

4-15-2010

# Aguilar v. Coonrod Clerk's Record v. 4 Dckt. 36980

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LAW CLERK

Vol. 47 of 441

(VOLUME 4)

IN THE  
**SUPREME COURT**  
OF THE  
**STATE OF IDAHO**

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**JOSE AGUILAR, individually, as the  
Personal Representative of the Estate of  
Maria A. Aguilar, deceased, and as the  
natural father and guardian of  
GUADALUPE MARIA AGUILAR,  
ALEJANDRO AGUILAR, and LORENA  
AGUILAR, minors and JOSE AGUILAR,  
JR., heirs of Maria A. Aguilar, deceased,**

**Plaintiffs-Respondents,**

**-vs-**

**NATHAN COONROD and PRIMARY  
HEALTH CARE CENTER, an Idaho  
corporation, JOHN and JANE DOES I  
through X, employees of one or more of  
the Defendants,**

**Defendants-Appellants.**

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Appealed from the District of the Third Judicial District  
for the State of Idaho, in and for Canyon County

Honorable GREGORY M. CULET, District Judge

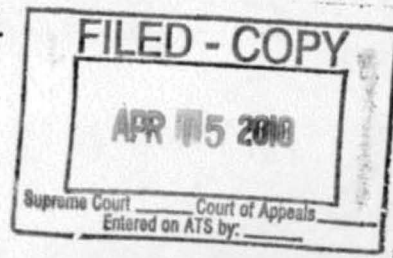
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Steven J. Hippler  
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Attorneys for Appellants

David E. Comstock  
and  
Byron V. Foster

Attorneys for Respondents



**36980**

IN THE SUPREME COURT OF THE  
STATE OF IDAHO

JOSE AGUILAR, individually, as the )  
Personal Representative of the Estate of )  
Maria A. Aguilar, deceased, and as the )  
natural father and guardian of GUADALUPE )  
MARIA AGUILAR, ALEJANDRO AGUILAR, )  
and LORENA AGUILAR, minors and JOSE )  
AGUILAR, JR., heirs of Maria A. Aguilar, )  
deceased, )

Plaintiffs-Respondents, )

-vs- )

NATHAN COONROD and PRIMARY HEALTH )  
CARE CENTER, an Idaho corporation, JOHN )  
and JANE DOES I through X, employees of )  
one or more of the Defendants, )

Defendants-Appellants. )

Supreme Court No. 36980

Appeal from the Third Judicial District, Canyon County, Idaho.

HONORABLE GREGORY M. CULET, Presiding

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**FILED**  
 10:40 A.M. P.M.

**FEB 13 2008** ✓

**CANYON COUNTY CLERK  
 D. BUTLER, DEPUTY**

Attorneys for Plaintiffs

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
 THE STATE OF IDAHO FOR THE COUNTY OF CANYON COUNTY**

JOSE AGUILAR, individually, as the Personal  
 Representative of the Estate of Maria A. Aguilar,  
 deceased, and as the natural father and guardian of  
 GUADALUPE MARIA AGUILAR, ALEJANDRO  
 AGUILAR, and LORENA AGUILAR, minors, and  
 JOSE AGUILAR, JR., heirs of Maria A. Aguilar,  
 deceased,

Plaintiffs,

v.

ANDREW CHAI, M.D., STEVEN R. NEWMAN, M.D.,  
 NATHAN COONROD, M.D., MITCHELL LONG, D.O.,  
 COLUMBIA WEST VALLEY MEDICAL CENTER, an  
 Idaho corporation, MERCY MEDICAL CENTER, an  
 Idaho corporation, and PRIMARY HEALTH CARE  
 CENTER, an Idaho corporation, JOHN and JANE  
 DOES I through X, employees of one or more of the  
 Defendants,

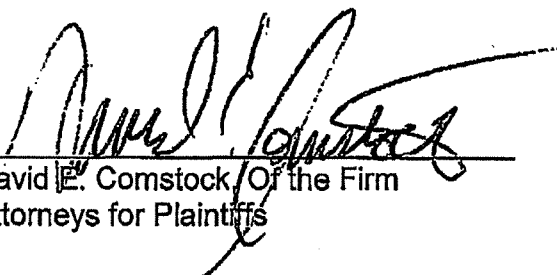
Defendants.

Case No. CV 05-5781

**PLAINTIFFS' MOTION TO  
 SHORTEN TIME RE:  
 PLAINTIFFS' MOTION TO  
 VACATE AND RESCHEDULE  
 TRIAL SETTING**

COME NOW, Plaintiffs, by and through their counsel of record, David E. Comstock, and Byron V. Foster, pursuant to Rule 6(d) of the Idaho Rules of Civil Procedure, for an order allowing Plaintiffs' Motion to Vacate and Reschedule Trial Setting to be heard on February 21, 2008, at 11:00 o'clock a.m., on the grounds and for the reasons that there is not sufficient time to give the usual notice of hearing of said motion, and if Plaintiffs' motion is not heard at the time requested, they may suffer irreparable damage.

COMSTOCK & BUSH



David E. Comstock, Of the Firm  
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on the 13 day of February, 2008, I served a true and correct copy of the above and foregoing instrument, by method indicated below, upon:

Andrew C. Brassey, Esq.  
Brassey Wetherell Crawford &  
Garrett LLP  
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*Attorneys for Defendants Nathan  
Coonrod, M.D. and Primary Health Care  
Center*

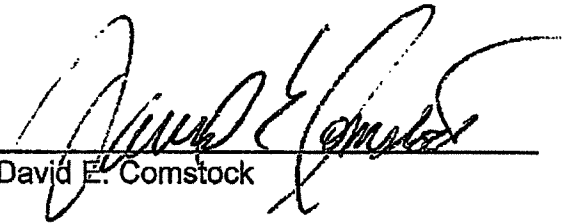
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**F I L E D**  
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FEB 15 2008

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Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
 THE STATE OF IDAHO FOR THE COUNTY OF CANYON COUNTY

JOSE AGUILAR, individually, as the Personal  
 Representative of the Estate of Maria A. Aguilar,  
 deceased, and as the natural father and guardian  
 of GUADALUPE MARIA AGUILAR, ALEJANDRO  
 AGUILAR, and LORENA AGUILAR, minors, and  
 JOSE AGUILAR, JR., heirs of Maria A. Aguilar,  
 deceased,

Case No. CV 05-5781

Plaintiffs,

**NOTICE OF TELEPHONIC  
 HEARING**

v.

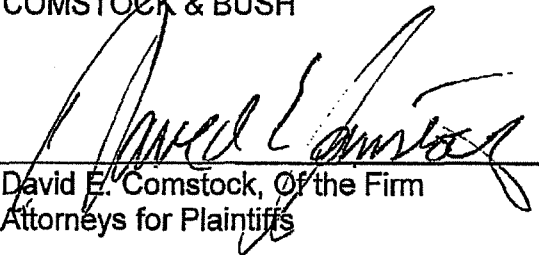
ANDREW CHAI, M.D., STEVEN R. NEWMAN,  
 M.D., NATHAN COONROD, M.D., MITCHELL  
 LONG, D.O., COLUMBIA WEST VALLEY  
 MEDICAL CENTER, an Idaho corporation, MERCY  
 MEDICAL CENTER, an Idaho corporation, and  
 PRIMARY HEALTH CARE CENTER, an Idaho  
 corporation, JOHN and JANE DOES I through X,  
 employees of one or more of the Defendants,

Defendants.

YOU WILL PLEASE TAKE NOTICE That Plaintiffs, by and through their attorneys of record, Comstock & Bush and Byron V. Foster, will bring on for telephonic hearing Plaintiffs' Motion to Vacate and Reschedule Trial Setting before this court on the 21<sup>st</sup> day of March, 2008, before the Honorable Gregory M. Culet, District Judge, at the hour of 11:00 a.m., or as soon thereafter as counsel may be heard.

Plaintiffs' will initiate the call with all counsel and Court.

COMSTOCK & BUSH

  
David E. Comstock, Of the Firm  
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on the 13 day of February, 2008, I served a true and correct copy of the above and foregoing instrument, by method indicated below, upon:

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Brassey Wetherell Crawford &  
Garrett LLP

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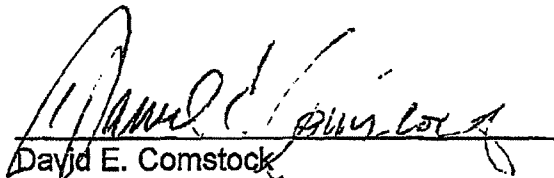
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David E. Comstock



ORIGINAL

FILED  
8:30 A.M. FEB 15 2008 P.M.

FEB 15 2008

CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO FOR THE COUNTY OF CANYON COUNTY

JOSE AGUILAR, individually, as the Personal  
Representative of the Estate of Maria A. Aguilar,  
deceased, and as the natural father and  
guardian of GUADALUPE MARIA AGUILAR,  
ALEJANDRO AGUILAR, and LORENA  
AGUILAR, minors, and JOSE AGUILAR, JR.,  
heirs of Maria A. Aguilar, deceased,

Plaintiffs,

v.

ANDREW CHAI, M.D., STEVEN R. NEWMAN,  
M.D., NATHAN COONROD, M.D., MITCHELL  
LONG, D.O., COLUMBIA WEST VALLEY  
MEDICAL CENTER, an Idaho corporation,  
MERCY MEDICAL CENTER, an Idaho  
corporation, and PRIMARY HEALTH CARE  
CENTER, an Idaho corporation, JOHN and  
JANE DOES I through X, employees of one or  
more of the Defendants,

Defendants.

Case No. CV 05-5781

**ORDER TO SHORTEN TIME RE:  
PLAINTIFFS' MOTION TO  
VACATE AND RESCHEDULE  
TRIAL SETTING**

THIS MATTER having come before the Court on Plaintiff's Motion for Order

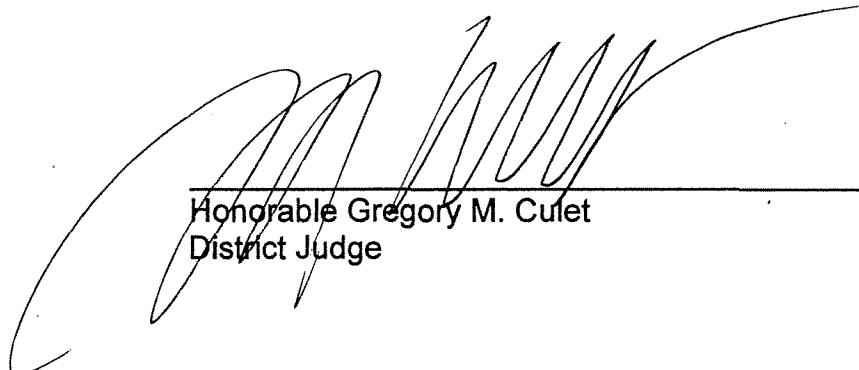
Shortening Time, and good cause appearing therefor;

**ORDER TO SHORTEN TIME RE: PLAINTIFFS' MOTION TO VACATE AND RESCHEDULE TRIAL  
SETTING - 1**

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IT IS HEREBY ORDERED AND THIS DOES ORDER That Plaintiff's Motion to Vacate and Reschedule Trial Setting will be heard on February 21, 2008 at 11:00 a.m.

DATED this 1 day of February, 2008.



A large, stylized handwritten signature in black ink, consisting of several loops and flourishes, is written over a horizontal line.

Honorable Gregory M. Culet  
District Judge

CERTIFICATE OF SERVICE

I hereby certify that on the 15 day of February, 2008, I served a true and correct copy of the above and foregoing instrument, by method indicated below, upon:

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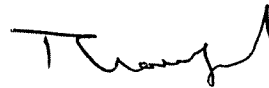
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\_\_\_\_\_  
Clerk of the Court

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IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO FOR THE COUNTY OF CANYON COUNTY

JOSE AGUILAR, individually, as the Personal  
Representative of the Estate of Maria A. Aguilar,  
deceased, and as the natural father and guardian  
of GUADALUPE MARIA AGUILAR, ALEJANDRO  
AGUILAR, and LORENA AGUILAR, minors, and  
JOSE AGUILAR, JR., heirs of Maria A. Aguilar,  
deceased,

Plaintiffs,

v.

ANDREW CHAI, M.D., STEVEN R. NEWMAN,  
M.D., NATHAN COONROD, M.D., MITCHELL  
LONG, D.O., COLUMBIA WEST VALLEY  
MEDICAL CENTER, an Idaho corporation, MERCY  
MEDICAL CENTER, an Idaho corporation, and  
PRIMARY HEALTH CARE CENTER, an Idaho  
corporation, JOHN and JANE DOES I through X,  
employees of one or more of the Defendants,

Defendants.

**F I L E D**  
8:30 A.M. P.M.

FEB 15 2008

CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY

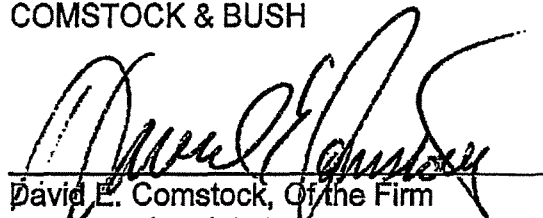
Case No. CV 05-5781

**AMENDED NOTICE OF  
TELEPHONIC HEARING**

YOU WILL PLEASE TAKE NOTICE That Plaintiffs, by and through their attorneys of record, Comstock & Bush and Byron V. Foster, will bring on for telephonic hearing Plaintiffs' Motion to Vacate and Reschedule Trial Setting before this court on the 21<sup>st</sup> day of February, 2008, before the Honorable Gregory M. Culet, District Judge, at the hour of 11:00 a.m., or as soon thereafter as counsel may be heard.

Plaintiffs' will initiate the call with all counsel and Court.

COMSTOCK & BUSH



David E. Comstock, Of the Firm  
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on the 13 day of February, 2008, I served a true and correct copy of the above and foregoing instrument, by method indicated below, upon:

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Garrett LLP  
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*Attorneys for Defendant Andrew Chai,  
M.D.*

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Coonrod, M.D. and Primary Health Care  
Center*

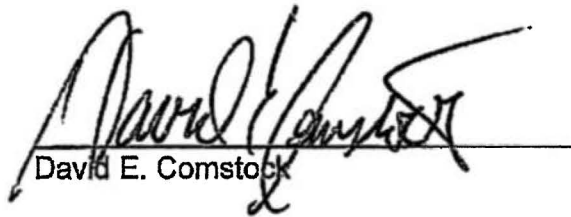
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Newman, M.D.*

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*Attorneys for Defendant Mitchell Long,  
D.O.*

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David E. Comstock

Gary T. Dance, ISB No. 1513  
Julian E. Gabiola, ISB No. 5455  
MOFFATT, THOMAS, BARRETT, ROCK &  
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gtd@moffatt.com  
jeg@moffatt.com  
17230.0107

Attorneys for Steven R. Newman, M.D.

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

JOSE AGUILAR, individually, as the Personal  
Representative of the Estate of Maria A.  
Aguilar, deceased, and as the natural father  
and guardian of GUADALUPE MARIA  
AGUILAR, ALEJANDRO AGUILAR, AND  
LORENA AGUILAR, minors, and JOSE  
AGUILAR, JR., heirs of Maria A. Aguilar,  
deceased,

Plaintiffs,

vs.

ANDREW CHAI, M.D., STEVEN R.  
NEWMAN, M.D., NATHAN COONROD,  
M.D. CATHERINE ATUP-LEAVITT, M.D.,  
MITCHELL LONG, D.O., COLUMBIA  
WEST VALLEY MEDICAL CENTER, an  
Idaho corporation, MERCY MEDICAL  
CENTER, an Idaho corporation, PRIMARY  
HEALTH CARE CENTER, an Idaho

**F I L E D**  
A.M. P.M.

*11:00*  
FEB 15 2008 ✓

CANYON COUNTY CLERK  
D. BUTLER, DEPUTY

Case No. CV 05-5781

**NOTICE OF SERVICE FOR  
DEFENDANT STEVEN R. NEWMAN,  
M.D.'S EXPERT WITNESS  
DISCLOSURES**

corporation, JOHN and JANE DOES, I  
through X, employees of one or more of the  
Defendants,

Defendants.

NOTICE IS HEREBY GIVEN that on the 13 day of February, 2008, a copy of

**DEFENDANT STEVEN R. NEWMAN, M.D.'S EXPERT WITNESS DISCLOSURES** and

a copy of the **NOTICE OF SERVICE** were served by the method indicated below and

addressed to the following at the address shown below:

David E. Comstock  
LAW OFFICES OF COMSTOCK & BUSH  
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[FIRM NAM  
[Address ar

Byron V. Foster  
Attorney-at-law  
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HAWLEY TROXELL ENNIS & HAWLEY LLP  
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Boise, ID 83701-1617  
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**NOTICE OF SERVICE FOR DEFENDANT STEVEN R.  
NEWMAN, M.D.'S EXPERT WITNESS DISCLOSURES - 2**

Client:825666.1



MOFFATT, THOMAS, BARRETT, ROCK &  
FIELDS, CHARTERED

By   
Gary T. Dance - Of the Firm  
Attorneys for Steven R. Newman, M.D.

James B. Lynch ISBN # 836  
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Attorney for Defendant Mitchell Long, D.O.

2-21 Filed  
**FILED**  
11<sup>0</sup> A.M. P.M.

FEB 19 2008

CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

JOSE AGUILAR, individually, as the Personal )  
Representative of the estate of Maria A. )  
Aguilar, deceased, and as the natural father )  
and guardian of GUADALUPE MARIA )  
AGUILAR, ALEJANDRO AGUILAR, and )  
LORENA AGUILAR, minors, and JOSE )  
AGUILAR, JR., heirs of Maria A. Aguilar, )  
deceased, )

Plaintiffs, )

vs. )

ANDREW CHAI, M.D., STEVEN R. NEWMAN, )  
M.D., NATHAN COONROD, M.D. CATHERINE )  
ATUP-COONROD, M.D., MITCHELL LONG, )  
D.O., COLUMBIA WEST VALLEY MEDICAL )  
CENTER, an Idaho corporation, MERCY )  
MEDICAL CENTER, an Idaho corporation, and )  
PRIMARY HEALTH CARE CENTER, an Idaho )  
corporation, JOHN and JANE DOES I through )  
X, employees of one or more of the )  
Defendants, )

Defendants. )

05-5781

Case No. CV 05-57- 81

**DEFENDANT MITCHELL  
LONG, D.O.'S INITIAL EXPERT  
WITNESS DISCLOSURE**

**ORIGINAL**

COMES NOW the Defendant Mitchell Long, D.O., by and through his counsel of record James B. Lynch, and pursuant to Rule 26(b)(4), of the Idaho Rules of Civil Procedure, the Stipulation For Scheduling And Planning and the Order Extending Expert Disclosure Deadlines filed on December 31, 2007, now discloses Dr. Long's initial list of retained expert witnesses who may be called at the trial on May 29, 2008.

1. Richard A. Slaughter  
907 Harrison Blvd.  
Boise, Idaho 83702-4079

A. Subject Matter of Expected Testimony

See Dr. Slaughter's signed report with attached Appendix B, Resume of Richard A. Slaughter and Appendix C, Listing of Recent Cases, Richard A. Slaughter, attached hereto as Exhibit 1. The report contains a statement of the opinions the witness will express based upon the information supplied to him which is described on page 3, of his report. He has reviewed the report of plaintiffs' expert Mr. Cory Hofman. Dr. Slaughter may be supplied with additional records and transcripts of depositions and upon completion of discovery may supply a supplemental report.

B. Basis and Reasons For Opinions

See Dr. Slaughter's report attached as Exhibit 1.

C. Data Or Information Considered In Forming Opinions

See Dr. Slaughter's report attached as Exhibit 1.

D. Any Exhibits That Will Be Used To Summarize Opinions

Some documents which may be used as exhibits are included in the report attached hereto as Exhibit 1. Upon obtaining additional information concerning the nature of the claims for damages, other documents may be prepared to be used as exhibits at trial.

E. Witnesses Qualifications With List Of Publications

See attached report attached as Exhibit 1, including page 2, and 3, of Appendix B, of the report.

F. Statement Of Compensation

Dr. Slaughter charges \$140.00 per hour for analysis and report preparation, and \$175.00 per hour for participation in depositions and trial.

G. List Of Other Cases

See Appendix C, of the attached Exhibit 1, Report.

2. Willis E. Parmley, M.D., JD, EMPT-P  
9242 North Sunset Drive  
Pocatello, Idaho 83201.

A. Subject Matter of Expected Testimony

See Dr. Parmley's February 14, 2008, report with attached CV. The report expresses the opinion of Dr. Parmley that Dr. Long's treatment of the deceased did not cause the death of Maria A. Aguilar. Dr. Long did not violate any applicable standard of care which was a cause of or a significant factor in the death of Maria A. Aguilar on June 4, 2003. The report contains opinions Dr. Parmley may express at trial subject to supplementation based upon additional information and data obtained in the subsequent depositions of plaintiffs' experts if they occur and additional information pertaining to the treatment by Dr. Long at the time he was examining the deceased and other patients in the emergency department of Mercy Medical Center on May 27, 2003, before the deceased Maria A. Aguilar was admitted to the defendant Mercy Medical Center.

On May 28, 2003, when the patient was called back to Mercy Medical Center, defendant cardiologist Dr. Chai examined her and admitted her to the hospital. Cardiologist Dr. Fields performed a catheterization procedure which

eliminated concerns about a problem with her heart as a cause for her complaints which were the reason she was sent to the Emergency Department at Mercy Medical Center. Dr. Parmley is expected to discuss why the elimination of the heart problems as a cause of her complaints demonstrates that Dr. Long's actions and decisions were not a factor in her death from some as yet unknown cause. The deceased returned to defendant Primary Health Center and was again examined by her treating physician defendant Dr. Coonrod, five days before her unfortunate death.

B. Basis And Reasons For Opinions

See report attached as Exhibit 2.

C. Date Or Information Considered In Forming Opinions

Dr. Parmley was provided with and reviewed the transcript of the deposition of Dr. Long and the exhibits to that deposition. He was provided with and reviewed the transcript of deposition of defendant Dr. Chai pertaining to the care of Maria A. Aguilar, at defendant Mercy Medical Center and reviewed the exhibits to that deposition which included the records of Mercy Medical Center pertaining to the treatment of the deceased in the emergency department by Dr. Long from 5:45 p.m., and approximately 7:28 p.m. These records also pertain to the admission to Mercy Medical Center hospital on May 28, 2003, until the time of her discharge.

Dr. Parmley also reviewed copies of the transcripts of the depositions of plaintiffs Maria Guadalupe Aguilar, and Jose Aguilar, the deposition of defendant Dr. Newman and the Plaintiffs' Expert Disclosures served on January 15, 2008.

Following the delayed deposition of defendant Dr. Nathan Coonrod on February 7, 2008, Dr. Parmley reviewed the transcript of his deposition testimony and the records of defendant Primary Health Center used at that deposition. The testimony and documents confirmed that Dr. Coonrod was on May 27, 2003, concerned about a potential cardiac problem that was later established to not be the cause of her complaints. The testimony and documents established that his patient never returned to Mercy Medical Center for treatment by any physician practicing at Mercy Medical Center and that her subsequent care was all associated with other practioners and institutions.

D. Any Exhibits That Will Be Used To Summarize Opinions

No exhibits have been prepared by Dr. Parmley at this time.

E. Witnesses Qualifications And Publications

The Curriculum Vitae for Dr. Parmley is attached to his Exhibit 2, report. He has not authorized any publications.

F. Statement Of Compensation

Dr. Parmley charges \$250.00 per hour for review of documents, \$300.00 per hour for time spent in depositions and \$350.00 per hour for time spent in trial.

G. List Of Other Cases

In the last four years, Dr. Parmley has not testified or given depositions in any case with the exception of one deposition taken on April 12, 2005, by a claimant's attorney in the Ada County case of Murphy v. Ottman and Mercy Medical Center., CV PI 0300609D.

SUPPLEMENTATION

Dr. Parmley has been retained to rebut the trial testimony of plaintiffs' designated retained experts and any testimony of any party or person stating opinions which are critical of Dr. Long's care and treatment of the deceased.

Discovery is not complete and additional documents and transcripts of depositions may be supplied to him for review and he may make a supplemental report.

This Expert Witness Disclosure may be supplemented with the report of other submissions responsive to the testimony of other experts or witnesses.

DESIGNATION OF ADDITIONAL EXPERTS

Discovery has been delayed and is not complete. Defendant reserves the right to present at trial opinions from other experts identified in this lawsuit, including, but not limited to, experts identified in discovery responses, supplemental discovery responses, formal disclosures, deposition testimony, or proceedings which the Court may permit at a later date. Defendants also reserve the right to elicit expert opinions from identified witnesses who are qualified to express opinions including Maria Aguilar's treating physicians, including, but not limited to, James Field, M.D. and Robb Gibson, M.D. The deposition of Thomas M. Donndelinger, M.D., has not been taken at this time and because of the fact that discovery still is ongoing, defendant reserves the right to identify additional expert witnesses not named herein in this initial disclosure.

DATED this 15<sup>th</sup> day of February, 2008.

LYNCH & ASSOCIATES, PLLC

By James B. Lynch  
James B. Lynch, attorney for  
Defendant Mitchell Long, D.O.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15<sup>th</sup> day of February, 2008, I served a true and correct copy of the foregoing **DEFENDANT MITCHELL LONG, D.O.'S INITIAL EXPERT WITNESS DISCLOSURE** as follows:

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(208) 342-3829

  
James B. Lynch



**ANALYSIS OF ECONOMIC LOSS**

Estate of Mrs. Maria Aguilar

Submitted to:

Mr. James Lynch, Esq.  
Lynch & Associates, P.L.L.C.  
1412 W Idaho Street, Suite 200  
Boise, Idaho 83702  
February 14, 2008

**EXHIBIT** 1

## Contents

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	Assumptions	2
	Inflation and Discount Rates	2
III.	Documents Examined	3
IV.	Estimate of Lost Income	4
V.	Appendices	
	A. Calculation of Lost Income	
	B. Resume of Richard A. Slaughter	
	C. Listing of Recent Cases	

## **Introduction**

This report was prepared to estimate the present value of the economic loss to Mrs. Maria Aguilar's estate of her death on June 4, 2003. Dr. Richard Slaughter was contacted by Mr. James Lynch for this purpose in January 2008.

This analysis has been conducted on behalf of the defendant. A previous analysis on behalf of the plaintiff was prepared by Mr. Cornelius A. Hofman.

## **Assumptions and Methodology**

### *Method of Analysis*

The normal procedure is to determine and forecast earnings and other payments that will not be or were not received through the remainder of a normal lifetime. These payments include wages, benefits, and retirement, and lost household income, less personal consumption. This analysis will follow that standard, to determine the present value of loss.

The components of Mrs. Aguilar's loss include lost income from her employment with Simplot Meats or other employer, and lost household services. This analysis accepts Plaintiff's economist's assumptions with regard to ongoing employment, date of retirement, and personal consumption with children in the home. Personal consumption after the youngest child turns 18 is raised to 30%, and household hours are reduced to 20 hours per week with no children in the home. After-tax income available for consumption is estimated to be 75% of outside earnings, which include an estimated \$30,000 per annum

income for Mr. Aguilar. Mr. Aguilar's actual income, and information on Mrs. Aguilar's benefits were not available.

*Assumptions*

Birthdate	[REDACTED]
Date of death	June 4, 2003
Average earned income, \$2007	\$23,418
Fringe benefits	16.5%
Remaining work life expectancy:	25.5 years
Life expectancy:	39.5 years
Retirement age:	63.7 years
Other household income:	\$30,000/year
Disposable household income (%)	75%
Household work hours:	30.9 per week, then 20
Personal consumption	20%, then 30%
Net Discount Rate:	2.73%

*Inflation and Discount Rates*

Increases in earnings levels are estimated from published changes in the Average Non-farm Private Wage. These data are collected and published monthly by the Bureau of Labor Statistics of the U.S. Department of Commerce. Over time they will be most representative of earnings changes for most occupations.

The discount rate is based on the average yield of taxable U.S. Treasury bonds with maturities of over ten years. The estimates of wage inflation and the discount rate are not based on today's data but on forty years' experience. Each represents the average rate for the period 1968 - 2007. This method focuses on the stable relationship between inflation and the real time value of money, and avoids temporary distortions caused by short-term monetary or fiscal policy or aberrations in the market. For any long-term analysis, the operating concern is the net discount, which is the difference between the discount rate

and the inflation rate. This analysis yields a net discount of 2.7%, which is reasonable for this purpose, and grounded in forty years of history.

Both indices were formerly published monthly in the blue pages of the *Survey of Current Business*, by the Bureau of Economic Analysis, U.S. Department of Commerce. The wage data is currently available on Internet sites maintained by the Bureau of Labor Statistics, U.S. Department of Labor, and published monthly in the monthly publication *Employment and Earnings*. Data on the Bond Buyer index is available in the *Bond Buyer* and the *Statistical Abstract of the United States*.

### **Documents Examined**

In preparing this report I have examined the following documents:

Documents provided by James Lynch, Esq.:

Expert report of Cornelius A. Hofman, dated December 13, 2007

Deposition of Jose Aguilar, dated November 28, 2006

Deposition of Maria Guadalupe Aguilar, dated November 28, 2006

Other Documents

*Survey of Current Business*. U.S. Department of Commerce, Bureau of Economic Analysis, monthly (utilized until March 1994).

*Employment and Earnings*. U.S. Department of Labor, Bureau of Labor Statistics (monthly).

Interest rates on long-term Treasury bonds:

<http://www.federalreserve.gov/releases/h15/> : historical data

Wage cost indices: Bureau of Labor Statistics, Most Requested Series, available at <http://data.bls.gov/cgi-bin/surveymost?ce>

*Consumer Expenditure Survey*, Bureau of Labors Statistics, U.S. Department of Labor, 1990.

*United States Life Tables, 2002*. National Center for health Statistics, U.S. Department of Health and Human Services. National Vital Statistics Reports Vol. 53, No. 6, November 10, 2004.


## Estimate of Lost Income

The calculation of Mrs. Aguilar's estate's loss is shown in the table. The components of loss are described above.

This report is subject to correction and/or amendment for errors that may be discovered and new data that may be provided prior to trial, or to changes in Plaintiff's line of reasoning prior to trial.

Calculation of Lost Income	
PV of total loss	\$500,528
PV of mitigating income	\$0
PV of Net Loss	\$500,528
Loss to March 1, 2008	\$149,369

My fee for analysis and report preparation is \$140 per hour. My fee for deposition and trial is \$175 per hour, two-hour minimum.

  
Richard A. Slaughter, Ph.D.

