

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

MICHAEL C. CARUSO, MD)	
BARBARA COLE,)	CIVIL ACTION
Plaintiffs,)	
— <i>versus</i> —)	FILE NO. <u>20EV003750</u>
EZEQUIEL H. CASSINELLI,)	
MD)	JURY TRIAL DEMANDED
PEACHTREE ORTHOPAEDIC)	
CLINIC, P.A.)	
PEACHTREE ORTHOPAEDIC)	
CLINIC FOUNDATION, INC.)	
NORTHSIDE HOSPITAL,)	
INC.)	
JOHN/JANE DOE 1-10,)	
Defendants)	

PLAINTIFF’S COMPLAINT FOR DAMAGES

Nature of the Action

1. This medical malpractice action arises out of medical services negligently performed on Michael C. Caruso, MD, from July 9, 2018, through July 12, 2018.

2. Pursuant to OCGA § 9-11-9.1, the Affidavit of Kalman Blumberg, MD, and the Affidavit of Judith Climenson, RN, are attached hereto as Exhibits 1 and 2.

This Complaint incorporates the opinions and factual allegations contained in those affidavits.

3. As used in this Complaint, the phrase “standard of care” means that degree of care and skill ordinarily employed by the medical profession generally under similar conditions and like circumstances as pertained to the Defendant’s actions under discussion.

Parties, Jurisdiction, and Venue

4. **Plaintiffs, Michael C. Caruso, MD and Barbara Cole**, are citizens of Georgia. Michael and Barbara are husband and wife.

5. **Defendant Ezequiel H. Cassinelli, MD**, is a Georgia citizen and a resident of Fulton County. Dr. Cassinelli may be served at his Fulton County residence, 5045 Carol Lane, Atlanta, Georgia 30327.

6. Dr. Cassinelli has been properly served with this Complaint.

7. Dr. Cassinelli has no defense to this lawsuit based on undue delay in bringing suit — whether based on the statute of limitations, the statute of repose, laches, or any similar theory.

8. Pursuant to OCGA 9-10-31, Dr. Cassinelli is subject to venue in this county because he lives here.

9. At all relevant times, Dr. Cassinelli served as an agent of Defendant Peachtree Orthopaedic Clinic, P.A. and Defendant Peachtree Orthopaedic Clinic Foundation, Inc.

10. However, if Dr. Cassinelli served as an agent of any other entity, each such entity is hereby on notice that but for a mistake concerning the identity of the proper party, the action would have been brought against it.

11. **Defendant Peachtree Orthopaedic Clinic, P.A. (“POC”)** is a Georgia professional corporation.

12. POC does business under the name “Peachtree Orthopedics.”

13. At all relevant times, Dr. Cassinelli acted as an agent of POC.

14. POC’s registered agent is Stephen McCollam, MD.

15. POC’s registered office is in Fulton County at 2001 Peachtree RD NE, Suite 705 Atlanta, GA 30309.

16. POC has been properly served with this Complaint.

17. POC has no defense to this lawsuit based on undue delay in bringing suit — whether based on the statute of limitations, the statute of repose, laches, or any similar theory.

18. POC is subject to venue in this county pursuant to OCGA §§ 14-2-510, 14-3-510, and 14-11-1108,¹ because (a) it maintains its registered office in this

¹ OCGA §§ 14-2-510 and 14-3-510 provide identical venue provisions for regular business corporations and for nonprofit corporations:

“Each domestic corporation and each foreign corporation authorized to transact business in this state shall be deemed to reside and to be subject to venue as follows: (1) In civil proceedings generally, in the county of this state where the corporation maintains its registered office.... (3) In actions for damages because of torts, wrong, or injury done, in the county where the cause of action originated, if the corporation has an office and

County and (b) the cause of action originated in this county and the corporation has an office and transacts business in that county.

19. **Defendant Peachtree Orthopaedic Clinic Foundation, Inc.**

(“POF”) is a Georgia corporation.

20. POF does business under the name “Peachtree Orthopedics.”

21. At all relevant times, Dr. Cassinelli acted as an agent of POF.

22. POF’s registered agent is Stephen McCollam, MD.

23. POF’s registered office is in Fulton County at 2001 Peachtree RD NE, Suite 705 Atlanta, GA 30309.

24. POF has been properly served with this Complaint.

25. POF has no defense to this lawsuit based on undue delay in bringing suit — whether based on the statute of limitations, the statute of repose, laches, or any similar theory.

26. POF is subject to venue in this county pursuant to OCGA §§ 14-2-510, 14-3-510, and 14-11-1108, because (a) it maintains its registered office in this

transacts business in that county; (4) In actions for damages because of torts, wrong, or injury done, in the county where the cause of action originated.”

Professional corporations are subject to these same venue provisions, because PCs are organized under the general “Business Corporation” provisions of the Georgia Code. *See* OCGA § 14-7-3. These venue provisions also apply to Limited Liability Companies, *see* OCGA § 14-11-1108, and to foreign limited liability partnerships, *see* OCGA § 14-8-46.

County and (b) the cause of action originated in this county and the corporation has an office and transacts business in that county.

27. **Defendant Northside Hospital, Inc. (“Northside”)** is a Georgia corporation with its Registered Office in Fulton County. Northside may be served through their Registered Agent, Susan Sommer, at 980 Johnson Ferry Road, Suite 70, Atlanta, Georgia 30342.

28. Northside has been properly served with this Complaint.

29. Northside has no defense to this lawsuit based on undue delay in bringing suit — whether based on the statute of limitations, the statute of repose, laches, or any similar theory.

