

IN THE STATE COURT OF BIBB COUNTY  
 STATE OF GEORGIA

  
 Katie Hall Lippert, Clerk  
 State Court of Bibb County

LEONARD MOORE, JR., as Surviving Spouse  
 and Next Kin of Bennie Mae Moore, deceased,  
 and LEONARD MOORE, JR., as Administrator of  
 the Estate of Bennie Mae Moore, deceased,

Plaintiff,

v.

DAVID W. MCKINNEY, M.D., VIRGINIA B.  
 TROGDON, PA-A and ANESTHESIA ASSOCIATES  
 OF MACON, LLP,

Defendants.

CIVIL ACTION NO. 19-SCCV-090689

**CONSOLIDATED PRE-TRIAL ORDER**

The following constitutes a Pre-Trial Order entered in the above styled case after conference with counsel for the parties:

(1) The name, address and phone number of the attorneys who will conduct the trial are as follows:

| Plaintiff:  | Defendant David W. McKinney, M.D.:   | Defendants Virginia B. Trogdon, PA-A and Anesthesia Associates of Macon, LLP:   |
|---|--|---|
| Katherine L. McArthur<br>Caleb F. Walker<br>Lindsey S. Macon<br><b>McARTHUR LAW FIRM</b><br>6055 Lakeside Commons Drive,<br>Suite 400<br>Macon, Georgia 31210<br>Phone: 478-238-6600<br>Fax: 478-238-6607<br><a href="mailto:kmcArthur@mcarthurlawfirm.com">kmcArthur@mcarthurlawfirm.com</a><br><a href="mailto:cwalker@mcarthurlawfirm.com">cwalker@mcarthurlawfirm.com</a><br><a href="mailto:lmacon@mcarthurlawfirm.com">lmacon@mcarthurlawfirm.com</a> | David N. Nelson<br>Elizabeth Ford<br><b>CHAMBLESS, HIGDON,<br/>           RICHARDSON, KATZ &amp;<br/>           GRIGGS, LLP</b><br>Post Office Box 6378<br>Macon, Georgia 31208-6378<br>Phone: 478-745-1181<br>Fax: 478-746-9479<br><a href="mailto:dnelson@chrkglaw.com">dnelson@chrkglaw.com</a><br><a href="mailto:eford@chrkglaw.com">eford@chrkglaw.com</a> | Gregory T. Talley<br>Annika M. Register<br><b>COLEMAN TALLEY, LLP</b><br>109 South Ashley Street<br>Valdosta, Georgia 31601<br>Phone: 229-242-7562<br>Fax: 229-333-0885<br><a href="mailto:greg.talley@colemantalley.com">greg.talley@colemantalley.com</a><br><a href="mailto:Annika.register@colemantalley.com">Annika.register@colemantalley.com</a> |

(2) The estimated time required for trial is: 5 – 6 days.

(3) There are no motions or other matters pending for consideration by the Court except as follows: None at this time. The parties may file motions in limine by December 31, 2024.

**The deadline for filing dispositive motions, partially dispositive motions, and motions challenging the qualifications of experts is Friday, August 30, 2024.** Failure to file a dispositive or partially dispositive motion based on the defenses of (1) arbitration and award, (2) discharge in bankruptcy, (3) illegality, (4) laches, (5) license, (6) payment, (7) release, (8) res judicata, (9) statute of frauds, (10) statute of limitations, (11) lack of jurisdiction over the person, (12) insufficiency of process, (13) insufficiency of service of process, and (14) failure to join a party, by this deadline shall constitute a waiver (to the extent waivable), if the evidence as to that defense was known by and/or in the possession of the party with the potential defense, prior to the deadline.

Defendant McKinney notes it appears from this pretrial order that Plaintiff has withdrawn any claim for negligent supervision of PA-A Trogdon by Dr. McKinney and any allegation Dr. McKinney's response time of 15 to 20 seconds was a departure from the standard of care. *Zeh v. Maso*, 336 Ga. App. 890 (2023). *See also* Deposition of Pierre Levan, M.D., pg. 97. In the event Plaintiff still maintains these are issues for a jury then Defendant McKinney will file a partial motion for summary judgment within the Court's deadline.

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

Leonard Moore, Jr.

Bennie Mae Moore,

McArthur Law Firm, Katherine L. McArthur, Lindsey S. Macon, Caleb F. Walker,

David W. McKinney, M.D.,  
Virginia B. Trogdon, PA-A,  
Anesthesia Associates of Macon, LLP,  
MagMutual Insurance Company.