February 14, 2008  
Date

**Appendix A**

**Calculation of Lost Income**

**Lost Income Analysis for the Estate of Maria A. Aguilar**

Date of Birth:	
Date of Death:	6/4/03
Date of Analysis:	2/12/08
Base Salary (2002):	\$23,418
Fringe Benefits:	16.5%
Other HH Income:	\$30,000
Disposable HH income:	75.0%
Personal Consumption, child	20%
Personal consumption, no child	30%
Age at Death:	41.5
Normal Retirement	67.0
Normal Life Expectancy	81

Discount Rate:	2.73%
Earnings Growth Rate:	0.00%
Beginning Income:	\$23,418
Remaining Worklife:	25.5
Year of Retirement:	2029
Household replacement rate:	\$11.26

Fringe Benefits: Employer's social security 6.5%; medical insurance \$600/month; other 10.0%

<b>Total PV:</b>	<b>\$500,528</b>
<b>PV Mitigation:</b>	<b>\$0</b>
<b>Net PV:</b>	<b>\$500,528</b>
<b>Net PV to March 1, 2008:</b>	<b>\$149,369</b>

678

Year	Age	Inflator	Life Cycle Adj.	Unemployment Factor	Worklife adjustment	Proj. Salary	Benefits	Household Hours	Household services	Disposable Income	Personal Consumption	Total	Present Value	Cumulative PV
2003	42		1.00000	0.89808	0.68089	\$8,353	\$1,378	30.9	\$11,207	41,350	(8,270)	\$12,669	\$14,691	\$14,691
2004	43		1.00073	0.89808	0.68089	14,330	2,365	30.9	19,212	54,824	(10,965)	24,942	28,156	42,847
2005	44		1.00164	0.89808	0.68089	14,343	2,367	30.9	19,212	54,836	(10,967)	24,955	27,422	70,269
2006	45		1.00256	0.91946	0.68089	14,698	2,425	30.9	19,212	55,161	(11,032)	25,303	27,066	97,335
2007	46		1.00346	0.91946	0.68089	14,712	2,427	30.9	19,212	55,173	(11,035)	25,316	26,360	123,695
2008	47		1.00440	0.91946	0.68089	14,725	2,430	30.9	19,212	55,186	(11,037)	25,330	25,673	149,369
2009	48		1.00532	0.91946	0.68089	14,739	2,432	30.9	19,212	55,198	(11,040)	25,343	25,004	174,373
2010	49		1.00623	0.91946	0.68089	14,752	2,434	30.9	19,212	55,210	(11,042)	25,356	24,352	198,725
2011	50		1.00715	0.91946	0.68089	14,766	2,436	30.9	19,212	55,223	(11,045)	25,370	23,718	222,442
2012	51		1.00834	0.91946	0.68089	14,783	2,439	30.9	19,212	55,239	(11,048)	25,387	23,103	245,545
2013	52		1.00975	0.91946	0.68089	14,804	2,443	30.9	19,212	55,257	(11,051)	25,407	22,507	268,052
2014	53		1.00975	0.91946	0.68089	14,804	2,443	30.9	19,212	55,257	(11,051)	25,407	21,909	289,961
2015	54		1.01116	0.91946	0.68089	14,824	2,446	30.9	19,212	55,276	(11,055)	25,427	21,344	311,304
2016	55		1.01257	0.93538	0.68089	15,102	2,492	30.9	19,212	55,531	(16,659)	20,147	16,462	327,766
2017	56		1.01538	0.93538	0.68089	15,144	2,499	20.0	12,435	48,792	(14,638)	15,440	12,281	340,047
2018	57		1.01679	0.93538	0.68089	15,165	2,502	20.0	12,435	48,811	(14,643)	15,459	11,969	352,016
2019	58		1.01820	0.93538	0.68089	15,186	2,506	20.0	12,435	48,830	(14,649)	15,478	11,665	363,681
2020	59		1.01961	0.93538	0.68089	15,207	2,509	20.0	12,435	48,850	(14,655)	15,496	11,369	375,050
2021	60		1.02102	0.93538	0.68089	15,228	2,513	20.0	12,435	48,869	(14,661)	15,515	11,080	386,130
2022	61		1.00430	0.93538	0.68089	14,979	2,472	20.0	12,435	48,641	(14,592)	15,293	10,631	396,761
2023	62		0.97275	0.93538	0.68089	14,508	2,394	20.0	12,435	48,210	(14,463)	14,874	10,065	406,826



Lost Income Analysis for the Estate of Maria A. Aguilar

Year	Age	Inflator	Life Cycle Adj.	Unemploy ment Factor	Worklife adjustmen t	Proj. Salary	Benefits	House hold Hours	House- hold services	Disposable Income	Personal Consumption	Total	Present Value	Cumulative PV
2024	63		0.94120	0.93538	0.68089	14,038	2,316	20.0	12,435	47,779	(14,334)	14,455	9,522	416,348
2025	64		0.91817	0.93538	0.68089	13,694	2,260	20.0	12,435	47,465	(14,240)	14,149	9,072	425,420
2026	65		0.74673	0.93538	0.68089			20.0	12,435	12,435	(3,730)	8,704	5,433	430,853
2027	66		0.74673	0.93538	0.68089			20.0	12,435	12,435	(3,730)	8,704	5,289	436,142
2028	67		0.74673	0.93538	0.68089			20.0	12,435	12,435	(3,730)	8,704	5,148	441,290
2029	68		0.74673	0.93538	0.68089			20.0	12,435	12,435	(3,730)	8,704	5,011	446,301
2030	69		0.74673	0.93538	0.68089			20.0	12,435	12,435	(3,730)	8,704	4,878	451,180
2031	70		0.74673	0.93538	0.68089			20.0	12,435	12,435	(3,730)	8,704	4,748	455,928
2032	71							20.0	12,435	12,435	(3,730)	8,704	4,622	460,550
2033	72							20.0	12,435	12,435	(3,730)	8,704	4,499	465,050
2034	73							20.0	12,435	12,435	(3,730)	8,704	4,380	469,430
2035	74							20.0	12,435	12,435	(3,730)	8,704	4,263	473,693
2036	75							20.0	12,435	12,435	(3,730)	8,704	4,150	477,843
2037	76							20.0	12,435	12,435	(3,730)	8,704	4,040	481,883
2038	77							20.0	12,435	12,435	(3,730)	8,704	3,933	485,816
2039	78							20.0	12,435	12,435	(3,730)	8,704	3,828	489,644
2040	79							20.0	12,435	12,435	(3,730)	8,704	3,726	493,370
2041	80							20.0	12,435	12,435	(3,730)	8,704	3,627	496,997
2042	81							20.0	12,435	12,435	(3,730)	8,704	3,531	500,528

679

**Appendix B**

**Resume of Richard A. Slaughter**

## Richard A. Slaughter

### *Current Position*

*President*, RSA, Inc., dba **Richard Slaughter Associates**, 1984 - present. RSA engages in international and domestic economic consulting involving strategic planning support, utility regulation, public finance, economic valuation, and tax structure. Clients have included Idaho cities and counties, the Treasurer of the State of Idaho, Fortune 500 companies, universities, international consulting firms, and attorneys.

Richard Slaughter Associates  
907 Harrison Blvd.  
Boise, ID 83702-4079

208 850-1223  
Fax 208 345-9633  
email: richard@rsaboise.com

### *Education*

- B. A. Political Science, University of Idaho, 1966.
- M. A. International Relations, University of Denver, 1968.
- Ph. D. International Politics, Graduate School of International Studies, University of Denver, 1974.

Academic Fields: International Law, Organization, and Economics; dissertation written on economic conditions of political integration in Europe.

### *Prior Experience*

*Director*, **Martin Institute** for Peace Studies and Conflict Resolution, University of Idaho, 1996 - 2000.

The Martin Institute is an inter-disciplinary center focused on research into sources of international and sub-national conflict, education on conflict resolution, and expanded utilization of alternative dispute resolution techniques.

*Chief Economist*, Division of Financial Management (DFM), State of Idaho, 1980 - 1984. Directed staff of M.A. and Ph.D. economists in economic and revenue forecasting; population estimates and projections; tax policy development.

- Director, Governor's Economic Research Council, 1983-84. Chaired by Cecil D. Andrus.
- Served on committees of the National Governor's Association and Council of State Planning Agencies relating to tax policy, statistical policy, and automation of information delivery.

*Economist*, Executive Office of the Governor, 1976-79.

- Developed the Idaho Economic Model and associated models for economic forecasting, revenue projections, income distribution, Medicaid costs, welfare caseload, etc.
- Edited and published the *Idaho Economic Forecast* and the *Idaho Outlook*.
- Chairman, Federal-State Cooperative Program for Population Projections, 1979-80.
- Prepared zero-based budgeting procedures for DFM and provided training to staff.

*Adjunct Professor, Business, Albertson College of Idaho, 2004*

*Adjunct Associate Professor, Political Science and Economics, Boise State University, 1976-78, 1984*

*Assistant Professor of Political Science, West Georgia College, Carrollton, Georgia, 1972-76*

*Instructor, Colorado Woman's College, Denver, Colorado, 1972*

*Classroom teacher, Boise High School, Boise, Idaho, 1968-70*

### *Selected Consulting Activity*

*International Consulting*: Richard Slaughter recently served as interim Chief of Project and international economist for an Asian Development Bank project in Kyrgyzstan dealing with tax structure and social service delivery. In 1998 he consulted on revenue and economic forecasting models as part of a budgetary reform project for the Agency for Strategic Planning of the Republic of Kazakhstan.

*Climate Change*: Richard Slaughter is currently undertaking an analysis of the impact of climate change on energy and water related law and institutions in the Pacific Northwest as part of a larger project on

climate change impacts. The study is organized by the Climate Impacts Group at the University of Washington, under sponsorship of the National Oceanic and Atmospheric Administration (NOAA).

*Economic Valuation and feasibility:* Richard Slaughter has performed economic loss analyses for clients in cases ranging from lost earnings and lifetime care costs to disparate impact, in employment, personal injury, and wrongful death cases. He has also performed feasibility studies on several projects, including a proposed siting of a regional shopping mall.

*Utility Regulation:* RSA has served as economic consultant to small power producers in numerous Idaho Public Utilities Commission cases, in the areas of cost of capital, avoided cost methodology, and ratepayer security.

*Public Finance:* Richard Slaughter served as internal financial consultant to the Idaho State Treasurer in 1982 and 1983; as financial consultant to Bankers Trust Company in 1985; and to the Idaho State Treasurer in 1986 with regard to issuance of tax anticipation notes. In 1982 and 1983, as Chief Economist of the State, Richard Slaughter designed and lobbied significant changes in tax law to facilitate solution of difficulties resulting from state revenue shortfalls.

*Revenue Forecasting/Estimation:* RSA has helped clients investigate the relationship of their businesses to their respective markets, and prepared a model for the City of Boise to estimate retail sales within the city limits from a variety of other data.

*Resource Valuation:* RSA has completed studies and provided testimony to the Idaho Land Board on resource values relative to leasing of public lands.

*Public Policy Research/Education:* RSA has completed studies on education and economic development, and provided input to statewide study groups on education reform. Richard Slaughter played an active role in education reform in Idaho from 1988 through 1994, coordinating efforts to improve the use and availability of technology and discussion of non-traditional education structures, including charter schools.

*Resource Modeling and valuation:* RSA has prepared complex commodity price and optimization models for a local multinational corporate client, and has analyzed the economic impact and value of natural resources in the economy.

*Publications and Papers* (does not include RSA research reports or op-eds)

"Water, Adaptation, and Property Rights on the Snake and Klamath Rivers," *Journal of the American Water Resources Association* (JAWRA), April 2007.

"Regulation vs. Markets: Addressing Over-Allocation of Pacific Northwest River Basins," in review, *New Mexico School of Law Natural Resources Journal*, 2007.

"After Kyoto: Which Way Forward," University of Washington Climate Impacts Group. In review, *Foreign Policy*, 2007.

"Theoretical Foundations of Water Markets," in revision, *Journal of the American Water Resources Association* (JAWRA), 2007.

"Institutional History of the Snake River, 1850-2000." (University of Washington, Climate Impacts Group, 2004)

"Poor Kyrgyzstan: A Critique of Economic Development Policy," *The National Interest*, Summer 2002.

"Preparing for Climatic Change: the Water, Salmon, and Forests of the Pacific Northwest", Joint author with Philip Mote, et al., University of Washington Climate Impacts Group. *Climatic Change*, November 2003.

*Revolution and Technology in Education.* Unpublished paper, 1990. Portions published in *The IEA Tech Reporter*, Journal of the Idaho Education Association College of Education Technology, 1994.

"Dynamics of Education and Economic Growth, with Special Reference to Idaho." *Proceedings of the Pacific Northwest Regional Economic Conference*, Corvallis, OR, April 27-29, 1989.

*Education and the Idaho Economy: The Dynamics of Education and Economic Growth in Idaho.* Report of the Idaho Business Council subcommittee on education, 1989.

Ed., *Report of the Governor's Economic Research Council on the Idaho Economy.* Boise: Division of Financial Management, 1984.

“Idaho in Transition, 1970 - 2000.” Featured address to the *Idaho 2000 Symposium*, University of Idaho, Moscow, Idaho, October 20, 1983. *Idaho Economic Forecast*, Vol. V, No. 3, Autumn 1983.

“Statistical Quality Impacts of Federal Budget Reductions.” Invited testimony delivered to the House Subcommittee on Census and Population, March 16, 1982.

Publisher, the *Idaho Outlook*, 1981 - 84. Published monthly as an economic and General Account revenue update.

Editor and publisher, the *Idaho Economic Forecast*, 1979 - 84. Published three to four times a year since 1979. Incorporates detail and summary economic forecasts, alternative scenarios, forecast narrative, and invited articles.

“Idaho State Sales Tax Forecasting.” Invited paper for the *Proceedings* of the 1979 National Association of Tax Administrators Conference on Revenue Estimating, Washington, D. C.: Federation of Tax Administrators, 1980.

***Public and Professional Service, Memberships, and Honors***

Member, *Council on Foreign Relations*, New York, NY

Member, *American Water Resources Association*

Co-Founder, *American Committees on Foreign Relations (ACFR)*, Washington, DC, 1995

Vice-President, *ACFR*, Washington, DC, 2005 - present

Treasurer, *ACFR*, 1995 - 2001

Director, *Boise Committee on Foreign Relations*, in affiliation with the *Council on Foreign Relations*, New York, N. Y. 1989 - 1995, and *American Committees on Foreign Relations*, Washington, D.C., 1995 - present

Board of Directors, *The Frank Church Institute*, 2000 - present

Board of Directors, *Idaho Center for International Visitors*, 2006 - present

Advisory Board, *Martin Institute for Peace Studies and Conflict Resolution*, University of Idaho, 1992 - 1996, 2005 - present. Chairman, Executive Committee, 1995 - 1996

President, *Treasure Valley Economics Association*, 1993 - 1996

Board of Directors, *Boise Kiwanis Club*, 1991 - 1995

Board of Directors, *Capitol Youth Soccer Association*, 1980 - 89; Commissioner of Soccer, 1983-86

February 2008

**Appendix C**

**Listing of Recent Cases, Richard A. Slaughter**

Listing of civil cases, not including regulatory commission proceedings, in which Richard A. Slaughter has testified, since January 2001:

Year	Attorney	Party	Case/Plaintiff	Trial	Deposition
2001	D. Carnahan	Plaintiff	Alvarez v. Johnson	Yes	No
2001	R. Huntley	Plaintiff	Mock v. Baxter	Yes	Yes
2001	J. Lynch	Defendant	Majors v. Blue Cross	Settled	No
2001	R. Huntley	Plaintiff	SRVEA v Pacificorp	Yes	Yes (2)
2002	W. Dryden	Defendant	Gold v. City of Boise	No	No
2002	W. Dryden	Defendant	Thum v. Les Schwab	No	No
2002	J. Lynch	Defendant	Villegas-Corona v. Unipress	Scheduled	Yes
2002	D. Lojek	Plaintiff	Shauna Chapman	Settled	No
2002	G. Gilman	Plaintiff	Loya v. Ada Co. Paramedics	Scheduled	No
2002	D. Lojek	Plaintiff	Waters et al. V. Pinkerton's, Inc.	No	No
2003	L. Schroeder	Plaintiff	Ure v. Fannon	Yes	No
2003	G. Shockey	Plaintiff	Smith v. West Valley	Yes	Yes
2004	D. Lojek	Plaintiff	Drew v. Western Construction		Yes
2004	K. Lynch	Defendant	Brown v. Tates Rents	Yes	No
2005	R. Owen	Plaintiff	Schneider v. _____	Yes	No
2006	W. Thomas	Plaintiff	Cox/Falconberg v. Flying J	No	Yes
2006	J. Lynch	Defendant	Jones v. B&B McConkie v. Univ. of Utah Health Center	Yes	No
2007	G. Ferguson	Plaintiff	Grover v. Baird	Settled	Yes
2007	G. Ferguson	Plaintiff		Yes (no testimony)	Yes
2007	R. Powers	Defendant	Cramer v. Swanson	No	No
2007	B. Seiniger	Plaintiff	Bentley v. Lewis et al.	Yes	Yes
2007	D. Crandall	Plaintiff	Matthews v	(arbitration)	No
2008	C. Peterson	Plaintiff	Ferguson v. Williams & Hunt	Yes	No
2008	G. Ferguson	Plaintiff	Lee v. Joseph et al.		Yes

# **WILLIS E. PARMLEY, MD, JD, EMT-P**

Diplomate, American Board of Emergency Medicine  
Fellow, American Academy of Emergency Medicine  
Fellow, American College of Legal Medicine  
National Registry of Emergency Medical Technicians - Paramedic  
9242 North Sunset Drive  
Pocatello, Idaho 83201  
208-235-1707

February 12, 2008

James B. Lynch, Esq.  
1412 W. Idaho Street, Suite 200  
Boise, Idaho 83702

**RE: Aguilar v. Chai, et al**

Dear Mr. Lynch:

Pursuant to your request, I have reviewed the documents you sent pertaining to this case. It is my understanding that you represent Dr. Long and I have focused my report on his evaluation and care of this patient. I recognize that discovery is on-going and it may become necessary for me to supplement or alter my report based on information made available in the future. Should such necessity arise, I will notify you promptly.

41 year old Maria Aguilar was seen by her physician, Dr. Nathan Coonrod on Tuesday May 27, 2003 with complaint of chest pain. The pain was described as starting 2 days previously, sharp in character, mid-chest in location, and caused by activity. Dr. Coonrod's evaluation included an EKG which demonstrated changes consistent with anterolateral myocardial ischemia and the patient was sent to Mercy Medical Center Emergency Department in Nampa for further evaluation.

Ms. Aguilar was seen in the Emergency Department by Dr. Mitchell Long. He documented a 4 day history of sharp continuous chest pain, exacerbated by exercise and deep breathing, relieved by nothing. He noted a past history



of gastroesophageal reflux disease. His examination of the patient was unrevealing. He documented the results of laboratory tests and chest x-ray but not the EKG he ordered in the Emergency Department. The patient's pain was resolved with oral administration of antacid and a topical anesthetic agent. Dr. Long's clinical impression was atypical chest pain – probable GERD. The patient was prescribed Darvocet N-100 for pain. She was instructed to keep her previously arranged Gastroenterology appointment and was discharged home.

Dr Chai, the Cardiologist responsible for reviewing EKG's from the Emergency Department, noted abnormalities on Ms. Aguilar's tracing consistent with anterior myocardial ischemia and had her return to Mercy Medical Center for further evaluation. She returned on May 28<sup>th</sup> and was admitted to the hospital for medical management of acute coronary syndrome with arrangements to undergo cardiac catheterization the following morning. Ms. Aguilar's heart catheterization demonstrated normal coronaries indicating that her chest pain was noncardiac.

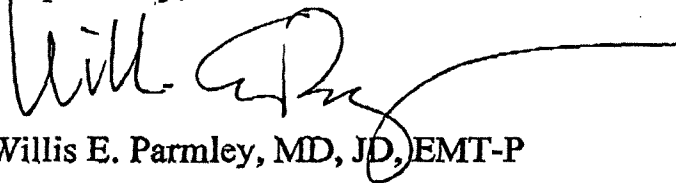
Ms. Aguilar had numerous physician evaluations during the week following her discharge from Mercy Medical Center. Ultimately she had a fatal cardiorespiratory arrest on June 4<sup>th</sup>. Her cause of death was determined to be a saddle embolism of the right and left pulmonary arteries. The presence of other pulmonary emboli has been speculated as a cause of her symptoms, but they were neither sought for nor found.

It is unclear from the medical record what interpretation Dr. Long made of Ms. Aguilar's EKG on May 27<sup>th</sup>. He should have recognized abnormalities indicative of myocardial ischemia and arranged for hospital admission under the care of a Cardiologist. Ultimately that same end was achieved, albeit 24 hours later, when the system of EKG review worked as designed and the patient was brought back to the hospital for evaluation of her EKG abnormalities.

Ms. Aguilar's EKG on May 27<sup>th</sup> indicated anterolateral myocardial ischemia until definitively proven otherwise and Dr. Long's duty was to recognize that abnormality and to facilitate evaluation by a Cardiologist. It was not his duty to anticipate a normal heart catheterization and provide further evaluation and diagnosis based on that contingency. I see no causation link between Dr. Long's evaluation on May 27<sup>th</sup> and Ms. Aguilar's eventual death on June 4<sup>th</sup>.

I anticipate that you will forward additional documents pertaining to this case as they become available. In the interim, if you have any questions or if I may be of further service, please contact me.

Respectfully,

A handwritten signature in black ink, appearing to read "Willis E. Parmley", with a long horizontal flourish extending to the right.

Willis E. Parmley, MD, JD, EMT-P

**WILLIS E. PARMLEY, MD, JD, EMT-P, F.A.A.E.M., F.C.L.M.**

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Fellow, American College of Legal Medicine  
National Registry of Emergency Medical Technicians - Paramedic  
9242 NORTH SUNSET DRIVE  
POCATELLO, IDAHO 83201  
TELEPHONE: 208-235-1707

**CURRICULUM VITAE**

**BIRTH** Cortez, Colorado  
August 27, 1951

**EDUCATION**  
Secondary

**Thunderbird Academy**  
Scottsdale, Arizona  
1965-1969

**College**

**Loma Linda University**  
Riverside, California  
1969-1971

**University of Colorado**  
Boulder, Colorado  
1971-1973  
Degree: **Bachelor of Medical Science**  
August 17, 1974

**Medical**

**University of Colorado School of Medicine**  
Denver, Colorado  
1973-1977  
Degree: **Doctor of Medicine**  
May 22, 1977

**University of Iowa Hospitals and Clinics**  
Iowa City, Iowa  
General Surgery Resident  
1977-1978

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Fellow, American Academy of Emergency Medicine  
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General Surgery Resident  
1977-1978

**EDUCATION**

(continued)

**Legal**

**University of Houston Law Center  
Houston, Texas  
1988-1992**

**Degree: Doctor of Jurisprudence  
August 20, 1992**

**MEDICAL PRACTICE**

**Grayling Mercy Hospital  
Grayling, Michigan**

**Emergency Department Staff Physician  
1978-1984**

**Emergency Department Medical Director  
1981-1984**

**Medical Center Hospital  
Conroe, Texas**

**Emergency Department Staff Physician  
1984-1993**

**Medical Director**

**Emergency Department  
1984-1990**

**Montgomery County Hospital District  
Emergency Medical Service  
1984-1988**

**Clinical Instructor**

**Montgomery County Medical Education  
Foundation - Family Practice Residency  
1984-1993**

**Chairman**

**Department of Emergency Medicine  
May 1988-January 1990**

**Portneuf Medical Center  
Pocatello, Idaho**

**Emergency Department Staff Physician  
April 1993 - Present**

**Clinical Instructor**

**Idaho State University Family Practice  
Residency - April 1993 - Present**

**MEDICAL PRACTICE  
(continued)**

**Medical Director**  
**Bannock Life Flight**  
**January 1995-December 1998**

**Chairman**  
**Department of Emergency Medicine**  
**January 1999-December 2001**

**Medical Director**  
**Pocatello Fire Department**  
**Emergency Medical Services**  
**November 2001 - November 2006**

**Chubbuck Fire Department**  
**Emergency Medical Services**  
**March 2002 - November 2006**

**CERTIFICATION**

**University of Iowa Hospitals and Clinics**  
**Assistant Resident Surgeon**  
**July 1, 1978**

**Michigan Medical Practice Board**  
**July 6, 1978**  
**Certificate #39757**

**Texas State Board of Medical Examiners**  
**February 26, 1984**  
**Certificate #G6220**

**Idaho State Board of Medicine**  
**Certificate #M-6204**

**National Board of Medical Examiners**  
**July 1, 1978**

**American Board of Emergency Medicine**  
**February 26, 1987**  
**Recertified 1997**  
**Recertified 2007**

**American College of Emergency Physicians**  
**Member - September 1978**  
**Fellow - November 1987**  
**Base Station Physician - November 1986**

**CERTIFICATION**  
(continued)

**American Academy of Emergency Medicine**  
Fellow - 1997

**National Association of EMS Physicians**  
Charter Member - October 1985  
Medical Director Course - January 2002

**American College of Legal Medicine**  
Affiliate - 1990  
Fellow - 2001

**American Heart Association**  
Advanced Cardiac Life Support Provider  
Advanced Cardiac Life Support Instructor

**American College of Surgeons**  
Advanced Trauma Life Support Provider

**American Academy of Pediatrics /**  
**American Heart Association**  
Pediatric Advanced Life Support Provider

**Texas Board of Law Examiners**  
May 11, 1993

**National Registry of Emergency Medical Technicians**  
Paramedic - Certification # P0966674  
January 24, 2004

**Idaho Department of Health and Welfare**  
Bureau of Emergency Medical Services  
Paramedic - Certificate # 22251  
March 15, 2004

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**Clinical Instructor of the Year**  
1986-1987  
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March 15, 2004

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ORIGINAL

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Telephone: (208) 336-4440  
Facsimile: (208) 344-7721  
ISB #: 2760

Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO FOR THE COUNTY OF CANYON COUNTY

JOSE AGUILAR, individually, as the Personal )  
Representative of the Estate of Maria A. Aguilar, )  
deceased, and as the natural father and )  
guardian of GUADALUPE MARIA AGUILAR, )  
ALEJANDRO AGUILAR, and LORENA )  
AGUILAR, minors, and JOSE AGUILAR, JR., )  
heirs of Maria A. Aguilar, deceased, )

Plaintiffs, )

v. )

ANDREW CHAI, M.D., STEVEN R. NEWMAN, )  
M.D., NATHAN COONROD, M.D., MITCHELL )  
LONG, D.O., and PRIMARY HEALTH CARE )  
CENTER, an Idaho corporation, JOHN and )  
JANE DOES I through X, employees of one or )  
more of the Defendants, )

Defendants. )

Case No. CV 05-5781

**PLAINTIFFS' THIRD  
SUPPLEMENTAL EXPERT  
WITNESS DISCLOSURE**

*2-21-08*  
**FILED**  
11:21 A.M. P.M.

FEB 19 2008

CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY

COME NOW Plaintiffs, by and through their attorneys of record, David E. Comstock, of Comstock & Bush, and Byron V. Foster, Attorney at Law, and pursuant to the Court's Scheduling Order and in accordance with I.R.C.P. 26, hereby supplements their list of expert witnesses to be called at the trial of this case:

- 1. Paul Blaylock M.D., FACEP  
Providence Medical Group  
4500 N.W. Malheur Avenue  
Portland, OR 97229**

The opinions expressed by Dr. Blaylock herein are opinions he holds to a reasonable medical certainty or probability.

When Maria Aguilar presented at the Emergency Department at MMC on May 27, 2003, she had been sent there by her primary physician, Dr. Coonrod. The records of Dr. Coonrod at Primary Health indicate that Dr. Coonrod had called the ED and spoken to the ED physician and had, in addition, sent along with Mrs. Aguilar the EKG and chest x-ray taken at Primary Health on that date. At least with regard to the EKG, it was abnormal and indicated changes indicative of either a cardiac or pulmonary origin. These changes, including T-wave inversion, were indicative of right heart strain or stress which would lead a prudent ED physician, in May of 2003 in Nampa, Idaho, to perform tests to determine whether the etiology of the EKG pattern was indeed cardiac or pulmonary. Dr. Long, in order to comport with the applicable standard of health care practice, in addition to the tests he ordered that day; should have ordered a D-Dimer, chest CT or V/Q scan. Blood clotting studies and/or a pulmonary angiogram should have been ordered if the screening tests aforementioned were abnormal. One or more of these studies would, more probably than not, have indicated that Mrs. Aguilar was suffering from a showering of pulmonary emboli.

In addition, the symptoms which Maria was exhibiting while in the ED on that date; along with her medical history, called for an investigation into whether her signs and symptoms were related to pulmonary embolus. Dr. Long's differential diagnosis should have included pulmonary embolus and it should have been either ruled in or ruled out. However, other than indicating in his deposition that he considered PE and ruled it out based upon his examination, Dr. Long did nothing to appropriately investigate the probability that Mrs. Aguilar was indeed suffering from PE. You cannot rule out a PE based on physical examination alone. There is a well established principle in emergency medicine that if you suspect a PE, you must rule it out since the consequence of not doing it is a high likelihood of morbidity and/or death.

Dr. Long's clinical impression of atypical chest pain and probable GERD is at odds with the EKG findings and is simply not a reasonable conclusion based on her history and clinical presentation. The pattern shown by the EKG from Primary Health, coupled with the EKG ordered by Dr. Long (which contained a worsening pattern) is not seen in patients suffering from GERD. It is significant that Mrs. Aguilar has a past history of phebitis.

In addition, the chest x-ray taken on May 27, 2003, was not normal and suggested right heart strain and cardiomegaly. This too should have been another red flag to Dr. Long because cardiomegaly is or can be indicative of right heart strain caused by pulmonary emboli. Even without any information from Dr. Coonrod's office, Dr. Long possessed sufficient information from the work-up he performed and the testing he obtained to reach a differential diagnosis of pulmonary emboli and his failure to rule this out was a violation of the standard of care. Routine PE screening then could have led to the diagnosis.

Dr. Long's discharge of Mrs. Aguilar, without the performance of appropriate testing as set forth above, was a violation of the standard of health care practice applicable to him

on May 27, 2003. If he was not going to do the work-up, he should have admitted the patient for additional work-up. Dr. Long's violations of the standard of health care practice for an emergency physician on May 27, 2003 were a substantial factor in the death of Mrs. Aguilar.

With regard to Dr. Chai, it is understood that he is a cardiologist. However, even a specialist like Dr. Chai, once he calls a patient back the ED for further testing, has a duty to form a differential diagnosis and follow up on that differential with appropriate testing and examination. Dr. Chai had the same duty as any primary care doctor (Ed, Family Practice, Internists) and is to "correctly diagnose" a patient's medical condition and to initiate timely treatment. In conjunction with his order for a cardiac catheterization, Dr. Chai, in order to comport with the standard of health care practice applicable to him on May 28, 2003, should have ordered, as should Dr. Long, appropriate tests to determine if Mrs. Aguilar's signs and symptoms were pulmonary in nature. Merely ordering a cardiac work-up under these circumstances was insufficient. The EKG changes which he references in his May 28, 2003 History and Physical give rise to an obligation to determine whether those changes are cardiac or pulmonary in origin. Part of Dr. Chai's responsibility in conjunction with his admission work-up of this patient should have included one or more of the tests set forth above. (Same PE screening test as for Dr. Long.) Had he done so, it would have obviated the need for cardiac catheterization and resulted in Mrs. Aguilar receiving life saving treatment. In my opinion, Mrs. Aguilar did not need a cardiac catheterization. It is Dr. Blaylock's opinion, to a reasonable medical probability, that in failing to perform a proper work-up and in failing to appropriately follow up concerning the signs and symptoms exhibited by Mrs. Aguilar; that Dr. Chai violated the standard of health care practice applicable to him and that these failures were a substantial factor in Mrs. Aguilar's demise.



Dr. Blaylock consulted with an Idaho cardiologist regarding the standard of care for Dr. Chai and the standard of care for cardiologists in general in Idaho.

Dr. Coonrod, who saw Mrs. Aguilar multiple times including May 27, 30, 2003 and also June 4, 2003, the date of her death; violated the standard of care and was medically negligent in not ordering the PE screening tests (as outlined above regarding Dr. Long). He was negligent in failing to include PE in his differential diagnosis based on Mrs. Aguilar's signs and symptoms during the last two weeks of May 2003 and in failing to connect those signs and symptoms with those she had previously exhibited. He also ignored her past history of phlebitis as a red flag for PE in his differential diagnosis. His negligence was a substantial factor in the ultimate death of Mrs. Aguilar. He was particularly negligent after her negative cardiac work-up by Drs. Chai and Field and should have immediately focused on a pulmonary cause for her condition and ordered the PE screening tests. In fact, Dr. Coonrod saw her numerous times in May, 2003 and should have worked her up for PE in each of those visits and follow-ups. Dr. Blaylock, as set forth above, will supplement his opinions once he has been afforded the opportunity to review the deposition testimony of Dr. Coonrod.