30. Pursuant to OCGA §§ 14-2-510, 14-3-510, and 14-11-1108 Northside is subject to venue in this county because (a) it maintains its registered office in this county and (b) the cause of action originated in this county and the corporation has an office and transacts business in this county.

31. At all relevant times, Northside was the employer or other principal of the nursing staff involved in the treatment of Dr. Michael Caruso on July 9, 2018 through July 12, 2018.

32. However, if any other entity was a principal of those individuals, each such entity is hereby on notice that but for a mistake concerning the identity of the proper party, the action would have been brought against it.

33. **Defendants John/Jane Doe 1-10** are those yet unidentified individuals and/or entities who may be liable, in whole or part, for the damages

alleged herein. Once served with process, John/Jane Doe 1-10 are subject to the jurisdiction and venue of this Court.

34. This Court has subject matter jurisdiction, and venue is proper as to all Defendants in this Court.

Facts

35. On July 9, 2018, Dr. Ezequiel H. Cassinelli performed spine surgery on Michael C. Caruso, MD, at Northside Hospital.

36. After the surgery, Dr. Cassinelli served as the sole physician attending Dr. Caruso.

37. Dr. Caruso had a complicated cardiac history which included his having an implanted pacemaker/defibrillator.

38. In the days after the surgery, as Dr. Caruso recovered, he suffered cardiac complications including tachycardia.

39. The management of cardiac complications in a high-risk patient with a history of heart problems requires a cardiologist.

40. Dr. Cassinelli is an orthopedic spine surgeon.

41. Dr. Cassinelli is not a cardiologist.

42. The standard of care required Dr. Cassinelli to order a consultation by a cardiologist to evaluate and manage the patient's cardiac complications.

43. Dr. Cassinelli did not order a cardiology consultation, and in this respect he violated the standard of care.

44. The nursing staff knew or should have known that Dr. Caruso had a history of heart problems.

45. The standard of care required the nursing staff to inform Dr. Cassinelli of the post-surgical heart problems and to request treatment (in the form of a cardiology consultation).

46. Nurses have a duty to advocate for their patients' care.

47. If Dr. Cassinelli refused to order a cardiology consult, the standard of care would require the nurse to escalate the issue through the senior nursing staff up to (if necessary) the chief medical officer of the hospital.

48. The nursing staff either did not request treatment for Dr. Caruso's cardiac complications in the form of a cardiology consultation.

49. The nursing staff did not did not escalate the issue of the need for a cardiology consultation to ensure that a consultation was ordered notwithstanding Dr. Cassinelli's failure to order one.

50. The nursing staff violated the standard of care.

51. Because of these standard of care violations, Dr. Caruso was discharged despite being unstable, with ongoing and worsening, untreated heart complications.

52. The heart problems Dr. Caruso suffered when Dr. Cassinelli and Northside discharged him could have been treated simply and effectively by a cardiologist.

53. Because Dr. Caruso's heart problems were left untreated, in the days after discharge his condition deteriorated and led to multi-organ complications, including serious, irreversible damage to his bowel.

54. The complications from untreated heart problems led to a train of surgeries and permanent disabilities.

55. Because of the injuries to Dr. Caruso, his wife, Barbara Cole, has suffered a loss of the services and companionship of her husband.

Count 1 – Professional Negligence (all Defendants)

56. Plaintiff incorporates by reference, as if fully set forth herein, all preceding paragraphs of this Complaint.

57. The Defendants and their agents violated their standards of care as discussed above.

58. The foregoing standard-of-care violations caused Dr. Caruso to suffer physical pain and permanent disabilities.

59. Peachtree Orthopaedic Clinic, P.A. and Peachtree Orthopaedic Clinic Foundation, Inc. are vicariously liable for the negligence of Dr. Cassinelli, because he acted within the scope of his agency for them.

60. Northside Hospital, Inc. is vicariously liable for the negligence of the nurses involved in treating Dr. Caruso, because the nurses acted within the scope of their agency for Northside.

61. Pursuant to OCGA Title 51, Chapter 4, Dr. Caruso is entitled to recover from all Defendants for all damages caused by the Defendants' professional negligence.

Count 2 – Loss of Consortium (all Defendants)

62. Plaintiff incorporates by reference, as if fully set forth herein, all preceding paragraphs of this Complaint.

63. As a result of the standard-of-care violations discussed above, Barbara Cole has suffered a loss of consortium.

64. Mrs. Cole is entitled to recover from all Defendants for the loss of consortium she has suffered.

Damages

65. Plaintiff incorporates by reference, as if fully set forth herein, all preceding paragraphs of this Complaint.

66. As a direct and proximate result of the Defendants' conduct, Plaintiffs are entitled to recover from Defendants reasonable compensatory damages in an amount exceeding \$10,000.00 to be determined by a fair and impartial jury for all damages Plaintiffs have suffered, including physical, emotional, and economic injuries.

67. WHEREFORE, Plaintiffs demand a trial by jury and judgment against the Defendants as follows:

- a. Compensatory damages in an amount exceeding \$10,000.00 to be determined by a fair and impartial jury;
- b. All costs of this action;
- c. Expenses of litigation pursuant to OCGA 13-6-11;
- d. Punitive damages; and
- e. Such other and further relief as the Court deems just and proper.

