

IN THE CIRCUIT COURT OF ADAMS COUNTY, MISSISSIPPI

**JOYCE ENGLAND, INDIVIDUALLY, AND
AS ADMINISTRATRIX OF THE ESTATE
OF GLEN HOWARD, AND ON BEHALF OF
AND FOR THE USE AND BENEFIT OF THE
WRONGFUL DEATH BENEFICIARIES OF
GLEN HOWARD**

PLAINTIFF

VS.

CAUSE NO. 20-KV-0080-S

**NEXION HEALTH AT NATCHEZ, INC.
d/b/a NATCHEZ REHABILITATION AND
HEALTHCARE CENTER, NEXION HEALTH
MANAGEMENT, INC., NEXION HEALTH, INC.,
UNIDENTIFIED ENTITIES 1-10, AND JOHN DOES 1-10
(as to the NATCHEZ HEALTH FACILITY)**

DEFENDANTS

PRE-TRIAL ORDER

1. Counsel.

A. For the Plaintiff:

Name	Postal and Email Addresses	Telephone No.
R. Paul Williams, III Matt Newman Courtney M. Williams	WILLIAMS NEWMAN WILLIAMS, PLLC 129B South President Street Jackson, Mississippi 39201 paul@wnwlegal.com matt@wnwlegal.com courtney@wnwlegal.com	(601) 949-5080

B. For the Defendants:

Name	Postal and Email Addresses	Telephone No.
Rebecca Adelman Kaitlyn E. Tucker	ADELMAN LAW FIRM 647 South Main Street Memphis, Tennessee 38103 rebecca@adelmanfirm.com ktucker@adelmanfirm.com	(901) 529-9313

2. The pleadings are amended to conform to this pre-trial order.

3. The following claims have been filed:

Medical negligence and wrongful death related to the residency of Glen Howard at Natchez Rehabilitation and Healthcare Center.

4. The following motions remain pending:

A. Plaintiff:

None.

B. Defendant:

i. Motion in Limine #1 to Exclude Evidence that Glen Howard had a “Fall” on February 15, 2020 (taken under advisement)

5. Each party separately offers the following concise summaries of the ultimate facts as claimed by:

A. Plaintiff:

On January 10, 2020, Mr. Glen Howard was admitted to Natchez Rehabilitation and Healthcare Center having recently undergone a right below knee amputation and suffering a fall at home. Mr. Howard was admitted to Natchez for short-term rehabilitation and therapy with plans to discharge back to the Natchez community. Upon admission to Natchez, Mr. Howard was 60-years-old and was expected to be able to return home. During his admission to Natchez, Mr. Howard required assistance with activities of daily living due to his recent below knee amputation, lack of coordination, transferring per slide board, muscle weakness, and being unsteady on his feet.

Mr. Howard had two siblings, Joyce England and Brenda Preston, both of whom live in McComb, Mississippi. Mr. Howard and his family were very close and that had been consistent throughout the years. This case concerns Natchez’s egregious failures in the standard of care resulting in Mr. Howard suffering a severe traumatic brain injury, which resulted in his death on March 21, 2020.

Upon admission to Natchez, Mr. Howard was a high fall risk. He had a history of falls prior to admission. He also had the use of anticoagulant medications, a right-leg below knee amputation, lack of coordination, muscle weakness, was unsteady on his feet, and transferred with the use of a slide board. Due to his fall risk, Natchez determined that Mr. Howard required staff assistance with transfers, bed mobility, and other activities of daily living. Mr. Howard remained a high fall risk throughout his residency at Natchez, and never became independent with transfers. Additionally, Mr. Howard had a fall while transferring from the toilet to his wheelchair on January 28, 2020.

Despite these known risk factors, Natchez failed to implement necessary fall and accident prevention interventions (including, but not limited to, failure to provide adequate supervision and

monitoring, failure to assist with transfers, and failure to keep the slide board out of Mr. Howard's reach while in his bed) resulting in Mr. Howard suffering a devastating injury on February 15, 2020.