Concerning Dr. Newman, Dr. Blaylock is of the opinion, to a reasonable medical probability, that Dr. Newman's care and treatment of Maria Aguilar on May 31, 2003, violated the standard of care for a family medicine physician acting as an emergency medicine physician in Caldwell, Idaho, on that date. Dr. Newman's failure to render appropriate medical care to Mrs. Aguilar was a substantial factor in her death.

At the time he saw and examined Mrs. Aguilar, Dr. Newman knew or should have known that she had suffered an unexplained syncopal episode accompanied by dizziness, heart palpitations and shortness of breath. Dr. Newman should have elicited the history

from the family that she not only had a syncopal episode, but actually had a seizure and this alone should have triggered an admission to the hospital. He knew or should have known that Mrs. Aguilar had undergone a left heart catheterization on May 29, 2003 which was normal. He knew or should have known that Mrs. Aguilar had a history of pleuritic chest pain. He knew or should have known that she had a history of anemia but that her most recent hematocrit level had been within normal limits. Dr. Newman's diagnosis of "syncope and anemia" is not supported by either his examination of Mrs. Aguilar or her most recent test results. To diagnose anemia without ordering any blood testing to confirm such a diagnosis is below the standard of care and leaves the diagnosis unsupported.

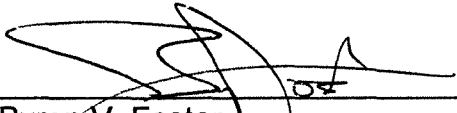
Based upon Dr. Newman's own chart notes of May 31, 2003, he obtained a history from Mrs. Aguilar, her family and the EMS personnel who transported her to the hospital. Therefore, he is charged with the knowledge that the EMS personnel had noted that Mrs. Aguilar was suffering from shortness of breath en route to the hospital. Dr. Newman failed to take into account the fact that Mrs. Aguilar's heart rate was elevated and failed to investigate the totality of her symptoms and history in arriving at a diagnosis and treatment plan. PE should have been in his differential diagnosis and ruled out. He had a duty to review her recent ER visits and previous work-up including the abnormal chest x-ray and EKG.

Dr. Newman's chart notes indicate a failure to form a differential diagnosis which should have included the probability that Mrs. Aguilar was suffering from pulmonary emboli on May 31, 2003. Had Dr. Newman performed a proper examination, obtained an appropriate history and reviewed/considered her previous work-ups over the last 5 days, as the standard of care required him to do, his differential diagnosis should have included pulmonary embolus. At that point, Dr. Newman should have immediately either ordered a

D-Dimer, chest CT scan or V/Q scan, followed by a pulmonary angiogram and/or blood clotting studies, if they were abnormal. Any one of these tests would have shown, more probably than not, that Mrs. Aguilar's true condition was a result of pulmonary emboli. Had he performed his obligations in accordance with the standard of health care practice applicable to him, Dr. Newman would have and could have taken steps which would have, more probably than not, saved Mrs. Aguilar's life.

Dr. Newman's diagnostic considerations of: MI, arrhythmia, dehydration and anemia are not reasonable by either his examination or the patient's history. The fact he failed to include pulmonary embolus in his diagnostic considerations is a violation of the standard of health care under these circumstances. There is no indication Mrs. Aguilar was suffering from an irregular heartbeat, was significantly dehydrated or anemic. Her week long progressive signs and symptoms strongly indicated either a cardiac or pulmonary problem and cardiac had already been ruled out. Nevertheless, he failed to take the necessary and appropriate steps to investigate pulmonary embolus by simple, routine screening tests.

DATED THIS 15 day of February, 2008.

  
Byron V. Foster  
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on the 15 day of February, 2008, I served a true and correct copy of the above and foregoing instrument, by method indicated below, upon:

Andrew C. Brassey, Esq.  
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Center*


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Byron V. Foster

ORIGINAL

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Attorneys for Defendant Andrew Chai, M.D.

*2-21 collect*  
**FILED**  
11:0 A.M. P.M.

**FEB 19 2008**

**CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY**

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON**

JOSE AGUILAR, individually, as the  
Personal Representative of the Estate of Maria  
A. Aguilar, deceased, and as the natural father  
and guardian of GUADALUPE MARIA  
AGUILAR, ALEJANDRO AGUILAR, and  
LORENA AGUILAR, minors, and JOSE  
AGUILAR, JR., heirs of Maria A. Aguilar,  
deceased,

Plaintiffs,

vs.

ANDREW CHAI, M.D., STEVEN R.  
NEWMAN, M.D. NATHAN COONROD,  
M.D., CATHERINE ATUP-LEAVITT, M.D.  
MITCHELL LONG, D.O., COLUMBIA  
WEST VALLEY MEDICAL CENTER, an  
Idaho corporation, MERCY MEDICAL  
CENTER, an Idaho corporation, and  
PRIMARY HEALTH CARE CENTER, an  
Idaho corporation, JOHN and JANE DOES I  
through X, employees of one or more of the  
Defendants,

Defendants.

Case No. CV05-5781

**DEFENDANT ANDREW CHAI,  
M.D.'S EXPERT WITNESS  
DISCLOSURE**

COMES NOW Defendant Andrew Chai, M.D., by and through his counsel of record, Brassey, Wetherell, Crawford & Garrett, and hereby identifies and discloses the following expert witnesses that he may call at trial in this matter:

- 1. Dr. Andrew Chai**  
**Cardiologist**  
**520 S. Eagle Rd., #3104**  
**Meridian, ID 83642**  
**c/o Brassey, Wetherell, Crawford & Garrett**  
**203 W. Main Street**  
**P.O. Box 1009**  
**Boise, ID 83701-1009**  
**Telephone: 208-344-7300**

Dr. Chai is a board-certified cardiologist and is affiliated with the clinic of St. Luke's Idaho Cardiology Associates. A copy of his curriculum vitae is attached.

Dr. Chai will testify as to the opinions that he actually holds, and will render those opinions on the basis of reasonable medical certainty. He will discuss his education, background, and expertise. Further, Dr. Chai will state that his opinions are based on his education, experience, and expertise in the field of cardiology, the medical records and information of Mrs. Aguilar discovered in this action, as well as generic and specific medical literature and research.

Dr. Chai will explain and discuss the anatomy, physiology and pathophysiology of the human body both in specific and general terms as it relates to this matter. Dr. Chai will explain and discuss the cardio/pulmonary function, pathophysiology of the cardiac and pulmonary system, and relate that physiology and function to his evaluation and findings for Mrs. Aguilar. He will discuss and explain his findings, and how those findings relate to his evaluation and recommendations in this matter. He will discuss his differential diagnoses, any of those diagnoses that he was able to rule out, and those diagnoses that remained to be evaluated and ruled on by other health care providers. He will discuss the evaluation of Mrs. Aguilar's pulmonary system and his findings with regard to the

cardio/pulmonary status of Mrs. Aguilar when he evaluated her. He will testify as to the referral and consultation system that was in place, and that it was within the standard of health care practice as it applies to the care of Mrs. Aguilar.

Dr. Chai will testify as to the applicable standard of health care practice for a cardiologist caring for a patient such as Maria Aguilar. In doing so, Dr. Chai will testify that he is familiar with the applicable standard of health care practice, and that his own care and treatment in this matter met or exceeded said standards in every respect. Specifically, Dr. Chai will testify that his actions, recommendations, care, and treatment of Mrs. Aguilar are consistent with the applicable standard of health care practice for the time and place of his care in this action. Additionally, it is anticipated that Dr. Chai will testify that nothing he did, or did not do, contributed to any injury or contributed in any way to Mrs. Aguilar's death.

Specifically, Dr. Chai will testify that he met the standard of health care practice in his evaluation, findings, recommendations, and diagnosis of Mrs. Aguilar based upon the symptomology presented to him and the information available to him at the time of his evaluation of Mrs. Aguilar. Further, Dr. Chai will testify that he acted within the appropriate standard of health care practice when he recommended cardiac catheterization for Mrs. Aguilar.

Dr. Chai has reviewed, and will rely upon, the medical records of Mrs. Aguilar, all radiographic studies, all nuclear and ultrasonic images, and any and all other laboratory or medical studies associated with this case. Dr. Chai further will further rely on the anticipated trial testimony of other health care providers and other witnesses.

Further, Dr. Chai may refer to prior deposition and trial testimony regarding the symptomology and signs associated with pulmonary emboli. Dr. Chai further will opine as to the role, duties, and interaction between cardiologist, emergency room physicians, and other health care staff. In doing so, Dr. Chai may discuss this system as it applies to the care provided by himself and

other physicians, nurses, and other health care providers that were responsible for evaluation, care and treatment for Mrs. Aguilar prior to, during, and subsequent to his care and evaluation.

It also is anticipated that Dr. Chai may respond to, and/or refute testimony or opinions of witnesses proffered by Plaintiffs, Plaintiffs' experts, and/or Co-Defendants, and may testify in the capacity of a rebuttal witness.



**2. James W. Smith, M.D.  
Cardiologist  
287 West Jefferson  
Boise, ID 83702**

Dr. Smith is a board-certified cardiologist and is affiliated with the Boise Heart Clinic.

Dr. Smith will testify as to the opinions that he actually holds, and will render those opinions on the basis of reasonable medical certainty. He will discuss his education, background, and expertise. Further, Dr. Smith will state that his opinions are based on his education, experience, and expertise in the field of cardiology, the medical records and information of Mrs. Aguilar discovered in this action, as well as generic and specific medical literature and research.

Dr. Smith will explain and discuss the anatomy and physiology and pathophysiology of the human body both in specific and general terms as it relates to this matter. Dr. Smith will explain and discuss the cardio/pulmonary system, and relate that physiology and function to his evaluation and findings for Mrs. Aguilar. He will discuss any differential diagnoses in this matter, and those diagnoses that remained to be evaluated and ruled on by other health care providers. He will discuss the evaluation of Mrs. Aguilar's pulmonary system and Dr. Chai's findings with regard to the cardio/pulmonary status of Mrs. Aguilar when he evaluated her. He will testify as to the referral and consultation system that was in place and how it applies to the care of Mrs. Aguilar.

Dr. Smith will testify as to the applicable standard of health care practice for a cardiologist caring for a patient such as Maria Aguilar. In doing so, Dr. Smith will testify that he is familiar with the applicable standard of health care practice, and that Dr. Chai's care and treatment in this matter met or exceeded said standards in every respect. Specifically, Dr. Smith will testify that Dr. Chai's actions, recommendations, care, and treatment of Mrs. Aguilar are consistent with the applicable standard of health care practice for the time and place of his care in this action. Additionally, it is

anticipated that Dr. Smith will testify that nothing that Dr. Chai did, or did not do, contributed in any way to Mrs. Aguilar's death.

Specifically, Dr. Smith will testify that Dr. Chai met the standard fo health care practice in his evaluation, findings, recommendations, and appropriately diagnosed Mrs. Aguilar based upon the symptomology presented to him and the information available to him at the time of his evaluation of Mrs. Aguilar. Further, Dr. Smith will testify that Dr. Chai acted within the appropriate standard of health care practice when he recommended cardiac catheterization for Mrs. Aguilar.

Dr. Smith will rely upon the medical records of Mrs. Aguilar, all radiographic studies, all nuclear and ultrasonic images, and any and all other laboratory or medical studies associated with this case. Dr. Smith further will rely on the anticipated trial testimony of other health care providers and other witnesses.

Dr. Smith may refer to prior deposition and trial testimony regarding the symptomology and signs associated with pulmonary emboli. Dr. Smith further will opine as to the role, duties, and interaction between cardiologist, emergency room physicians, and other health care staff. In doing so, Dr. Smith may discuss that system as it applies to the care provided by Dr. Chai and other physicians, nurses, and other health care providers that were responsible for evaluation, care and treatment for Mrs. Aguilar prior to, during, and subsequent to his care and evaluation.

It also is anticipated that Dr. Smith may opine and refute certain opinions of witnesses proffered by Plaintiffs, Plaintiffs' experts, and/or Co-Defendants, and may testify in the capacity of a rebuttal witness.

**3. George B. Pfoertner, M.D.  
Pulmonologist  
3417 Stonecreek Rd.  
Boise, ID 83703**

Dr. Pfoertner is a board-certified pulmonologist practicing in Boise, Idaho.

Dr. Pfoertner will testify as to the opinions that he actually holds, and will render those opinions on the basis of reasonable medical certainty. He will discuss his education, background, and expertise. Further, Dr. Pfoertner will state that his opinions are based on his education, experience, and expertise in the field of pulmonology, the medical records and information of Mrs. Aguilar discovered in this action, as well as generic and specific medical literature and research.

Dr. Pfoertner will rely upon the medical records of Mrs. Aguilar, all radiographic studies, all nuclear and ultrasonic images, and any and all other laboratory or medical studies associated with this case. Dr. Pfoertner further will rely on the anticipated trial testimony of other health care providers and other witnesses.

Dr. Pfoertner will provide specific causation opinions, and that Dr. Chai's conduct and actions did not cause the alleged damages in this matter. In doing so, Dr. Pfoertner will explain and discuss the physiology and structural makeup of the lungs, the symptomology and manifestations of pulmonary emboli and their application to this case. Further, Dr. Pfoertner will discuss diagnostic difficulties in assessing pulmonary emboli.

Dr. Pfoertner will explain and discuss the anatomy and physiology of the human body both in specific and general terms as it relates to this matter. Further, Dr. Pfoertner may testify as to his prior deposition testimony, and the deposition testimony of any other witnesses in this matter, regarding the symptomology and signs associated with pulmonary emboli. Dr. Pfoertner further will opine as to the role, duties, and interaction between consulting physicians, emergency room

physicians, and other health care staff. In doing so, Dr. Pfoertner may discuss the care provided by other physicians, nurses, and other health care providers that treated and cared for Mrs. Aguilar.

It also is anticipated that Dr. Pfoertner may opine and refute certain opinions of witnesses proffered by Plaintiff and/or Co-Defendants, and may testify in the capacity of a rebuttal witness.

**4. Michael D. Kenner, M.D.  
Cardiologist  
1721 S. 10<sup>th</sup> Ave.  
Caldwell, ID 83605**

Dr. Kenner is a board-certified cardiologist. A copy of his curriculum vitae is attached.

Dr. Kenner will testify as to the opinions that he actually holds, and will render those opinions on the basis of reasonable medical certainty. He will discuss his education, background, and expertise. Further, Dr. Kenner will state that his opinions are based on his education, experience, and expertise in the field of cardiology, the medical records and information of Mrs. Aguilar discovered in this action, as well as generic and specific medical literature and research.

Dr. Kenner will explain and discuss the anatomy and physiology and pathophysiology of the human body both in specific and general terms as it relates to this matter. Dr. Kenner will explain and discuss the cardio/pulmonary system, and relate that physiology and function to Dr. Chai's evaluation and findings for Mrs. Aguilar. He will discuss and explain Dr. Chai's findings and how those findings relate to his evaluation and recommendations in this matter. He will discuss any differential diagnoses, and those diagnoses that remained to be evaluated and ruled on by other health care providers. He will discuss Dr. Chai's evaluation of Mrs. Aguilar and the status of Mrs. Aguilar when Dr. Chai evaluated her. He will testify as to the referral and consultation system that was in place and how it applies to the care of Mrs. Aguilar.

Dr. Kenner will testify as to the applicable standard of health care practice for a cardiologist caring for a patient such as Maria Aguilar. In doing so, Dr. Kenner will testify that he is familiar with the applicable standard of health care practice, and relate Dr. Chai's care and treatment, including his actions, recommendations, and evaluation in this matter to the applicable standard of care. Additionally, it is anticipated that Dr. Kenner will testify regarding the cause of death for Mrs. Aguilar.

Dr. Kenner will rely upon the medical records of Mrs. Aguilar, all radiographic studies, all nuclear and ultrasonic images, and any and all other laboratory or medical studies associated with this case. Dr. Kenner further will rely on the anticipated trial testimony of other health care providers and other witnesses.

It also is anticipated that Dr. Kenner may opine and refute certain opinions of witnesses proffered by Plaintiff and/or Co-Defendants, and may testify in the capacity of a rebuttal witness.

**5. All treating physicians and health care providers involved in any way with the care and treatment of Maria Aguilar, including, but not limited to:**

**Thomas M. Donndelinger, M.D.  
Steven Newman, M.D.;  
Kathryn S. Atup-Levett, M.D.;  
Defendant Nathan Coonrod, M.D.;  
Robb F. Gibson, M.D.;  
Mitchell Long, D.O.;  
Scott R. Hiatt, D.O.; and  
Dr. Powell; and  
James Field, M.D.**

Discovery in this matter is ongoing. Defendant therefore reserves the right to supplement the above disclosures in light of any additional opinions or other evidence Plaintiffs may later seek to offer, or if other information is provided via supplementation, deposition, or further investigation by any party. In light of the foregoing, and in a good faith effort to comply with the Court's scheduling order, Defendant submits the following disclosures based upon the information which has been provided to date. Defendant reserves the right to call and/or elicit expert opinion testimony from any person identified as an expert witness by Plaintiffs. Defendant further reserves the right to call as expert witnesses any and all health care professionals who provided any care or treatment to Maria Aguilar at any time, and/or whose names appear in any medical record of Maria Aguilar. Such providers include, but are not limited to, family practice physicians, cardiologists, gastroenterologists, pathologists, radiologists, pharmacists, psychiatrists, physician assistants, plastic surgeons, infectious disease specialists, orthopedic physicians, ER physicians, registered nurses, licensed practical nurses, nurses' aides, physical therapists, and/or occupational therapists, or other physicians, nurses, or other health care professionals who provided any care or treatment to Maria Aguilar. The health care professionals who cared for or treated Maria Aguilar are expected to testify regarding entries in the medical records of Maria Aguilar, which they made or which were made by others at their request, and the significance of their findings and conclusions. Finally, Defendant

reserves the right not to call any or all of the persons enumerated above, and the right not to elicit some or all of the expert opinion testimony disclosed for the above individuals.

The foregoing health care providers further are expected to discuss the issues and facts raised in the relevant medical records and their own respective duties and functions. As such, Dr. Chai reserves the right to call other experts, including, but not limited to, all other health care providers as mentioned in the medical records or during the discovery proceedings in this matter.

Defendant Chai further reserves the right to call any and experts disclosed by Plaintiffs or by any other Defendants in this matter, as part of their case in chief, for rebuttal, or otherwise.

Defendant Chai reserves the right to supplement or amend this Disclosure, including naming additional expert witnesses, pursuant to the Idaho Rules of Civil Procedure and any pretrial order of the Court.

DATED this 5<sup>th</sup> day of February, 2008.

BRASSEY, WETHERELL, CRAWFORD & GARRETT

By 

Andrew C. Brassey, Of the Firm  
Attorneys for Defendant Andrew Chai, M.D.



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 15<sup>th</sup> day of February, 2008, I served a true and correct copy of the foregoing DEFENDANT ANDREW CHAI, M.D.'S EXPERT WITNESS DISCLOSURE upon each of the following individuals by causing the same to be delivered by the method and to the addresses indicated below:

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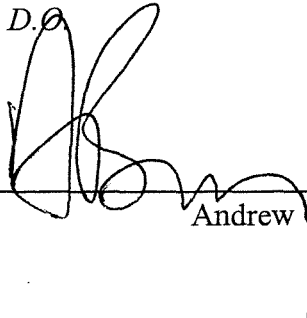
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- Facsimile

*Attorney for Defendant Mitchell Long, D.O.*

  
\_\_\_\_\_  
Andrew C. Brassey



**CURRICULUM VITAE**



**ANDREW U. CHAI, MD, FACC**

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Boise, ID 83702  
208-938-1338

**OFFICE**

Idaho Cardiology Associates  
520 S. Eagle Rd. Ste 3104  
Meridian, ID 83642

**CURRENT  
POSITIONS**

1999 - Present	Invasive Cardiologist, Idaho Cardiology Associates, P.A.
1999 - Present	Assistant Clinical Professor, University of Washington and Boise VA Medical Center
2003 - Present	Director of Non-invasive Cardiology, St. Lukes Regional Medical Center, Boise, Idaho

**EDUCATION**

1988-92	Doctor of Medicine Medical College of Wisconsin Milwaukee, WI
1980-85	Bachelor of Science- Biology University of California Los Angeles

**POST GRADUATE  
TRAINING &  
EDUCATION**

1995-1998	Fellowship in Cardiology University of New Mexico Albuquerque, NM
1993-95	Residency in Internal Medicine Medical College of Wisconsin Milwaukee, WI
1992-93	Internship in Internal Medicine University of California, Davis Sacramento, CA

Chai, Andrew U.  
Curriculum Vitae

Revised: 01/14/2004

Initialed: \_\_\_\_\_

**LICENSE**

Current	Idaho State Medical License, No. M-7714
1995	New Mexico, Medical License
1993	Wisconsin, Medical License

**SPECIALTY  
BOARDS**

2000	Fellow, American College of Cardiology
2000	Board Certified, American Society of Nuclear Cardiology
1998	Board Certified, Cardiovascular Disease
1995	American Board of Internal Medicine
1992	National Board of Medical Examiners, Parts I-III

**ACADEMIC  
POSITIONS**

1999-Present	Assistant Clinical Professor, University of Washington and Boise VA Medical Center
1998-June 1999	Instructor in Medicine Division of Cardiology University of New Mexico Health Sciences Center VAMC, Albuquerque, New Mexico

**MEMBERSHIPS**

Present	American College of Cardiology, Affiliate
Present	Idaho Medical Association

**HONORS &  
AWARDS**

1997	ACC/Littmann Scholarship
1995	Carl S. Junkerman Award (Awarded to the best resident in internal medicine at the Medical College of Wisconsin)

Chai, Andrew U.  
Curriculum Vitae  
Page 3

Revised: 01/14/2004  
Initialed: \_\_\_\_\_

## PUBLICATIONS

### Papers:

1. James E. Udelson, Gary V. Heller, Frans J.Th. Wackers, Andrew Chai, David Hinchman, Patrick S. Coleman, Vasken Dilisizian, Marcello DiCarli, Rory Hachamovitch, James R. Johnson, Richard J. Barrett, and Raymond J. Gibbons. **Binodenoson for Pharmacological Stress as an Adjunct to Myocardial Perfusion Imaging**. *Circulation* 2004 109: 457 – 464.
2. Clare-Salzler M, Mullen Y, Chai A, Stein E, Girman D, Lennartz K. **Effect of H-2 Compatibility in Autoimmune Destruction of Islet Allografts from B10 Congenic Mice to Non-obese Diabetic Mice**. *Pancreas* 1994, 9(2):179-85.
3. Clare-Salzler MJ, Brooks J, Chai A, Van Herle K, Anderson C. **Prevention of Diabetes in Non-obese Diabetic Mice by Dendritic Cell Transfer**. *Journal of Clinical Investigation* 1992, 90(3): 741-8.
4. Wicker LS, Miller BJ, Chai AU, Terada M., Mullen Y. **Expression of Genetically Determined Diabetes and Insulinitis in the Non-obese Diabetic Mouse at the Level of Bone Marrow Derived Cells**. *Journal of Experimental Medicine* 1988, 167:1801-1810.
5. Siegel RJ, Fishbein MF, Said JW, Fealy M, Chai AU, Rubin SA, Melmed S. **Identification of Growth Hormone Receptors at the Myocardial Cell Surface**. *American Journal of Cardiovascular Pathology* 1989, 2:345-50.
6. Carter RS, Siegel RJ, Chai AU, Fishbein MF. **Immunohistochemical Localization of Apolipoproteins A-1 and B in Human Carotid Arteries**. *Journal of Pathology* 1987, 153:31-36.

### Review Articles:

1. Chai, A, Crawford, MH. **Traditional Medical Therapy for Unstable Angina**. *Cardiology Clinics* 1999, 2:359-72.
2. Chai, AU, Abrams, J. **Homocysteine: A New Cardiac Risk Factor?** *Clinical Cardiology* 2001, 24:80-84.

Chai, Andrew U.  
Curriculum Vitae  
Page 4

Revised: 01/14/2004  
Initialcd: \_\_\_\_\_

**Abstracts:**

1. James E. Udelson, Gary V. Heller, Frans J.Th. Wackers, Andrew Chai, David Hinchman, Patrick S. Coleman, Vasken Dilsizian, Marcello DiCarli, Rory Hachamovitch, James R. Johnson, Richard J. Barrett, and Raymond J. Gibbons. **Randomized, Controlled Dose-Ranging Study of the Selective Adenosine A<sub>2A</sub> Receptor Agonist Binodenoson for Pharmacological Stress as an Adjunct to Myocardial Perfusion Imaging.** *Circulation* 109: 457-464.
2. Chai AU, Roldan CA, Crawford MH. **The Importance of Mitral Annular Performance in Determining the Mechanism of Functional Mitral Regurgitation.** *JACC* 1998, 31(2A):206A.
3. Roldan CA, Chai, A, Coughlin C, Crawford MH. **Mechanism of Mitral Regurgitation Post Myocardial Infarction.** *JACC* 1998, 31(5C).
4. Chai AU, Roldan CA, Crawford MH. **The Importance of Mitral Annular Function in Determining the Mechanism of Functional Mitral Regurgitation.** *Journal of Investigative Medicine* 1998, 46(1):128A.
5. Chai AU, Roldan CA, Coughlin C, Crawford, MH. **Mechanism of Mitral Regurgitation by Location of Myocardial Infarction.** *Journal of Investigative Medicine* 1998, 46(1):136A.
6. Charlton G, Field J, Chai A, Shively B. **Estimation of Left Ventricular Pressure by Outflow Tract Velocity Indices.** *Journal of the American Society of Echocardiography* 1997, 10(4):429.
7. Clare-Salzler M, Chai A, Mullen Y. **The Effect of H-2 Compatibility on Beta Cell Survival in the NOD Mouse.** *Diabetes* 1988, 37:662.
8. Clare-Salzler M, Chai A, Mullen Y. **The Characteristics of Dendritic Cell Clusters in the NOD Mouse.** *Diabetes* 1988, 37:662.
9. Schwaiger M, Fishbein M, Wijns W, Kulber D, Chai A, Phelps M, Schelbert H. **Prolonged Glycogen Depletion and Increase of Glucose Utilization in Reperfused Canine Myocardium.** *JACC* 1986, 74 (Supplement II):211.

Chai, Andrew U.  
Curriculum Vitae  
Page 5

Revised: \_\_01/14/2004\_\_  
Initialed: \_\_\_\_\_

**RESEARCH  
ACTIVITIES**

Sub-Investigator: Protocol Acute Evaluation of Atrial Autocapture  
Capability Using Affinity DR Device (St. Jude Medical, 1999)

Sub-Investigator: 99-242 Medtronic Model 7250 Arrhythmia Management  
Device VT/VF + AF (Medtronic, 1999)

Sub-Investigator: AMISTAD II Clinical Trial (Medco Research Inc., 1998)

Sub-Investigator: Protocol A to Z Study Trial, Aggrastat to Zocor  
(Merck 2000)

Sub-Investigator: Protocol SAGE Study Trial (Parke-Davis, 2000)

Sub-Investigator: Protocol COMPLY study trial, Complement Inhibition in  
Myocardial Infarction Treated with Thrombolytics (Proctor & Gamble,  
2000)

Sub-Investigator: Protocol SYNERGY study trial (Aventis Pharmaceuticals,  
2001)

Sub-Investigator: Protocol, METEOR Study, Otsuka Maryland Research  
Institute, 2002

Sub-Investigator: Protocol, PREVAIL Study, Chugai Pharmaceuticals, 2002

Sub-Investigator: Protocol, Stamina-Heft Study, Amgen Pharmaceuticals,  
2003

Sub-Investigator: Protocol, ARISE Study, Integrium, 2003

Sub-Investigator: Protocol, HAT Study, NIH, 2003

Sub-Investigator: Protocol, VISION Study, King Pharmaceuticals, 2003

Revised: 01/14/2004

Initialed: \_\_\_\_\_

Certified by the  
American Board  
of  
Internal Medicine

Internal Medicine  
Pulmonary Disease

**GEORGE B. PFOERTNER M.D.**

**FACP FCCP CMD**  
**3417 N. STONECREEK ROAD**  
**BOISE, IDAHO 83703-4917**  
**(208) 345-9427**

**Fellow American College  
of Physicians**

**Fellow American College  
of Chest Physicians**

**CURRICULUM VITAE**

**CANISIUS COLLEGE**  
**BUFFALO, NEW YORK**  
**BACHELOR OF SCIENCE**  
**1956**

**UNIVERSITY OF BUFFALO**  
**BUFFALO, NEW YORK**  
**DOCTOR OF MEDICINE**  
**1960**

**E.J. MEYER MEMORIAL HOSPITAL**  
**BUFFALO, NEW YORK**  
**ROTATING INTERNSHIP**  
**1960-1961**

**U. S. ARMY**  
**ACTIVE DUTY**  
**AUGUST 1961-1971**

**FITZSIMMONS GENERAL HOSPITAL, U. S. ARMY**  
**DENVER, COLORADO**  
**INTERNAL MEDICINE RESIDENCY**  
**AUGUST 1962-1965**  
**PULMONARY DISEASE RESIDENCY**  
**SEPTEMBER 1968-1969**

**MEDICAL PRACTICE IN IDAHO**  
**AUGUST 1971-JUNE 2004**  
**LONG TERM CARE**  
**1996-2004**  
**MEDICAL LICENSE # M3023**

**RETIRED FROM ACTIVE MEDICAL PRACTICE**  
**JUNE 2004**

**CERTIFIED BY**

**AMERICAN BOARD OF INTERNAL MEDICINE 1970**  
**AMERICAN BOARD OF PULMONARY DISEASE 1974**  
**AMERICAN BOARD OF CRITICAL CARE MEDICINE 1993**  
**AMERICAN MEDICAL DIRECTORS ASSOCIATION 2003**  
**FELLOW AMERICAN COLLEGE OF PHYSICIANS**  
**FELLOW AMERICAN COLLEGE OF CHEST PHYSICIANS**

**CURRICULUM VITAE**

January 23, 2006

**MICHAEL DAVID KENNER, M.D. F.A.C.C.**  
1520 N. 7<sup>th</sup> Ave  
Boise, Idaho 83702  
Phone (208) 453-1062  
Fax (208) 453-1196

SS # [REDACTED]  
Born: [REDACTED] Rochester, MN  
Marital Status: Single  
Email-Mkenner@Mindspring.com

**EMPLOYMENT**

- 2003-present    General Cardiology including invasive and non-invasive procedures  
Specializing in trans-esophageal echocardiography, cardiac catheterization, and nuclear  
cardiology  
Michael D. Kenner, MD PA  
Caldwell, ID
- 2000-2002    General Cardiology including invasive and non-invasive procedures  
Specializing in trans-esophageal echocardiography, cardiac catheterization, and nuclear  
cardiology  
Treasure Valley Cardiology  
Caldwell, Idaho
- 1998-1999    General Cardiology including invasive and non-invasive procedures  
Specializing in trans-esophageal echocardiography and cardiac catheterization  
North Phoenix Heart Center  
Phoenix, Arizona
- 1997-1998    General Cardiology including invasive and non-invasive procedures  
Specializing in trans-esophageal echocardiography and cardiac catheterization  
Arizona Heart Institute  
Phoenix, Arizona
- 1994-1997    General Cardiology including invasive and non-invasive procedures  
Specializing in trans-esophageal echocardiography and cardiac catheterization  
Cardiology and Internal Medicine, Professional Association  
Chevy Chase, Maryland

**EDUCATION**

- 1984    B.A., Natural Sciences  
University of Pennsylvania  
Philadelphia, Pennsylvania
- 1988    University of Maryland School of Medicine  
Baltimore, Maryland
- Internship + Residency (Internal Medicine)
- 1988-91    Mercy Medical Center  
Baltimore, Maryland



**Cardiology Fellowship**

- 1991-1994      University of Illinois at Chicago  
Chicago, Illinois
- 1993-1994      Chief Cardiology Fellow  
University of Illinois at Chicago

**CERTIFICATION**

- American Board of Internal Medicine-1992  
American Board of Internal Medicine, Subspecialty Board in Cardiovascular Disease-1995  
American Society of Nuclear Cardiology - 2000

**LICENSURE**

- Current -- Idaho, Arizona  
Previous -- Illinois, Maryland, District of Columbia

**PROFESSIONAL MEMBERSHIP:**

- Fellow American College of Cardiology -1997

**HONORS AND AWARDS:**

- 1984      Graduate, Cum Laude, University of Pennsylvania  
1993      First Place Poster Presentation, Dupage County Chapter, American Heart Association

**RESEARCH EXPERIENCE**

- 1984      Designed and performed computerized data analysis calculating sensitivity and specificity of MUGA studies compared to cardiac catheterization.  
Diagnostic Cardiology Corporation  
Kensington, Maryland
- 1986      Chief technical consultant and data analyzer for doctoral thesis investigating sleep patterns of multisystem trauma patients.  
Dorothy Fontaine, Ph.D.  
University of Maryland School of Nursing  
Baltimore, Maryland
- 1990      Co-Investigator, Comparison of the efficacy and tolerability of lisinopril and sustained-release verapamil in mild to moderate uncomplicated essential hypertension in blacks.
- Co-Investigator, Comparison of Isradipine versus Hydrochlorothiazide in the regression of left ventricular hypertrophy secondary to hypertension.  
Department of Medicine  
University of Maryland Hospital  
Baltimore, Maryland

1993 Co-Investigator. Use of Myocardial Contrast Echocardiography to assess tissue perfusion during an acute myocardial infarction.