(5) A. All discovery has been completed, unless otherwise noted, and the Court will not consider any further motions to compel discovery except for good cause shown. The parties, however, shall be permitted to take depositions of any person(s) for the preservation of evidence for use at trial. The parties reserve the right to depose any individual identified by the opposing party in the “may call” list of this order who has not yet been identified during discovery.

B. Unless otherwise noted, the names of the parties as shown in the caption to this order are correct and complete and there is no question by any party as to the misjoinder or nonjoinder of any parties.

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

Bennie Mae Moore, a 58-year-old African American female, was a patient of V. John Bagnato, M.D. seeking weight loss and ultimately lap band surgery. As part of the workup prior to the lap band procedure Dr. Bagnato scheduled an esophagogastroduodenoscopy (EGD) with Clo-test and pCLE. On November 14, 2017 Bennie Mae Moore presented for the EGD to Coliseum Northside Hospital. The anesthesiologist involved in this procedure was David W. McKinney, M.D., who was assisted by Virginia B. Trogdon, PA-A. Ms. Moore was assigned an ASA status of 4 and an airway class of 2. Dr. McKinney performed the anesthesia evaluation at 15:45 and noted

that the anesthesia plan was for MAC using Propofol. His evaluation indicated that this patient's weight was 337 lbs. and that she had the following as significant medical history: GERD, HTN, gout, back pain, diabetes, obesity (morbid), sleep apnea (does not use C-Pap), ESRD on HD times 21/2 years, M-W-F (dialysis yesterday), CVA (2012) with left-sided weakness on ASA/day. The anesthesia record indicates the beginning of anesthesia between 16:45 and 16:55 with the anesthesia timeout initiated at 17:00. The pre-induction assessment is noted to have occurred at 17:00 with the patient having a blood pressure of 163/72, heart rate of 63, and O2 sat 100%. Virginia Trogdon, PA-A was managing the patient's anesthesia needs and airway during the EGD procedure. Dr. McKinney had left the room. The anesthesia record indicates that 150mgs of Propofol was administered to Ms. Moore during the procedure. Lidocaine and Fentanyl were also given. The operative report indicates that during the EGD procedure the patient became apneic and eventually hypoxic, and the procedure had to be terminated. The anesthesia record indicates at 17:07 – patient stops respirations and O2 sat reading wave form becomes dampened, can't hear respirations with stethoscope, BP is still stable. LMA is placed. Dr. McKinney had been called and the patient was intubated by him. A code was called, and CPR was begun with Epinephrine and Atropine given. The Code sheet indicates that CPR was started at 17:18 and that the patient did not have a pulse at the onset of CPR. During the Code the circulation was restored, and Ms. Moore was transferred to the ICU at 17:40.

Bennie Mae Moore was diagnosed with acute respiratory failure, status post PEA cardiac arrest during the EGD as well as anoxic brain injury. She remained unresponsive, intubated, mechanically ventilated, with mid-dilated, fixed pupils, and rigid extremities. On November 15, 2017, Ms. Moore was transferred to Coliseum Medical Center by ambulance and placed in CV-

ICU. She stayed at Coliseum Medical Center from November 15, 2017, until she was discharged on December 1, 2017, to Regency Hospital for LTAC. Her hospital course found her to be in acute and chronic hypercapnic respiratory failure, vent-dependent, post-cardiac arrest, status post trach on November 21<sup>st</sup>, likely hypoxic encephalopathy, status post-cardiac arrest. She had a tracheostomy and a percutaneous endoscopic gastrostomy tube placed. Her mental status never improved. She remained at Regency Hospital until her death on December 31, 2017.

Defendants David W. McKinney, M.D. and Virginia B. Trogdon, PA-A were both employed by Defendant Anesthesia Associates of Macon, LLP at the time that they rendered care and treatment to Bennie Mae Moore on November 14, 2017. Plaintiffs contend that each of Defendants McKinney and Trogdon fell beneath the standard of care for Anesthesiologists and PA-As practicing in the same or similar circumstances in the care and treatment that they rendered to Bennie Mae Moore. Their violations of the standard of care have been delineated in the depositions of Pierre T. Levan, M.D. and Sally Ann Mitchell, EDD, MMC. It is contended that the violations of the standard of care by the defendants resulted in Bennie Mae Moore suffering respiratory arrest, cardiac arrest, hypoxic brain injury and other injuries stemming from the arrests and the brain injury up to and including her death on December 31, 2017.