On February 15, 2020, Mr. Howard informed Natchez staff that he fell back and hit his head on the wall this am while transferring from the bed to wheelchair this morning while trying to get to breakfast. As a result of this head trauma, Mr. Howard had developed a headache and was showing signs of a change in his condition. Accordingly, Natchez transferred Mr. Howard to the hospital for evaluation where he had a CT scan that demonstrated a "large acute subdural hematoma on the left with significant mass effect and impending herniation." Mr. Howard was diagnosed with a "traumatic subdural hemorrhage" (the most common brain injury for someone on blood thinners who has experienced a blow to the head). Mr. Howard remained hospitalized over the next several weeks, ultimately passing away on March 21, 2020 as a result of the "acute subdural hematoma."

Natchez staff failed with regard to maintaining Mr. Howard's safety while a resident at their facility. Natchez failed to provide adequate monitoring and supervision of Mr. Howard and providing him assistance with transfers, which he required pursuant to Natchez's own assessments and Mr. Howard's plan of care. Additionally, Mr. Howard could not transfer himself independently due to his condition and required assistance of Natchez Rehab staff to transfer from his bed to his wheelchair with the use of a slide board. Where Mr. Howard could not safely, independently transfer with the slide board Natchez had an obligation to keep the slide board out of Mr. Howard's reach so that he would not be allowed to place himself in a dangerous position.

As a result of Defendant's failures, Mr. Howard fell back and hit his head on the wall on February 15, 2020 while transferring from his bed to his wheelchair suffering an acute subdural hematoma. Thereafter, Mr. Howard deteriorated clinically and expired on March 21, 2020.

Natchez's records, and the testimony of witnesses, overtly demonstrate breaches in the standard of care regarding the failure to provide necessary fall prevention interventions. The standard of care required Natchez to adequately monitor and supervise Mr. Howard to prevent accidents, to assist Mr. Howard with transfers, and to keep his slide board out of his reach while he was in his bed. Where Natchez's records, and the testimony of witnesses, demonstrate that all necessary fall and accident prevention interventions were not implemented at the time of Mr. Howard's traumatic incident on February 15, 2020, the incident was "avoidable." Mr. Howard died on March 21, 2020 as a result of Natchez's breaches in the standard of care and resultant brain injury.

B. Defendant:

Without affirming Plaintiff's offer of a concise statement of facts, Defendant Natchez Rehabilitation and Healthcare Center ("Natchez Rehabilitation") offers the following concise statement of facts:

This is a medical malpractice claim. Glen Howard ("Mr. Howard") experienced a change in condition involving elevated blood pressure followed by altered mental status on February 15,

2020. Natchez Rehabilitation staff initially treated Mr. Howard's elevated blood pressure per physician orders and clinical correlation, and later contacted Mr. Howard's physician for orders to the hospital for evaluation as Mr. Howard's condition worsened. Mr. Howard was then sent out to the hospital for evaluation of a possible stroke and did not return to Natchez Rehabilitation.

Mr. Howard was transferred from Natchez Rehabilitation to Merit Health Natchez, where he immediately went into evaluation for a stroke. This included undergoing a head CT as soon as he arrived at the hospital and the start of multiple neurologic and physical exams each day. The study showed an acute subdural hematoma. Merit Health Natchez air evacuated Mr. Howard to the University of Mississippi Medical Center for a higher level of neurological and neurosurgical care.

Mr. Howard remained at University of Mississippi Medical Center from February 15, 2020 until March 10, 2020. Multiple neurologic and physical examinations occurred daily during this admission.

At no point in the multiple, daily neurologic and physical examinations conducted at Merit Health Natchez or University of Mississippi Medical Center did healthcare providers identify signs of an external injury or trauma to Mr. Howard's head.

During the first two weeks of the University of Mississippi Medical Center, Mr. Howard's subdural hematoma showed improvement and steadily decreased in size. Mr. Howard self-extubated on February 26, 2020, and requested a transfer to the regular floor. He remained stable until February 29, 2020, when his subdural hematoma began to increase after a round of dialysis and his respiratory and neurological exams subsequently deteriorated. Mr. Howard returned to the Neuro ICU for observation.

Mr. Howard underwent an elective craniotomy to evacuate the subdural hematoma on March 2, 2020. His condition improved and he tolerated step-down care. He was transferred to Select Specialty Hospital in Jackson for long-term acute care on March 10, 2020.