July 9, 2020

Respectfully submitted,

/s/ Lloyd N. Bell

Georgia Bar No. 048800

Daniel E. Holloway

Georgia Bar No. 658026

BELL LAW FIRM

1201 Peachtree St. N.E., Suite 2000

Atlanta, GA 30361

(404) 249-6767 (tel)

bell@BellLawFirm.com

dan@BellLawFirm.com

/s/ Lawrence B. Schlachter

Lawrence B. Schlachter M.D. J.D.

Georgia Bar No. 001353

Schlachter Law Firm

1201 Peachtree Street NE, Suite 2000

Atlanta, GA 30361

(770) 552-8362 (tel)

larry@schlachterlaw.com

Attorneys for Plaintiffs

**AFFIDAVIT OF KALMAN D. BLUMBERG, MD
REGARDING MICHAEL C. CARUSO, MD**

PERSONALLY APPEARS before the undersigned authority, duly authorized to administer oaths, comes Kalman D. Blumberg, MD, who after first being duly sworn, states as follows:

Limited Purpose of Affidavit

1. I use the term "standard of care" to refer to that degree of care and skill ordinarily exercised by members of the medical profession generally under the same or similar circumstances and like surrounding conditions as pertained to the medical providers I discuss here.

2. I have been asked to provide this affidavit for purposes of Georgia statute OCGA § 9-11-9.1.

3. Plaintiffs' counsel drafted this document after consulting with me, and I reviewed it and edited it to make sure it states my views accurately.

4. This affidavit does not attempt to state or summarize all my opinions. This affidavit does not attempt to identify every person who violated a standard of care. Nor does this affidavit attempt to identify every standard of care that a particular person violated.

5. As I gain more information, my opinions may change. I understand that this affidavit will be provided to the Defense lawyers and to medical consultants they hire. If the Defense wishes to draw my attention to particular information, or disagrees with me on particular points, I invite the Defense team to communicate with me by letter, copied to Plaintiffs' counsel. The Defense need not wait to take my deposition in order to communicate with me by letter.

6. I use the term "standard of care" to refer to that degree of care and skill ordinarily exercised by members of the medical profession generally under the

same or similar circumstances and like surrounding conditions as pertained to the medical providers I discuss here.

7. I hold all the opinions expressed below to a reasonable degree of medical certainty — that is, more likely than not.

Qualifications

8. I am more than 18 years old, suffer from no legal disabilities, and give this affidavit based upon my own personal knowledge and belief.

9. I do not recite my full qualifications here. I recite them only to the extent necessary to establish my qualifications for purposes of expert testimony under OCGA 24-7-702.

10. However, my Curriculum Vitae is attached hereto as Exhibit “A.” My CV provides further detail about my qualifications. I incorporate and rely on that additional information here.

11. The acts or omissions principally at issue here occurred from July 9-12, 2018.

12. I am qualified to provide expert testimony pursuant to OCGA 24-7-702. That is:

- a. In July 2018, I was licensed by an appropriate regulatory agency to practice my profession in the state in which I was practicing or teaching in the profession.

Specifically, in 2018 I was licensed by the State of Florida to practice medicine. That’s where I was practicing medicine in July 2018.

- b. In July 2018, I had actual professional knowledge and experience in the area of practice or specialty which my opinions relate to — specifically, the area of:

- Following a post-surgical patient and deciding whether to order a consultation for complications outside the specific expertise of an orthopedic spine surgeon.

c. I had this knowledge and experience as the result of having been regularly engaged in the active practice of the foregoing areas of specialty of my profession for at least three of the five years prior to July 2018, with sufficient frequency to establish an appropriate level of knowledge of the matter my opinions address.

Specifically, I completed a four-year residency in orthopedic surgery in 1989 at the Medical College of Virginia. I then completed a one-year fellowship in spine surgery at ~~the same institution~~. I am Board Certified in orthopedic surgery.

the Rothman Institute and Thomas Jefferson University Hospital.

I have been practicing as a spine surgeon continuously for many years, and I routinely follow my patients after surgery — sometimes as the primary attending physician. I routinely evaluate whether the patient needs a consultation with another specialist and either request the primary attending to order the consultation or (where I am the primary attending) order the consultation myself.

Opinion & Factual Basis

13. This affidavit concerns post-surgical medical services by Dr. Ezequiel H. Cassinelli, to Michael C. Caruso, MD, after surgery on July 9, 2018.

14. I have reviewed medical records from Northside Hospital and from North East Georgia Medical Center

15. Dr. Caruso had a complicated cardiac history, and he had an internal pacemaker/defibrillator at the time of the surgery.

16. Dr. Cassinelli is an orthopedic spine surgeon, and he performed lumbar spine surgery on Dr. Caruso.

17. In the days after the surgery, Dr. Cassinelli continued to follow Dr. Caruso, and served as his attending physician.

18. In the days after the surgery, Dr. Caruso developed cardiac complications, including tachycardia.

19. The management of cardiac complications in a high-risk patient with a history of heart problems requires a cardiologist.

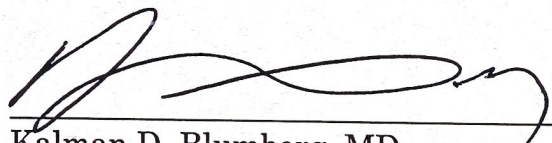
20. In these circumstances, the standard of care required Dr. Cassinelli to order a consultation by a cardiologist to evaluate and manage the patient's cardiac complications.

21. Dr. Cassinelli did not order a cardiology consultation, and in this respect he violated the standard of care.

Miscellaneous

22. To repeat, this affidavit does not exhaust my current opinions and of course does not reflect any opinions I may form later.