Bennie Mae Moore suffered mentally and physically from November 14, 2017, until her death on December 31, 2017, in addition to undergoing two major surgeries for the placement of a tracheostomy and a PEG tube. Plaintiff Leonard Moore, Jr. as Administrator of the Estate of Bennie Mae Moore seeks damages from Defendants for the pain and suffering endured by his wife, Bennie Moore as well as the medical bills of \$761,112.96 and the funeral and burial

expenses. Plaintiff Leonard Moore, Jr., as Next Kin, seeks damages for the full value of the life of his wife Bennie Mae Moore, Deceased for Wrongful Death. Leonard Moore, Jr. is the surviving spouse of Bennie Mae Moore, having been lawfully married to her since May 20, 1994, a total of 23.5 years.

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

The decedent, Bennie Moore, was a 58-year-old female patient of Dr. Bagnato who was planning on performing a lap band surgery. At the time of her consultation with Dr. Bagnato she had a pre-existing history of GERD, hypertension, gout, back pain, reflux, end stage renal disease with dialysis, a history of a prior stroke in 2012 with a history of left side weakness, sleep apnea, and morbid obesity.

On November 14, 2017, Dr. Bagnato was scheduled to perform an esophagogastroduodenoscopy under conscious sedation with monitored anesthesia care provided directly by Physician Anesthesiology Assistant, Virginia Trogdon. Dr. McKinney evaluated Ms. Moore and cleared her for the procedure, which was to be performed under Monitored Anesthesia Care or MAC anesthesia.

Dr. McKinney created an appropriate anesthesia plan and would not have been present when the sedation was administered by PA-A Trogdon. However, he was available as necessary for PA-A Trogdon.

This procedure started at 5:00 PM. PA-A Trogdon would have been in the room with the patient, nursing staff and Dr. Bagnato. She administered Propofol, lidocaine, and fentanyl in appropriate amounts. Thereafter Ms. Moore became apneic and Dr. McKinney was paged to

come to the endoscopy suite to evaluate Ms. Moore. He arrived within seconds of being paged overhead, and when he entered the room he observed that Ms. Moore had an LMA in place and he then intubated her.

Ms. Moore was subsequently admitted to Coliseum Hospital with a diagnosis of hypoxic encephalopathy and passed away on December 31, 2017.

Dr. McKinney complied with the standard of care and no act or omission on his part was the cause of Ms. Moore's alleged injuries or her subsequent death. This Defendant objects to the contentions being read to the jury.

**The following is Defendants Virginia B. Trogdon, PA-A and Anesthesia Associates of Macon LLP's brief and succinct outline of the case and contentions:**

On November 14, 2017, Bennie Mae Moore, a 58-year-old female, presented to Dr. John Bagnato for treatment for obesity and GERD. Prior to her scheduled EGD procedure, Ms. Moore underwent an anesthesia evaluation by Dr. David W. McKinney, who determined Ms. Moore was an appropriate candidate for MAC anesthesia. During the EGD procedure, Dr. McKinney was the supervising anesthesiologist and Virginia Trogdon, PA-A, was the physician assistant administering MAC anesthesia. Propofol and lidocaine were given, as well as fentanyl. Shortly after the procedure began, Ms. Moore became apneic. PA-A Trogdon requested Dr. McKinney come to the bedside and immediately placed an LMA. Dr. McKinney then proceeded to intubate Ms. Moore. A code was called and CPR was administered. On November 15, 2017, Ms. Moore was transferred to Coliseum Medical Center and remained in the ICU until being discharged to December 1, 2017, to Regency Hospital for long-term acute care. Ms. Moore remained at Regency Hospital until she passed away on December 31, 2017.

Defendants contend, at all times, they exercised that degree of care and skill as exercised by physicians under the same conditions and like surrounding circumstances, and no act or omission on Defendants' behalf proximately caused harm to Plaintiff or Bennie Mae Moore.

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

**For Plaintiffs:**

A. Did Defendant David W. McKinney, M.D. practice below the standard of care and, if so, was that a proximate cause of Bennie Mae Moore's injuries, damages and death?

B. Did Virginia B. Trogdon, PA-A practice below the standard of care and, if so, was that a proximate cause of Bennie Mae Moore's injuries, damages and death?