Mr. Howard remained at Select Specialty Hospital until his death on March 21, 2020. He coded and could not be resuscitated. The death certificate states the immediate cause of death as Cardiopulmonary Arrest as a consequence of Subdural Hematoma as a consequence of End Stage Renal Disease on Hemodialysis.

Natchez denies violating or deviating from any applicable standard of care. Natchez denies causing or contributing to the subdural hematoma.

6. The following facts are established by the pleadings, by stipulation, or by admission:
 - A. Glen Howard was admitted to Natchez Rehabilitation and Healthcare Center on January 10, 2020 following a right below-the-knee amputation in December 2019;
 - B. Glen Howard experienced a change in condition on February 15, 2020 while a patient at Natchez Rehabilitation and Healthcare Center;

- C. Natchez Rehabilitation and Healthcare Center staff contacted Glen Howard's attending physician for orders to transfer him to the hospital for emergent evaluation and then facilitated the transfer, including calling for an ambulance and contacting Merit Health Natchez;
 - D. Glen Howard was transferred to Merit Health Natchez for evaluation and diagnosed with a subdural hematoma via a CT scan;
 - E. After diagnosing Glen Howard, Merit Health Natchez facilitated an air-lift transfer to University of Mississippi Medical Center for a higher level of neurological and neurosurgical care;
 - F. Mr. Howard remained at University of Mississippi Medical Center from February 15, 2020 until March 10, 2020.
 - G. Mr. Howard admitted to Select Specialty Hospital for long-term acute care from March 10, 2020 until his death on March 21, 2020.
 - H. Mr. Howard died on March 21, 2020.
7. The contested issues of fact are as follows:
- A. Whether Glen Howard showed improvement in his physical rehabilitation and mobility goals throughout his admission at Natchez Rehabilitation and Healthcare Center;
 - B. The extent to which Glen Howard showed improvement in his physical rehabilitation and mobility goals throughout his admission at Natchez Rehabilitation and Healthcare Center;
 - C. The nature of Glen Howard's change in condition on February 15, 2020;
 - D. Whether Glen Howard experienced a spontaneous subdural hematoma on February 15, 2020;
 - E. Whether Glen Howard actually used a slide board to transfer out of bed on February 15, 2020
 - F. Whether Glen Howard experienced a fall on February 15, 2020;
 - G. Whether Glen Howard fell back and hit his head while transferring from his bed to his wheelchair on February 15, 2020;
 - H. Whether Glen Howard's report of falling back and hitting his head while transferring from his bed to his wheelchair was made through garbled speech, while he was experiencing altered mental status, is reliable;
 - I. Whether Natchez Rehabilitation and Healthcare Center had an obligation to tell EMT personnel that Glen Howard reported falling back and hitting his head that morning;
 - J. Whether Natchez Rehabilitation and Healthcare Center notifying EMT personnel that Glen Howard reported falling back and hitting his head that morning would have changed how subsequent providers documented Glen Howard's diagnoses.
 - K. The nature of Glen Howard's death on March 21, 2020;
 - L. The extent to which Glen Howard's subdural hematoma contributed to his death on March 21, 2020;
 - M. The standards of care applicable to Natchez Rehabilitation and Healthcare Center when treating a patient with conditions similar to Glen Howard on February 15, 2020;