23. I hold each opinion expressed in this affidavit to a reasonable degree of medical probability or certainty; that is, more likely than not.



Kalman D. Blumberg, MD

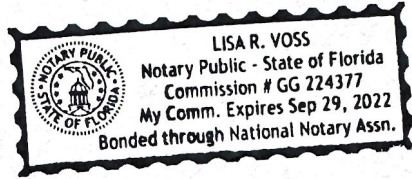
SWORN TO AND SUBSCRIBED before me

July 6, 2020

Lisa R. Voss
NOTARY PUBLIC

My Commission Expires:

9/29/2022



CURRICULUM VITAE

Kalman D. Blumberg, M.D.

OFFICE

Florida Spine Specialists
6000 North Federal Highway
Ft. Lauderdale, FL 33308
Telephone: (954) 771-2551
Facsimile: (954) 771-2772
Cell: (954) 235-1161

Federal Tax I.D. No: 27-0949204
License No: ME0056059
NPI: 1346234796

PERSONAL

Born December 23, 1956 in Miami, Florida. Married with three children. Interests and hobbies include boating and fishing.

EDUCATION

Fellowship

Thomas Jefferson University Hospital & Pennsylvania Hospital; Philadelphia, Pennsylvania

Spine Surgery; July 1989 – July 1990

Residency

Medical College of Virginia; Richmond, Virginia

Department of Orthopaedics and Rehabilitation

Orthopaedic Surgery; July 1985 – June 1989

Internship

Medical College of Virginia; Richmond, Virginia

Department of Surgery

General Surgery; July 1984 – June 1985

Doctor of Medicine

University of Miami School of Medicine

Miami, Florida; August 1980 – June 1984

Bachelor of Science, Engineering

Tulane University

New Orleans, Louisiana; August 1978 – May 1980

Technion

Israeli Institute of Technology

Haifa, Israel; July 1977 – July 1978

Exhibit A

EDUCATION (Cont.)

University of Florida

Gainesville, Florida; July 1976 – July 1977

Vanderbilt University

Nashville, TN; July 1974 – July 1975

CERTIFICATION AND LICENSURE

Diplomate, American Board of Orthopaedic Surgery

MOC current 2014

Fellow, American College of Surgeons

Licensed in Florida, Virginia, and Pennsylvania

PROFESSIONAL APPOINTMENTS

Broward General Medical Center

Holy Cross Hospital

Imperial Point Medical Center

MEMBERSHIP IN PROFESSIONAL ORGANIZATIONS

American Medical Association

Broward County Medical Association

Broward County Orthopaedic Society

Caducean Society of Greater Fort Lauderdale

Florida Medical Association

Florida Orthopaedic Society

North American Spine Society

NATIONAL PRESENTATIONS

Brooker-Wills vs. Russell-Taylor Femoral Nail; A Prospective Randomized Trail

Scientific Presentation American Academy of Orthopaedic Surgeons; Atlanta, GA, 1988

Poster Exhibit American Academy of Orthopaedic Surgeons; Atlanta, GA, 1988

Brooker-Wills Femoral Nail; Technical Difficulties of Insertion

Orthopaedic Trauma Association Meeting; Baltimore, MD, November 1987

Femoral Intramedullary Rods; Clinical performance and Related Laboratory Testing

American Society for Testing Materials

Cincinnati, OH, May 1987

NATIONAL PRESENTATIONS, Continued

The Pullout Strength of Titanium Alloy MRI Compatible and Stainless Steel MRI Incompatible Gardner-Wells Tongs

Cervical Spine Research Society; San Antonio, TX, November 1990

Scientific Presentation American Academy of Orthopaedic Surgeons; Anaheim, CA, March 1990

PUBLICATIONS AND PRESENTATIONS

"The Brooker-Wills Femoral Nail: Technical Difficulties and Their Avoidance,"

Intramedullary Rods: Clinical Performance and Related Laboratory Testing, ASTM STP 1008, J.P. Harvey, A.U. Daniels and R.F. Games, Eds., American Society for Testing and Materials, Philadelphia, PA., 1989, pp. 119-129.

Kalman D. Blumberg, M.D.; G.A. Hanks, M.D.;

W.C. Foster, M.D.; J.A. Cardea, M.D.

"A Comparison of the Brooker-Wills and Russell-Taylor Nails in Fractures of the Femoral Shaft"

JBJS, No. 7, 72-A, pp. 1019-1024, 1990

Kalman D. Blumberg, M.D.; W.C. Foster, M.D.; J.F. Blumberg, et.al.

"Presentation and Treatment of Pyogenic Vertebral Osteomyelitis"

Symposium on Infections of the Spine, Seminars in Spine Surgery, accepted for publication, Dec. 1990.

Kalman D. Blumberg, M.D. and R.A. Balderston, M.D.

"Infection in Spine Surgery"

An, H., Balderston, R.A. (eds.): Complications of Spinal Surgery, accepted for publication.

Kalman D. Blumberg, M.D. and R.A. Balderston, M.D.

"Cervical Spondylitic Myelopathy, Surgical Indications"

Harry N. Herkowitz (ed.), Spine, 3rd Edition, accepted for publication.

Kalman D. Blumberg, M.D. and F.A. Simeone, M.D.

