment process, which is random, by virtue
10 of the fact that the senior judge gets
11 assigned the first judge on the trial.

12 So we object, number one to the abuse
13 of process that occurred last week and number
14 two, to any suggestion that the defense's
15 successful abuse of process should send the
16 case back to Judge Corrigan.

17 Thank you for letting me make a
18 record, Your Honor.

19 THE COURT: All right. The
20 Court understands your argument, but I'm going
21 to set the trial for April 6, 2015, and
22 whatever, you know, transpires in between now
23 and April 6th, the Court will deal with or
24 Judge Corrigan will deal with it.

25 Yes, sir?

1 MR. KRAUSE: Just so we have
2 a complete record, I want to put on the
3 record, because I am the one on behalf of
4 Dr. O'Neill who filed a motion for continuance
5 on Thursday morning, once it became clear that
6 we were not going to start in time, my experts
7 were no longer available because they were
8 coming in Monday, and that became an issue
9 because Dr. O'Neill is entitled to a full and
10 fair defense.

11 I filed a motion for continuance. My
12 understanding is the motion has been granted,
13 and we're picking the date available.

14 That's all I want to put on the
15 record, thank you.

16 MS. CARULAS: If I may, Your
17 Honor. Just briefly, number one, as far as
18 Ms. Pantages' description of the process --

19 THE COURT: Okay, I've heard
20 it several times. It's in the record. And if
21 you filed some kind of motion with regard to
22 your request, it will be read. I don't need
23 to hear it again. I've heard it two, three
24 times.

25 MS. CARULAS: All right. I

1 just wanted to say we were within our rights,
2 we believe, to file that.

3 As far as the trial date, as we had
4 mentioned --

5 THE COURT: I understand. I
6 am setting it for April 6th. I don't know
7 what will transpire between now and April 6th,
8 but that's what I'm setting it for, April 6th.
9 If I am incorrect and I should -- the case
10 should not be with the visiting judge, then it
11 will go back across the street.

12 But as of right now I'm setting it
13 for that.

14 MS. CARULAS: I appreciate
15 that. May I put my objection as far as what
16 we had discussed in chambers?

17 THE COURT: What did we
18 discuss in chambers?

19 MS. CARULAS: We had
20 discussed, number one, that I am scheduled
21 already to be engaged counsel in the case of
22 Churchill versus --

23 THE COURT: I know all of
24 that, but I'm still setting it for April 6th
25 and if Judge Corrigan or Judge Russo wants to

1 change that, that's fine.

2 MS. CARULAS: I'm just saying,
3 Judge -- I feel I have to make the record,
4 please --

5 THE COURT: You have.

6 MS. CARULAS: I haven't on the
7 record. Number one was my conflict in
8 Franklin County, of Churchill versus Lab Corp.
9 The second conflict I raised back in chambers,
10 is that Dr. Dahman is scheduled to be on a
11 family vacation during the week of April 6th.
12 And I had raised that back in chambers and
13 respectfully requested that we find another
14 date in April that would work with my
15 schedule, and Dr. Dahman's schedule.

16 And it's my understanding that as far
17 as scheduling purposes, this Court is
18 available in April and May. And my request
19 had been that we find a date that would not be
20 in conflict with my trial schedule or with my
21 client's vacation schedule.

22 I appreciate it, thank you.

23 MS. PANTAGES: Your Honor, just
24 a housekeeping question. We're going to be
25 filing a motion for costs, for everything that

1 we incurred last week. Do we -- if we want to
2 submit that to you, is there a way that we --
3 how is that going to be transferred, so that
4 you get it?

5 THE COURT: I would say
6 submit it to Judge Corrigan, not me. I'm just
7 here to try the case, which I'm not doing,
8 so --

9 MS. PANTAGES: Okay.

10 (Thereupon, Court was adjourned.)

11 ~ ~ ~ ~ ~

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

I, Michelle Clare Jones, Official Court Reporter for the Court of Common Pleas, Cuyahoga County, Ohio, do hereby certify that as such reporter I took down in stenotype all of the proceedings had in said Court of Common Pleas in the above-entitled cause; that I have transcribed my said stenotype notes into typewritten form, as appears in the foregoing Transcript of Proceedings; that said transcript is a complete record of the proceedings had in the trial of said cause and constitutes a true and correct Transcript of Proceedings had therein.

Michelle Clare Jones, RPR, CRR
Official Court Reporter
Cuyahoga County, Ohio