- N. Whether Natchez Rehabilitation and Healthcare Center breached any applicable standard of care with regard to Mr. Howard care and treatment on February 15, 2020;
 - O. Whether Glen Howard's change in condition on February 15, 2020 was caused by anything Natchez Rehabilitation and Healthcare Center did or failed to do;
 - P. Whether Glen Howard's death on March 21, 2020 was caused by negligence on the part of Natchez Rehabilitation and Healthcare Center.
 - Q. Whether Plaintiff has proven by a preponderance of the evidence each and every element necessary to sustain a claim for negligence against Natchez Rehabilitation and Healthcare Center.
 - R. Whether Plaintiff has proven by a preponderance of the evidence the requisite nursing standard of care with which Natchez Rehabilitation and Healthcare Center must have complied in rendering care to Mr. Howard.
 - S. Whether Plaintiff has proven by a preponderance of the evidence that Natchez Rehabilitation and Healthcare Center breached the requisite nursing standard of care when providing care to Mr. Howard.
 - T. Whether Plaintiff has proven by a preponderance of the evidence that a breach in the nursing standard of care by Natchez Rehabilitation and Healthcare Center was the proximate cause of damages sustained by Mr. Howard.
 - U. Whether Plaintiff is entitled to recover monetary damages from Natchez Rehabilitation;
 - V. Whether Plaintiff has met the heightened burden of proof to demonstrate Natchez Rehabilitation and Healthcare Center acted with willful or wanton conduct, gross negligent, or with reckless disregard warranting an award of punitive damages;
 - W. Whether Plaintiff is entitled to recover punitive damages from Natchez Rehabilitation;
 - X. Any of the contested issues of law below that contain contested issues of fact.
8. Each party separately submits that the contested issues of law are as follows:
- A. Plaintiff:
 - i. Whether Plaintiff has established her burden of proof by presenting sufficient evidence of each and every element necessary to sustain a claim for negligence against Natchez Rehabilitation and Healthcare Center.
 - ii. Whether Plaintiff has established by expert testimony the requisite standard of care with which Natchez Rehabilitation and Healthcare Center must have complied in rendering care to Mr. Howard.
 - iii. Whether Plaintiff has satisfied her burden of proof by presenting sufficient evidence for an award of compensatory damages.
 - iv. Whether Plaintiff has satisfied her burden of proof by presenting sufficient evidence for an award of punitive damages.
 - v. Any of the contested and/or stipulated issues of fact listed above which contain issues of law.
 - B. Defendant:

- i. The standards of care applicable to Natchez Rehabilitation and Healthcare Center when treating a patient with conditions similar to Glen Howard on February 15, 2020;
- ii. Whether Natchez Rehabilitation and Healthcare Center breached any applicable standard of care with regard to Mr. Howard care and treatment on February 15, 2020;
- iii. Whether Glen Howard's change in condition on February 15, 2020 was caused by anything Natchez Rehabilitation and Healthcare Center did or failed to do;
- iv. Whether Glen Howard's death on March 21, 2020 was caused by negligence on the part of Natchez Rehabilitation and Healthcare Center.
- v. Whether Plaintiff has proven by a preponderance of the evidence each and every element necessary to sustain a claim for negligence against Natchez Rehabilitation and Healthcare Center.
- vi. Whether Plaintiff has proven by a preponderance of the evidence the requisite nursing standard of care with which Natchez Rehabilitation and Healthcare Center must have complied in rendering care to Mr. Howard.
- vii. Whether Plaintiff has proven by a preponderance of the evidence that Natchez Rehabilitation and Healthcare Center breached the requisite nursing standard of care when providing care to Mr. Howard.
- viii. Whether Plaintiff has proven by a preponderance of the evidence that a breach in the nursing standard of care by Natchez Rehabilitation and Healthcare Center was the proximate cause of damages sustained by Mr. Howard.
- ix. Whether Plaintiff is entitled to recover monetary damages from Natchez Rehabilitation;
- x. Whether Plaintiff has met the heightened burden of proof to demonstrate Natchez Rehabilitation and Healthcare Center acted with willful or wanton conduct, gross negligent, or with reckless disregard warranting an award of punitive damages;
- xi. Whether Plaintiff is entitled to recover punitive damages from Natchez Rehabilitation;
- xii. Any of the contested and/or stipulated issues of fact listed above which contain issues of law.

9. Witnesses and Exhibits.

A. Witness Lists

a. Plaintiff's Witness List

<i>NAME</i>	<i>WILL CALL</i>	<i>MAY CALL</i>	<i>FACT LIABILITY EXPERT DAMAGES</i>	<i>DEFENDANT'S OBJECTIONS</i>
Joyce England	✓		F, L, D	
Brenda Preston	✓		F, L, D	
Kimberly Dixon	✓		F, L, D	
Kayla Morris	✓		F, L, D	
Shonna Riley	✓		F, L, D	
Amanda Hasty	✓		F, L, D	
Marquis Thompson		✓	F, L, D	No relevant knowledge of event at issue; Only being used to criticize Natchez Rehab
Kathleen Hill-O'Neill, DNP, RN, CRNP, NHA	✓		F, L, E, D	
Keith Miller, M.D.	✓		F, L, E, D	
Adam Lewis, M.D.	✓		F, L, E, D	
Gustavo Luzardo, M.D.		✓	F, L, E, D	
Michael Bookhardt, M.D.		✓	F, L, E, D	

Plaintiff reserves the right to call any witness listed by the Defendants. Plaintiff also reserves the right to call any records custodians needed to authenticate medical records.