"The Effects of Mesenchymal Stem Cells on Cervical and Lumbar Fusions"

Poster at Society for Minimally Invasive Spine Surgery Annual meeting Miami, FL 9/2012

And at Orthopedic Research Society Annual Meeting San Antonio, TX 1/2013

HONORS AND AWARDS

Medical Doctor degree with research distinction from
University of Miami School of Medicine

Member of Tau Beta Phi National Engineering Honor Society

Cum laude honors Tulane University

Bachelor of Science Biomedical Engineering with Departmental Honors

RESEARCH

Medical College of Virginia
The Brooker-Wills Femoral Nail:
Technical Difficulties of Insertion
Brooker-Wills vs. Russell-Taylor Femoral Nail: A Prospective Randomized Trail

University of Miami School of Medicine
American Heart Association research grant
Lysyl Crosslinks and Arterial Mechanics
Desmosine and Pyridinoline Densities and the Biophysical Properties of Aortic
Elastin and Collagen
Lysyl Crosslinks and heart valve leaflet biomechanics

Tulane University
Correlation of Brain Stem Auditory Evoked Potentials and Intracranial Pressure in Cats

Vanderbilt University
Design and Construction of EMG biofeedback Modules For Use in Rehabilitation of Stroke
Patients

LECTURES

"Oh, My Aching Back"
Holy Cross Hospital Community Lecture Series, Ft. Lauderdale, FL
November 1996

Lecture Series, North Ridge Medical Center Community, Ft. Lauderdale, FL
September 1997

"Evaluation and Treatment of Low Back Disease"
Broward Association of Rehabilitation Nurses, Ft. Lauderdale, FL
September 1997

"HIV and Domestic Violence Updates 1997," North Ridge Medical Center
September 1997

"The Spine - Current Concepts of Treatment," Palm Beach, FL
September 1997

"Common Back Disorders," North Ridge Medical Center Community Lecture Series
Ft. Lauderdale, FL, March 1997

"Low Back Disease," Imperial Point Medical Center Lecture Series,
Ft. Lauderdale, FL, December 1996

"Arthritis Can Hit Even (if you're) Young," Tamarac, FL
October 1998

"Spine Surgery," South Florida Case Managers, Hollywood, FL,

January 8, 2003

LECTURES, Continued

“Spine Surgery,” B.A.R.N. Association Meeting
Drs. Jeffrey B. Cantor & Kalman D. Blumberg, February 18, 2003

“Spinal Stenosis,” North Ridge Medical Center, Ft. Lauderdale, FL
March 24, 2003

“Spinal Stenosis,” JM Family Enterprises, Deerfield Beach, FL
October 8, 2003

“Back Pain,” Comcast Newsmakers, Ft. Lauderdale, FL
February 20, 2004

“Back Pain,” Holy Cross Hospital, Dinner with the Doctors, Ft. Lauderdale, FL
March 10, 2004

“Back Pain,” North Ridge Auditorium, Fort Lauderdale, FL
March 24, 2004

“New Techniques in Spine Surgery,” Corvel, Ft. Lauderdale, FL
July 28, 2005

“Total Disk Replacement,” North Ridge Medical Center, Ft. Lauderdale, FL
October 3, 2005

“Total Disk Replacement,” Publix and Seniors, Ft. Lauderdale, FL
January 17, 2006

POST-GRADUATE COURSEWORK / CME

American Academy of Orthopaedic Surgeons Annual Meeting, Orlando, FL
February 1995

AIDS Conference, Ft. Lauderdale, FL, April 1995

Domestic Violence, Ft. Lauderdale, FL, October 1995

Physicians Update: Risk Management, HIV/AIDS and Blood-borne Pathogens,
Ft. Lauderdale, FL, November 1995

Physicians Certification for Workers' Compensation, Ft. Lauderdale, FL
June 1996

Orthopaedic Trauma Association Annual Meeting, Boston, MA, September 1996

THE SPINE: Current Concepts and Treatment, Palm Beach, FL, September 18-21, 1997

Open and Minimally Invasive Surgery of the Lumbar and Thoracic Spine,

Memphis Tennessee, February, 1998.

POST-GRADUATE COURSEWORK / CME, Continued

Coding and Compliance for Spine Practices, Ft. Lauderdale, FL, March 1998

Current Concepts in Spinal Endoscopy, Memphis, TN., July 17, 1999

“15th Annual Meeting” of North American Spine Society, New Orleans, LA
October 25-28, 2000

Controversies & Challenges in Spinal Surgery, Naples, FL., December 9-10, 2000

North American Spine Society, Washington State Convention and Trade Center
November 1-3, 2001

Innovations, Challenges and Controversies in Spine Surgery, Jackson Hole, WY
July 27-28, 2001

“Inflatable Bone Tamp Technology,” Kyphon, Sarasota Memorial Hospital, Sarasota, FL,
January 11, 2002

“2000 Adult Spine Examination,” American Association of Orthopaedic Surgeons,
Rosemont, IL, April 29, 2002

“2000 Musculoskeletal Trauma Examination,” American Association of Orthopaedic
Surgeons, Rosemont, IL, April 29, 2002

“Emerging Concepts in Spine Surgery: Controversies and Challenges in the Spine
Surgeon’s Practice,” Key Largo, FL., May 3-4, 2002

“Minimal Access Spinal Technologies Hands-on Lab”, Memphis, TN, May 17, 2002

“ACSS Challenge of the Spine: A Comprehensive Neurosurgical Orthopedic Course,”
University of Texas Medical Branch, Galveston, TX, October 21, 2002

North American Spine Society, 18th Annual Meeting, San Diego, CA
October 21-25, 2003.