Principal Investigator. Correlating Intensity of Doppler Signal with Concentration of Reflectors

Co-Investigator. Use of B-Color to Enhance Edge Detection

Section of Cardiology

University of Illinois at Chicago

Chicago Illinois

#### PUBLICATIONS

Kenner M, Winkleman J, Feinstein S: Contrast Echocardiography: A Review, Journal of Ultrasound in Medicine and Biology; Vol. 20, No. 4, pp. 001-009, 1994

Kenner M: Life and Medicine in Vilnius, Lithuania, Chicago Medicine; November 1993

Kenner M, Dave R, Feinstein S: The No-Reflow Phenomenon: Imaging and Treatment, Cardio; Vol. 11 No. 5, p40-45, May 1994

Winkleman JW, Kenner MD, Aronson, S: Enhancement of Edge Detection: Qualitative and Quantitative Effects of B-Color, Cardiovascular Imaging, Vol. 7, No. 3, pp. 75-80, July/Sept. 1995

Chandwaney R, Walker R, Winkleman J: Contrast Echocardiography Demonstrates Lack of Subendocardial Underperfusion During Systole, Cardiovascular Imaging, No. 2, 1996

Kenner M, Zajac E, Kondos G: Ability of the No-Reflow Phenomenon During and Acute Myocardial Infarction to Predict Left Ventricular Dysfunction at One-Month Follow-Up, Am. J. of Cardiology, 1995; 76: 861-868

#### ORAL PRESENTATIONS

1993 Failure to Reperfuse Myocardium Despite Patent Coronary Arteries.  
Advances in Echocardiography  
University of Illinois at Chicago-September 1993

Myocardial Contrast Echocardiography to Assess No-Reflow During an Acute Myocardial Infarction and at One Month Follow-Up  
Chicago Cardiology Group  
Chicago, Illinois-October 1993

#### POSTER PRESENTATIONS

1993 Use of Myocardial Contrast Echocardiography to assess tissue perfusion during an acute myocardial infarction.  
Dupage County Chapter, American Heart Association  
Chicago, Illinois

Does B-Color Enhance Edge Detection?  
10th Symposium on Echocardiography  
Rotterdam, Netherlands

**Correlating Doppler Signal Strength with the Number of Reflectors Imaged-A Volumetric Doppler Analysis**  
**Congress of the European Society of Cardiology**  
**Nice, France**

**RELATED EMPLOYMENT**

**1990 Medical Director**  
**Pharmakinetics, Inc.**  
**Baltimore, MD**  
**Duties include approval of Phase I study protocols, overview of safety and efficacy of Phase I studies, and medical liaison with Institutional Review Board.**

**COMMITTEE MEMBERSHIPS**

**1990 Chairman, Mock Code Committee**  
**Mercy Medical Center**

**1995 Medical Records Committee**  
**Suburban Hospital**  
**Bethesda, Maryland**

ORIGINAL

FILED  
A.M. P.M.

MAR 11 2008

CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO FOR THE COUNTY OF CANYON COUNTY

JOSE AGUILAR, individually, as the Personal )  
Representative of the Estate of Maria A. Aguilar, )  
deceased, and as the natural father and )  
guardian of GUADALUPE MARIA AGUILAR, )  
ALEJANDRO AGUILAR, and LORENA )  
AGUILAR, minors, and JOSE AGUILAR, JR., )  
heirs of Maria A. Aguilar, deceased, )  
Plaintiffs, )

Case No. CV 05-5781

**AMENDED ORDER SETTING  
CASE FOR TRIAL**

v. )

ANDREW CHAI, M.D., STEVEN R. NEWMAN, )  
M.D., NATHAN COONROD, M.D., MITCHELL )  
LONG, D.O., COLUMBIA WEST VALLEY )  
MEDICAL CENTER, an Idaho corporation, )  
MERCY MEDICAL CENTER, an Idaho )  
corporation, and PRIMARY HEALTH CARE )  
CENTER, an Idaho corporation, JOHN and )  
JANE DOES I through X, employees of one or )  
more of the Defendants, )  
Defendants. )

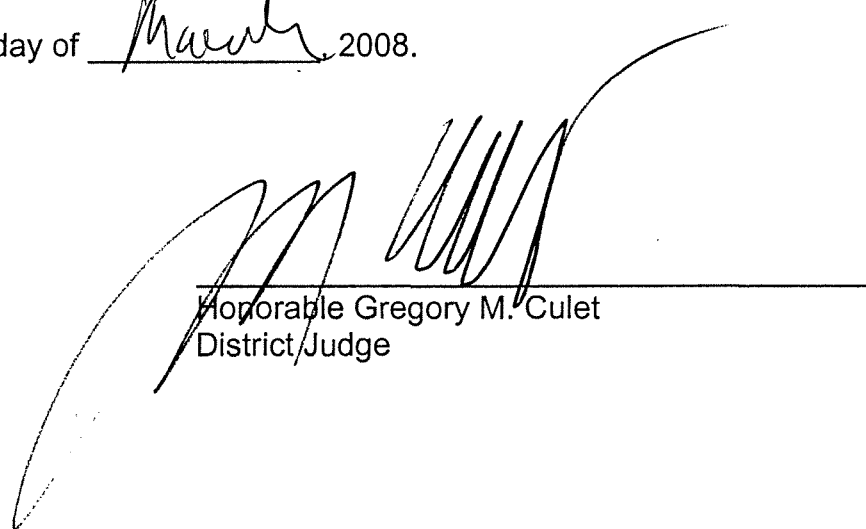
THIS MATTER HAVING Come before the Court for telephonic hearing on Plaintiffs' Motion to Vacate and Reschedule Trial Setting, and the Court having heard oral argument of counsel and reviewed the record and the documents filed with regard thereto, and good cause appearing therefor,

IT IS HEREBY ORDERED AND THIS DOES ORDER That the above-entitled case

previously set for trial on May 28, 2008, is reset to April 27, 2009, at the Canyon County Courthouse, Caldwell, before the Honorable Gregory M. Culet, District Judge. The court will set aside 21 days for trial, Monday through Thursday, beginning April 27, 2009, with a 9:00 a.m. to 2:00 p.m. schedule, except for the first day of jury selection. A pretrial conference is scheduled for March 30, 2009 at 8:30 a.m. in chambers.

IT IS FURTHER ORDERED That mediation shall be completed on or before July 1, 2008. The parties will mutually select a mediator. If an agreement cannot be reached, the parties will submit their selected mediator(s) to the Court.

DATED this 10 day of March 2008.



---

Honorable Gregory M. Culet  
District Judge

CERTIFICATE OF SERVICE

I hereby certify that on the 11 day of March 2008, I served a true and correct copy of the above and foregoing instrument, by method indicated below, upon:

Andrew C. Brassey, Esq.  
Brassey Wetherell Crawford &  
McCurdy LLP  
203 W. Main St.  
Boise, ID 83702

U.S. Mail  
Hand Delivery  
Facsimile (208) 344-7077

Joseph D. McCollum, Jr.  
Hawley Troxell Ennis & Hawley LLP  
877 W. Main St., Ste. 1000  
PO Box 1617  
Boise, ID 83701-1617

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Hand Delivery  
Facsimile (208) 342-3829

Gary T. Dance  
Moffatt Thomas Barrett Rock &  
Fields Chartered  
412 W. Center, Suite 2000  
PO Box 817  
Pocatello ID 83204-0817

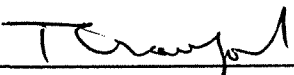
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Facsimile (208) 232-0150

James B. Lynch  
Lynch & Associates, PLLC  
1412 W. Idaho Street, Suite 200  
PO Box 739  
Boise, ID 83701-0739

U.S. Mail  
Hand Delivery  
Facsimile (208) 331-0088

David E. Comstock  
Byron V. Foster  
199 N. Capitol Blvd, Ste 500  
P.O. Box 2774  
Boise, ID 83701-2774

Facsimile (208) 344-7721  
Hand Delivery  
U.S. Mail

  
\_\_\_\_\_  
Clerk of the Court

TRANSMISSION VERIFICATION REPORT

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MODE	STANDARD ECM

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FILED A.M. P.M.

MAR 11 2008

CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO FOR THE COUNTY OF CANYON COUNTY

JOSE AGUILAR, individually, as the Personal  
Representative of the Estate of Maria A. Aguilar,  
deceased, and as the natural father and  
guardian of GUADALUPE MARIA AGUILAR,  
ALEJANDRO AGUILAR, and LORENA  
AGUILAR, minors, and JOSE AGUILAR, JR.,  
heirs of Maria A. Aguilar, deceased,

Plaintiffs,

v.

ANDREW CHAI, M.D., STEVEN R. NEWMAN,  
M.D., NATHAN COONROD, M.D., MITCHELL  
LONG, D.O., COLUMBIA WEST VALLEY  
MEDICAL CENTER, an Idaho corporation,  
MERCY MEDICAL CENTER, an Idaho  
corporation, and PRIMARY HEALTH CARE  
CENTER, an Idaho corporation, JOHN and  
JANE DOES I through X, employees of one or  
more of the Defendants,

Case No. CV 05-5781

AMENDED ORDER SETTING  
CASE FOR TRIAL

TRANSMISSION VERIFICATION REPORT

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9:51 AM P.M.

MAR 11 2008

CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO FOR THE COUNTY OF CANYON COUNTY

JOSE AGUILAR, individually, as the Personal  
Representative of the Estate of Maria A. Aguilar,  
deceased, and as the natural father and  
guardian of GUADALUPE MARIA AGUILAR,  
ALEJANDRO AGUILAR, and LORENA  
AGUILAR, minors, and JOSE AGUILAR, JR.,  
heirs of Maria A. Aguilar, deceased,

Plaintiffs,

v.

ANDREW CHAI, M.D., STEVEN R. NEWMAN,  
M.D., NATHAN COONROD, M.D., MITCHELL  
LONG, D.O., COLUMBIA WEST VALLEY  
MEDICAL CENTER, an Idaho corporation,  
MERCY MEDICAL CENTER, an Idaho  
corporation, and PRIMARY HEALTH CARE  
CENTER, an Idaho corporation, JOHN and  
JANE DOES I through X, employees of one or  
more of the Defendants,

COA

Case No. CV 05-5781

AMENDED ORDER SETTING  
CASE FOR TRIAL



TRANSMISSION VERIFICATION REPORT

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9:51 A.M. P.M.

MAR 11 2008

CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO FOR THE COUNTY OF CANYON COUNTY

JOSE AGUILAR, individually, as the Personal )  
 Representative of the Estate of Maria A. Aguilar, )  
 deceased, and as the natural father and )  
 guardian of GUADALUPE MARIA AGUILAR, )  
 ALEJANDRO AGUILAR, and LORENA )  
 AGUILAR, minors, and JOSE AGUILAR, JR., )  
 heirs of Maria A. Aguilar, deceased, )  
 Plaintiffs, )

Case No. CV 05-5781

AMENDED ORDER SETTING  
CASE FOR TRIAL

v.

ANDREW CHAI, M.D., STEVEN R. NEWMAN, )  
 M.D., NATHAN COONROD, M.D., MITCHELL )  
 LONG, D.O., COLUMBIA WEST VALLEY )  
 MEDICAL CENTER, an Idaho corporation, )  
 MERCY MEDICAL CENTER, an Idaho )  
 corporation, and PRIMARY HEALTH CARE )  
 CENTER, an Idaho corporation, JOHN and )  
 JANE DOES I through X, employees of one or )  
 more of the Defendants, )  
 COE )

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MAR 11 2008

CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO FOR THE COUNTY OF CANYON COUNTY

JOSE AGUILAR, individually, as the Personal  
Representative of the Estate of Maria A. Aguilar,  
deceased, and as the natural father and  
guardian of GUADALUPE MARIA AGUILAR,  
ALEJANDRO AGUILAR, and LORENA  
AGUILAR, minors, and JOSE AGUILAR, JR.,  
heirs of Maria A. Aguilar, deceased,

Plaintiffs,

v.

ANDREW CHAI, M.D., STEVEN R. NEWMAN,  
M.D., NATHAN COONROD, M.D., MITCHELL  
LONG, D.O., COLUMBIA WEST VALLEY  
MEDICAL CENTER, an Idaho corporation,  
MERCY MEDICAL CENTER, an Idaho  
corporation, and PRIMARY HEALTH CARE  
CENTER, an Idaho corporation, JOHN and  
JANE DOES I through X, employees of one or  
more of the Defendants,

Case No. CV 05-5781

AMENDED ORDER SETTING  
CASE FOR TRIAL

TRANSMISSION VERIFICATION REPORT

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RESULT	OK
MODE	STANDARD ECM

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9 11 AM MAR 11 2008

MAR 11 2008

CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO FOR THE COUNTY OF CANYON COUNTY

JOSE AGUILAR, individually, as the Personal )  
 Representative of the Estate of Maria A. Aguilar, )  
 deceased, and as the natural father and )  
 guardian of GUADALUPE MARIA AGUILAR, )  
 ALEJANDRO AGUILAR, and LORENA )  
 AGUILAR, minors, and JOSE AGUILAR, JR., )  
 heirs of Maria A. Aguilar, deceased, )  
 Plaintiffs, )

Case No. CV 05-5781

AMENDED ORDER SETTING  
CASE FOR TRIAL

v.

ANDREW CHAI, M.D., STEVEN R. NEWMAN, )  
 M.D., NATHAN COONROD, M.D., MITCHELL )  
 LONG, D.O., COLUMBIA WEST VALLEY )  
 MEDICAL CENTER, an Idaho corporation, )  
 MERCY MEDICAL CENTER, an Idaho )  
 corporation, and PRIMARY HEALTH CARE )  
 CENTER, an Idaho corporation, JOHN and )  
 JANE DOES I through X, employees of one or )  
 more of the Defendants, )

ORIGINAL

David E. Comstock  
LAW OFFICES OF COMSTOCK & BUSH  
199 N. Capitol Blvd., Ste 500  
P.O. Box 2774  
Boise, Idaho 83701-2774  
Telephone: (208) 344-7700  
Facsimile: (208) 344-7721  
ISB #: 2455

Byron V. Foster  
Attorney At Law  
199 N. Capitol Blvd., Ste 500  
P.O. Box 1584  
Boise, Idaho 83701  
Telephone: (208) 336-4440  
Facsimile: (208) 344-7721  
ISB #: 2760

*3:30 court*  
**FILED**  
A.M. *100* P.M.

**MAR 17 2008**

**CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY**

Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO FOR THE COUNTY OF CANYON COUNTY

JOSE AGUILAR, individually, as the Personal )  
Representative of the Estate of Maria A. Aguilar, )  
deceased, and as the natural father and )  
guardian of GUADALUPE MARIA AGUILAR, )  
ALEJANDRO AGUILAR, and LORENA )  
AGUILAR, minors, and JOSE AGUILAR, JR., )  
heirs of Maria A. Aguilar, deceased, )

Plaintiffs, )

v. )

ANDREW CHAI, M.D., STEVEN R. NEWMAN, )  
M.D., NATHAN COONROD, M.D., MITCHELL )  
LONG, D.O., and PRIMARY HEALTH CARE )  
CENTER, an Idaho corporation, JOHN and )  
JANE DOES I through X, employees of one or )  
more of the Defendants, )

Defendants. )

Case No. CV 05-5781

**PLAINTIFFS' FOURTH  
SUPPLEMENTAL EXPERT  
WITNESS DISCLOSURE**

COME NOW Plaintiffs, by and through their attorneys of record, David E. Comstock, of Comstock & Bush, and Byron V. Foster, Attorney at Law, and pursuant to the Court's Scheduling Order and in accordance with I.R.C.P. 26, hereby supplement their list of expert witnesses to be called at the trial of this case:

1. **Samuel LeBaron, M.D., Ph.D.**  
**Center for Education in Family and Community Medicine**  
**Stanford School of Medicine**  
**1215 Welch Road, Modular G**  
**Palo Alto, CA 94305**

Dr. LeBaron has now reviewed the deposition testimony of Dr. Coonrod. Based upon that testimony, Dr. LeBaron is even more convinced that the care and treatment rendered to Maria Aguilar by Dr. Coonrod was substandard and medically negligent and did not meet the standard of care for a family practice physician in Southwest Idaho in April, May and June of 2003. Prior to his deposition in this matter, Dr. LeBaron intends to speak to a family practice physician who was practicing in Southwest Idaho during the applicable time period to confirm that his opinions about the standard of care are consistent with those of family physicians practicing in Idaho.

The opinions expressed by Dr. LeBaron herein are opinions which he holds to a reasonable medical certainty.

First of all, Dr. Coonrod admits in his deposition that at one time or another while he was caring for Mrs. Aguilar she exhibited many of the classic signs and symptoms of an individual suffering from a disease or condition of the pulmonary system. These signs and symptoms exhibited by Mrs. Aguilar included: shortness of breath, abnormal EKG consisting of a pattern of S1 Q3 T3, syncope, chest pain, history of superficial thrombophlebitis, fatigue, tachycardia, dizziness, heart palpitations, shortness of breath, and anxiety. When viewed together as a pattern, these signs and symptoms are strongly

suggestive of either a cardiac or a pulmonary condition in need of immediate definitive medical diagnosis and treatment.

While it is accurate to opine, as did Dr Coonrod, that the patient was suffering from anemia in April of 2003, once her hematocrit began to stabilize in late May (HCT-41.2 on 5/27) a prudent family practice physician would begin looking for other causes for the patient's symptoms. However, as reflected in his deposition testimony, Dr. Coonrod never appropriately refocused his thought processes toward the root cause of Mrs. Aguilar's ongoing signs and symptoms. Although he did attempt to rule out a cardiac cause for her signs and symptoms, when he obtained an EKG and chest x-ray on May 27, 2003, once a cardiac source was shown to be unlikely by a normal left heart catheterization, he then wholly failed to investigate the other most likely cause: the pulmonary system.

To comply with the standard of care applicable to a family physician, Dr. Coonrod should have, by the time of Mrs. Aguilar's visit to his office on May 30, 2003, begun an ongoing process of thinking and testing to rule out a pulmonary cause for the signs and symptoms presented by Mrs. Aguilar during her office visits. Furthermore, he should have engaged in a thought process that would have integrated results of all the tests in order to reach a definitive determination of what was causing those signs and symptoms.

Instead, Dr. Coonrod seems to have remained focused on finding a source for a bleeding problem which he postulated as the cause for the anemia which he had diagnosed and which, by May 27<sup>th</sup>, had for all practical purposes been corrected and was in the process of becoming a non-issue in terms of the patient's acute health status. Meanwhile he ignored or failed to realize the significance of a continuation of signs and symptoms which could not be explained by an anemia that had already resolved.

In addition, when he saw her on May 30<sup>th</sup>, Dr. Coonrod knew that her cardiac work-up had all but ruled out a left heart cause for the symptomatology that led him to send Mrs. Aguilar to the ED at Mercy Medical Center on May 27<sup>th</sup>. Thus, on May 30<sup>th</sup>, in order to fulfill his obligations as Mrs. Aguilar's treating health care provider, he should have begun testing to rule out pulmonary causes for her myriad of symptoms. The failure to do so was a violation of the standard of health care practice.

Dr. Coonrod's statement in his deposition that he was "befuddled" is an admission that during that point in time he had no clear thought process about her problems, no strategy to obtain further help in making sense of her signs and symptoms, and no plan of care. He then indicates: "I had a patient back who had several mysteries, at that point, without a suitable explanation, from my point of view." And yet on that date; May 30, 2003, he tells Mrs. Aguilar to return to see him in one month. This is totally unacceptable. Dr. Coonrod knew or should have known, at that time, that he needed to take action to rule out a pulmonary cause for Mrs. Aguilar's problems. A simple D-Dimer should have been performed or if Dr. Coonrod was concerned that the D-Dimer would have inevitably been false positive, a chest CT or pulmonary angiogram was indicated.

Dr. LeBaron finds troubling the statements made by Dr. Coonrod in his deposition concerning reasons for not ordering a D-Dimer blood test. If Dr. Coonrod never considered the possibility of a pulmonary embolus in his differential diagnosis, he was practicing below the standard of care in failing to consider that possibility and to take some steps to rule it out. On the other hand, if he thought of having a D-Dimer test performed, but deferred that test because he was certain that it would be positive for other reasons, then he was obviously aware that there was some rationale for ruling out a pulmonary embolus. But sadly, he failed to move to other tests that would have been unlikely to have the problem of

false positive results that he attributes to the D-Dimer. Such further steps would have included a CT and/or pulmonary angiogram. For Dr. Coonrod to consider a D-Dimer but then to step away from it because of his belief that it would have been false positive begs the question of whether his patient at that moment has a pulmonary embolus, and does not relieve him of the responsibility to find out the answer through other means, especially in the face of a potentially life threatening condition.

Regarding Dr. Coonrod's testimony concerning his lack of sophistication in interpretation of EKGs, Dr. LeBaron is of the firm opinion that any family practice physician should at a minimum know at least one basic medical principle: abnormal EKG findings are most likely related to either the cardiac or pulmonary systems and these systems should be the focus of investigation before turning to the GI system for an explanation of those abnormal findings. Dr. Coonrod must have known, in 2003, that an abnormal EKG implicates either the cardiac or pulmonary system even if he did not recall the specific patterns indicative of such a connection. Since Dr. Coonrod had already obtained a chest x-ray, the next step in an investigation of the lungs as a causative factor in the abnormal EKG would have been to order a chest CT, a pulmonary angiogram, or even to consult with a lung specialist to assist him in identifying next steps, in the face of Mrs. Aguilar's increasingly ominous signs and symptoms.

The tragedy of this case is that Dr. Coonrod never appropriately constructed a differential diagnosis for Mrs. Aguilar. Had he done so and worked through that list in a logical manner, more likely than not he would have reached a diagnosis of pulmonary embolus in time to treat the condition before it proved fatal.

In Dr. Coonrod's deposition, he talks about using a "Gestalt" approach to arriving at a diagnosis of Mrs. Aguilar. While there is no criticism for a physician who tries to look at



the "whole picture," it does not explain why Dr. Coonrod failed to put together her myriad of symptoms which would have led a prudent family practice physician to attempt to rule out a pulmonary condition as the cause for those symptoms. Thus, Dr. Coonrod admits he had a duty to "get an idea of what it might be and what it would take to prove or disprove that" and then fails to do anything to definitively rule in or rule out an obvious cause for her symptoms.

On June 4, 2003, Dr. Coonrod further totally failed to render appropriate medical care when he basically ignored the last piece in the puzzle. Mrs. Aguilar, in addition to all the other signs and symptoms of impending pulmonary collapse which she had previously exhibited, now presented with a history of a syncopal episode accompanied by shortness of breath. Dr. Coonrod's plan of care was: push fluids, Tylenol for pain and return in 5 days. This is a total failure to appropriately diagnose and treat a patient with Mrs. Aguilar's history. Her hematocrit was normal so it wasn't bleeding or anemia which caused her to pass out. Her cardiac and gastrointestinal systems have been, to a large extent, ruled out as a cause. She was tachycardic, anxious, in distress, experiencing pain with breathing, and yet he sent her home with no explanation for any of her symptoms. Dr. Coonrod thus ignored or failed to understand the significance of her presentation and her history and thus failed in his duty to perform definitive testing and render crucial medical treatment to a patient who would be dead in a matter of hours without his help.

If he had simply acknowledged his "befuddlement" and sought the assistance of additional medical providers, Mrs. Aguilar could have been treated in an appropriate manner and, more probably than not, that treatment would have been successful.

**2. Dean Lapinel, M.D.  
1437 E. Braemere Road  
Boise, ID 83702**

Dr. Lapinel has reviewed the disclosures of Defense experts Dr. Parmley and Dr. Bosley. The following are some non-exhaustive comments regarding the opinions expressed by those two individuals.

1. **Dr. Parmley**

Dr. Parmley makes the statement that Mrs. Aguilar's pain was relieved on May 27, 2003, after she was administered an antacid and a topical anesthetic. The use of a GI cocktail under these circumstances is not diagnostic of anything. Patients suffering from heart attack and many other conditions have been known to get "relief" after administration of such medications and the relief afforded does not take the place of proper work-up and diagnostic studies.

Dr. Parmley correctly points out that Dr. Long took no action in the face of an abnormal EKG. In fact, it appears from the record that after ordering the test, Dr. Long may not even have reviewed it. This is in itself a violation of the standard of care applicable to him. The EKG was abnormal and the finding of "anterolateral myocardial ischemia" suggested by Dr. Parmley should have called for immediate follow-up with appropriate testing not only to rule out a cardiac origin but also to rule out a pulmonary etiology for the EKG findings. Having failed to note the known cardiac implications of the EKG, Dr. Long compounded the error by also failing to note the known pulmonary implications of an EKG showing the classic S1 Q3 T3 pattern of right heart strain.

Dr. Parmley's implication that Dr. Long did nothing to violate the standard of care because Dr. Chai called the patient back to the ED the next day misses the point. Had Dr. Long performed an adequate and thorough evaluation on May 27, 2003; had he reviewed the documentation sent with the patient to the ED at MMC; had he taken note of the

patient's history of chest pain, shortness of breath, fatigue, etc.; he should have performed testing to rule out both a cardiac and a pulmonary origin for Mrs. Aguilar's complaints. As it was, Mrs. Aguilar was discharged from the ED on May 27, 2003 without a working diagnosis nor a comprehensive plan for her further care and this led to and contributed to the overall failure to diagnose and treat the pulmonary condition which caused her death.

**2. Dr. Bosely**

Regarding Dr. Bosley's assertion that the ED records do not indicate that Mrs. Aguilar actually suffered a syncopal episode before being brought to the ED at WVMC on May 31, 2003; the record indicates that Mrs. Aguilar did indeed lose consciousness for about 5 seconds. This is confirmed by the EMS run sheet which indicated she lost consciousness for less than 5 seconds by family report. Regarding her supposed anemia, had anyone closely checked her history they could have discovered that on May 27, 2003, her hematocrit was 41.2, within normal limits. Thus, anemia would not be the probable cause of the syncopal episode.

Regarding Dr. Bosley's assertion that Mrs. Aguilar reported no shortness of breath on May 31, 2003; the EMC run sheet indicates that it was reported that the syncopal episode was preceded by "dizziness, weakness and SOB,..." and that at the time she was seen by EMS personnel, she was complaining of "weakness and SOB."

Dr. Bosley's statement of facts is inaccurate because the record indicates that Mrs. Aguilar was and had just minutes before complained of both shortness of breath and palpitations.

The EKG of May 31, 2003 is abnormal and constituted more than just "some T waves that appeared flipped." The EKG shows the familiar S1 Q3 T3 which indicates right heart strain. Such a pattern on an EKG calls for an investigation into the cause of the

abnormal pattern, especially in a patient who has just undergone a negative left heart catheterization. As a left heart etiology had been ruled out as the cause of Mrs. Aguilar's signs and symptoms, the standard of care for an emergency physician called for ruling out a pulmonary cause by performance of testing in the form of D-Dimer and, if positive, chest CT and/or pulmonary angiogram.

Dr. Bosley's statement that Dr. Newman was considering PE as a diagnosis by asking the patient whether she had SOB or any breathing problems implicates the care rendered by Dr. Newman because she did, in fact, have shortness of breath when found by EMS personnel and Dr. Newman should have known this as part of an adequate review of the records and appropriate history taking. Shortness of breath in conjunction with syncope and an abnormal EKG called for a work-up directed toward a pulmonary cause for those signs and symptoms. Add to this the tachycardia Mrs. Aguilar exhibited in the ED and the picture begs for a PE work-up. The failure to perform such a work-up resulted in a failure to diagnose the pulmonary emboli which were the root cause of the patient's condition. This failure led, in turn, to the patient's eventual demise in conjunction with the evident failures of her other health care providers. For Dr. Bosley to opine that a positive D-Dimer would have been irrelevant under these circumstances makes no medical sense. A positive D-Dimer would have mandated additional testing in the form of chest CT, CT pulmonary angiogram or other appropriate study none of which were done in this case because of the failure of Drs. Newman, Long, Coonrod and Chai to consider a differential diagnosis for Mrs. Aguilar's signs and symptoms.

For Dr. Bosley to opine that it would have been medical malpractice for Dr. Newman to have ordered either a chest CT or a pulmonary angiogram is specious. The first test to order would have been a D-Dimer. When it turned out positive, either CT or angiography

would have been the standard of care. Then treatment could have been initiated and this woman's life would have been saved.

**3. Daniel C. Brown, M.D.  
414 Shoup Ave.  
Twin Falls, ID**

Dr. Brown is a Board Certified internal medicine specialist with a sub-specialty certification in cardiology. Dr. Brown practices cardiology in Twin Falls, Idaho. A copy of his curriculum vitae has been previously provided.

**A. Subject matter of expected testimony.**

Dr. Brown is expected to testify regarding the applicable standard of health care practice for a cardiologist practicing in the Nampa/Boise area in may of 2003 concerning the appropriate work-up, diagnosis, testing and treatment of a patient like Maria Aguilar under circumstances such as those extant on May 27-29, 2003. He is expected to testify, comment upon and rebut the opinions of Defense expert witnesses. Dr. Brown may also rely on any literature and/or writings specific to the subjects upon which he will testify in order to support or substantiate his testimony. He may employ illustrative aids in rendering his testimony. He will explain and testify regarding the anatomy of the heart, lungs, vascular system, coronary artery disease, pulmonary embolus, cardiac catheterization, the signs and symptoms of coronary artery disease, pulmonary embolus and other related conditions. He will testify regarding the methodology for performance of cardiac catheterization, the various functional components of the cardiac system and how those functional components relate to and affect the pulmonary system and its function. He will explain the interface between cardiac and pulmonary functioning as it relates to the work-up, diagnosis and treatment of various cardiopulmonary diseases and conditions and the nature of various diagnostic models and decision trees as they relate to the physician's

obligation to conduct a complete and thorough series of testing procedures in order to reach a definitive diagnosis in a case such as that presented by Maria Aguilar.

He will testify concerning the relationship between attending and consulting cardiologists and their relative obligations in this case.