Defendant reserves the right to alter/amend its objections to trial testimony from Marquis Thompson.

b. Defendant's Witness List

<i>NAME</i>	<i>WILL CALL</i>	<i>MAY CALL</i>	<i>FACT LIABILITY EXPERT DAMAGES</i>	<i>PLAINTIFF'S OBJECTIONS</i>
Joyce England	✓		F, L, D	
Brenda Preston	✓		F, L, D	
Kimberly Dixon	✓		F, L, D	
Kayla Morris	✓		F, L, D	
Shonna Riley	✓		F, L, D	
Amanda Hasty	✓		F, L, D	
Robert Kelly, MD	✓		F, L, E, D	
Kathleen Hill-O'Neill, DNP, RN, CRNP, NHA		✓	F, L, E, D	
Keith Miller, M.D.		✓	F, L, E, D	
Adam Lewis, M.D.		✓	F, L, E, D	

Defendant reserves the right to call and/or cross examine any witness listed by the Plaintiff. Defendant also reserves the right to call any records custodians needed to authenticate medical records.

B. Exhibit Lists

a. Plaintiff's Exhibit List

EXHIBIT NO.	Description	Identifier	Defendant's Objections	Plaintiff's Response
P-1	Natchez Rehab Admission	HOWARD 00102-00103; 01007-010025		
P-2	Natchez Rehab Activities	HOWARD 00203-00208		
P-3	Natchez Rehab ADL	HOWARD 00972-00997		
P-4	Natchez Rehab Care Plans	HOWARD 00935-00971; 01026-01030		
P-5	Natchez Rehab BIMS	HOWARD 00221-00222		
P-6	Natchez Rehab Change in Condition Evals	HOWARD 00224-00229		
P-7	Natchez Rehab Incident/Accident Reports	Natchez APO 0623-0628; Nexion Incident Rpt-PRIV 01- 06; Nathez 0331-0366		
P-8	Natchez Rehab Nurses Notes	HOWARD 00862-00934		
P-9	Natchez Rehab MDS	HOWARD 00231-00318		
P-10	Natchez Rehab Skilled Charting	HOWARD 00343-00727		
P-11	Natchez Rehab 3 rd party records in chart	HOWARD 01080-01107; 01149-01154; 01170-01327; 01354-01376		
P-12	Natchez Rehab Diagnosis Report	HOWARD 00107-00110		
P-13	Natchez Rehab Device Evaluation	HOWARD 00331-00336		

P-14	Natchez Rehab Discharge/Transfer Report	HOWARD 00105-00106		
P-15	Natchez Rehab Orders/Report/Summary	HOWARD 00173-00186; 01116-01146		
P-16	Natchez Rehab MAR/TAR	HOWARD 00114-00172		
P-17	Natchez Rehab Morse Fall Evaluation	Natchez 0329-0330		
P-18	Natchez Rehab Fall Risk Assessments	HOWARD 00338-00341		
P-19	Natchez Rehab Nutrition/Dietary	HOWARD 00734-00736; 00738-00739; 00741-00745; 01065-01068; 01079	Relevancy, to the extent not related to 2-15-20 event.	
P-20	Natchez Rehab OT/PT/ST	HOWARD 00002-00049; 01339-01353		
P-21	Natchez Rehab Therapy Minutes	HOWARD 00998-01004		
P-22	Natchez Rehab Pain Evaluation	HOWARD 00747-00750		
P-23	Natchez Rehab Psych Evaluation and PHQ-9	HOWARD 00761-0073; 01166-01167		
P-24	Natchez Rehab Risk Assessments-Pressure Ulcer	HOWARD 00210-00219	Relevancy - not related to 2-15-20 event at issue. The Court ruled to narrow the scope of trial and exclude evidence of extraneous issues.	
P-25	Natchez Rehab Risk Assessment- Wander	HOWARD 00860-00861	Relevancy - not related to 2-15-20 event at issue. The Court ruled to narrow the scope of trial and	