C. What is the percentage of fault that should be apportioned to David W. McKinney, M.D.?

D. What is the percentage of fault that should be apportioned to Virginia B. Trogdon, PA-A?

E. What is the value of the injuries to Bennie Mae Moore?

F. What is the value of the pain and suffering of Bennie Mae Moore as a result of the medical malpractice?

G. What is the full value of the life of Bennie Mae Moore, both economic and non-economic?

H. Economic value and special damages.

**For Defendant McKinney**

(1) Whether David McKinney, M.D. exercised the degree of care and skill customarily exercised by physicians generally under the same or similar circumstances.

(2) Whether any act or omission of David McKinney, M.D. allegedly constituting professional negligence proximately caused Bennie Moore's injury or death;

(3) Whether any act or omission of Virginia Trogdon, PA-A allegedly constituting professional negligence caused Bennie Moore's injury or death;

(4) If any act of or omission of David McKinney, M.D. or Virginia Trogdon, PA-A allegedly constituting professional negligence is found by the jury to have caused her alleged injuries or death, the percentage of negligence or fault as to each, if any;

(5) The amount of compensatory damages, if any, to which Plaintiff is entitled.

**For Defendants Virginia B. Trogdon, PA-A and Anesthesia Associates of Macon, LLP:**

Negligence, proximate cause, and damages, if any.

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

**By Plaintiff:**

- A. ~~O.C.G.A. § 51-1-2 (ordinary diligence and ordinary negligence)~~
- B. ~~O.C.G.A. § 51-1-8 (breach of private duty/professional negligence)~~
- C. O.C.G.A. § 51-1-27 (recovery for medical malpractice)
- D. O.C.G.A. § 51-12-23 and 51-12-9 (proximate cause)
- E. O.C.G.A. § 51-12-6 (pain and suffering damages)
- F. O.C.G.A. § 51-12-7 (medical bills, funeral and burial expenses and lost income)
- G. O.C.G.A. § 51-12-3 (direct and consequential damages distinguished)
- H. O.C.G.A. § 51-2-1(a) (imputation of negligence)
- I. O.C.G.A. § 51-2-2 (liability of torts of servant)
- J. O.C.G.A. § 51-4-2 (damages for wrongful death)

**For Defendant McKinney:**

This Defendant denies he was negligent or that any negligence on his part caused or contributed to causing damages as alleged by Plaintiff. However, the applicable code section is O.C.G.A. § 51-2-27.

This Defendant shows that O.C.G.A. § 51-1-2 and 51-1-8 referenced by Plaintiff are inapplicable. This is an action sounding in professional negligence, and thus, O.C.G.A. § 51-1-2, is inapplicable. Further, O.C.G.A., § 51-1-8 is inapplicable as Georgia law establishes that a plaintiff does not have the right to bring a separate cause of action under this statute as any such claims

are encompassed within whether the physician complied with the applicable standard of care. *Bowling v. Foster*, 254 Ga. App. 374 (2002).

**For Defendants Virginia B. Trogdon, PA-A and Anesthesia Associates of Macon, LLP:**

None.

(10) If the case is based on a contract, either oral or written, the terms of the contract are as follows (or, the contract is attached as an Exhibit to this order): Not applicable.

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

**By Plaintiff:**

A. The amount of Plaintiff's special damages;

- Medical bills - \$761,112.96
- Funeral and burial expenses – \$15,174.98

B. General damages, consisting of:

- Full value of the life of Bennie Mae Moore;
- Pain and suffering of Bennie Mae Moore, physical and mental;

the amount of such damages is to be determined by the enlightened conscience of fair and impartial jurors.

**For Defendant McKinney:**

This Defendant contends that Plaintiffs are not entitled to any award of damages against this Defendant. However, should the jury find in favor of Plaintiff, the applicable damages would be those damages appropriate pursuant to OCGA § 51-4-1 and OCGA § 51-12-2 so long as there is evidence of those damages. In further response, the measure of damages are as follows: (1)

Pre-death pain and suffering is measured by the enlightened conscience of fair and impartial jurors; (2) Wrongful death damages are measured by the “[f]ull value of the life of the decedent, as shown by the evidence.” See O.C.G.A. § 51-4-1 (defining damages for wrongful death as “the full value of the life of the decedent without deducting for any of the necessary or personal expenses of the decedent had he lived”); (3) Medical expenses are measured as the reasonable value of such expense as was reasonably necessary; (4) Funeral expenses are measured as the reasonable value of such expense as was reasonably necessary

**For Defendants Virginia B. Trogdon, PA-A and Anesthesia Associates of Macon, LLP:**

Defendants contend Plaintiff is not entitled to recover damages from Defendants. Plaintiff’s special damages must be proved with specificity at trial and general damages are measured by the enlightened conscience of a fair and impartial jury.