**B. Substance of Facts.**

Dr. Brown has reviewed the medical records of Maria Aguilar generated by Primary Health, Dr. Coonrod, Mercy Medical Center, West Valley Regional Medical Center, Canyon County Paramedics, Boise Gastroenterology Associates, St. Alphonsus RMC, Canyon County Coroner, Pennywise Drug, Robin King, D.C. and the Death Certificate.

In addition, Dr. Brown has reviewed the deposition transcripts of: Dr. Newman, Dr. Long, Dr. Chai, Plaintiffs, and will review the depositions of additional witnesses as they become available.

**C. Substance of Opinions**

The opinions expressed by Dr. Brown herein are opinions he holds to a reasonable medical certainty or probability.

First of all, Dr. Brown is of the opinion that there would have been no deviations, in May of 2003, between the standard of health care practice applicable to him in Twin Falls and Dr. Chai practicing in Boise and Nampa, Idaho, during that time period with regard to the obligations and responsibilities that were assumed by Dr. Chai on May 28, 2003 when he appropriately had Mrs. Aguilar return to the ED at Mercy Medical Center for further testing based upon the abnormal EKG of May 27, 2003. Dr. Brown bases this opinion on his numerous contacts, over the years, with cardiologists in Boise and elsewhere in the Treasure Valley. During the 2003 time frame, Idaho cardiologists held an annual conference in Sun Valley which Dr. Brown attended regularly. He consulted with

cardiologists in Boise and elsewhere in Idaho and in that manner became familiar with the standard of health care practice for his specialty throughout the state and understands it was no different in Nampa than it is and was in Twin Falls.

Regarding the activities of Dr. Chai in rendering medical care and treatment to Maria Aguilar on May 28, 2003; it is the opinion of Dr. Brown that Dr. Chai was correct when he reviewed the EKG on the morning of May 28, 2003 and as a result caused Mrs. Aguilar to return to the ED for further work-up. Her EKG was abnormal and showed a pattern indicative of ischemia and right heart strain. Dr. Brown understands that Dr. Chai recommended a left heart catheterization procedure for the next day and, since Dr. Chai would not be covering in the hospital the next day, Dr. Chai enlisted his clinic partner, Dr. Field, to perform the procedure. This was all well and good.

However, both before and after performance of the catheterization procedure, Dr. Chai, as attending cardiologist, retained the obligation to the patient to perform or cause to be performed appropriate testing, examination and treatment to reach a diagnosis of the patient's condition, not just rule out one specific possible cause for her symptoms. The applicable standard of care called for Dr. Chai to reach a differential diagnosis of Mrs. Aguilar and rule out not just a left heart cause for her signs and symptoms but either perform or arrange for the performance of diagnostic tests and/or procedures to rule out the other causative conditions which should have been included on his list of probable diagnoses. Once the left heart failed to reveal any significant pathology, further testing should have been performed including tests that would exclude pulmonary embolism or some other pulmonary condition as the cause of her signs and symptoms. In failing to do these things, Dr. Chai failed in his obligations to the patient and his conduct in this regard

fell below the standard of health care practice for a Board Certified cardiologist practicing in this region of Idaho on May 28-30, 2003.

Had such testing; in the form of D-Dimer, VQ scan, CT, and/or CT pulmonary angiography been performed, more probably than not, Mrs. Aguilar's pulmonary embolus would have been diagnosed and life saving treatment would have been initiated at a time when her life would probably have been saved.

A specialist such as Dr. Chai has an obligation, as does any specialist, to look beyond the boundaries of his or her own specialty and appropriately evaluate, diagnose and treat a patient no matter where the signs and symptoms may lead. The standard of care under circumstances like those presented by Mrs. Aguilar crosses specialty lines and applies regardless of the physician's particular practice focus.

A physician under these circumstances has a standard of care obligation to know the patient's past treatment and history; signs and symptoms and order appropriate tests in order to reach a valid diagnosis. This obligation applied to Dr. Chai just as it applied to Mrs. Aguilar's other physicians. Once you take on the care and treatment of a patient, you must see to it that the patient receives appropriate diagnostic testing and definitive care.

These obligations existed for Dr. Chai both before and after the cardiac catheterization.

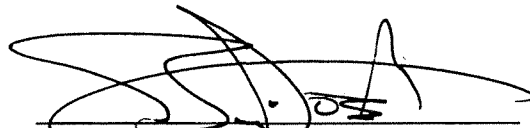
#### **CAVEAT**

It should be understood that Plaintiffs have made a good faith effort to set forth the substance of the opinions to which the above-named experts will testify. However, it is impossible to specifically set forth every opinion these individuals will express and the exact manner in which those opinions will be expressed. Plaintiffs reserve the right to elicit from



the above-named experts, additional testimony and opinions from those individuals based upon information subsequently produced, information gleaned during depositions of Defendants' experts and any subsequent opinions or information developed by the above-named individuals from other sources. As it is anticipated that the Defendants will obtain the deposition testimony of the above-named experts, this expert disclosure should not be assumed to be all inclusive in nature. Plaintiffs also reserve the right to amend, modify, delete from or add to by supplementation, this disclosure as further information is developed through discovery. Plaintiffs also reserve the right to name and call as expert witnesses any individuals identified by any party as expert witnesses and also reserve the right to obtain medical testimony from any other health care provider named or identified during the discovery process.

DATED THIS 14 day of March, 2008.



Byron V. Foster  
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on the 14 day of March, 2008, I served a true and correct copy of the above and foregoing instrument, by method indicated below, upon:

Andrew C. Brassey, Esq.  
Brassey Wetherell Crawford &  
McCurdy LLP  
203 W. Main St.  
Boise, ID 83702

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Byron V. Foster

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Andrew C. Brassey (ISB No. 2128)  
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FILED  
11:40 A.M. P.M.

APR 11 2008 ✓

CANYON COUNTY CLERK  
D. BUTLER, DEPUTY

Attorneys for Defendant Andrew Chai, M.D.

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

JOSE AGUILAR, individually, as the  
Personal Representative of the Estate of Maria  
A. Aguilar, deceased, and as the natural father  
and guardian of GUADALUPE MARIA  
AGUILAR, ALEJANDRO AGUILAR, and  
LORENA AGUILAR, minors, and JOSE  
AGUILAR, JR., heirs of Maria A. Aguilar,  
deceased,

Plaintiffs,

vs.

ANDREW CHAI, M.D., STEVEN R.  
NEWMAN, M.D. NATHAN COONROD,  
M.D., CATHERINE ATUP-LEAVITT, M.D.  
MITCHELL LONG, D.O., COLUMBIA  
WEST VALLEY MEDICAL CENTER, an  
Idaho corporation, MERCY MEDICAL  
CENTER, an Idaho corporation, and  
PRIMARY HEALTH CARE CENTER, an  
Idaho corporation, JOHN and JANE DOES I  
through X, employees of one or more of the  
Defendants,

Defendants.

Case No. CV05-5781

NOTICE OF DEPOSITION DUCES  
TECUM OF DANIEL C. BROWN,  
M.D.

**TO: PLAINTIFFS AND THEIR ATTORNEYS OF RECORD, DAVID E. COMSTOCK AND BYRON V. FOSTER:**

YOU WILL PLEASE TAKE NOTICE That Defendant will take the testimony, on oral examination, of **DANIEL C. BROWN, M.D.**, before a representative of M & M Court Reporting Service, court reporters and notaries public for the State of Idaho, or in case of their inability to act or be present before another officer qualified to administer oaths, on **Monday, April 14, 2008, at 12:00 p.m.** of said day, and continuing thereafter from day to day as the taking of said deposition may be adjourned, at the offices of Daniel C. Brown, M.D., Southern Idaho Cardiology Associates, 414 Shoup Avenue West #B, Twin Falls, Idaho 83301.

The deponent has been requested to bring with him to said deposition the following:


1. Any and all documents, items, or things reviewed by him or provided to him to review in formulating his opinions in this matter.
2. Any document, item, or thing provided to him or which he has reviewed in any fashion which sets forth facts relative to this case.
3. Each and every document or other item of tangible evidence which supports or tends to support any opinion held by him or to be rendered by him relative to this case.
4. Any and all reports prepared by him or any other person who may or will testify as expert witnesses on behalf of Plaintiffs at the trial of this action.
5. A current curriculum vitae and/or resume.
6. Any and all documents, notes, items, or things setting forth any findings or opinions you have or have had in this case.
7. Any and all medical records relating to the care and treatment of decedent Maria A. Aguilar.

You are hereby invited to attend and participate, as you deem appropriate.

This deposition shall be taken pursuant to the Idaho Rules of Civil Procedure.

DATED this 10<sup>th</sup> day of April, 2008.

BRASSEY, WETHERELL, CRAWFORD & GARRETT

By   
Andrew C. Brassey, Of the Firm  
Attorneys for Defendant Andrew Chai, M.D.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 16<sup>th</sup> day of April, 2008, I served a true and correct copy of the foregoing NOTICE OF DEPOSITION DUCES TECUM OF DANIEL C. BROWN, M.D., upon each of the following individuals by causing the same to be delivered by the method and to the addresses indicated below:

David E. Comstock  
LAW OFFICES OF COMSTOCK &  
BUSH  
199 North Capitol Boulevard, Suite 500  
P.O. Box 2774  
Boise, Idaho 83701-2774

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Byron V. Foster  
Attorney at Law  
199 North Capitol Boulevard, Suite 500  
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Gary T. Dance  
MOFFATT, THOMAS, BARRETT,  
ROCK & FIELDS, CHARTERED  
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Pocatello, ID 83204-0817  
*Attorneys for Defendant Steven R.  
Newman, M.D.*

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 Overnight Mail  
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Joseph D. McCollum, Jr.  
HAWLEY TROXELL ENNIS &  
HAWLEY  
877 Main Street, Suite 1000  
P.O. Box 1617  
Boise, ID 83701-1617  
*Attorneys for Defendant Nathan Coonrod,  
M.D., and Primary Health Care Center*

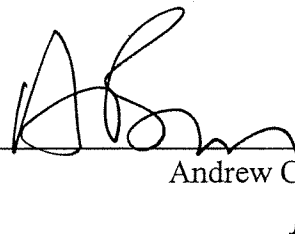
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James B. Lynch  
LYNCH & ASSOCIATES, PLLC  
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*Attorneys for Defendant Mitchell Long,  
D.O.*

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421 West Franklin Street  
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Boise, Idaho 83701-2636

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\_\_\_\_\_  
Andrew C. Brassey

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Telephone: (208) 336-4440  
Facsimile: (208) 344-7721  
ISB #: 2760

Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO FOR THE COUNTY OF CANYON COUNTY

JOSE AGUILAR, individually, as the Personal )  
Representative of the Estate of Maria A. Aguilar, )  
deceased, and as the natural father and )  
guardian of GUADALUPE MARIA AGUILAR, )  
ALEJANDRO AGUILAR, and LORENA )  
AGUILAR, minors, and JOSE AGUILAR, JR., )  
heirs of Maria A. Aguilar, deceased, )

Plaintiffs, )

v. )

ANDREW CHAI, M.D., STEVEN R. NEWMAN, )  
M.D., NATHAN COONROD, M.D., MITCHELL )  
LONG, D.O., and PRIMARY HEALTH CARE )  
CENTER, an Idaho corporation, JOHN and )  
JANE DOES I through X, employees of one or )  
more of the Defendants, )

Defendants. )

**F I L E D**  
A.M. 10:48 P.M.

APR 14 2008

CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY

Case No. CV 05-5781

**PLAINTIFFS' FIFTH  
SUPPLEMENTAL EXPERT  
WITNESS DISCLOSURE**

COME NOW Plaintiffs, by and through their attorneys of record, David E. Comstock, of Comstock & Bush, and Byron V. Foster, Attorney at Law, and pursuant to the Court's Scheduling Order and in accordance with I.R.C.P. 26, hereby supplements their list of expert witnesses to be called at the trial of this case:

1. **Samuel LeBaron, M.D., Ph.D.**  
**Center for Education in Family and Community Medicine**  
**Stanford School of Medicine**  
**1215 Welch Road, Modular G**  
**Palo Alto, CA 94305**

On April 2, 2008, Dr. LeBaron spoke by telephone with Michael L. Roach, M.D., a family practice physician with St. Alphonsus Medical Group in Caldwell, Idaho.

The two physicians conducted a lengthy discussion regarding the applicable standard of health care practice for a family practitioner practicing in the Caldwell/Nampa area in April, May and June of 2003. Dr. Roach was practicing in Caldwell at the time and had privileges at West Valley Medical Center.

They discussed the factual situation concerning the signs, symptoms, testing, treatment, diagnoses and outcome of the care provided to Plaintiffs' decedent, Maria Aguilar. They discussed the training of family practitioners as well as the diagnostic capabilities existent at West Valley Medical Center and Mercy Medical Center and also the diagnostic testing generally available to family practitioners in the Nampa/Caldwell medical community in April, May and June of 2003.

During the discussion, Dr. Roach indicated that during the time he has been practicing in Caldwell, he has become familiar with the practices of family physicians in Nampa, Idaho and is familiar with those practices for the months of April, May and June of 2003. He indicated that, with regard to the issues present in the instant case, the standard



of health care practice for a family practice physician would have been the same during that time period in Nampa as it was in Caldwell.

They discussed the development of a differential diagnoses in a patient such as Maria Aguilar in that time frame in the Nampa/Caldwell area as well as the necessity of appropriate follow-up testing and diagnostic work-up for a patient exhibiting the signs and symptoms which Mrs. Aguilar exhibited at various times during that time frame.

Dr. LeBaron and Dr. Roach discussed the thought processes which a family practice physician should engage in in order to comport with the standard of health care practice applicable during that time frame in the Nampa/Caldwell area. They discussed the availability of D-Dimer testing and pulmonary angiogram and the use of those methodologies in that area, during that time frame in working up a patient such as Maria Aguilar.


They discussed the diagnostic capabilities for coronary artery disease and gastrointestinal conditions under these same geographic and time frame factors. Dr. Roach explained the standard of health care practice under like circumstances, during this time frame and Dr. LeBaron compared this information to what he knows to be the standard of health care practice where he practices in Stanford, California during that same window of time.

The two physicians came to the conclusion that, with regard to the issues in the present case, there existed no local deviations, in April, May and June of 2003, between their respective locations of practice; the Caldwell/Nampa area, Idaho and Stanford, California. They arrived at that conclusion based upon their respective training, background and experience and upon the information they shared and discussed during the telephone conversation.

**CAVEAT**

It should be understood that Plaintiffs have made a good faith effort to set forth the substance of the opinions to which the above-named experts will testify. However, it is impossible to specifically set forth every opinion these individuals will express and the exact manner in which those opinions will be expressed. Plaintiffs reserve the right to elicit from the above-named experts, additional testimony and opinions from those individuals based upon information subsequently produced, information gleaned during depositions of Defendants' experts and any subsequent opinions or information developed by the above-named individuals from other sources. As it is anticipated that the Defendants will obtain the deposition testimony of the above-named experts, this expert disclosure should not be assumed to be all inclusive in nature. Plaintiffs also reserve the right to amend, modify, delete from or add to by supplementation, this disclosure as further information is developed through discovery. Plaintiffs also reserve the right to name and call as expert witnesses any individuals identified by any party as expert witnesses and also reserve the right to obtain medical testimony from any other health care provider named or identified during the discovery process.

DATED THIS 10 day of April, 2008.

  
\_\_\_\_\_  
Byron V. Foster  
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on the 10 day of April, 2008, I served a true and correct copy of the above and foregoing instrument, by method indicated below, upon:

Andrew C. Brassey, Esq.  
Brassey Wetherell Crawford &  
McCurdy LLP  
203 W. Main St.  
Boise, ID 83702

- U.S. Mail
- Hand Delivery
- Facsimile (208) 344-7077

Joseph D. McCollum, Jr.  
Hawley Troxell Ennis & Hawley LLP  
877 W. Main St., Ste. 1000  
PO Box 1617  
Boise, ID 83701-1617


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Gary T. Dance  
Moffatt Thomas Barrett Rock &  
Fields Chartered  
412 W. Center, Suite 2000  
PO Box 817  
Pocatello ID 83204-0817

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James B. Lynch  
Lynch & Associates, PLLC  
1412 W. Idaho Street, Suite 200  
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- Facsimile (208) 331-0088

  
Byron V. Foster

FILED  
8:45 A.M. P.M.

APR 22 2008

CANYON COUNTY CLERK  
J HEIDEMAN, DEPUTY

Joseph D. McCollum, Jr., ISB No. 1299  
Andrea Julian, ISB No. 7175  
HAWLEY TROXELL ENNIS & HAWLEY LLP  
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ajul@htch.com

Attorneys for Defendants Nathan Coonrod, M.D.  
and Primary Health Care Center

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

JOSE AGUILAR, individually, as the )  
Personal Representative of the Estate of )  
Maria A. Aguilar, deceased, and as the )  
natural father and guardian of ALEJANDRO )  
AGUILAR, LORENA AGUILAR, minors, )  
GUADALUPE MARIA AGUILAR and )  
JOSE AGUILAR, JR., heirs of Maria A. )  
Aguilar, deceased, )

Plaintiffs, )

vs. )

ANDREW CHAI, M.D., STEVEN R. )  
NEWMAN, M.D., NATHAN COONROD, )  
M.D., MITCHELL LONG, D.O., and )  
PRIMARY HEALTH CARE CENTER, an )  
Idaho corporation, JOHN and JANE DOES I )  
through X, employees of one or more of the )  
Defendants, )

Defendants. )

Case No. CV 05 5781

DEFENDANTS NATHAN COONROD,  
M.D.'S AND PRIMARY HEALTH CARE  
CENTER'S EXPERT WITNESS  
DISCLOSURE

DEFENDANTS NATHAN COONROD, M.D.'S AND PRIMARY HEALTH  
CARE CENTER'S EXPERT WITNESS DISCLOSURE - 1

05211.0032.1193788.1

Defendants Nathan Coonrod, M.D. and Primary Health Care Center (hereinafter collectively referred to as "Defendants"), by and through their attorneys of record, Hawley Troxell Ennis & Hawley LLP, and pursuant to this Court's Scheduling Order, and in accordance with Idaho Rule of Civil Procedure 26, hereby disclose their expert witnesses to be called at the trial of this case:

1. Robert M. Franklin, D.O.  
520 S. Eagle Road, #1241  
Meridian, ID 83642

Dr. Franklin is a family practice physician, licensed to practice medicine in Idaho. Please see the attached curriculum vitae for his education and background. Dr. Franklin was asked to review certain records of the deceased, Maria A. Aguilar, for the purpose of evaluating the standard of care for Dr. Coonrod, as a physician in Nampa, Idaho serving as a primary physician as well as a "gatekeeper" in referring Mrs. Aguilar to specialists for examination and evaluation following her complaints to him about particular constellations of symptoms on clinical findings on separate occasions.

In his record review to date, Dr. Franklin has reviewed the following documents:

1. Medical records from Primary Health (PHI00001-PHI00063);
2. Medical records from West Valley Medical Center (WVM0001-WVM0017);
3. Medical records from Saint Alphonsus Regional Medical Center (SAR0001-SAR0015);
4. Medical records from Mercy Medical Center (100-152, MMC0016-MMC0021, MMC0034-MMC0037, MMC0040-MMC0041, MMC0044-MMC0057);
5. Medical records from Boise Gastroenterology Associates (BGA0001-BGA0032);
6. Medical records from Penny Wise United Drugs (PWD0001); and

**DEFENDANTS NATHAN COONROD, M.D.'S AND PRIMARY HEALTH CARE CENTER'S EXPERT WITNESS DISCLOSURE - 2**

05211.0032.1193788.1

7. Deposition of Nathan Coonrod, M.D., taken February 7, 2008.

In substantive overview, Dr. Franklin, as a family practice physician who sees patients in a small clinic/office similar to Dr. Coonrod's situation, is expected to principally testify regarding standard of care issues applicable to Dr. Coonrod's performance of duties assumed as Mrs. Aguilar's general physician. He is of the opinion that Dr. Coonrod consciously provided medical care to his patient, Maria A. Aguilar, within the community standard as it existed in April through early June, 2003. Moreover, the medical decisions made by Dr. Coonrod in working up Mrs. Aguilar's symptoms, in evaluating them in serial office visits, in noting changes and, in certain instances, referring his patient to other physicians for testing and further evaluation were appropriate steps for a family practice physician and made within the applicable community standard. Additionally, albeit peripheral to his primary opinions concerning Dr. Coonrod's standard of care, Dr. Franklin believes that the medical decisions of Dr. Coonrod, acting in the role as a treating and referring physician, did not cause or substantially contribute to her subsequent and precipitous decline in health the evening following Dr. Gibson's endoscopy surgery and death (from a "saddle embolism" as subsequently describe by Autopsy Report) before she could be transported from home to hospital for treatment of acute symptoms.

During the course of Dr. Coonrod's treatment of Mrs. Aguilar in April and May, 2003, and prior to his sending his patient to the hospital emergency room on May 27, 2003, Dr. Coonrod was presented with patient symptoms, supplemented by his examinations, that, even in retrospect, harbored a very low probability for pulmonary emboli. Dr. Coonrod appropriately addressed the chest X-ray and EKG findings, particularly the clearly abnormal EKG presentation of T-wave inversion, by immediately sending her to the local hospital's emergency department rather than continuing to work her up in the limited testing environment of his office. This

DEFENDANTS NATHAN COONROD, M.D.'S AND PRIMARY HEALTH  
CARE CENTER'S EXPERT WITNESS DISCLOSURE - 3

05211.0032.1193768.1

course of action was well within the standard of care as a particularly appropriate alternative to attempting to pursue in his office environment testing for cardiac/pulmonary or other system problems portended by Mrs. Aguilar's symptomatic presentation. After being notified of his patient's negative cardiac workup and on seeing her June 4, as reflected in his office notes and supplemented by his deposition, Dr. Coonrod demonstrated concern for his patient, reasons for not conducting D-Dimer examinations when, as he explained, they would be positive from known bleeding, and reasonably addressed the ongoing management of her continuing medical workup. In this regard, Dr. Coonrod acted within the applicable standard of care for a family practice physician.

Additionally, Dr. Franklin, as a then concurrent medical staff officer at a local hospital, is acquainted with the types of services and testing that a family practice physician would expect a hospital would be able to do, and the enhanced speed with which he might reasonably expect an in-hospital testing opportunity to provide answers to referring physicians and patients with data leading to better diagnostic results. Dr. Coonrod, in Dr. Franklin's opinion, appropriately considered and employed referral options to assist his own assessment of the patient's various and changing symptoms for diagnostic purposes. Although neither he nor other physicians who came into contact with the patient during April - June 2003 diagnosed prior to her death a pulmonary embolism, the presumed cause of death, he was not negligent in his management of his patient's diagnostic course and acted within the community standard of care in deferring to hospital-based and invasive diagnostic options performed by others.

After having an opportunity to evaluate deposition testimony of Plaintiffs' and Co-Defendants' expert witnesses which have not yet been taken, Dr. Franklin respectfully reserves the opportunity to expand upon the impressions and opinions outlined above.

**DEFENDANTS NATHAN COONROD, M.D.'S AND PRIMARY HEALTH CARE CENTER'S EXPERT WITNESS DISCLOSURE - 4**

05211.0032.1193788.1

2. Jon Hlavinka, M.D.  
Saltzer Medical Group  
215 E. Hawaii Avenue  
Nampa, ID 83686

Dr. Hlavinka is a physician, board certified in Family Practice, who is familiar with the standard of care for a family physician practicing in Nampa, Idaho. Attached is a copy of Dr. Hlavinka's curriculum vitae. Dr. Hlavinka was also asked to review certain records of the deceased, Maria A. Aguilar, for the purpose of evaluating the standard of care for Dr. Coonrod, as a physician in Nampa, Idaho serving as a "gatekeeper" in referring Mrs. Aguilar to specialists for examination and evaluation following her complaints to him about a constellation of symptoms on separate occasions.

In his record review to date, Dr. Hlavinka has reviewed the following documents:

1. Medical records from Primary Health (PHI00001-PHI00063);
2. Medical records from West Valley Medical Center (WVM0001-WVM0017);
3. Medical records from Saint Alphonsus Regional Medical Center (SAR0001-SAR0015);
4. Medical records from Mercy Medical Center (100-152, MMC0016-MMC0021, MMC0034-MMC0037, MMC0040-MMC0041, MMC0044-MMC0057);
5. Medical records from Boise Gastroenterology Associates (BGA0001-BGA0032);
6. Medical records from Penny Wise United Drugs (PWD0001); and
7. Deposition of Nathan Coonrod, M.D., taken February 7, 2008.

In overview, Dr. Hlavinka is a family practice physician who sees patients in a large, multi-practice, multi-location clinic, not dissimilar to a multi-clinic system like that of Primary Health, Inc. Dr. Hlavinka recognizes that Dr. Coonrod was in one of the smaller, outlying clinics

DEFENDANTS NATHAN COONROD, M.D.'S AND PRIMARY HEALTH  
CARE CENTER'S EXPERT WITNESS DISCLOSURE - 5

05211.0032.1193788.1



and understands the nature of personnel and equipment available at such an operation. He is expected to principally testify regarding standard of care issues applicable to Primary Health, Inc.'s and Dr. Coonrod's performance of duties as Mrs. Aguilar's family practice clinic and physician. He is of the opinion that the clinic appropriately and Dr. Coonrod consciously provided medical care to his patient, Maria A. Aguilar, within the community standard as it existed in April through early June, 2003. Moreover, the medical decisions made by Dr. Coonrod in working up Mrs. Aguilar's symptoms, in evaluating them in serial office visits, in noting changes and, in certain instances, referring his patient to other physicians for testing and further evaluation were appropriate steps for a family practice physician and made within the applicable community standard. Dr. Hlavinka is evaluating but has not yet conveyed to attorneys whether or not he has formed an opinion on causation in this case. It is anticipated that within the next two weeks, perhaps following the anticipated deposition of the pathologist, that Dr. Hlavinka may have additional opinions with respect to causation that cannot at this time be disclosed.

After having an opportunity to evaluate deposition testimony of Plaintiffs' and Co-Defendants' expert witnesses which have not yet been taken, Dr. Hlavinka respectfully reserves the opportunity to expand upon the impressions and opinions outlined above.

#### RESERVATIONS

Defendants reserve the right to call any and all expert witnesses disclosed by Plaintiffs or other Co-Defendants or any expert witness necessary to rebut any testimony of any of the Plaintiffs' or other Co-Defendants' witnesses.

DEFENDANTS NATHAN COONROD, M.D.'S AND PRIMARY HEALTH  
CARE CENTER'S EXPERT WITNESS DISCLOSURE - 6

05211.0032.1103788.1

Defendants also reserve the right to amend this Disclosure of Expert Witnesses in the future as necessary. Defendants expect to reasonably supplement concerning the witnesses' backgrounds and scope of testimony and provide resumes and/or C.V.s.

Moreover, in the unlikely event that one of Defendants named expert witnesses, for reasons completely beyond these Defendants' control, becomes unavailable to testify at time of trial, Defendants expect to request permission from the trial court to substitute a new witness for any witness so unavailable.

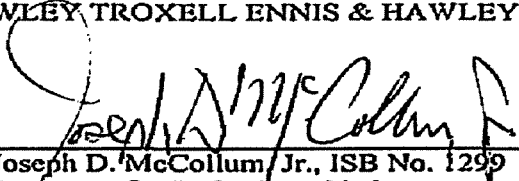
Defendants have not had the opportunity to depose all Plaintiffs' and/or Co-Defendants' expert witnesses. As such, Defendants reserve the right to supplement and amend this disclosure in the event the testimony and opinions rendered by any expert witnesses retained by Plaintiffs and/or Co-Defendants, either through written reports, depositions, or written discovery answers, requires Defendants to retain additional or substitute expert witnesses.

Defendants reserve the right to supplement this disclosure in the event additional facts and information become known prior to trial that would necessitate Defendants to retain additional expert witnesses.

DATED THIS 21<sup>st</sup> day of April, 2008.

HAWLEY TROXELL ENNIS & HAWLEY LLP

By

  
Joseph D. McCollum, Jr., ISB No. 1299  
Attorneys for Defendants Nathan  
Coonrod, M.D. and Primary Health Care Center

DEFENDANTS NATHAN COONROD, M.D.'S AND PRIMARY HEALTH  
CARE CENTER'S EXPERT WITNESS DISCLOSURE - 7

05211.0032.1193786.1

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of April, 2008, I caused to be served a true copy of the foregoing DEFENDANTS NATHAN COONROD, M.D.'S AND PRIMARY HEALTH CARE CENTER'S EXPERT WITNESS DISCLOSURE by the method indicated below, and addressed to each of the following:

David E. Comstock  
LAW OFFICES OF COMSTOCK & BUSH  
199 N. Capitol Boulevard, Suite 500  
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[Attorneys for Plaintiffs]

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Byron V. Foster  
Attorney at Law  
199 N. Capitol Boulevard, Suite 500  
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[Attorney for Plaintiffs]

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Andrew C. Brassey  
BRASSEY, WETHERELL, CRAWFORD  
& McCURDY LLP  
203 W. Main Street  
Boise, ID 83702

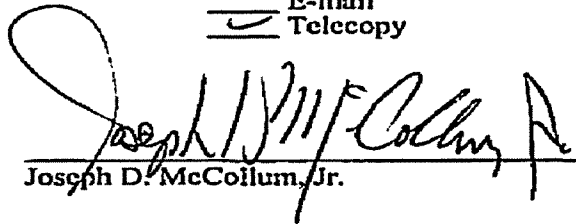
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& FIELDS CHARTERED  
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Pocatello, ID 83204-0817

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LYNCH & ASSOCIATES PLLC  
1412 W. Idaho Street, Suite 200  
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- Hand Delivered
- Overnight Mail
- E-mail
- Telecopy

  
\_\_\_\_\_  
Joseph D. McCollum, Jr.

DEFENDANTS NATHAN COONROD, M.D.'S AND PRIMARY HEALTH CARE CENTER'S EXPERT WITNESS DISCLOSURE - 8

**ROBERT M. FRANKLIN, D.O.***4680 Savannah Ln • Boise, ID 83714 • 208-853-7950***EMPLOYMENT****FAMILY PRACTICE PHYSICIAN***Self Employed*

I have been a solo practice physician for 17 years. I provide the full scope of Family Medicine: inpatient and outpatient care from infants to geriatrics.

**YEARS EMPLOYED (1991 - PRESENT)***Boise, Idaho***EDUCATION****FAMILY PRACTICE RESIDENCY TRAINING***Delaware County Memorial Hospital*

Graduated from an ACGME accredited Family Practice Residency. I was chosen as Chief Resident during my third year. Honors received included: Internal Medicine Award 1989-1990 and the Obstetrics and Gynecology Award 1990-1991.

**YEARS ATTENDED (1989 - 1991)***Drexel Hill, PA***DOCTOR OF OSTEOPATHY***Western University of Health Sciences***YEARS ATTENDED (1983-1988)***Pomona, California***GRADUATE COURSE STUDIES***Montana State University and University of Montana***YEARS ATTENDED (1980 - 1983)***Bozeman and Missoula, Montana***BACHELOR OF ARTS, BIOLOGY***Carroll College***YEARS ATTENDED (1977 - 1980)***Helena, Montana***MEMBERSHIPS**American Academy of Family Physicians  
Idaho Medical Association  
Ada County Medical Association**ACCREDITATIONS**Board Certified in Family Practice  
Fellow, American Academy of Family Practice**LEADERSHIP POSITIONS**

- St. Luke's Children's Hospital Board Member, appointed July 2006
- Chief of the Medical Staff, St. Lukes Regional Medical Center 2003-2005
- Chief of the Medical Staff, Elect, St. Lukes Regional Medical Center 2001-2003
- Chief of the Department of Family Practice St. Lukes & St. Alphonsus 1999-2001
- Lead Medical Staff Representative in a Hearing Panel Review of a physician whose privileges had been suspended, 2005
- Member of the Finance Committee of the Board of SLRMC 2004-2005
- Member of the QPI Committee of the Board of SLRMC, 2001-2004
- Chairman of the Third Party Payer Committee of the IMA, circa 1996-2006
- Family Practice Representative to the CIGNA-Advisory Committee circa 1995-2003
- Co-Chairman of the Campaign for Kids for St. Luke's Children's Hospital, 2002 - 2003
- Member of the St. Luke's Strategic Initiatives Committee

## CURRICULUM VITAE

Jon L. Hlavinka, M.D.