“2nd Annual Dynamic Spine Stabilization,” Texas Health Research Institute
November 15, 2003

“Techniques for Fixation in the Cervical and Thoracic Spine,” Fort Lauderdale, Florida
December 5, 2003

“Innovative Techniques in Spine Surgery,” Organization for Spinal Teaching and
Research/Spine Technology Education Group, Los Cabos, Mexico, August 4-7, 2004

“Charite’ Artificial Disc Comprehensive Training Program,” Endo-Surgery Institute, Center
for Spine Arthroplasty, Cincinnati, Ohio, November 10, 2004.

“Medical Error Prevention and Root Cause Analysis,” CME Resource, February, 2006

POST-GRADUATE COURSEWORK / CME, Continued

“Domestic Violence: The Florida Requirement,” CME Resource, February, 2006

“HIV/AIDS: Epidemic Update for Florida,” CME Resource, February, 2006

“Eating Disorders,” CME Resource, February, 2006

“Vaccinia: The Vaccine That Protects Against Smallpox,” CME Resource
February, 2006

“Patients Requiring Permanent Pacemakers,” CME Resource, February, 2006

“Hepatitis Viruses,” CME Resource, February, 2006

“A Review of Interventional Radiology,” CME Resource, February, 2006

“Clinical Management of Atrial Fibrillation” CME Resource, February, 2006

“Care of the Pediatric Trauma Patient, CME Resource,” April, 2008

“Clinical Management of Patients with Ventricular Arrhythmias,” April, 2008

“HIV/AIDS: Epidemic Update,” CME Resource, April, 2008

“Medical Error Prevention and Root Cause Analysis,” CME Resource, April, 2008

“Domestic Violence: The Florida Requirement,” CME Resource, April, 2008

“Medical Ethics for Physicians,” CME Resource, April, 2008

“Sepsis: Diagnosis and Management,” CME Resource, April, 2008

“Pain Management, Palliative Care and Treatment of the Terminally Ill, “ April, 2008”

2009 Annual Meeting, American Association of Orthopaedic Surgeons, Las Vegas, NV,
February 25-28, 2009

Federation of Spine Associations, Las Vegas, NV, February 28, 2009

American Association of Orthopaedic Surgeons, “EMR and Other Technologies –
Revolutionary Change in Orthopaedic Practice,” June 11-13, 2010

American Association of Orthopaedic Surgeons, “Adult Spine Scored and Recorded Self-
Assessment Examination of 2009,” August 15, 2010

North American Spine Society – 25th Annual Meeting, Orlando, FL, October 5-9, 2010

Cervical Spine Research Society – Instructional Course, Charlotte, NC, December 1,

2010

POST-GRADUATE COURSEWORK / CME, Continued

2010 Annual Meeting Cervical Spine Research Society, Charlotte, NC, December 2-4, 2010

American Association of Orthopaedic Surgeons, "Musculoskeletal Trauma Scored and Recorded Self-Assessment Examination," December 5, 2010

American Association of Orthopaedic Surgeons, Board Maintenance of Certification™ Preparation and Review (East), November 17-19, 2011

"Orthobullets MOC Daily Study Plans," CME Resource, September, 2013

"#91331 Medical Error Prevention and Root Cause Analysis," CME Resource, November, 2013

**AFFIDAVIT OF JUDITH CLIMENSON RN, CCRN-CMC, CNRN-
SCRN
REGARDING MICHAEL C. CARUSO, MD**

PERSONALLY APPEARS before the undersigned authority, duly authorized to administer oaths, comes Judith Climenson, RN, who after first being duly sworn, states as follows:

INTRODUCTION AND LIMITED PURPOSE OF AFFIDAVIT

1. I have been asked to provide this affidavit for the limited purpose of Georgia statute OCGA § 9-11-9.1.

2. Plaintiffs' counsel drafted this document after consulting with me. I reviewed and edited the affidavit to make sure it states my views accurately.

3. This affidavit does not attempt to state or summarize all my opinions. This affidavit addresses specific matters that Plaintiff's counsel have asked me to examine. I have not attempted to identify every person who may have violated a standard of care. Nor have I attempted to identify every standard of care that a particular person violated.

4. As I gain more information, my opinions may change. I understand that this affidavit will be provided to the Defense lawyers and to medical consultants they hire. If the Defense wishes to draw my attention to particular information, or disagrees with me on particular points, I invite the Defense team to communicate with me by letter, copied to Plaintiffs' counsel. The Defense need not wait to take my deposition in order to communicate with me by letter.

5. I use the term "standard of care" to refer to that degree of care and skill ordinarily exercised by members of the nursing profession generally under the same or similar circumstances and like surrounding conditions as pertained to the medical providers I discuss here.

EXHIBIT 2

6. I hold all the opinions expressed below to a reasonable degree of nursing certainty — that is, more likely than not.

QUALIFICATIONS

7. I am more than 18 years old, suffer from no legal disabilities, and give this affidavit based upon my own personal knowledge and belief.

8. I do not recite my full qualifications here. I recite them only to the extent necessary to establish my qualifications for purposes of expert testimony under OCGA 24-7-702.

9. However, my Curriculum Vitae is attached hereto as Exhibit “A.” My CV provides further detail about my qualifications. I incorporate and rely on that additional information here.

10. The acts or omissions at issue here occurred in July 2018.

11. I am qualified to provide expert testimony pursuant to OCGA 24-7-702. That is:

- a. In July 2018, I was licensed by an appropriate regulatory agency to practice my profession in the state in which I was practicing or teaching in the profession.