(12) If the case involves divorce, each party shall present to the court at the pre trial conference the affidavits required by Rule 24.2. Not applicable.

(13) The following facts are stipulated: None at this time.

(14) The following is a list of all documentary and physical evidence that will be tendered at the trial by the Plaintiff or Defendant. Unless noted, the parties have stipulated as to the authenticity of the documents listed and the exhibits listed may be admitted without further proof of authenticity. All exhibits shall be marked by counsel prior to trial so as not to delay the trial before the jury.

A. By the Plaintiffs:

1. Medical records
  - Palmyra Surgical, LLC
  - Coliseum Medical Center

- Regency Hospital
  - Central Georgia Heart Institute
2. Georgia Certificate of Death
  3. Photographs and/or videos of Bennie Moore
  4. Medical/Funeral Expenses Exhibit
  5. Annuity Mortality Table for 1949, Ultimate
  6. Marriage Certificate
  7. Medical Charts/Chronologies
  8. Medical Legal Illustrations and Demonstrative Aids
  9. Employment Contract between Defendant McKinney and Defendant Anesthesia Associates;
  10. Employment Contract between Defendant Trogdon and Defendant Anesthesia Associates
  11. Pictures of an EGD procedure room
  11. Any exhibit to any deposition taken in the case
  12. Any exhibit listed by Defendants
- B. By the Defendants:

**By Defendant McKinney:**

- (1) Medical Records from Axis Pain Center
- (2) Medical Records from Central Georgia Heart Institute, Houston Heart Institute, and Rahil Kazi, M.D.
- (3) Medical Records from Hypertension & Kidney Associates
- (4) Medical Records from Internal Medicine & Geriatrics of Houston
- (5) Medical Records from Palmyra Surgical
- (6) Medical Records from Premier Neurology
- (7) Medical Records from Rodrigo Morales, M.D.
- (8) Medical Records from George C. Stefanis, M.D.
- (9) Medical Records from Coliseum Northside Hospital
- (10) Medical Records from Coliseum Hospital
- (11) Medical Records from Regency Hospital of Macon
- (12) Death Certificate
- (13) Bennie Moore's Tax Returns
- (14) CV of Pierre Levan, M.D.
- (15) CV of Sally Ann Mitchell, EDD, MMSC
- (16) CV of Scott Stewart, DNAP
- (17) CV of Virginia Trogdon, PAA
- (18) CV of David McKinney, M.D.
- (19) CV of Timothy E. Morey, M.D.
- (20) Invoices of Pierre Levan, M.D.
- (21) All notes of Pierre Levan, M.D.
- (22) Invoices of Sally Ann Mitchell, EDD, MMSC
- (23) All notes of Sally Ann Mitchell, EDD, MMSC

- (24) Demonstrative exhibits to include medical equipment, charts, timelines, and medical illustrations
- (25) Medical Literature
- (26) Any Exhibit listed by Plaintiff and/or Co-Defendant.

**By Defendants Virginia B. Trogdon, PA-A and Anesthesia Associates of Macon, LLP:**

The following is a list of all documentary evidence and physical evidence that will be tendered at the trial by the plaintiff or defendant. Counsel for the parties shall meet, confer and exchange copies of all documentary evidence no later than **seven (7) days prior to the commencement of trial**, in a good faith effort to reach all agreements and stipulations possible regarding documentary and tangible evidence. Unless noted, the parties have stipulated as to the authenticity of the exhibits listed below and they may be admitted without further proof of authenticity. All exhibits shall be marked by counsel prior to trial so as not to delay the trial before the jury.

Notwithstanding this stipulation as to authenticity, all other objections as to admissibility are specifically reserved by the parties unless listed as a "Joint Exhibit" or marked with an asterisk on the following lists.

The parties agree no demonstratives will be displayed to the jury without first being shown to opposing counsel with the opportunity to object.