**Address** 2202 Locust St., Nampa, ID 83686

**Birthdate** May 2, 1957

**Birthplace** Fargo, North Dakota

**Marital Status** Married - Maisie; 1 child

**Education** Mayville - Portland High School, Mayville, North Dakota, Graduated, 1975

University of North Dakota, Grand Forks, North Dakota, B.S., 1979

University of North Dakota School of Medicine, Grand Forks, North Dakota, B.S. Medicine, 1981

University of North Dakota School of Medicine, Grand Forks, North Dakota, M.D., 1983

Deaconess Hospital, Spokane, Washington, Internship, 1984

Family Medicine, Spokane, Washington, Family Medicine Residency, 1986

**Employment** Medical Center Physicians, P.A., 215 E. Hawaii Ave., Nampa, ID 83686, 4-13-92 to present

Kodiak Island Medical, Family Practice, Kodiak, AK, 1989-92...

Kodiak Area Native Association, Medical Director - Family Practice, Kodiak, AK, 1986-1989

Resurrection Bay Health Center, Locum Tenens - Family Practice, Seward, AK, April 1986 - August 1986

University Medical Center Urgent Care, Spokane, WA, January 1986 - April 1986

Mid-Valley Hospital Emergency Room, Omak, WA, December 1984-October 1985

Kadlec Minor Emergency, Kennewick, WA, December 1984-August 1985

Whitworth College Health Center, Spokane, WA, June 1984-June 1986

**Licensure** Idaho, 1992 #M-6008  
Alaska

Gary T. Dance, ISB No. 1513  
Julian E. Gabiola, ISB No. 5455  
MOFFATT, THOMAS, BARRETT, ROCK &  
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jeg@moffatt.com  
17230.0107

**F I L E D**  
A.M. 7:00 P.M.  
APR 28 2008  
CANYON COUNTY CLERK  
D. BUTLER, DEPUTY

Attorneys for Steven R. Newman, M.D.

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

JOSE AGUILAR, individually, as the Personal Representative of the Estate of Maria A. Aguilar, deceased, and as the natural father and guardian of GUADALUPE MARIA AGUILAR, ALEJANDRO AGUILAR, AND LORENA AGUILAR, minors, and JOSE AGUILAR, JR., heirs of Maria A. Aguilar, deceased,

Plaintiffs,

vs.

ANDREW CHAI, M.D., STEVEN R. NEWMAN, M.D., NATHAN COONROD, M.D. CATHERINE ATUP-LEAVITT, M.D., MITCHELL LONG, D.O., COLUMBIA WEST VALLEY MEDICAL CENTER, an Idaho corporation, MERCY MEDICAL CENTER, an Idaho corporation, PRIMARY HEALTH CARE CENTER, an Idaho

Case No. CV 05-5781

**NOTICE OF TAKING DEPOSITION  
OF DEAN LAPINEL, M.D. (DUCES  
TECUM)**

corporation, JOHN and JANE DOES, I  
through X, employees of one or more of the  
Defendants,

Defendants.

TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORDS:

PLEASE TAKE NOTICE that pursuant to Rules 30 and 34 of the Idaho Rules of Civil Procedure, defendant, Steven R. Newman, M.D., will take the deposition of **DEAN LAPINEL, M.D.**, before an officer authorized to administer oaths on Wednesday, May 28, 2008, at 10:00 a.m. at the offices of Moffatt, Thomas, Barrett, Rock & Fields, Moffatt Conference Room, 101 S. Capital, 10th Floor, US Bank, Boise, Idaho (208) 345-2000.

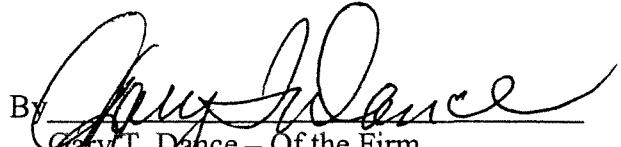
Such person is required to bring with him the following records or documents:

All notes, reports, documents, correspondence, publications, learned treatises, photographs, film, videos, drawings, computer generated records, and any and all other information utilized by the expert witness regarding:

- (1) His opinions or any other matters in this case;
- (2) His examinations, inspections or analysis conducted in this matter;
- (3) Information, including statements of facts prepared by others, relied upon by the expert in forming his opinions; and
- (4) Information which the expert intends to rely upon in providing testimony in this matter.

DATED this 24 day of April, 2008.

MOFFATT, THOMAS, BARRETT, ROCK &  
FIELDS, CHARTERED

By   
Gary T. Dance – Of the Firm  
Attorneys for Steven R. Newman, M.D.



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 24 day of April, 2008, I caused a true and correct copy of the foregoing **NOTICE OF TAKING DEPOSITION OF DEAN LAPINEL, M.D. (DUCES TECUM)** to be served by the method indicated below, and addressed to the following:

David E. Comstock  
LAW OFFICES OF COMSTOCK & BUSH  
P.O. Box 2774  
BOISE, ID 83701-2774  
Facsimile: (208) 344-7721

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Byron V. Foster  
Attorney-at-law  
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LYNCH & ASSOCIATES, PLLC  
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Facsimile: (208) 331-0088

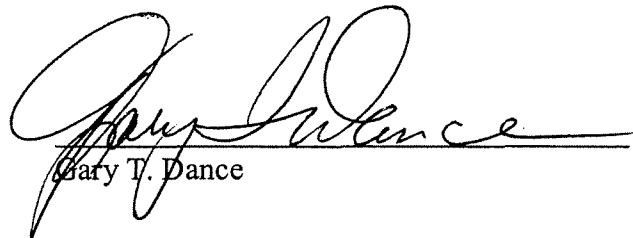
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 Facsimile

Andrew C. Brassey  
BRASSEY WETHERELL CRAWFORD & GARRETT  
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Facsimile: (208) 344-7077

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Boise, ID 83701-1617  
Facsimile: (208) 342-3829

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 Overnight Mail  
 Facsimile

  
\_\_\_\_\_  
Gary T. Dance

Gary T. Dance, ISB No. 1513  
Julian E. Gabiola, ISB No. 5455  
MOFFATT, THOMAS, BARRETT, ROCK &  
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gtd@moffatt.com  
jeg@moffatt.com  
17230.0107

**F I L E D**  
A.M. *JW* P.M.  
APR 28 2008 ✓

CANYON COUNTY CLERK  
D. BUTLER, DEPUTY

Attorneys for Steven R. Newman, M.D.

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

JOSE AGUILAR, individually, as the Personal Representative of the Estate of Maria A. Aguilar, deceased, and as the natural father and guardian of GUADALUPE MARIA AGUILAR, ALEJANDRO AGUILAR, AND LORENA AGUILAR, minors, and JOSE AGUILAR, JR., heirs of Maria A. Aguilar, deceased,

Plaintiffs,

vs.

ANDREW CHAI, M.D., STEVEN R. NEWMAN, M.D., NATHAN COONROD, M.D. CATHERINE ATUP-LEAVITT, M.D., MITCHELL LONG, D.O., COLUMBIA WEST VALLEY MEDICAL CENTER, an Idaho corporation, MERCY MEDICAL CENTER, an Idaho corporation, PRIMARY HEALTH CARE CENTER, an Idaho

Case No. CV 05-5781

**NOTICE OF TAKING DEPOSITION  
OF PAUL BLAYLOCK, M.D. (DUCES  
TECUM)**

corporation, JOHN and JANE DOES, I  
through X, employees of one or more of the  
Defendants,

Defendants.

TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORDS:

PLEASE TAKE NOTICE that pursuant to Rules 30 and 34 of the Idaho Rules of Civil Procedure, defendant, Steven R. Newman, M.D., will take the deposition of **PAUL BLAYLOCK, M.D.**, before an officer authorized to administer oaths on Thursday, May 29, 2008, at 10:00 a.m. at the offices of Naegeli Reporting, 111 SW Fifth Avenue, Suite 2020, Portland, Oregon 97204 (503) 227-1544.


Such person is required to bring with him the following records or documents:

All notes, reports, documents, correspondence, publications, learned treatises, photographs, film, videos, drawings, computer generated records, and any and all other information utilized by the expert witness regarding:

- (1) His opinions or any other matters in this case;
- (2) His examinations, inspections or analysis conducted in this matter;
- (3) Information, including statements of facts prepared by others, relied upon by the expert in forming his opinions; and
- (4) Information which the expert intends to rely upon in providing testimony in this matter.

DATED this 24 day of April, 2008.

MOFFATT, THOMAS, BARRETT, ROCK &  
FIELDS, CHARTERED

By   
Gary I. Dance – Of the Firm  
Attorneys for Steven R. Newman, M.D.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 21 day of April, 2008, I caused a true and correct copy of the foregoing **NOTICE OF TAKING DEPOSITION OF PAUL BLAYLOCK, M.D. (DUCES TECUM)** to be served by the method indicated below, and addressed to the following:

David E. Comstock  
LAW OFFICES OF COMSTOCK & BUSH  
P.O. Box 2774  
BOISE, ID 83701-2774  
Facsimile: (208) 344-7721

U.S. Mail, Postage Prepaid  
 Hand Delivered  
 Overnight Mail  
 Facsimile

Byron V. Foster  
Attorney-at-law  
P.O. Box 1584  
Boise, ID 83701-1584  
Facsimile: (208) 344-7721

U.S. Mail, Postage Prepaid  
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 Facsimile

James B. Lynch  
LYNCH & ASSOCIATES, PLLC  
P.O. Box 739  
Boise, ID 83701-0739  
Facsimile: (208) 331-0088

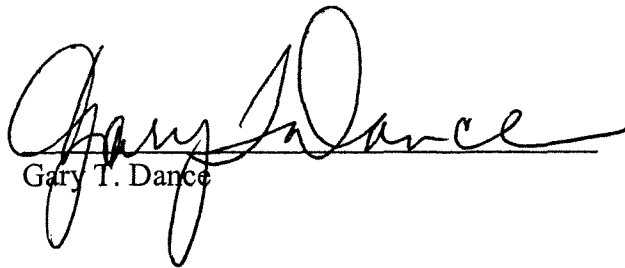
U.S. Mail, Postage Prepaid  
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Andrew C. Brassey  
BRASSEY WETHERELL CRAWFORD & GARRETT  
203 W. Main Street  
Boise, ID 83702  
Facsimile: (208) 344-7077

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Joseph D. McCollum, Jr.  
HAWLEY TROXELL ENNIS & HAWLEY LLP  
P.O. Box 1617  
Boise, ID 83701-1617  
Facsimile: (208) 342-3829

U.S. Mail, Postage Prepaid  
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Gary T. Dance

James B. Lynch ISBN # 836  
LYNCH & ASSOCIATES, PLLC  
1412 W. Idaho Street, Suite 200  
Post Office Box 739  
Boise, Idaho 83701-0739  
Telephone (208) 331-5088  
Facsimile (208) 331-0088

**F I L E D**  
A.M. 1200 P.M.

**MAY 01 2008**

CANYON COUNTY CLERK  
J HEIDEMAN, DEPUTY

Attorney for Defendant Mitchell Long, D.O.

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

JOSE AGUILAR, individually, as the Personal )  
Representative of the estate of Maria A. )  
Aguilar, deceased, and as the natural father )  
and guardian of GUADALUPE MARIA )  
AGUILAR, ALEJANDRO AGUILAR, and )  
LORENA AGUILAR, minors, and JOSE )  
AGUILAR, JR., heirs of Maria A. Aguilar, )  
deceased, )

Plaintiffs, )

vs. )

ANDREW CHAI, M.D., STEVEN R. NEWMAN, )  
M.D., NATHAN COONROD, M.D., MITCHELL )  
LONG, D.O., PRIMARY HEALTH CARE )  
CENTER, an Idaho corporation, JOHN and )  
JANE DOES I through X, employees of one or )  
more of the Defendants, )

Defendants. )

Case No. CV 05-57- 81

**NOTICE OF TAKING DEPOSITION  
DUCES TECUM OF THOMAS M.  
DONNDELINGER, M.D.**

TO: PLAINTIFFS AND DEFENDANTS AND COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Defendant Mitchell Long, D.O., will take testimony on oral examination of Dr. Thomas M. Donndelinger, M.D., before a court reporter and notary public with the firm of Tucker & Associates, LLC, at a conference room at Mercy

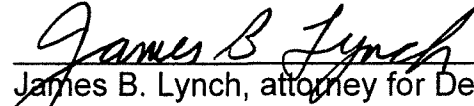
**ORIGINAL**

Medical Center at 1512 - 12<sup>th</sup> Avenue Road, Nampa, Idaho 83686, at the hour of 1:30 p.m., MST on Friday, April 25, 2008, pursuant to Rule 33, of the Idaho Rules of Civil Procedure for the purposes of discovery and also for the purpose of preserving the deponent's testimony for trial if he is unavailable to testify at trial for any reason. You are respectfully notified to appear and take such part in the examination as you prefer.

Deponent is requested to bring with him to the deposition for inspection and copying, all documents and things he generated in the preparation for and performance of an autopsy on the deceased Maria A. Aguilar on or about the 5<sup>th</sup> day of June 2003. Specifically, the deponent is requested to bring the original or copies of any notes prepared in advance of performing the autopsy procedure, while the autopsy procedure was in progress, and after the autopsy procedure, including all documents consulted, generated or prepared in the course of preparing and signing the autopsy report, a copy of which is attached to this Notice as Exhibit A. Also for convenience, is attached as Exhibit B, a copy of a Canyon County Coroner's Record reporting on the autopsy performed on Maria A. Aguilar.

The deponent is also requested to bring copies of any documents pertaining to tests, lab studies, photographs, slides or other documents or things which support the Final Anatomic Diagnosis of "Saddle embolism, right and left pulmonary arteries," or which provide any additional information or data concerning the medical condition of the deceased.

DATED this 3<sup>rd</sup> day of April, 2008.

  
James B. Lynch, attorney for Defendant  
Mitchell Long, D.O.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3<sup>rd</sup> day of April, 2008, I served a true and correct copy of the foregoing **NOTICE OF TAKING DEPOSITION DUCES TECUM OF THOMAS M. DONNDELINGER, M.D.**, as follows:

David E. Comstock  
COMSTOCK & BUSH  
199 N. Capitol Blvd, Suite 500  
P.O. Box 2774  
Boise, Idaho 83701-2774

(X) U.S. Mail, postage prepaid  
( ) Overnight Mail  
( ) Hand Delivery  
(X) Facsimile  
(208) 344-7721

Byron V. Foster  
Attorney at Law  
199 N. Capitol Blvd. Suite 500  
P.O. Box 1584  
Boise, Idaho 83701-1584

(X) U.S. Mail, postage prepaid  
( ) Overnight Mail  
( ) Hand Delivery  
(X) Facsimile  
(208) 344-7721

Andrew C. Brassey  
BRASSEY WETHERELL  
203 W. Main Street  
P.O. Box 1009  
Boise, Idaho 83702

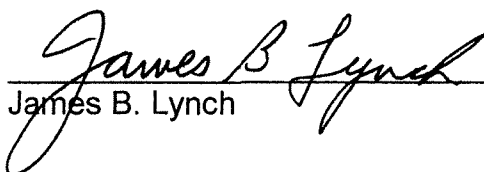
(X) U.S. Mail, postage prepaid  
( ) Overnight Mail  
( ) Hand Delivery  
(X) Facsimile  
(208) 344-7077

Gary T. Dance  
MOFFATT THOMAS  
412 W. Center, Suite 2000  
P.O. Box 817  
Pocatello, Idaho 83204-0817

(X) U.S. Mail, postage prepaid  
( ) Overnight Mail  
( ) Hand Delivery  
(X) Facsimile  
(208) 232-0150

Joseph D. McCollum Jr.  
HAWLEY TROXELL  
877 W. Main Street, Suite 1000  
P.O. Box 1617  
Boise, Idaho 83701-1617

(X) U.S. Mail, postage prepaid  
( ) Overnight Mail  
( ) Hand Delivery  
(X) Facsimile  
(208) 342-3829

  
James B. Lynch



MERCY MEDICAL CENTER

NAMPA, IDAHO

AUTOPSY REPORT

NAME: Aguilar, Maria A. AGE: 41 SEX: F AUTOPSY #: A03.20  
SERVICE: Canyon County Coroner  
PLACE OF DEATH: West Valley Emergency Department, Caldwell, Idaho 83605  
DATE OF DEATH: June 4, 2003 @ 2246  
DATE OF AUTOPSY AT MERCY MEDICAL CENTER: June 5, 2003  
REPORT DATE: June 25, 2003  
RESTRICTIONS: "Cause of death only"

FINAL ANATOMIC DIAGNOSES

I Saddle embolism, right and left pulmonary arteries.

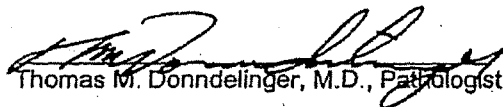
  
Thomas M. Donndelinger, M.D., Pathologist

EXHIBIT A

# Carson County Coroner's Record

Report By: Bill Kirby

DecName AGUILAR, MARIA A

Case#: 206/N/B/03

RepDate: 06/09/2003 DOB: [REDACTED] Sex: F Age: 41 SSN: [REDACTED]  
Dir: WEST VALLEY MEDICAL City CALDWELL State: ID  
Date/Time of Death: 6/4/2003 10:46:00PM  
Stricken / Injured At: 705 E DENVER  
Date: 6/4/2003 10:25:00PM  
Found By: FAMILY  
Date Found: 6/4/2003 10:25:00PM  
Last Known Alive: FAMILY Date/Time: 6/4/2003 10:20:00PM  
Identified By: FAMILY  
Home Address: 705 E DENVER City: CALDWELL State: ID Phone: 454-0536  
Police Dept. / Officer: N/A

## History

Present Illness/Event: PULMONARY EMBOLISM  
Past Medical Problems: UNK  
Medications: FERROUS, NEXIUM

Physician: COONROD  
Next of Kin Notified Name:

## Body Exam

Exam Date: 6/4/2003 11:30:00PM Exam Place: SCENE  
Height: Weight: Body Position: LAYING ON COT  
Rigor: Livor: Fixed: Anterior: Posterior:  
Surrounding Temp: Putrefaction: Photos: PhotosBy:  
Clothing: PANTS, SHIRT, SHOES  
Blood Drawn: Toxicology:  
Cremation: Funeral Home: Dakans  
Manner of Death: NATURAL  
Cause of Death: MULTIPLE BILATERAL PULMONARY EMBOLISM  
Autopsy: Y Autopsy Date: 6/5/2003 10:00:00AM  
Suicide Note: Note Given To:

## Case Summary

I was dispatched to the ER of West Valley for an unattended death. Upon arrival I met with ER staff and they advised me that the female came into the ER in the ambulance and had coded. I had talked to the family and they advised me that the deceased had been having fainting spells for the last two weeks. She was getting very tired and she would have to stop and take a few breaths every time she would walk. She had an angiography, and a indoscopy done in the last few weeks and nothing was found wrong. The day of her death she was at home and had fainted twice. She was not feeling well and the family was taking her to West Valley when she fainted again. They called for the para medics and as they moved her to the gurney she coded on them. They transported to West Valley and they worked her for about 10 minutes and called the code. She had no history so I advised the family that an Autopsy would have to be done. I told them that from what they told me and the way she was acting that she could have had an embolism, I explained what that is and told them that some one would contact them after the autopsy. Upon completion of the autopsy the results were found to be a Bilateral Pulmonary Embolism. There was no sign of trauma to the deceased, and the family requested Dakans for the removal.

Bill Kirby  
Deputy Coroner

EXHIBIT B

Gary T. Dance, ISB No. 1513  
Julian E. Gabiola, ISB No. 5455  
MOFFATT, THOMAS, BARRETT, ROCK &  
FIELDS, CHARTERED  
412 West Center  
Post Office Box 817  
Pocatello, Idaho 83204  
Telephone (208) 233-2001  
Facsimile (208) 232-0150  
gtd@moffatt.com  
jeg@moffatt.com  
17230.0107

Attorneys for Steven R. Newman, M.D.

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

JOSE AGUILAR, individually, as the Personal  
Representative of the Estate of Maria A.  
Aguilar, deceased, and as the natural father  
and guardian of GUADALUPE MARIA  
AGUILAR, ALEJANDRO AGUILAR, AND  
LORENA AGUILAR, minors, and JOSE  
AGUILAR, JR., heirs of Maria A. Aguilar,  
deceased,

Plaintiffs,

vs.

ANDREW CHAI, M.D., STEVEN R.  
NEWMAN, M.D., NATHAN COONROD,  
M.D. CATHERINE ATUP-LEAVITT, M.D.,  
MITCHELL LONG, D.O., COLUMBIA  
WEST VALLEY MEDICAL CENTER, an  
Idaho corporation, MERCY MEDICAL  
CENTER, an Idaho corporation, PRIMARY  
HEALTH CARE CENTER, an Idaho

Case No. CV 05-5781

**NOTICE OF TAKING DEPOSITION  
OF RICHARD L. LUBMAN, M.D.  
(DUCES TECUM)**

~~FILED~~  
11:23 A.M. P.M.

MAY 07 2008

CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY

corporation, JOHN and JANE DOES, I  
through X, employees of one or more of the  
Defendants,

Defendants.

TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORDS:

PLEASE TAKE NOTICE that pursuant to Rules 30 and 34 of the Idaho Rules of Civil Procedure, defendant, Steven R. Newman, M.D., will take the deposition of **RICHARD L. LUBMAN, M.D.**, before an officer authorized to administer oaths on Friday, May 30, 2008, at 1:00 p.m. at the offices of Premier Business Center, Wells Fargo Tower, 333 South Grand Avenue, 25th Floor, Los Angeles, California (Maxene Weinberg Agency (Court Reporter 1-800-640-1949).

Such person is required to bring with him the following records or documents:

All notes, reports, documents, correspondence, publications, learned treatises, photographs, film, videos, drawings, computer generated records, and any and all other information utilized by the expert witness regarding:

- (1) His opinions or any other matters in this case;
- (2) His examinations, inspections or analysis conducted in this matter;
- (3) Information, including statements of facts prepared by others, relied upon by the expert in forming his opinions; and
- (4) Information which the expert intends to rely upon in providing testimony in this matter.

DATED this 5<sup>th</sup> day of May, 2008.

MOFFATT, THOMAS, BARRETT, ROCK &  
FIELDS, CHARTERED

By *Gary T. Dance*  
Gary T. Dance – Of the Firm  
Attorneys for Steven R. Newman, M.D.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 5<sup>th</sup> day of May, 2008, I caused a true and correct copy of the foregoing **NOTICE OF TAKING DEPOSITION OF RICHARD L. LUBMAN, M.D. (DUCES TECUM)** to be served by the method indicated below, and addressed to the following:

David E. Comstock  
LAW OFFICES OF COMSTOCK & BUSH  
P.O. Box 2774  
BOISE, ID 83701-2774  
Facsimile: (208) 344-7721

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile

Byron V. Foster  
Attorney-at-law  
P.O. Box 1584  
Boise, ID 83701-1584  
Facsimile: (208) 344-7721

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BRASSEY WETHERELL CRAWFORD & GARRETT  
203 W. Main Street  
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HAWLEY TROXELL ENNIS & HAWLEY LLP  
P.O. Box 1617  
Boise, ID 83701-1617  
Facsimile: (208) 342-3829

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\_\_\_\_\_  
Gary T. Dance

gbc

Gary T. Dance, ISB No. 1513  
Julian E. Gabiola, ISB No. 5455  
MOFFATT, THOMAS, BARRETT, ROCK &  
FIELDS, CHARTERED  
412 West Center  
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Pocatello, Idaho 83204  
Telephone (208) 233-2001  
Facsimile (208) 232-0150  
gtd@moffatt.com  
jeg@moffatt.com  
17230.0107

**FILED**  
11:45 A.M. P.M.  
MAY 16 2008 ✓  
CANYON COUNTY CLERK  
D. BUTLER, DEPUTY

Attorneys for Steven R. Newman, M.D.

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

JOSE AGUILAR, individually, as the Personal  
Representative of the Estate of Maria A.  
Aguilar, deceased, and as the natural father  
and guardian of GUADALUPE MARIA  
AGUILAR, ALEJANDRO AGUILAR, AND  
LORENA AGUILAR, minors, and JOSE  
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deceased,

Plaintiffs,

vs.

ANDREW CHAI, M.D., STEVEN R.  
NEWMAN, M.D., NATHAN COONROD,  
M.D. CATHERINE ATUP-LEAVITT, M.D.,  
MITCHELL LONG, D.O., COLUMBIA  
WEST VALLEY MEDICAL CENTER, an  
Idaho corporation, MERCY MEDICAL  
CENTER, an Idaho corporation, PRIMARY  
HEALTH CARE CENTER, an Idaho

Case No. CV 05-5781

**AMENDED NOTICE OF TAKING  
DEPOSITION OF RICHARD L.  
LUBMAN, M.D. (DUCES TECUM)**

corporation, JOHN and JANE DOES, I  
through X, employees of one or more of the  
Defendants,

Defendants.

TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORDS:

PLEASE TAKE NOTICE that pursuant to Rules 30 and 34 of the Idaho Rules of Civil Procedure, defendant, Steven R. Newman, M.D., will take the deposition of **RICHARD L. LUBMAN, M.D.**, before an officer authorized to administer oaths on Friday, May 30, 2008, at **2:00 p.m.** at the offices of Premier Business Center, Wells Fargo Tower, 333 South Grand Avenue, 25th Floor, Los Angeles, California (Maxene Weinberg Agency (Court Reporter 1-800-640-1949).

Such person is required to bring with him the following records or documents:

All notes, reports, documents, correspondence, publications, learned treatises, photographs, film, videos, drawings, computer generated records, and any and all other information utilized by the expert witness regarding:

- (1) His opinions or any other matters in this case;
- (2) His examinations, inspections or analysis conducted in this matter;
- (3) Information, including statements of facts prepared by others, relied upon by the expert in forming his opinions; and
- (4) Information which the expert intends to rely upon in providing testimony in this matter.



DATED this 14<sup>th</sup> day of May, 2008.

MOFFATT, THOMAS, BARRETT, ROCK &  
FIELDS, CHARTERED

By Gary T. Dance  
Gary T. Dance – Of the Firm  
Attorneys for Steven R. Newman, M.D.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 14<sup>th</sup> day of May, 2008, I caused a true and correct copy of the foregoing **AMENDED NOTICE OF TAKING DEPOSITION OF RICHARD L. LUBMAN, M.D. (DUCES TECUM)** to be served by the method indicated below, and addressed to the following:

David E. Comstock  
LAW OFFICES OF COMSTOCK & BUSH  
P.O. Box 2774  
BOISE, ID 83701-2774  
Facsimile: (208) 344-7721

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Attorney-at-law  
P.O. Box 1584  
Boise, ID 83701-1584  
Facsimile: (208) 344-7721

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Facsimile: (208) 342-3829

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- Facsimile

*Gary T. Dance*  
Gary T. Dance



JUN 08 2008

CANYON COUNTY CLERK  
M ADAMSON, DEPUTY

David E. Comstock  
LAW OFFICES OF COMSTOCK & BUSH  
199 N. Capitol Blvd., Ste 500  
P.O. Box 2774  
Boise, Idaho 83701-2774  
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ISB #: 2455

Byron V. Foster  
Attorney At Law  
199 N. Capitol Blvd., Ste 500  
P.O. Box 1584  
Boise, Idaho 83701  
Telephone: (208) 336-4440  
Facsimile: (208) 344-7721  
ISB #: 2760

Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO FOR THE COUNTY OF CANYON

JOSE AGUILAR, individually, as the Personal )  
Representative of the Estate of Maria A. Aguilar, )  
deceased, and as the natural father and )  
guardian of GUADALUPE MARIA AGUILAR, )  
ALEJANDRO AGUILAR, and LORENA )  
AGUILAR, minors, and JOSE AGUILAR, JR., )  
heirs of Maria A. Aguilar, deceased, )

Case No. CV 05-5781

Plaintiffs, )

**PLAINTIFFS' SIXTH  
SUPPLEMENTAL EXPERT  
WITNESS DISCLOSURE**

v. )

ANDREW CHAI, M.D., STEVEN R. NEWMAN, )  
M.D., NATHAN COONROD, M.D., MITCHELL )  
LONG, D.O., and PRIMARY HEALTH CARE )  
CENTER, an Idaho corporation, JOHN and )  
JANE DOES I through X, employees of one or )  
more of the Defendants, )

Defendants. )

**PLAINTIFFS' SIXTH SUPPLEMENTAL EXPERT WITNESS DISCLOSURE – P. 1**

COME NOW Plaintiffs, by and through their attorneys of record, David E. Comstock, of Comstock & Bush, and Byron V. Foster, Attorney at Law, and pursuant to the Court's Scheduling Order and in accordance with I.R.C.P. 26, hereby supplements their list of expert witnesses to be called at the trial of this case:

1. **Paul Blaylock M.D., FACEP**  
**Providence Medical Group**  
**4500 N.W. Malheur Avenue**  
**Portland, OR 97229**

Dr. Blaylock has now reviewed the deposition of Thomas Donndelinger, M.D. and this review has not changed any of the opinions set forth either in Disclosures or at his deposition. He has also reviewed all of Plaintiffs' Expert Witness Disclosures and the statements attributed to him in those Disclosures are correct and accurately reflect his opinions and the conversation in which he participated with Kenneth Bramwell, M.D. with one exception: the fee rates quoted in Plaintiffs' Expert Witness Disclosure have changed. Dr. Blaylock now charges \$300.00 for review time, \$600.00 for deposition time and \$750.00 per hour for trial time, plus out of pocket expenses with a minimal out of town daily fee.

2. **Dean Lapinel, M.D.**  
**1437 E. Braemere Road**  
**Boise, ID 83702**

Regarding the thoughts Dr. Lapinel formed upon re-reviewing the depositions of Drs. Newman and Long, set forth below is a summary of those opinions which Dr. Lapinel referenced at his deposition:

**Dr. Newman Deposition Notes**

Page 9: Discussed the fact that Dr. Newman rotated through an ER clinical teaching program that emphasized family practice not Emergency Medicine. Dr Newman is not

trained in the field of Emergency medicine.

Page 30: Discussed, but I would also like to point out that the computer program evaluates abnormalities beyond just the rhythm.

Page 33/34: Dr. Newman is asked "To what do you attribute the low CO2?" The answer was "Some mild dehydration."

The serum Bicarb or "CO2" is not an indicator of hydration status at all. The CO2 can be high or low or normal in dehydration. The more simple forms of dehydration (such as from vomiting) will usually have a high CO2...something called contraction alkalosis.

The CO2 in the serum is a reflection of an acid base state. In a simplistic manner of explanation, the low CO2 was either related to a metabolic acidosis which the patient didn't appear to have or it could have been depressed from a compensated Respiratory alkalosis. In this patient this abnormality should have been investigated. What would likely have been found via an ABG was a Respiratory alkalosis with metabolic compensation. Hyperventilation can cause a respiratory alkalosis. Hyperventilation can be caused by panic attacks and many other clinical situations such as hypoxia.

Failure to work up the low serum bicarb (CO2) was negligent behavior that is not considered an acceptable form of practice. If this one lab abnormality had been evaluated as expected, a proper diagnosis of PE would, more probably than not, have been made.