			exclude evidence of extraneous issues.	
P-26	Natchez Rehab Social Service Records	HOWARD 00856-00858		
P-27	Natchez Rehab Weight/Vital Records	HOWARD 00187-00201		
P-28	Natchez Rehab Miscellaneous	HOWARD 00111-00112; 00320; 00729-0730; 00732; 01005-01006; 01031-01032; 01072-01078; 01111-01114; 01147-01148; 01155-01165		
P-29	Natchez Rehab Consents/Releases	HOWARD 01033-01036; 01069-01071; 01108-01110; 01168-01169; 01332-01335		
P-30	Natchez Rehab Bowel/Bladder Assessments	HOWARD 00322-00329		
P-31	Natchez Rehab SOAP Note (MD Progress)	HOWARD 01328-01331		
P-32	Natchez Rehab Skin and Wound Evaluations/Assessments	HOWARD 00752-00759; 00765-00854	Relevancy - not related to 2-15-20 event at issue. The Court ruled to narrow the scope of trial and exclude evidence of extraneous issues.	
P-33	Natchez Rehab Vision records	HOWARD 01336-01338	Relevancy - not related to 2-15-20 event at issue. The Court ruled to narrow the scope of	

			trial and exclude evidence of extraneous issues.	
P-34	Natchez Rehab Dialysis records	HOWARD 01037-01064		
P-35	Merit Health Natchez medical records	HOWARD 00050-00098		
P-36	Merit Health Natchez Radiology Imaging	HOWARD 06075		
P-37	Merit Health Natchez Billing	HOWARD 01377		
P-38	UMMC medical records	HOWARD 01537-05568		
P-39	UMMC Billing	HOWARD 05569-05667		
P-40	AMR medical records	HOWARD 06040-06048		
P-41	AMR Billing	HOWARD 06049		
P-42	AirEvac medical records	HOWARD 06052-06074		
P-43	AirEvac Billing	HOWARD 06050-06051		
P-44	Select Specialty medical records	HOWARD 01378-01536		
P-45	Select Specialty Billing	HOWARD 06034-06039		
P-46	Fresenius medical records	HOWARD 05668-05878		
P-47	Death Certificate	HOWARD 00001		
P-48	Funeral Billing	HOWARD 06076		
P-49	Obituary	HOWARD 06077-06078		
P-50	Natchez Rehab Floor Plan	Natchez 0129		
P-51	Natchez Rehab In-Service Materials	Natchez 0113; Natchez APO 0776-1296	Relevancy, to the extent not related to 2-15-20 event at issue. The Court ruled to narrow the scope of	

			trial and exclude evidence of extraneous issues.	
P-52	Natchez Rehab Policies and Procedures	Natchez APO 0444-0622	Relevancy, to the extent not related to 2-15-20 event at issue. The Court ruled to narrow the scope of trial and exclude evidence of extraneous issues.	
P-53	Natchez Rehab Personnel Files	Natchez APO 0633-0775	Relevancy, to the extent not related to 2-15-20 event at issue. The Court ruled to narrow the scope of trial and exclude evidence of extraneous issues. Private, protected information of witnesses contained in these documents	
P-54	Natchez Rehab Timesheets	Natchez 0001-0112	Relevancy, to the extent not related to 2-15-20 event at issue. The Court ruled to narrow the scope of trial and exclude evidence of	

			extraneous issues.	
P-55	Natchez Rehab Nexion Neighbor Rounds	Natchez 0238-0328	Relevancy, to the extent not related to 2-15-20 event at issue and/or Glen Howard. The Court ruled to narrow the scope of trial and exclude evidence of extraneous issues.	
P-56	Natchez Rehab Job Descriptions	Natchez 0121-0128	Relevancy; cumulative.	
P-57	Natchez Rehab Morning Meeting Sheets	Natchez 0114-0120; 0222-0237	Relevancy, to the extent not related to 2-15-20 event at issue and/or Glen Howard. The Court ruled to narrow the scope of trial and exclude evidence of extraneous issues.	
P-58	Natchez Rehab Census Information	Natchez 0216-0221	Relevancy, to the extent not related to 2-15-20 event at issue. The Court ruled to narrow the scope of trial and exclude evidence of extraneous issues.	
P-59	Natchez Rehab 24-Hour Reports	Natchez APO 0003-0443	Relevancy, to the extent not related to 2-15-20 event at	

			issue. The Court ruled to narrow the scope of trial and exclude evidence of extraneous issues.	
P-60	Natchez Rehab Facility Incident Log	Natchez 0629-0632	Relevancy, to the extent not related to 2-15-20 event at issue. The Court ruled to narrow the scope of trial and exclude evidence of extraneous issues.	
P-61	CV of Keith Miller, MD			
P-62	CV of Kathleen Hill-O'Neill			
P-63	CV of Adam Lewis, MD			