1. Bennie Mae Moore's medical records and images from Coliseum Northside Medical Center;
2. Bennie Mae Moore's medical records and images from Regency Hospital;
3. Bennie Mae Moore's medical records and images from Internal Medicine and Geriatrics of Houston;
4. Bennie Mae Moore's medical records and images from Axis Pain Center;
5. Bennie Mae Moore's medical records and images from Rodrigo Morales, M.D.;
6. Bennie Mae Moore's medical records and images from Houston Heart Institute, Central Georgia Heart Institute, and Rahil Kazi, M.D.

7. Bennie Mae Moore's medical records and images from Palmyra Surgical, LLC and John Bagnato, M.D.;
8. Bennie Mae Moore's medical records and images from Hypertension & Kidney Associates and Iyad Barakat, M.D.;
9. Bennie Mae Moore's medical records and images from Premiere Neurology, P.C.;
10. Bennie Mae Moore's medical records and images from The Stefanis Group and George Stefanis, M.D.;
11. Any other medical records and/or imaging of Bennie Mae Moore disclosed during the course of discovery or listed herein by any other party;
12. Any document attached as an exhibit to any deposition taken in this matter;
13. All materials obtained or produced during discovery;
14. Demonstrative exhibits.

Defendants propose the medical records be stipulated as admissible and admitted as Joint Exhibits.

Defendants reserve the right to use impeachment materials and demonstrative aids as allowed by law without being listed herein, including but not limited to medical literature and other statements and testimony. Defendants object to the admissibility of any documentary or physical evidence not previously identified and produced during discovery.

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

A. Pursuant to O.C.G.A. § 24-8-803(18), Plaintiff intends to establish learned treatises and other medical literature as authoritative through her own experts. See O.C.G.A. § 24-8-803(18); *State Highway Dept. v. Willis*, 106 Ga. App. 821(3), 128 S.E.2d 351 (1962). See *Mize v. State*, 240 Ga. 197(4), 240 S.E.2d 11 (1977); *Pound v. Medney*, 176 Ga. App. 756(4), 337 S.E.2d 772 (1985); *Packer v. Gill*, 193 Ga. App. 388(7), 388 S.E.2d 338 (1989); *Brannen v. Prince*, 204 Ga. App. 866(4), 421 S.E.2d 76 (1992).

B. Pursuant to O.C.G.A. §§ 24-6-611 and 9-11-32(a)(2), Plaintiff expects to call, for cross-examination purposes, adverse parties and witnesses identified with adverse parties.

C. See Plaintiff's Motions in Limine.

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

**For Defendant McKinney:**

This Defendant does not know of any peculiar evidentiary or legal issues at this time other than what has been raised in Defendant's Motions in Limine.

Any authorities for evidentiary and legal questions are or will be set forth in Defendant's Motions in Limine, proposed jury charges, pre-trial motions, and trial briefs. Defendant reserves the right to file additional briefs on special authorities pertaining to evidentiary or legal questions should the need arise at trial.

**For Defendants Virginia B. Trogdon, PA-A and Anesthesia Associates of Macon, LLP:**

None at this time.

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

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

**By Plaintiffs:**

- David W. McKinney, M.D.
- Virginia Trogdon, PA-A
- Leonard Moore
- Lea Moore
- Pierre T. LeVan, M.D.
- Sally Ann Mitchell, EDD, MMC

- Timothy Morey, M.D.
- Scott L. Stewart, DNAP

**For Defendant McKinney**

Any witness who has been deposed and who is unavailable to testify before trial pursuant to O.C.G.A. § 9-11-32, to include but not be limited to Virginia Trogdon, PA-A, Sally Ann Mitchel, EDD, MMSC, Pierre T. LeVan, M.D., Timothy Morey, M.D., Scott L. Stewart, DNAP.

**For Defendants Virginia B. Trogdon, PA-A and Anesthesia Associates of Macon, LLP:**

1. Ginny Balkcom, PAA fka Ginny Trogdon.

The testimony of any witness unavailable for trial, as well as the testimony of any witness taken for evidentiary purposes. Defendants reserve the right to use any deposition which has been taken in this case for purposes of cross-examination and/or impeachment.

Defendants reserve the right to introduce testimony via deposition pursuant to Georgia law. Defendants also reserve the right to take any evidentiary depositions prior to trial, which may be introduced at the time of trial. Any objections to the depositions or questions or arguments in the depositions will be called to the attention of the Court prior to trial following the completion of the video production of those depositions. Defendants object to the use of the deposition of any witness without a showing that the witness is unavailable to testify at trial.