Page 42: Dr. Newman seems to state that he was more concerned with the heart rhythm rather than the evidence of Ischemia on the EKG. The reason was "because she had already been worked up for coronary artery disease."

This is a troublesome train of thought since it is common knowledge in the field of medicine that abnormal patterns on the EKG can come from the heart (not just from the

coronary artery pathology), Gall bladder, brain (stroke) etc.

The pattern was consistent with right heart strain. One can acquire a right heart strain pattern from pulmonary emboli and this was not evaluated.

Another concern of fact: Answer: "A syncope episode is where someone may feel like they're going to pass out or may fall down..." This statement is incorrect. Syncope occurs when the patient has become unconscious. What Dr. Newman seemed to be describing was pre-syncopal symptoms.

Page 50: Concerning the consideration of a PE workup Dr. Newman states "It was on my consideration of workup, of things to do."

There is no documentation of this apparent exclusion or decision not to work her up for PE. Excluding a PE, when considered, is an important process since there is such little data that helps with the diagnosis. If the diagnosis is considered then steps need to be taken and if they are not, then an explanation on the record is required.

#### **Dr. Long Deposition Notes**

Page 16: In response to a question about the transmission of patient information from one Doctor to another - "That would be correct. Because the patient would give you that same information." Dr. Long seems to believe that it is acceptable to neglect information from other sources. This is incorrect. It is the responsibility of a doctor, nurse or clerk to make certain that information about a patient (from whatever source) is available to the treating physician. Conversely it is the treating physician's vital responsibility to seek out all information that is available (medical records, notes, phone contact, history from family, EMS, nurses notes and more). To deny this responsibility is a form of negligent medical care.

Page 20: Q: "How important is it to you as an emergency room physician to understand the reasons why the referring physician is referring that patient to you for assessment?"

Dr. Long states "I don't find that a particularly important question. I think what is most important is why the patient feels that they're there."

The correct answer to the question is that understanding the reasons why the referring physician is referring that patient to you for assessment is vitally important and a standard of medical practice in any field of medicine. This concept is not controversial.

Page 26: Question: "If you know someone who is in the emergency room with a history of shortness of breath, chest pain, an abnormal EKG, would that be enough for you as an emergency room physician , to be concerned about a pulmonary embolism?" Dr. Long states "You haven't given me enough information to say yes or no..."

In my opinion the correct answer is yes, a PE would be considered. Also in the differential there would be other problems such as an MI, ischemia, pneumonia, pneumothorax, aortic aneurysm and more. The point being that this is enough information to consider a PE and additional information would dictate the management. If no well defined disease process can be found then work up for a PE is mandatory.

In this section Dr. Long also states "The EKG, unfortunately, gives you no information about whether or not this person has a pulmonary embolism." This is similar to saying that an EKG offers no information about a myocardial infarction. The EKG does offer clues that can reveal strain patterns that strongly suggest the possibility of a PE in a person with the above symptoms. The EKG can be extremely helpful in guiding the diagnostic course.

Page 31: Dr. Long states the pain was "lower substernal epigatric". This is apparently something that Dr. Long considers as incompatible with a PE. The location, quality, timing of pain from a PE varies so much that this is another factor that makes the diagnosis difficult. Pain in this location does not exclude the possibility of a PE.

Page 38: Dr. Long is appropriately aware that a chief complaint of chest pain should include a consideration for PE. What the records do not indicate is how this was considered and excluded.

Page 65: "I know of nothing in the medical literature that says a person, over the period of two months, could be having episodes of clots causing symptoms on a frequent basis...I know of nothing in the medical literature that says you can have clots symptomatic going on that long."

This statement is quite revealing. Dr. Long does not have the very basic understanding of this very common and well understood process of chronic showering of pulmonary emboli. This very pattern is common, well understood and is heavily addressed in the literature. A thrombus has wear and tear from venous flow. This increased friability causes pieces to break off (emboli) over time. There is nothing atypical about this course.


#### **CAVEAT**

It should be understood that Plaintiffs have made a good faith effort to set forth the substance of the opinions to which the above-named experts will testify. However, it is impossible to specifically set forth every opinion these individuals will express and the exact manner in which those opinions will be expressed. Plaintiffs reserve the right to elicit from the above-named experts, additional testimony and opinions from those individuals based upon information subsequently produced, information gleaned during depositions of



Defendants' experts and any subsequent opinions or information developed by the above-named individuals from other sources. As it is anticipated that the Defendants will obtain the deposition testimony of the above-named experts, this expert disclosure should not be assumed to be all inclusive in nature. Plaintiffs also reserve the right to amend, modify, delete from or add to by supplementation, this disclosure as further information is developed through discovery. Plaintiffs also reserve the right to name and call as expert witnesses any individuals identified by any party as expert witnesses and also reserve the right to obtain medical testimony from any other health care provider named or identified during the discovery process.

DATED THIS 5 day of June, 2008.



Byron V. Foster  
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on the 5 day of June, 2008, I served a true and correct copy of the above and foregoing instrument, by method indicated below, upon:

Andrew C. Brassey, Esq.  
Brassey Wetherell Crawford &  
McCurdy LLP  
203 W. Main St.  
Boise, ID 83702

- U.S. Mail
- Hand Delivery
- Facsimile (208) 344-7077

Joseph D. McCollum, Jr.  
Hawley Troxell Ennis & Hawley LLP  
877 W. Main St., Ste. 1000  
PO Box 1617  
Boise, ID 83701-1617


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Moffatt Thomas Barrett Rock &  
Fields Chartered  
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1412 W. Idaho Street, Suite 200  
PO Box 739  
Boise, ID 83701-0739

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Byron V. Foster

ORIGINAL

David E. Comstock  
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Facsimile: (208) 344-7721  
ISB #: 2760

Attorneys for Plaintiffs

**FILED**  
A.M. 12:40 P.M.

JUN 09 2008

CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO FOR THE COUNTY OF CANYON COUNTY

JOSE AGUILAR, individually, as the Personal )  
Representative of the Estate of Maria A. Aguilar, )  
deceased, and as the natural father and )  
guardian of GUADALUPE MARIA AGUILAR, )  
ALEJANDRO AGUILAR, and LORENA )  
AGUILAR, minors, and JOSE AGUILAR, JR., )  
heirs of Maria A. Aguilar, deceased, )  
Plaintiffs, )

Case No. CV 05-5781

**NOTICE OF SERVICE OF  
DISCOVERY DOCUMENTS**

v. )

ANDREW CHAI, M.D., STEVEN R. NEWMAN, )  
M.D., NATHAN COONROD, M.D., MITCHELL )  
LONG, D.O., and PRIMARY HEALTH CARE )  
CENTER, an Idaho corporation, JOHN and )  
JANE DOES I through X, employees of one or )  
more of the Defendants, )  
Defendants. )

NOTICE IS HEREBY GIVEN that on the 5 day of June, 2008, *Plaintiff's Supplemental Answers to Defendant Steven R. Newman, M.D.'s First Set of Interrogatories* was served upon Defendants, along with a copy of this *Notice of Service of Discovery Documents*, by the method indicated below, to:

Andrew C. Brassey, Esq.  
Brassey Wetherell Crawford &  
Garrett LLP  
203 W. Main St.  
Boise, ID 83702  
***Attorneys for Defendant Andrew Chai,  
M.D.***

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Hawley Troxell Ennis & Hawley LLP  
877 W. Main St., Ste. 1000  
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***Attorneys for Defendants Nathan  
Coonrod, M.D. and Primary Health Care  
Center***

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Gary T. Dance  
Moffatt Thomas Barrett Rock &  
Fields Chartered  
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PO Box 817  
Pocatello ID 83204-0817  
***Attorneys for Defendant Steven R.  
Newman, M.D.***

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 Hand Delivery  
 Facsimile (208) 232-0150

James B. Lynch  
Lynch & Associates, PLLC  
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Boise, ID 83701-0739  
***Attorneys for Defendant Mitchell Long,  
D.O.***

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Byron V. Foster

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ISB #: 2760

Attorneys for Plaintiffs

**FILED**  
A.M. 2:50 P.M.

JUN 09 2008

CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO FOR THE COUNTY OF CANYON COUNTY

JOSE AGUILAR, individually, as the Personal  
Representative of the Estate of Maria A. Aguilar,  
deceased, and as the natural father and  
guardian of GUADALUPE MARIA AGUILAR,  
ALEJANDRO AGUILAR, and LORENA  
AGUILAR, minors, and JOSE AGUILAR, JR.,  
heirs of Maria A. Aguilar, deceased,

Plaintiffs,

v.

ANDREW CHAI, M.D., STEVEN R. NEWMAN,  
M.D., NATHAN COONROD, M.D., MITCHELL  
LONG, D.O., and PRIMARY HEALTH CARE  
CENTER, an Idaho corporation, JOHN and  
JANE DOES I through X, employees of one or  
more of the Defendants,

Defendants.

Case No. CV 05-5781

**NOTICE OF SERVICE OF  
DISCOVERY DOCUMENTS**

NOTICE IS HEREBY GIVEN that on the 5 day of June, 2008, *Plaintiffs' Supplemental Answers and Responses to Defendant Andrew Chai, M.D.'s First Set of Interrogatories and Requests for Production* were served upon Defendants, along with a copy of this *Notice of Service of Discovery Documents*, by the method indicated below, to:

Andrew C. Brassey, Esq.  
Brassey Wetherell Crawford &  
Garrett LLP  
203 W. Main St.  
Boise, ID 83702  
***Attorneys for Defendant Andrew Chai,  
M.D.***

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 Facsimile (208) 344-7077

Joseph D. McCollum, Jr.  
Hawley Troxell Ennis & Hawley LLP  
877 W. Main St., Ste. 1000  
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Boise, ID 83701-1617  
***Attorneys for Defendants Nathan  
Coonrod, M.D. and Primary Health Care  
Center***

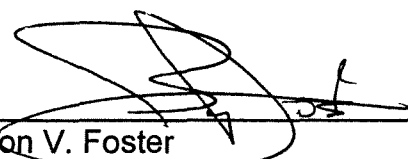
U.S. Mail  
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Gary T. Dance  
Moffatt Thomas Barrett Rock &  
Fields Chartered  
412 W. Center, Suite 2000  
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Pocatello ID 83204-0817  
***Attorneys for Defendant Steven R.  
Newman, M.D.***

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 Facsimile (208) 232-0150

James B. Lynch  
Lynch & Associates, PLLC  
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PO Box 739  
Boise, ID 83701-0739  
***Attorneys for Defendant Mitchell Long,  
D.O.***

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 Hand Delivery  
 Facsimile (208) 331-0088

  
Byron V. Foster

FILED  
11:30 A.M. JUN 13 2008 P.M.

JUN 13 2008

CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

Jose Aguilar et al.

Plaintiff(s):

AFFIDAVIT OF SERVICE

vs.

Case Number: CV 05 5781

Andrew Chai, M.D. et al.

Defendant(s):

For:  
HAWLEY TROXELL ENNIS & HAWLEY LLP  
877 Main Street, Suite 1000  
Boise, ID 83702

STATE OF IDAHO )  
 ) :ss  
COUNTY OF ADA )

Received by TRI-COUNTY PROCESS SERVING on June 5, 2008 to be served on **WEST VALLEY MEDICAL CENTER.**

I, Mike Ridgeway, who being duly sworn, depose and say that on Monday, June 9, 2008, at 4:30 PM, I:

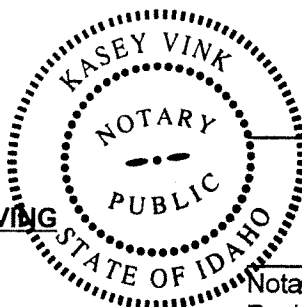
**SERVED** the within named **West Valley Medical Center** by delivering a true copy of the **Subpoena Duces Tecum and Letter** to Troy Christensen, Director of Medical Records, a person authorized to accept service on behalf of West Valley Medical Center. Said service was effected at **1717 Arlington Avenue, Caldwell, ID 83605.**

I hereby acknowledge that I am a Process Server in the county in which service was effected. I am over the age of Eighteen years and not a party to the action.

Our Reference Number: 66666

Subscribed and sworn before me today  
Tuesday, June 10, 2008

TRI-COUNTY PROCESS SERVING  
P.O. Box 1224  
Boise, ID, 83701  
(208) 344-4132



*[Handwritten Signature]*  
\_\_\_\_\_  
*[Handwritten Signature]*  
\_\_\_\_\_  
Notary Public for the State of Idaho  
Residing at Nampa, Idaho  
My Commission Expires on March 7th, 2014

Joseph D. McCollum, Jr., ISB No. 1299  
 Andrea Julian, ISB No. 7175  
 HAWLEY TROXELL ENNIS & HAWLEY LLP  
 877 Main Street, Suite 1000  
 P.O. Box 1617  
 Boise, ID 83701-1617  
 Telephone: (208) 344-6000  
 Facsimile: (208) 342-3829  
 Email: jdm@hteh.com  
 ajul@hteh.com

Attorneys for Defendants Nathan Coonrod, M.D.  
 and Primary Health Care Center

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

JOSE AGUILAR, individually, as the )  
 Personal Representative of the Estate of )  
 Maria A. Aguilar, deceased, and as the )  
 natural father and guardian of ALEJANDRO )  
 AGUILAR, LORENA AGUILAR, minors, )  
 GUADALUPE MARIA AGUILAR and )  
 JOSE AGUILAR, JR., heirs of Maria A. )  
 Aguilar, deceased, )

Plaintiffs, )

vs. )

ANDREW CHAI, M.D., STEVEN R. )  
 NEWMAN, M.D., NATHAN COONROD, )  
 M.D., MITCHELL LONG, D.O., and )  
 PRIMARY HEALTH CARE CENTER, an )  
 Idaho corporation, JOHN and JANE DOES I )  
 through X, employees of one or more of the )  
 Defendants, )

Defendants. )

Case No. CV 05 5781

SUBPOENA DUCES TECUM OF  
 WEST VALLEY MEDICAL CENTER



THE STATE OF IDAHO TO:

**Records Custodian  
West Valley Medical Center  
1717 Arlington Avenue  
Caldwell, ID 83605-4864**

YOU ARE COMMANDED:

to appear in the Court at the place, date and time specified below to testify in the above case.

to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

to produce or permit inspection and copying of the following documents or objects, including electronically stored information, at the place, date and time specified below.

**1. The originals or true and correct copies of all medical records and information in your possession concerning the care and treatment of Maria A. Aguilar (d.o.b. [REDACTED] MR#: M000191876) during 2003, including, but not limited to an April 26, 2003 ER Admission (Acct#: M01000284889) and a May 31, 2003 ER Admission (Acct#: M01000231714). Said records should include all medical, hospital, radiology and other reports, together with other available data with regard thereto, including medical history, examinations, diagnoses, tests, treatment, consultations and opinions.**

**2. The originals or true and correct copies of all medical billings in your possession concerning the care and treatment of Maria A. Aguilar from April 2003 – June 2003 (inclusive).**

to permit inspection of the following premises at the date and time specified below.

PLACE DATE AND TIME:

**HAWLEY TROXELL ENNIS & HAWLEY LLP  
877 Main Street, Suite 1000  
Boise, ID 83701-1617**

**Monday, July 14, 2008 at 10:00 a.m.**

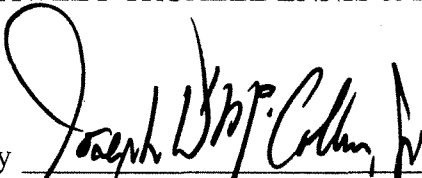
YOU ARE FURTHER NOTIFIED that if you fail to appear at the place and time specified above, or to produce or permit copying or inspection as specified above that you may be held in contempt of court and that the aggrieved party may recover from you the sum of \$100 and all damages which the party may sustain by your failure to comply with this subpoena.

In lieu of appearing at the date and time specified above, you may contact Joseph D. McCollum, Jr. of the law firm Hawley Troxell Ennis & Hawley LLP, 877 Main Street, Suite 1000, P.O.Box 1617, Boise, Idaho 83701, (208) 344-6000, and arrange for pickup or delivery of the identified records prior to July 7, 2008.

BY ORDER OF THE COURT.

DATED THIS 4th day of June, 2008.

HAWLEY TROXELL ENNIS & HAWLEY LLP

By 

Joseph D. McCollum, Jr., ISB No. 1299  
Attorneys for Defendants Nathan Coonrod,  
M.D. and Primary Health Care Center

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4<sup>th</sup> day of June, 2008, I caused to be served a true copy of the foregoing SUBPOENA DUCES TECUM OF WEST VALLEY MEDICAL CENTER by the method indicated below, and addressed to each of the following:

David E. Comstock  
LAW OFFICES OF COMSTOCK & BUSH  
199 N. Capitol Boulevard, Suite 500  
P.O. Box 2774  
Boise, ID 83701-2774  
[Attorneys for Plaintiffs]

U.S. Mail, Postage Prepaid  
 Hand Delivered  
 Overnight Mail  
 E-mail  
 Telecopy

Byron V. Foster  
Attorney at Law  
199 N. Capitol Boulevard, Suite 500  
P.O. Box 1584  
Boise, ID 83701-1584  
[Attorney for Plaintiffs]

U.S. Mail, Postage Prepaid  
 Hand Delivered  
 Overnight Mail  
 E-mail  
 Telecopy

Andrew C. Brassey  
BRASSEY, WETHERELL, CRAWFORD  
& McCURDY LLP  
203 W. Main Street  
Boise, ID 83702

U.S. Mail, Postage Prepaid  
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 Telecopy

Gary T. Dance  
MOFFATT THOMAS BARRETT ROCK  
& FIELDS CHARTERED  
412 W. Center, Suite 2000  
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Pocatello, ID 83204-0817

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 Overnight Mail  
 E-mail  
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James B. Lynch  
LYNCH & ASSOCIATES PLLC  
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Boise, ID 83701-0739

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 Overnight Mail  
 E-mail  
 Telecopy

Raymond D. Powers  
Powers Thomson, PC  
345 Bobwhite Court, Suite 150  
P. O. Box 9756  
Boise, ID 83706

U.S. Mail, Postage Prepaid  
 Hand Delivered  
 Overnight Mail  
 E-mail  
 Telecopy

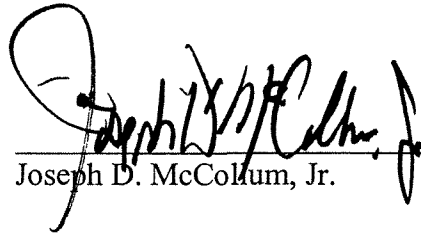
SUBPOENA DUCES TECUM OF  
WEST VALLEY MEDICAL CENTER - 4

Raymond D. Powers  
Hall Farley Oberrecht & Blanton, P.A.  
702 W. Idaho Street, Suite 700  
P.O. Box 1271  
Boise, ID 83701

U.S. Mail, Postage Prepaid  
 Hand Delivered  
 Overnight Mail  
 E-mail  
 Telecopy

QNA Court Reporting  
PMB 219  
111 Broadway, Suite 133  
Boise, ID 83702

U.S. Mail, Postage Prepaid  
 Hand Delivered  
 Overnight Mail  
 E-mail  
 Telecopy



\_\_\_\_\_

Joseph D. McCollum, Jr.

FILED  
H02 A.M. P.M.

JUN 19 2008

CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY

Joseph D. McCollum, Jr., ISB No 1299  
Andrea Julian, ISB No. 7175  
HAWLEY TROXELL ENNIS & HAWLEY LLP  
877 Main Street, Suite 1000  
P.O. Box 1617  
Boise, ID 83701-1617  
Telephone: (208) 344-6000  
Facsimile: (208) 342-3829  
Email: jdm@hteh.com  
ajul@hteh.com

Attorneys for Defendants Nathan Coonrod, M.D.  
and Primary Health, Inc.

 ORIGINAL

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

JOSE AGUILAR, individually, as the )  
Personal Representative of the Estate of )  
Maria A. Aguilar, deceased, and as the )  
natural father and guardian of ALEJANDRO )  
AGUILAR, LORENA AGUILAR, minors, )  
GUADALUPE MARIA AGUILAR and )  
JOSE AGUILAR, JR., heirs of Maria A. )  
Aguilar, deceased, )

Case No. CV 05 5781

NOTICE OF SUBSTITUTION OF  
COUNSEL

Plaintiffs, )

vs. )

ANDREW CHAI, M D., STEVEN R )  
NEWMAN, M.D , NATHAN COONROD, )  
M.D , MITCHELL LONG, D.O., and )  
PRIMARY HEALTH CARE CENTER, an )  
Idaho corporation, JOHN and JANE DOES I )  
through X, employees of one or more of the )  
Defendants, )

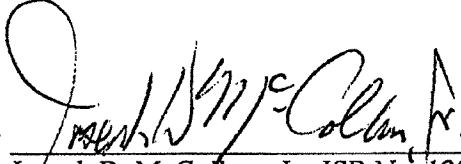
Defendants. )

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD

PLEASE TAKE NOTICE that Steven K. Tolman of the firm of Tolman & Brizee, PC, P O. Box 1276, Twin Falls, Idaho 83303-1276, is hereby substituted as attorney of record for Defendants Nathan Coonrod and Primary Health, Inc , in the above-entitled action, in the place and stead of Joseph D McCollum, Jr., and Andrea Julian of the firm Hawley Troxell Ennis & Hawley, LLP, P.O. Box 1617, Idaho 83701-1617.

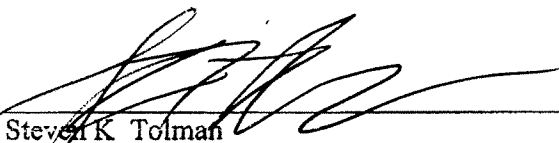
DATED THIS 17<sup>th</sup> day of June, 2008.

HAWLEY TROXELL ENNIS & HAWLEY LLP

By   
Joseph D McCollum, Jr., ISB No. 1299  
Withdrawing Attorney for Defendants Nathan  
Coonrod, M D and Primary Health, Inc.

DATED THIS 18<sup>th</sup> day of June, 2008

TOLMAN & BRIZEE, PC

By   
Steven K. Tolman  
Attorneys for Defendants Nathan Coonrod,  
M.D. and Primary Health, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 18<sup>th</sup> day of June, 2008, I caused a true and correct copy of the foregoing NOTICE OF SUBSTITUTION OF COUNSEL to be served by the method indicated below, to the following:

Andrew C. Brassey  
BRASSEY, WETHERELL, CRAWFORD &  
McCURDY  
203 W. Main St.  
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Boise, ID 83702

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- Hand Delivered
- Facsimile
- Overnight Mail

Byron V. Foster  
Attorney at Law  
199 N. Capitol Blvd., Suite 500  
P.O. Box 1584  
Boise, ID 83701-1584

- First Class Mail
- Hand Delivered
- Facsimile
- Overnight Mail

David E. Comstock  
Law Offices of Comstock & Bush  
199 N. Capitol Blvd., Suite 500  
P.O. Box 2774  
Boise, ID 83701

- First Class Mail
- Hand Delivered
- Facsimile
- Overnight Mail

Gary T. Dance  
MOFFATT THOMAS BARRETT ROCK &  
FIELDS  
412 W. Center, Suite 2000  
P.O. Box 817  
Pocatello, ID 83204-0817

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James B. Lynch  
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1412 W Idaho, Suite 200  
P.O. Box 739  
Boise, ID 83701-0739

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Joseph D. Mccollum, Jr.  
HAWLEY TROXELL ENNIS & HAWLEY  
877 Main Street, Suite 1000  
P.O. box 1617  
Boise, ID 83701-1617

- First Class Mail
- Hand Delivered
- Facsimile
- Overnight Mail

  
STEVEN K. TOLMAN

ORIGINAL

David E. Comstock  
LAW OFFICES OF COMSTOCK & BUSH  
199 N. Capitol Blvd., Ste 500  
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Boise, Idaho 83701-2774  
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ISB #: 2455

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Boise, Idaho 83701  
Telephone: (208) 336-4440  
Facsimile: (208) 344-7721  
ISB #: 2760

Attorneys for Plaintiffs

FILED  
A.M. 1:40 P.M.  
JUN 23 2009  
CANYON COUNTY CLERK  
J HEIDEMAN, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO FOR THE COUNTY OF CANYON COUNTY

JOSE AGUILAR, individually, as the Personal )  
Representative of the Estate of Maria A. Aguilar, )  
deceased, and as the natural father and )  
guardian of GUADALUPE MARIA AGUILAR, )  
ALEJANDRO AGUILAR, and LORENA )  
AGUILAR, minors, and JOSE AGUILAR, JR., )  
heirs of Maria A. Aguilar, deceased, )

Case No. CV 05-5781

**NOTICE OF SERVICE OF  
DISCOVERY DOCUMENTS**

Plaintiffs, )

v. )

ANDREW CHAI, M.D., STEVEN R. NEWMAN, )  
M.D., NATHAN COONROD, M.D., MITCHELL )  
LONG, D.O., and PRIMARY HEALTH CARE )  
CENTER, an Idaho corporation, JOHN and )  
JANE DOES I through X, employees of one or )  
more of the Defendants, )

Defendants. )



NOTICE IS HEREBY GIVEN that on the 20 day of June, 2008, *Plaintiff's Second Supplemental Answers to Defendant Steven R. Newman, M.D.'s First Set of Interrogatories* was served upon Defendants, along with a copy of this *Notice of Service of Discovery Documents*, by the method indicated below, to:

Andrew C. Brassey, Esq.  
Brassey Wetherell Crawford &  
Garrett LLP  
203 W. Main St.  
Boise, ID 83702  
**Attorneys for Defendant Andrew Chai,  
M.D.**

- U.S. Mail
- Hand Delivery
- Facsimile (208) 344-7077

Steven K. Tolman  
Tolman & Brizee, PC  
P.O. Box 1276  
Twin Falls, ID 83303-1276  
**Attorneys for Defendants Nathan  
Coonrod, M.D. and Primary Health Care  
Center**

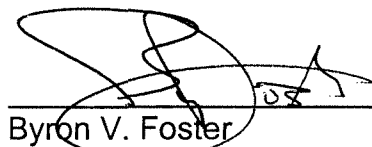
- U.S. Mail
- Hand Delivery
- Facsimile (208) 733-5444

Gary T. Dance  
Moffatt Thomas Barrett Rock &  
Fields Chartered  
412 W. Center, Suite 2000  
PO Box 817  
Pocatello ID 83204-0817  
**Attorneys for Defendant Steven R.  
Newman, M.D.**

- U.S. Mail
- Hand Delivery
- Facsimile (208) 232-0150

James B. Lynch  
Lynch & Associates, PLLC  
1412 W. Idaho Street, Suite 200  
PO Box 739  
Boise, ID 83701-0739  
**Attorneys for Defendant Mitchell Long,  
D.O.**

- U.S. Mail
- Hand Delivery
- Facsimile (208) 331-0088

  
Byron V. Foster

Steven K. Tolman (ISB #1769)  
TOLMAN & BRIZEE, P.C.  
132 3<sup>rd</sup> Avenue East  
P.O. Box 1276  
Twin Falls, Idaho 83303-1276  
Telephone: (208) 733-5566

Attorney for Defendants Nathan Coonrod, MD  
And Primary Health, Inc.

**FILED**  
A.M. 1:57 P.M.  
JUN 24 2008

CANYON COUNTY CLERK  
D. BUTLER, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

**ORIGINAL**

JOSE AGUILAR, individually, as the  
Personal Representative of the Estate of  
Maria A. Aguilar, deceased, and as the  
natural father and guardian of  
GUADALUPE MARIA AGUILAR,  
ALEJANDRO AGUILAR, and LORENA  
AGUILAR, minors, and JOSE AGUILAR,  
JR., heirs of Maria A. Aguilar, deceased,

Plaintiffs,

vs.

ANDREW CHAI, M.D., STEVEN R.  
NEWMAN, M.D., NATHAN COONROD,  
M.D., MITCHELL LONG, D.O., and  
PRIMARY HEALTH CARE CENTER, an  
Idaho corporation, JOHN and JANE  
DOES I through X, employees of one or  
more of the Defendants,

Defendants.

Case No. CV 05-5781

**MOTION FOR STATUS CONFERENCE**

COME NOW the defendants, Nathan Coonrod, MD and Primary Health, Inc., by  
and through their counsel of record, Steven K. Tolman of Tolman & Brizee, P.C., and

move this Court to set a status conference to be held with the Court and all counsel to address and discuss the pretrial deadlines associated with the trial date of April 27, 2009, as well as the deadline of July 1, 2008, for completion of mediation.

This motion is made on the ground and for the reason that Steven K. Tolman has recently substituted as counsel of record for defendants Nathan Coonrod, MD and Primary Health, Inc. Prior to said substitution, the parties, on or about July 5, 2007, entered into a Stipulation for Scheduling and Planning governing the pretrial deadlines for this matter. Trial has recently been rescheduled to commence on April 27, 2009, and defendants respectfully submit that the pretrial deadlines set forth in the Stipulation for Scheduling and Planning should be extended and calendared from the new trial date of April 27, 2009. Defendants believe that with the recent substitution of counsel, a status conference would be beneficial to all parties to address the pretrial deadlines, as well as the upcoming deadline for completion of mediation.

DATED this 23<sup>rd</sup> day of June, 2008.

TOLMAN & BRIZEE, P.C.

BY:

  
\_\_\_\_\_  
Steven K. Tolman

**CERTIFICATE OF SERVICE**

I hereby certify that on this 23<sup>rd</sup> day of June, 2008, I caused a true and correct copy of the foregoing MOTION FOR STATUS CONFERENCE to be served by the method indicated below, to the following:

Andrew C. Brassey  
BRASSEY, WETHERELL, CRAWFORD &  
McCURDY  
203 W. Main St.  
P.O. Box 1009  
Boise, ID 83702

- First Class Mail
- Hand Delivered
- Facsimile
- Overnight Mail

Byron V. Foster  
Attorney at Law  
199 N. Capitol Blvd., Suite 500  
P.O. Box 1584  
Boise, ID 83701-1584

- First Class Mail
- Hand Delivered
- Facsimile
- Overnight Mail

David E. Comstock  
LAW OFFICES OF COMSTOCK & BUSH  
199 N. Capitol Blvd., Suite 500  
P.O. Box 2774  
Boise, ID 83701

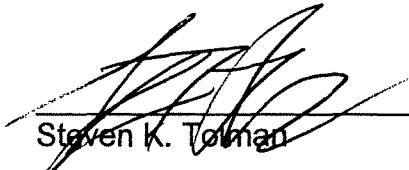
- First Class Mail
- Hand Delivered
- Facsimile
- Overnight Mail

Gary T. Dance  
MOFFATT THOMAS BARRETT ROCK &  
FIELDS  
412 W. Center, Suite 2000  
P.O. Box 817  
Pocatello, ID 83204-0817

- First Class Mail
- Hand Delivered
- Facsimile
- Overnight Mail

James B. Lynch  
LYNCH & ASSOCIATES PLLC  
1412 W Idaho, Suite 200  
P.O. Box 739  
Boise, ID 83701-0739

- First Class Mail
- Hand Delivered
- Facsimile
- Overnight Mail

  
\_\_\_\_\_  
Steven K. Tolman

ORIGINAL

David E. Comstock  
LAW OFFICES OF COMSTOCK & BUSH  
199 N. Capitol Blvd., Ste 500  
P.O. Box 2774  
Boise, Idaho 83701-2774  
Telephone: (208) 344-7700  
Facsimile: (208) 344-7721  
ISB #: 2455

Byron V. Foster  
Attorney At Law  
199 N. Capitol Blvd., Ste 500  
P.O. Box 1584  
Boise, Idaho 83701  
Telephone: (208) 336-4440  
Facsimile: (208) 344-7721  
ISB #: 2760

Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO FOR THE COUNTY OF CANYON COUNTY

JOSE AGUILAR, individually, as the Personal  
Representative of the Estate of Maria A. Aguilar,  
deceased, and as the natural father and guardian of  
GUADALUPE MARIA AGUILAR, ALEJANDRO  
AGUILAR, and LORENA AGUILAR, minors, and  
JOSE AGUILAR, JR., heirs of Maria A. Aguilar,  
deceased,

Plaintiffs,

v.