Specifically, I was licensed by the States of Arizona, California, and Georgia to practice as a registered nurse. In July 2018, I was practicing as a registered nurse in Arizona.

- b. In July 2018, I had actual professional knowledge and experience in the area of practice or specialty which my opinions relate to — specifically, the areas of:
 - Identifying when a patient is experiencing cardiac complications, requesting treatment, and advocating for the patient by escalating the issue if necessary.

- c. I had this knowledge and experience as the result of having been regularly engaged in the active practice of the foregoing areas of specialty of my profession for at least three of the five years prior to July 2018, with sufficient frequency to establish an appropriate level of knowledge of the matter my opinions address.

Specifically, I have worked for many years as a Registered Nurse in an intensive-care unit.

OPINION & FACTUAL BASIS

12. This affidavit concerns post-surgical services by the nursing staff of Northside Hospital to Michael C. Caruso, MD, after surgery on July 9, 2018.

13. I have reviewed medical records from Northside Hospital and from North East Georgia Medical Center.

14. Dr. Caruso underwent lumbar spine surgery on July 9, 2018. The surgery was performed by Dr. Ezequiel Cassinelli.

15. From the time of the surgery until Dr. Caruso's discharge on July 12, 2018, Dr. Cassinelli was the sole physician attending Dr. Caruso.

16. Dr. Caruso had a complicated cardiac history, and he had an internal pacemaker/defibrillator at the time of the surgery.

17. After the surgery, Dr. Caruso developed cardiac complications, including tachycardia.

18. The nursing staff knew or should have known that Dr. Caruso had a history of heart problems.

19. In these circumstances, the standard of care required the nursing staff to inform Dr. Cassinelli of the post-surgical heart problems and to request treatment (in the form of a cardiology consultation).

20. Nurses have a duty to advocate for their patients' care.

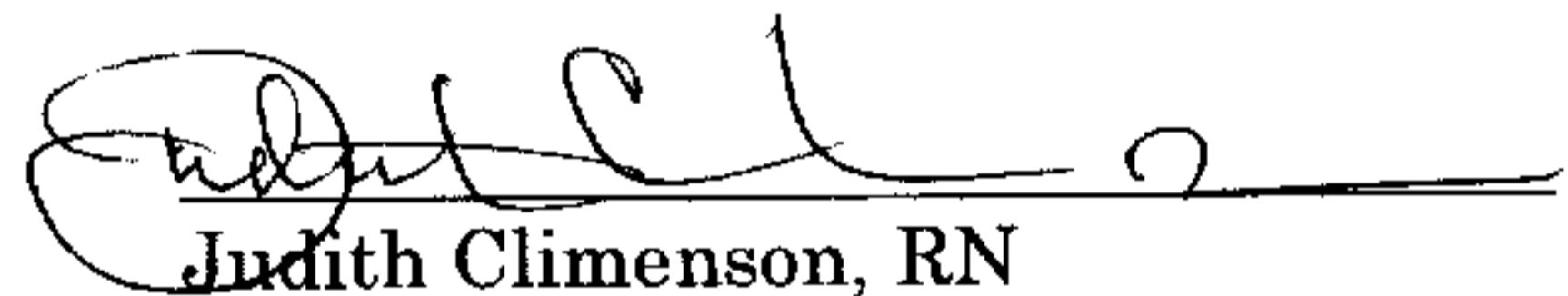
21. If Dr. Cassinelli refused to order a cardiology consult, the standard of care would require the nurse to escalate the issue through the senior nursing staff up to (if necessary) the chief medical officer of the hospital.

22. It appears from the records that the nursing staff either did not request treatment or (if requested and refused) did not escalate the issue. In either event, the nursing staff violated the standard of care.