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

(19) The following are lists of witnesses the

- A. Plaintiff will have present at trial:

Leonard Moore, Jr.  
Lea Taylor Moore

B. Plaintiff may have present at trial:

Faith Hicks, friend  
Mary Thompson, cousin  
Levi Rozier, pastor  
Cynthia Lowe, friend  
Dorothy Moore, mother-in-law  
Vito J. Bagnato, M.D.  
David W. McKinney, M.D.  
Virginia Trogdon, PA-A  
Leonard Moore  
Lea Moore  
Pierre T. LeVan, M.D.  
Sally Ann Mitchell, EDD, MMC  
Timothy Morey, M.D.  
Scott L. Stewart, DNAP  
Robert P. Wright, M.D.  
Patrick Narh-Martey, M.D.  
Nisreen Jallad, M.D.  
Marc Saad, M.D.  
Michael B. Evans, M.D.  
Allison B. Burkett, M.D.  
Muhammad Awais, M.D.  
Douglas P. Farman, M.D.  
Deepak Kadiyala, M.D.  
Reuben Ellis, M.D.  
David Barillo, M.D.  
Michael B. Evans, M.D.  
Rebecca L. Bass, M.D.  
Shaila Smith, DO  
Tarun K Ghosh, M.D.  
Swathi Singanamala, M.D.  
Roger Vega Blanco, M.D.  
Manuel Arnaldo Vega, M.D.  
Syed A. Asad, M.D.  
Ngozika Orjioke, M.D.

C. Defendant McKinney will have present at trial: None.

D. Defendant McKinney may have present at trial:

- (1) David McKinney, M.D.
- (2) Virginia Trogdon, PA-A

- (3) John Bagnato, M.D.
- (4) Jeremy Prine, M.D.
- (5) Prem Sing Parihar, M.D.
- (6) Rahil Kazi, M.D.
- (7) George Stefanis, M.D.
- (8) Iyad Barket, M.D.
- (9) Timothy Morey, M.D.
- (10) Scott L. Stewart, DNAP
- (11) Nurse Becky Martin
- (12) Nurse June Mills
- (13) Nurse Alex Mims
- (14) Dr. Griffin (ER Physician)
- (15) Any witness identified by Plaintiff or co-defendant in this pretrial order.

E. The following is a list of witnesses the Defendants Virginia B. Trogdon, PA-A and Anesthesia Associates of Macon, LLP **will** have present at trial: None.

F. The following is a list of witnesses the Defendants Virginia B. Trogdon, PA-A and Anesthesia Associates of Macon, LLP **may** have present at trial:

1. Virginia B. Trogdon, PA-A
2. Scott L. Stewart, DNAP, MSN, CRNA
3. George Stefanis, M.D.;
4. John Bagnato, M.D.;
5. David McKinney, M.D.;
6. Prem Singh Parihar, M.D.;
7. Rahil Kazi, M.D.;
8. Jeremy Prine, M.D.;
9. Iyad Baraket, M.D.;
- ~~10. Any other physicians or persons listed in the medical records of Bennie Mae Moore listed on the parties' exhibit list;~~
11. Any records custodian to authenticate records and documents produced in discovery;
- ~~12. All other persons identified in any party's responses to any written discovery or in depositions;~~
13. All other persons listed by the other party.

Defendants object to Plaintiff's introduction of any witness at trial not specifically identified in the Pre-Trial Order by name, sufficient for Defendants to determine the

identity of such witness, including individuals necessary to authenticate records. Further, Defendants object to the introduction of any witness at trial whose identity has not been revealed in response to interrogatories or other discovery.

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

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


The parties will submit proposed verdict forms at the beginning of trial.

(21)

- A. The possibilities of settling the case are poor at this time.
- B. The parties want the case reported. They will contract with a court reporter for take down, and the cost of take down will be divided evenly between the parties.
- C. The jury will not be asked to apportion fault to non-parties or to Bennie Mae Moore.
- D. The parties require a 12-person jury and request two alternates be selected.

IT IS HEREBY ORDERED that the foregoing, including the attachments thereto, constitutes the PRE TRIAL ORDER in the above case and supersedes the pleadings which may not be further amended except by order of the court to prevent manifest injustice.

This 19th day of July, 2024.

  
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JEFF HANSON, CHIEF JUDGE  
STATE COURT OF BIBB COUNTY