ANDREW CHAI, M.D., STEVEN R. NEWMAN, M.D.,  
NATHAN COONROD, M.D., MITCHELL LONG,  
D.O., COLUMBIA WEST VALLEY MEDICAL  
CENTER, an Idaho corporation, MERCY MEDICAL  
CENTER, an Idaho corporation, and PRIMARY  
HEALTH CARE CENTER, an Idaho corporation,  
JOHN and JANE DOES I through X, employees of  
one or more of the Defendants,

Defendants.

FILED  
A.M. 10:30 P.M.

JUN 30 2008

CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY

Case No. CV 05-5781

**PLAINTIFFS' RESPONSE TO  
MOTION FOR STATUS  
CONFERENCE**

COME NOW the Plaintiffs, by and through their attorneys of record, Comstock and Bush, and Byron V. Foster, Attorney at Law, and hereby respond to Defendant Coonrod's Motion for Status Conference.

Plaintiffs agree that the Court should set a new deadline for Mediation due to the substitution of counsel. However, Plaintiffs object to the extension of any deadlines which would have the effect of allowing Defendant Coonrod additional time to name expert witnesses. All parties have been continuously represented by competent counsel. All parties have acted pursuant to the Court's scheduling deadlines. To now allow Defendant another opportunity to name additional or different expert witnesses would prejudice Plaintiffs, add unnecessary delay and expense to the litigation and, in effect, give Defendant Coonrod a "do over." Such is not contemplated by the Idaho Rules of Civil Procedure and would result in an unfair and unjust advantage to Defendant Coonrod to the prejudice of Plaintiffs.

RESPECTFULLY SUBMITTED This 27 day of June, 2008.



Byron V. Foster  
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on the 27 day of June, 2008, I served a true and correct copy of the above and foregoing instrument, by method indicated below, upon:

Andrew C. Brassey, Esq.  
Brassey Wetherell Crawford &  
Garrett LLP  
203 W. Main St.  
Boise, ID 83702  
*Attorneys for Defendant Andrew Chai,  
M.D.*

- U.S. Mail
- Hand Delivery
- Facsimile (208) 344-7077

Steven K. Tolman  
Tolman & Brizee, PC  
Hawley Troxell Ennis & Hawley LLP  
132 3<sup>rd</sup> Ave. E  
P.O. Box 1276  
Twin Falls, ID 83303  
*Attorneys for Defendants Nathan  
Coonrod, M.D. and Primary Health Care  
Center*

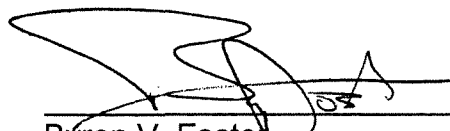
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Gary T. Dance  
Moffatt Thomas Barrett Rock &  
Fields Chartered  
412 W. Center, Suite 2000  
PO Box 817  
Pocatello ID 83204-0817  
*Attorneys for Defendant Steven R.  
Newman, M.D.*

- U.S. Mail
- Hand Delivery
- Facsimile (208) 232-0150

James B. Lynch  
Lynch & Associates, PLLC  
1412 W. Idaho Street, Suite 200  
PO Box 739  
Boise, ID 83701-0739  
*Attorneys for Defendant Mitchell Long,  
D.O.*

- U.S. Mail
- Hand Delivery
- Facsimile (208) 331-0088

  
\_\_\_\_\_  
Byron V. Foster

Steven K. Tolman (ISB #1769)  
TOLMAN & BRIZEE, P.C.  
132 3<sup>rd</sup> Avenue East  
P.O. Box 1276  
Twin Falls, Idaho 83303-1276  
Telephone: (208) 733-5566

Attorney for Defendants Nathan Coonrod, MD  
and Primary Health

**FILED**  
11:00 A.M. P.M.

JUL 01 2008

CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

**ORIGINAL**

JOSE AGUILAR, individually, as the  
Personal Representative of the Estate of  
Maria A. Aguilar, deceased, and as the  
natural father and guardian of  
GUADALUPE MARIA AGUILAR,  
ALEJANDRO AGUILAR, and LORENA  
AGUILAR, minors, and JOSE AGUILAR,  
JR., heirs of Maria A. Aguilar, deceased,

Plaintiffs,

vs.

ANDREW CHAI, M.D., STEVEN R.  
NEWMAN, M.D., NATHAN COONROD,  
M.D., MITCHELL LONG, D.O., and  
PRIMARY HEALTH CARE CENTER, an  
Idaho corporation, JOHN and JANE  
DOES I through X, employees of one or  
more of the Defendants,

Defendants.

Case No. CV 05-5781

**NOTICE OF HEARING FOR STATUS  
CONFERENCE**

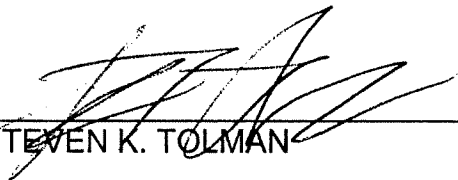
TO: The above-named parties and their attorney of record:



YOU WILL PLEASE TAKE NOTICE that a status conference with Judge Culet will be held in this matter on Tuesday, the 15<sup>th</sup> day of July, 2008, at 8:30 o'clock a.m., or as soon thereafter as counsel can be heard. Said status conference will be held via telephone conference, with counsel for defendants Dr. Coonrod and Primary Health to initiate the call.

DATED this 20 day of July, 2008.

TOLMAN & BRIZEE, P.C.

BY:   
STEVEN K. TOLMAN

**CERTIFICATE OF SERVICE**

I hereby certify that on this 20 day of July, 2008, I caused a true and correct copy of the foregoing NOTICE OF HEARING FOR STATUS CONFERENCE to be served by the method indicated below, to the following:

Andrew C. Brassey  
BRASSEY, WETHERELL, CRAWFORD &  
McCURDY  
203 W. Main St.  
P.O. Box 1009  
Boise, ID 83702

- First Class Mail
- Hand Delivered
- Facsimile
- Overnight Mail

Byron V. Foster  
Attorney at Law  
199 N. Capitol Blvd., Suite 500  
P.O. Box 1584  
Boise, ID 83701-1584

- First Class Mail
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- Facsimile
- Overnight Mail

David E. Comstock  
Law Offices of Comstock & Bush  
199 N. Capitol Blvd., Suite 500  
P.O. Box 2774  
Boise, ID 83701


- First Class Mail
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P.O. Box 739  
Boise, ID 83701-0739

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- Hand Delivered
- Facsimile
- Overnight Mail



---

STEVEN K. TOLMAN

Steven-K. Tolman (ISB #1769)  
TOLMAN & BRIZEE, P.C.  
132 3<sup>rd</sup> Avenue East  
P.O. Box 1276  
Twin Falls, Idaho 83303-1276  
Telephone: (208) 733-5566

Attorney for Defendants Nathan Coonrod, MD  
and Primary Health

*collet*  
**FILED**  
A.M. 4:00 P.M.

**JUL 21 2008**

**CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY**

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

**ORIGINAL**

JOSE AGUILAR, individually, as the  
Personal Representative of the Estate of  
Maria A. Aguilar, deceased, and as the  
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AGUILAR, minors, and JOSE AGUILAR,  
JR., heirs of Maria A. Aguilar, deceased,

Plaintiffs,

Vs.

ANDREW CHAI, M.D., STEVEN R.  
NEWMAN, M.D., NATHAN COONROD,  
M.D., MITCHELL LONG, D.O., and  
PRIMARY HEALTH CARE CENTER, an  
Idaho corporation, JOHN and JANE  
DOES I through X, employees of one or  
more of the Defendants,

Defendants.

Case No. CV 05-5781

**ORDER REGARDING MOTION FOR  
STATUS CONFERENCE AND  
PRETRIAL DEADLINES**

This matter, having come before the Court, upon defendants Nathan Coonrod,  
M.D.'s and Primary Health Care Center's, Motion for Status Conference, and the Court

having reviewed the response filed by plaintiffs and having heard the argument of counsel, and good cause appearing therefore,

IT IS HEREBY ORDERED AS FOLLOWS:

All counsel in this case are directed to arrive at a new stipulation for scheduling relative to pretrial deadlines. This is to be done and submitted to the Court within 14 days. If no stipulation can be reached between the parties then this Motion may be re-noticed by any party to this action for final determination by this Court.

DATED this 21 day of July, 2008.



HONORABLE GREGORY M. CULET  
District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on this 21 day of July, 2008, I caused a true and correct copy of the foregoing ORDER REGARDING MOTION FOR STATUS CONFERENCE AND PRETRIAL DEADLINES to be served by the method indicated below, to the following:

Andrew C. Brassey  
Brassey, Wetherell, Crawford & McCurdy  
203 W. Main St.  
P.O. Box 1009  
Boise, ID 83702

- First Class Mail
- Hand Delivered
- Facsimile
- Overnight Mail

Byron V. Foster  
Attorney at Law  
199 N. Capitol Blvd., Suite 500  
P.O. Box 1584  
Boise, ID 83701-1584

- First Class Mail
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Law Offices of Comstock & Bush  
199 N. Capitol Blvd., Suite 500  
P.O. Box 2774  
Boise, ID 83701

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Moffatt Thomas Barrett Rock & Fields  
412 W. Center, Suite 2000  
P.O. Box 817  
Pocatello, ID 83204-0817

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James B. Lynch  
Lynch & Associates PLLC  
1412 W Idaho, Suite 200  
P.O. Box 739  
Boise, ID 83701-0739

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- Overnight Mail

Steven K. Tolman  
Tolman & Brizee, P.C.  
P.O. Box 1276  
Twin Falls, ID 83303-1276

- First Class Mail
- Hand Delivered
- Facsimile
- Overnight Mail

  
\_\_\_\_\_  
CLERK OF THE COURT

Steven K. Tolman (ISB #1769)  
TOLMAN & BRIZEE, P.C.  
132 3<sup>rd</sup> Avenue East  
P.O. Box 1276  
Twin Falls, Idaho 83303-1276  
Telephone: (208) 733-5566

3-30 Court  
FILED  
1230

JUL 24 2008

CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY

**ORIGINAL**

Attorney for Defendants Nathan Coonrod, MD  
and Primary Health

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

JOSE AGUILAR, individually, as the  
Personal Representative of the Estate of  
Maria A. Aguilar, deceased, and as the  
natural father and guardian of  
GUADALUPE MARIA AGUILAR,  
ALEJANDRO AGUILAR, and LORENA  
AGUILAR, minors, and JOSE AGUILAR,  
JR., heirs of Maria A. Aguilar, deceased,

Plaintiffs,

Vs.

ANDREW CHAI, M.D., STEVEN R.  
NEWMAN, M.D., NATHAN COONROD,  
M.D., MITCHELL LONG, D.O., and  
PRIMARY HEALTH CARE CENTER, an  
Idaho corporation, JOHN and JANE  
DOES I through X, employees of one or  
more of the Defendants,

Defendants.

Case No. CV 05-5781

**AMENDED STIPULATION FOR  
SCHEDULING AND PLANNING**

COME NOW the parties, by and through their respective counsel of record,  
David Comstock and Byron Foster for plaintiffs, Gary T. Dance for defendant Steven

Newman, M.D., James B. Lynch for defendant Mitchell Long, D.O., Andrew C. Brassey for defendant Andrew Chai, M.D., and Steven K. Tolman for defendants Nathan Coonrod, M.D. and Primary Health Care Center, and stipulate to the following scheduling deadlines:

**A. Trial**

Trial has been scheduled to begin on April 27, 2009.

**B. Joinder of Parties**

The deadline for filing a motion to join parties is December 1, 2008.

**C. Discovery Deadline**

Discovery shall be completed by all parties by March 1, 2009.

**D. Motions for Summary Judgment**

1. All motions for summary judgment must be filed by January 1, 2009.

2. No hearing on any summary judgment will be permitted after March 1, 2009.

**E. Non-dispositive Pretrial Motions**

1. December 15, 2008, is the last day to file a motion to amend the claims between existing parties to the lawsuit, including to add a claim for punitive damages. No hearing on a motion to amend the claims between existing parties to the lawsuit, including to add a claim for punitive damages, will be permitted after March 1, 2009.

2. All other non-dispositive pre-trial motions (including, but not limited to motions in limine) must be filed and scheduled for hearing by April 1, 2009. Exceptions will be granted infrequently, and only when justice so requires.

**F. Expert Witnesses**

**(Plaintiffs' experts)**

1. Plaintiffs shall disclose each person plaintiffs intend to call as an expert witness at trial and state the subject matter on which the witness is expected to testify on or before September 1, 2008.

2. Plaintiffs shall disclose all information required by Rule 26(b)(4) of the Idaho Rules of Civil Procedure regarding expert witnesses on or before September 1, 2008.

**(Defendants' experts)**

1. Defendants shall disclose each person defendants intend to call as an expert witness at trial and state the subject matter on which the witness is expected to testify on or before October 15, 2008.

2. Defendants shall disclose all information required by Rule 26(b)(4) of the Idaho Rules of Civil Procedure regarding expert witnesses on or before October 15, 2008.

**(Plaintiffs' rebuttal experts)**

1. Plaintiffs shall disclose each person plaintiffs intend to call as an expert witness at trial to rebut new information or issues disclosed or raised by the defendants on or before November 15, 2008.

2. Plaintiffs shall disclose all information required by Rule 26(b)(4) of the Idaho Rules of Civil Procedure regarding the rebuttal expert witnesses on or before November 15, 2008.



**G. Deadline for Initiating Discovery**

The last day for serving interrogatories, requests for production, requests to permit entry upon land or other property, and requests for admission is February 1, 2009.

**H. Deadline for Supplemental Responses to Discovery**

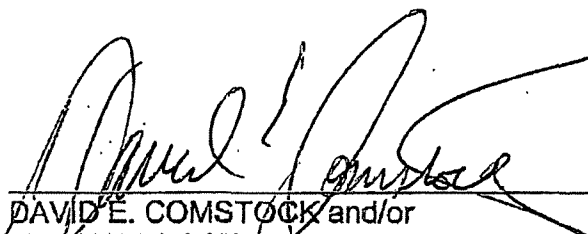
All parties must serve any supplemental response to discovery required by Rule 26(e) of the Idaho Rules of Civil Procedure on or before March 1, 2009.

**I. Mediation**

Mediation shall occur on or before December 1, 2008.

It is further stipulated that the parties may alter any discovery deadline by written agreement without the necessity of obtaining a court order. The parties reserve the right to amend this stipulation by agreement by all parties, and each party reserves the right to seek amendment hereof by court order in accordance with I.R.C.P. 16(a) and 16(b).

DATED: 7/17/08

  
\_\_\_\_\_  
DAVID E. COMSTOCK and/or  
BYRON V. FOSTER  
Attorneys for Plaintiffs

DATED: \_\_\_\_\_

\_\_\_\_\_  
GARY T. DANCE  
Attorneys for Defendant Newman

DATED: \_\_\_\_\_

\_\_\_\_\_  
JAMES B. LYNCH  
Attorneys for Defendant Long

**G. Deadline for Initiating Discovery**

The last day for serving interrogatories, requests for production, requests to permit entry upon land or other property, and requests for admission is February 1, 2009.

**H. Deadline for Supplemental Responses to Discovery**

All parties must serve any supplemental response to discovery required by Rule 26(e) of the Idaho Rules of Civil Procedure on or before March 1, 2009.

**I. Mediation**


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DATED: \_\_\_\_\_

\_\_\_\_\_  
DAVID E. COMSTOCK and/or  
BYRON V. FOSTER  
Attorneys for Plaintiffs

DATED: July 16, 2008

  
\_\_\_\_\_  
GARY T. DANCE  
Attorneys for Defendant Newman

DATED: \_\_\_\_\_

\_\_\_\_\_  
JAMES B. LYNCH  
Attorneys for Defendant Long

**G. Deadline for Initiating Discovery**

The last day for serving interrogatories, requests for production, requests to permit entry upon land or other property, and requests for admission is February 1, 2009.

**H. Deadline for Supplemental Responses to Discovery**

All parties must serve any supplemental response to discovery required by Rule 26(e) of the Idaho Rules of Civil Procedure on or before March 1, 2009.

**I. Mediation**

Mediation shall occur on or before December 1, 2008.

It is further stipulated that the parties may alter any discovery deadline by written agreement without the necessity of obtaining a court order. The parties reserve the right to amend this stipulation by agreement by all parties, and each party reserves the right to seek amendment hereof by court order in accordance with I.R.C.P. 16(a) and 16(b).

DATED: \_\_\_\_\_

\_\_\_\_\_  
DAVID E. COMSTOCK and/or  
BYRON V. FOSTER  
Attorneys for Plaintiffs


DATED: \_\_\_\_\_

\_\_\_\_\_  
GARY T. DANCE  
Attorneys for Defendant Newman

DATED: 7/108

James B Lynch  
\_\_\_\_\_  
JAMES B. LYNCH  
Attorneys for Defendant Long

DATED: 7.22.08

  
\_\_\_\_\_  
ANDREW C. BRASSEY  
Attorneys for Defendant Chai


DATED: \_\_\_\_\_

\_\_\_\_\_  
STEVEN K. TOLMAN  
Attorneys for Defendants Coonrod and  
Primary Health

DATED: \_\_\_\_\_

\_\_\_\_\_  
ANDREW C. BRASSEY  
Attorneys for Defendant Chai

DATED: 7-22-08

  
\_\_\_\_\_  
STEVEN K. TOLMAN  
Attorneys for Defendants Coonrod and  
Primary Health

Steven K. Tolman (ISB #1769)  
TOLMAN & BRIZEE, P.C.  
132 3<sup>rd</sup> Avenue East  
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**FILED**  
A.M. 1:15 P.M.

**AUG 01 2008**

**CANYON COUNTY CLERK  
T. CRAWFORD, DEPUTY**

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

**ORIGINAL**

JOSE AGUILAR, individually, as the  
Personal Representative of the Estate of  
Maria A. Aguilar, deceased, and as the  
natural father and guardian of  
GUADALUPE MARIA AGUILAR,  
ALEJANDRO AGUILAR, and LORENA  
AGUILAR, minors, and JOSE AGUILAR,  
JR., heirs of Maria A. Aguilar, deceased,

Plaintiffs,

vs.

ANDREW CHAI, M.D., STEVEN R.  
NEWMAN, M.D., NATHAN COONROD,  
M.D., MITCHELL LONG, D.O., and  
PRIMARY HEALTH CARE CENTER, an  
Idaho corporation, JOHN and JANE  
DOES I through X, employees of one or  
more of the Defendants,

Defendants.

Case No. CV 05-5781

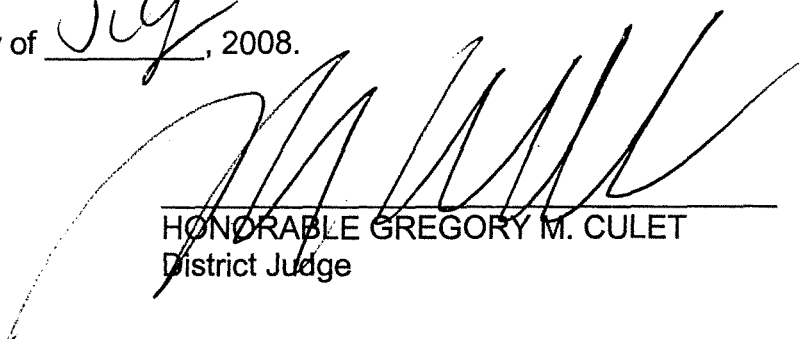
**ORDER ADOPTING AMENDED  
STIPULATION FOR SCHEDULING AND  
PLANNING**

This matter, having come upon Stipulation of the parties hereto, and good cause  
appearing therefore,

IT IS HEREBY ORDERED and this does ORDER that the Amended Stipulation for Scheduling and Planning entered into between the parties and filed with the Court on the 24<sup>th</sup> day of July, 2008, is hereby ADOPTED.

IT IS FURTHER ORDERED that the parties may amend the stipulation either by agreement of all parties or by Court order.

DATED this 31 day of July, 2008.



HONORABLE GREGORY M. CULET  
District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on this 15<sup>th</sup> day of August, 2008, I caused a true and correct copy of the foregoing ORDER ADOPTING AMENDED STIPULATION FOR SCHEDULING AND PLANNING to be served by the method indicated below, to the following:

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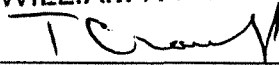
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WILLIAM H HURST  
  
\_\_\_\_\_  
CLERK OF THE COURT



F I L E D  
A.M. 2:00 P.M.

SEP 02 2008

CANYON COUNTY CLERK  
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Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO FOR THE COUNTY OF CANYON

JOSE AGUILAR, individually, as the Personal )  
Representative of the Estate of Maria A. Aguilar, )  
deceased, and as the natural father and )  
guardian of GUADALUPE MARIA AGUILAR, )  
ALEJANDRO AGUILAR, and LORENA )  
AGUILAR, minors, and JOSE AGUILAR, JR., )  
heirs of Maria A. Aguilar, deceased, )

Case No. CV 05-5781

Plaintiffs, )

**PLAINTIFFS' SEVENTH  
SUPPLEMENTAL EXPERT  
WITNESS DISCLOSURE**

v. )

ANDREW CHAI, M.D., STEVEN R. NEWMAN, )  
M.D., NATHAN COONROD, M.D., MITCHELL )  
LONG, D.O., and PRIMARY HEALTH CARE )  
CENTER, an Idaho corporation, JOHN and )  
JANE DOES I through X, employees of one or )  
more of the Defendants, )

Defendants. )

COME NOW Plaintiffs, by and through their attorneys of record, David E. Comstock, of Comstock & Bush, and Byron V. Foster, Attorney at Law, and pursuant to the Court's Scheduling Order and in accordance with I.R.C.P. 26, hereby supplement their list of expert witnesses to be called at the trial of this case:

1. **Paul Blaylock M.D., FACEP**  
**Samuel LeBaron, M.D., Ph.D.**  
**Dean Lapinel, M.D.**  
**Richard Lubman, M.D.**  
**Daniel C. Brown, M.D.**

With regard to all of Plaintiffs' expert witnesses, Drs. Blaylock, LeBaron, Lapinel Lubman and Brown, their deposition testimony should serve as additional supplementation to their expert witness disclosures. In the event the deposition of Dr. Lapinel is completed at some point after the disclosure deadline, that testimony will also serve to supplement his previously expressed opinions. The same is true should Defendants choose to depose Plaintiffs' economist, Cornelius Hofman. Any deposition testimony rendered by him will serve to supplement his previously expressed opinions.

2. **Richard Lubman, M.D.**

Specifically with regard to the opinions expressed by Richard Lubman, M.D., Plaintiffs make the following supplemental disclosure:

In his deposition, at pages 40 and 41, the following exchange took place:

"Q. By—if you assume that the pathologist in autopsy opened her up, saw the pulmonary embolus, said that's the cause of death, and saw nothing more, can you necessarily assume that there were a whole bunch of other small emboli prior to that time in this particular case?"

A. I don't think you can, you know, assume anything. I'll tell you from a clinical point of view, reading through her records it sounds that way. But the autopsy is the autopsy. They looked at what they looked at. They opened her up, they saw a saddle embolus, and I guess they said that's it. Certainly, that was the cause of death, or almost without a doubt, her cause of death.

Q. Mm-hmm.

A. But whether or not she had other emboli at other times, they don't say and you can only speculate about."

Dr. Lubman wishes to clarify his statements above from his deposition. When he testified that whether or not Mrs. Aguilar had other emboli at other times, "you could only speculate about," he was speaking of the fact that the autopsy does not set forth any evidence of small, sub-lethal events having occurred in the past. This is because the autopsy was a cause of death only autopsy, not a full autopsy. In his previous answer, Dr. Lubman had indicated that from a clinical point of view, it appears that the signs and symptoms which Mrs. Aguilar exhibited at various times indicated she was having sub-lethal emboli at various points in time. Her complaints during the time period she was being treated by Defendants in April, May and June of 2003, portray a patient who was suffering small embolic events which caused various transient and/or episodic signs and symptoms. Dr. Lubman is of the opinion that there is no other logical explanation for those episodes other than the occurrence of multiple sub-lethal embolic events. While it may be conjecture to opine whether the autopsy would have given evidence of these occurrences, it is more probable than not that that was, in fact, what was occurring to cause Mrs. Aguilar's medical conditions of which she complained during the above time period.

The autopsy merely provided the conclusion that the ultimate cause of death was a saddle embolus. It provided no conclusion regarding the existence of other, sub-lethal emboli.

**3. Dean Lapinel, M.D.**

**Opinions of Dean Lapinel, M.D.**

The following opinions, which Dr. Lapinel developed while re-reviewing Defendants' depositions on May 27, 2008, were to be the subject of the completion of Dr. Lapinel's deposition which has yet to be rescheduled.

**a. Dr. Newman's Deposition Notes**

Page 9 of Dr. Newman's deposition discussed the fact that Dr. Newman rotated through an ER clinical teaching program that emphasized family practice not Emergency Medicine. Dr Newman is not trained in the field of Emergency medicine

Page 30 discussed but I would also like to point out that the computer program evaluates abnormalities beyond just the rhythm.

On pages 33 and 34, Dr. Newman is asked "To what do you attribute the low CO2? The answer was "Some mild dehydration."

The serum Bicarb or "CO2" is not an indicator of hydration status at all. The CO2 can be high or low or normal in dehydration. The more simple forms of dehydration (such as from vomiting) will usually have a high CO2...something called contraction alkalosis.

The CO2 in the serum is a reflection of an acid base state. In a simplistic manner of explanation, the low CO2 was either related to a metabolic acidosis which the patient didn't appear to have or it could have been depressed from a compensated Respiratory alkalosis. In this patient this abnormality should have been investigated. What would

likely have been found via an ABG was a Respiratory alkalosis with metabolic compensation. Hyperventilation can cause a respiratory alkalosis. Hyperventilation can be caused by panic attacks and many other clinical situations such as hypoxia.

Failure to work up the low serum bicarb (CO2) was negligent behavior that is not considered an acceptable form of practice. If this one lab abnormality had been evaluated as expected, a proper diagnosis of PE would, more probably than not, have been made.

On page 42, Dr. Newman seems to state that he was more concerned with the heart rhythm rather than the evidence of ischemia on the EKG. The reason was "because she had already been worked up for coronary artery disease."

This is a troublesome train of thought since it is common knowledge in the field of medicine that abnormal patterns on the EKG can come from the heart (not just from the coronary artery pathology), Gall bladder, brain (stroke) etc...

The pattern was consistent with right heart strain. One can acquire a right heart strain pattern from pulmonary emboli and this was not evaluated.

Another concern of fact. Answer - "A syncope episode is where someone may feel like they're going to pass out or may fall down...." This statement is incorrect. Syncope occurs when the patient has become unconscious. What Dr. Newman seemed to be describing was pre-syncopal symptoms.

Concerning the consideration of a PE workup, on page 50, Dr. Newman states "It was on my consideration of workup, of things to do."

There is no documentation of this apparent exclusion or decision not to work her up for PE. Excluding a PE, when considered, is an important process since there is such little data that helps with the diagnosis. If the diagnosis is considered then steps need to be

taken and if they are not, then an explanation on the record is required.

**b. Dr. Long Deposition Notes**

On page 16 of Dr. Long's deposition, in response to a question about the transmission of patient information from one Doctor to another -"That would be correct. Because the patient would give you that same information." Dr. Long seems to believe that it is acceptable to neglect information from other sources. This is incorrect. It is the responsibility of a doctor, nurse or clerk to make certain that information about a patient (from whatever source) is available to the treating physician. Conversely, it is the treating physician's vital responsibility to seek out all information that is available (medical records, notes, phone contact, history from family, EMS, nurse's notes and more). To deny this responsibility is a form of negligent medical care.

On page 20, Question – "How important is it to you as an emergency room physician to understand the reasons why the referring physician is referring that patient to you for assessment?" Dr. Long states "I don't find that a particularly important question. I think what is most important is why the patient feels that they're there."

The correct answer to the question is that understanding the reasons why the referring physician is referring that patient to you for assessment is vitally important and a standard of medical practice in any field of medicine. This concept is not controversial.

On page 26, Question – "If you know someone who is in the emergency room with a history of shortness of breath, chest pain, an abnormal EKG, would that be enough for you as an emergency room physician, to be concerned about a pulmonary embolism?" Dr. Long states "You haven't given me enough information to say yes or no..." In my opinion the correct answer is yes, a PE would be considered. Also in the

differential there would be other problems such as an MI, ischemia, pneumonia, pneumothorax, aortic aneurysm and more. The point being that this is enough information to consider a PE and additional information would dictate the management. If no well defined disease process can be found then work up for a PE is mandatory.

In this section Dr. Long also states:

“EKG, unfortunately, gives you no information about whether or not this person has a pulmonary embolism.” This is similar to saying that an EKG offers no information about a myocardial infarction. The EKG does offer clues that can reveal strain patterns that strongly suggest the possibility of a PE in a person with the above symptoms. The EKG can be extremely helpful in guiding the diagnostic course.

On page 31, Dr. Long states the pain was “lower substernal epigastric.” This is apparently something that Dr. Long considers as incompatible with a PE. The location, quality, timing of pain from the PE varies so much that this is another factor that makes the diagnosis difficult. Pain in this location does not exclude the possibility of a PE.

On page 38, Dr. Long is appropriately aware that a chief complaint of chest pain should include a consideration for PE. What the records do not indicate is how this was considered and excluded.

On page 65, Dr. Long states “I know of nothing in the medical literature that says a person, over the period of two months, could be having episodes of clots causing symptoms on a frequent basis.... I know of nothing in the medical literature that says you can have clots symptomatic going on that long.”


This statement is quite revealing. Dr. Long does not have the very basic understanding of this very common and well understood process of chronic showering of

pulmonary emboli. This very pattern is common, well understood and is heavily addressed in the literature. A thrombus has wear and tear from venous flow. This increased friability causes pieces to break off (emboli) over time. There is nothing atypical about this course.

**CAVEAT**

It should be understood that Plaintiffs have made a good faith effort to set forth the substance of the opinions to which the above-named experts will testify. However, it is impossible to specifically set forth every opinion these individuals will express and the exact manner in which those opinions will be expressed. Plaintiffs reserve the right to elicit from the above-named experts, additional testimony and opinions from those individuals based upon information subsequently produced, information gleaned during depositions of Defendants' experts and any subsequent opinions or information developed by the above-named individuals from other sources. As it is anticipated that the Defendants will obtain the deposition testimony of the above-named experts, this expert disclosure should not be assumed to be all inclusive in nature. Plaintiffs also reserve the right to amend, modify, delete from or add to by supplementation, this disclosure as further information is developed through discovery. Plaintiffs also reserve the right to name and call as expert witnesses any individuals identified by any party as expert witnesses and also reserve the right to obtain medical testimony from any other health care provider named or identified during the discovery process.

DATED THIS 2 day of September, 2008.

  
Byron V. Foster  
Attorneys for Plaintiffs



CERTIFICATE OF SERVICE

I hereby certify that on the 2 day of September, 2008, I served a true and correct copy of the above and foregoing instrument, by method indicated below, upon:

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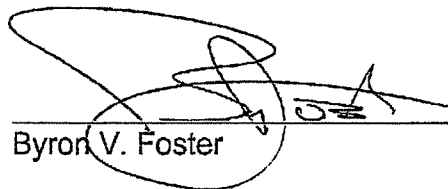
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