Defendants' objections to Plaintiff's Exhibits: Defendants reserve the right to object to Plaintiff's exhibits at trial.

Defendant stipulates to the authenticity of the Plaintiff's medical records exhibits.

b. Defendant's Exhibit List

EXHIBIT NO.	Description	Identifier	Plaintiff's Objections	Defendant's Response
D-1	Natchez Rehabilitation and Healthcare Center medical records	Glen Howard - Nexion Nursing Chart 00001-01278; Glen Howard – Nexion Therapy Chart 001-048		

D-2	Natchez Rehab Transfer Order	Natchez Supplemental Production (04) 345-353		
D-3	Natchez Rehab 2-15-20 Incident Report with Notes	Natchez Supplemental Production (03) 339-341		
D-4	Email with initial report to AG office regarding 2-15-20	Natchez Supplemental Production (03) 342-344		
D-5	Faxed State Investigations regarding 2-15-20	Natchez Supplemental Production (03) 331-338		
D-6	Written Statements Underlying State Investigations	Natchez Supplemental Production (04) 354 - 366	MISS. R. EVID. 802	
D-7	Death Certificate			
D-8	CV of Robert Kelly, MD			
D-9	Affidavit of Robert Kelly, MD		MISS. R. EVID. 802; 804; <i>Cumulative</i>	Expert report may contain statements because experts can base opinion on opinions of others not in evidence so long as expert would ordinarily rely on such. <i>Brown v. State</i> , 168 So. 3d 884, 897 (Miss. 2015). Plaintiff will have sufficient opportunity to cross examine Dr. Kelly. <i>Id.</i> at 898. Case attached.
D-10	A Case of Spontaneous Acute Subdural Haematoma in the Posterior Fossa		MISS. R. EVID. 802; 803	See D-9

	Following Anticoagulation			
D-11	Case Report – Delayed Subdural Hematoma After Receiving Enoxaparin for Prevention of Thromboembolic Events From High-Risk Surgery		Miss. R. EVID. 802; 803	See D-9
D-12	Management of Apixaban-Associated Subdural Hematoma – A Case Report on the Use of Factor Eight Inhibitor Bypassing Activity		Miss. R. EVID. 802; 803	See D-9
D-13	Spontaneous Bilateral Chronic Subdural Haematoma of Posterior Fossa		Miss. R. EVID. 802; 803	See D-9
D-14	Spontaneous Spinal Subdural Hematoma Associated with Low-Molecular-Weight Heparin		Miss. R. EVID. 802; 803	See D-9
D-15	Subdural Hematoma in Patients with End-Stage Renal Disease Receiving Hemodialysis		Miss. R. EVID. 802; 803	See D-9
D-16	The Impact of Aspirin Therapy and Anticoagulation on the Prevalence of Spontaneous Subdural Haematoma		Miss. R. EVID. 802; 803	See D-9
D-17	Association Between Use of Non-Vitamin K Oral Anticoagulants With and Without Concurrent Medications and Risk of Major Bleeding in Nonvalvular Atrial Fibrillation		Miss. R. EVID. 802; 803	See D-9
D-17	CV of Keith Miller, MD			
D-18	Affidavit of Keith Miller, MD		Miss. R. EVID. 802; 804; <i>Cumulative</i>	Expert report may contain statements