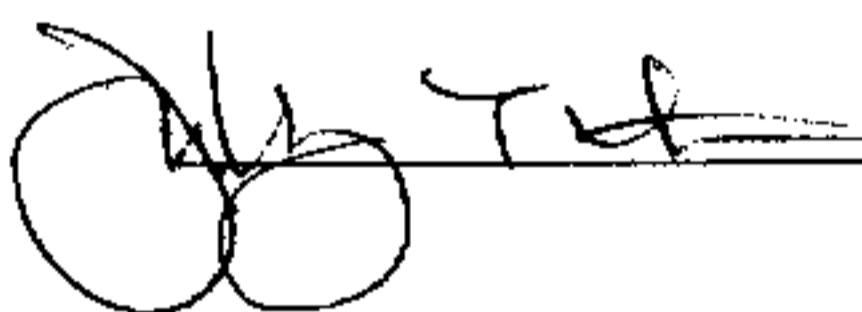
MISCELLANEOUS

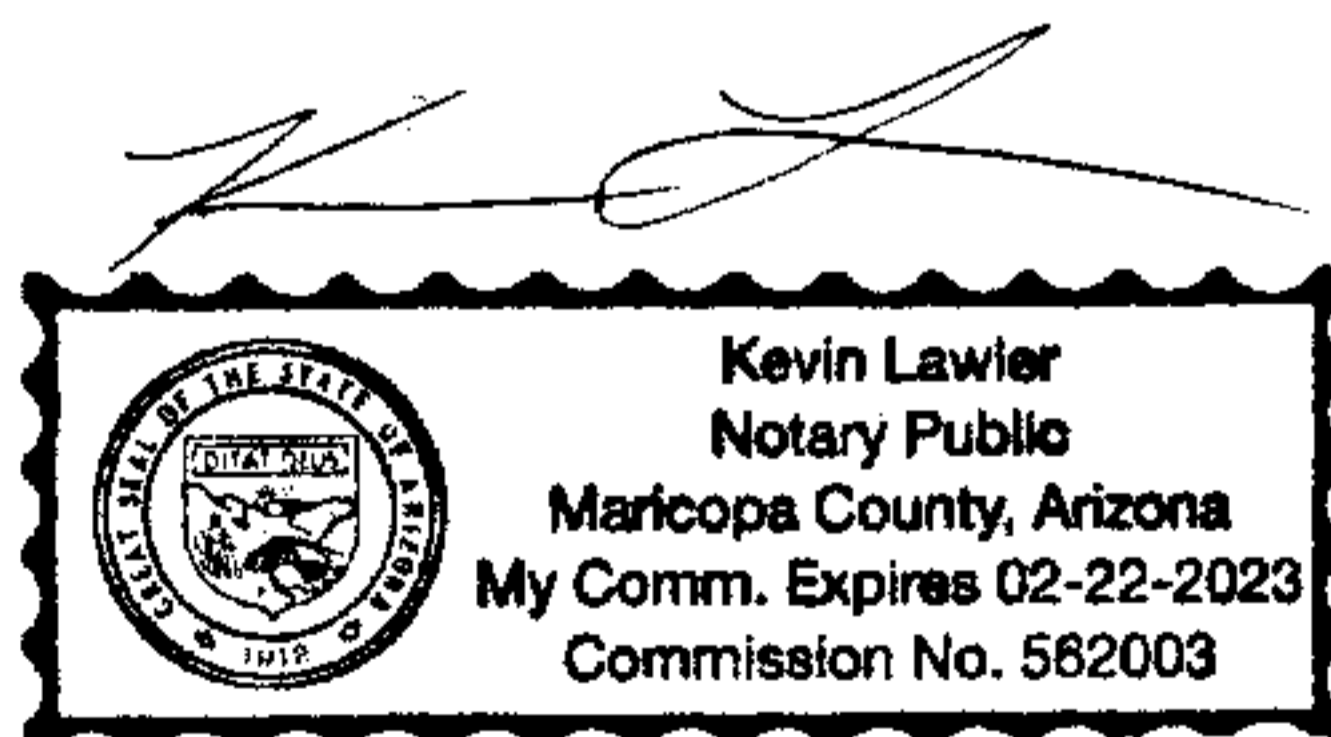
23. To repeat, this affidavit does not exhaust my current opinions and of course does not reflect any opinions I may form later.

24. Again, I hold each opinion expressed in this affidavit to a reasonable degree of nursing probability or certainty; that is, more likely than not.


Judith Climenson, RN

SWORN TO AND SUBSCRIBED before me

, 2020



Judith Climenson RN, CCRN-CMC, CNRN-SCRN

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Scottsdale, AZ 85254
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Summary of Qualifications

38 YEARS EXPERIENCE IN ACUTE AND CRITICAL CARE. 18 YEARS EXPERIENCE AS AN INDEPENDENT LEGAL NURSE CONSULTANT FOR CHART REVIEW FOR MERIT FOR MEDICAL MALPRACTICE, AND EXPERT WITNESSING FOR NURSING STANDARD OF CARE.

Professional Membership

AMERICAN ASSOCIATION OF CRITICAL CARE NURSES; AMERICAN ASSOCIATION OF LEGAL NURSE CONSULTANTS; AMERICAN NURSING ASSOCIATION; AMERICAN ASSOCIATION OF NEUROSCIENCE NURSES

Education

ASSOCIATE DEGREE IN NURSING, COLLEGE OF MARIN, 1980, KENTFIELD, CA.; CCRN CERTIFIED SINCE 1982; CARDIAC MEDICINE CERTIFIED SINCE 2006; NEURO CERTIFIED 2012; STROKE CERTIFIED 2016; ACLS/BLS CERTIFIED; IABP CERTIFIED
REGISTERED NURSE LICENSE: ARIZONA, CALIFORNIA AND GEORGIA

Work experience

STAFF RN AT SCOTTSDALE MEDICAL CENTER OSBORN IN THE SCU [SPECIAL CARE UNIT] JULY 2014- PRESENT

RN III , SAVANNAH MEMORIAL HEALTH UNIVERSITY MEDICAL CENTER, NEURO & CARDIOVASCULAR INTENSIVE CARE UNIT, APRIL 2009 TO JUNE 2014

STAFF RN, SANTA BARBARA COTTAGE HOSPITAL, CLINICAL RESOURCE NURSE FOR ICU AND CCU, AUGUST 2003-APRIL 2009

CONTRACTED CRITICAL CARE RN, MEDITECH HEALTH SERVICES, VENTURA, CA, ASSIGNMENTS IN ICU, CCU, ER AND TELEMETRY, 2000-2003

STAFF RN- CHARGE NURSE FOR CVICU AND TELEMETRY, SCOTTSDALE HEALTHCARE SHEA, SCOTTSDALE, AZ, 1991-2000

STAFF RN- CHARGE NURSE FOR CVICU AND TELEMETRY, PHOENIX, John C. Lincoln Hospital, AZ, 1985-1998

CHARGE NURSE, SONOMA VALLEY HOSPITAL, CRITICAL CARE UNIT, SONOMA, CA, 1980-1985