				because experts can base opinion on opinions of others not in evidence so long as expert would ordinarily rely on such. <i>Brown v. State</i> , 168 So. 3d 884, 897 (Miss. 2015). The weight and credibility is to be determined by trier of fact. When, as here, the finder of fact is faced with expert opinion testimony based on facts not within the personal knowledge of the expert, that the undergirding facts are not within the personal knowledge of the expert goes to the overall weight of the expert's opinions. <i>Id</i> at 897
D-19	CV of Adam Lewis, MD			
D-20	Affidavit of Adam Lewis, MD		Miss. R. EVID. 802; 804; <i>Cumulative</i>	See D-18
D-21	Complaint		Miss. R. EVID. 802; <i>Phillips v. Down Chemical Co.</i> , 151 So. 2d 199 (1963).	Miss. R. EVID. 801(d)(2) - Opposing party's statement; MISS. R. EVID. 201(b) – Judicial Notice
D-22	Notice of Intent	HOWARD06031-06033	Miss. R. EVID. 802; <i>Phillips v. Down Chemical Co.</i> ,	Miss. R. EVID. 801(d)(2) - Opposing party's statement; MISS.

			151 So. 2d 199 (1963).	R. EVID. 201(b) – Judicial Notice
D-23	Order Appointing Administratrix	HOWARD06028		
D-24	Decree Determining Heirs at Law		Miss. R. EVID. 802; Miss. R. EVID. 403; <i>Phillips v. Down Chemical Co.</i> , 151 So. 2d 199 (1963).	Miss. R. EVID. 201(b) – Judicial Notice
D-25	Plaintiff’s Interrogatory Responses		Miss. R. EVID. 802; <i>cumulative</i>	Miss. R. EVID. 801(d)(2) – Opposing party’s statement
D-26	Plaintiff’s Responses to Requests for Production and accompanying documents		Miss. R. EVID. 802; <i>Phillips v. Down Chemical Co.</i> , 151 So. 2d 199 (1963).	Miss. R. EVID. 801(d)(2) – Opposing party’s statement
D-27	Southwest Mississippi Regional Medical Center	Glen Howard – Nexion SWMS Regional 0001-0131	Miss. R. EVID. 402; Miss. R. CIV. P. 26; Scheduling Order	Prior medical records are relevant under Rule 401, attached. Rebuttal evidence need not be disclosed. <i>Dungan v. Presley</i> , 765 So. 2d 592 (Miss. Ct. App. 2000) attached. This is rebuttal evidence to be used against Plaintiff and Plaintiff’s experts.
D-28	Select Specialty medical records	Glen Howard – Nexion Select Specialty (CERT) – 0001-0975		

Defendant reserves the right to identify any evidence listed by Plaintiff not already identified.

Defendant reserves the right to respond to Plaintiff's objections to its evidence proffers.

Plaintiff stipulates to the authenticity of the Defendant's medical records exhibits.

10. The following is a list and brief description of charts, graphs, models, schematic diagrams, and similar objects which will be used in opening statements or closing arguments, but which will not be offered in evidence:

b. By Plaintiff:

- i. Illustrations and/or replications of wheelchairs, slide boards, skull models, brain illustrations, and injuries;
- ii. Deposition pages;
- iii. Drawings, diagrams, or models to illustrate medical principles and conditions;
- iv. Lists of relevant information and/or dates;
- v. Timelines and/or calendar of events;
- vi. Flip charts;
- vii. Photographs of Mr. Howard;
- viii. Enlargements of any exhibit as well as summaries, tables, and/or charts of any exhibit or any portion thereof; and
- ix. PowerPoint presentations.

By Defendants:

- i. Illustrations and/or replications of Mr. Howard's room, wheelchairs, slide boards, skull models, brain illustrations, and injuries;
- ii. Deposition pages
- iii. Drawings, diagrams, or models to illustrate medical principles and conditions;
- iv. Lists of relevant information and/or dates;
- v. Timelines and/or calendar of events;
- vi. Flip charts;
- vii. Enlargements of any exhibit as well as summaries, tables, and/or charts of any exhibit or any portion thereof; and
- viii. PowerPoint presentations.

11. This is a jury trial.

12. Counsel estimates the length of the trial will be 4-5 days.

13. This order will control the course of the trial, and it may not be amended except by consent of the parties and the Judge or by order of the Judge to prevent manifest injustice.

ORDERED, this the _____ day of _____, 2022.

HONORABLE FORREST A. JOHNSON, JR.
ADAMS COUNTY CIRCUIT COURT JUDGE

Submitted:



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