

IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

JOANNE HARTWIG

PLAINTIFF

VS.

FILED
MAY 10 2011
BARBARA DENN, CIRCUIT CLERK
BY _____ D.C.
NO. 251-07-195CIV

DR. ADAM LEWIS; JACKSON NEUROSURGERY
CLINIC, PLLC

DEFENDANTS

PRE-TRIAL ORDER

1. Counsel appeared as follows:

(A) For the Plaintiff:

Precious T. Martin, Esq. (MSB No. 10619)
Precious Martin, Sr. and Associates, PLLC
821 North Congress St.
Jackson, MS 39202

William "Wes" Fulgham, Esq. (MSB No. 99159)
Fulgham Law Firm, PLLC
P.O. Box 321386
Flowood, MS 39232-1386

(B) For the Defendant:

Whitman B. Johnson III, Esq. (MSB No. 3158)
Katrina S. Sandifer, Esq. (MSB No. 102110)
Currie Johnson Griffin Gaines & Myers, P.A.
Post Office Box 750
Jackson, MS 39205

2. Nature of the case: negligence - Medical Malpractice

The Plaintiff is alleging medical negligence against Dr. Adam Lewis in connection with spinal surgery, lack of informed consent, and postoperative care performed by him on the Plaintiff. The Defendants deny all such allegations.

3. A concise summary of the ultimate facts claimed:

(A) **By the Plaintiff:** Dr. Lewis operated on Mrs. Hartwig's lumbar spine on August 1, 2005. Her surgery was one of nine (9) performed by Dr. Lewis on that day, who performed a brain surgery before and a brain surgery after Ms. Hartwig's. The Defendants' negligence throughout the course of treatment was the product of haste brought about by financial motives. During Ms. Hartwig's surgery, Dr. Lewis malpositioned the spinal hardware. Ms. Hartwig suffered complications, which the Defendants were negligent in addressing, or failing to address. During Mrs. Hartwig's post operative care, Dr. Lewis did not remove the malpositioned hardware or tell her how it was positioned. Further, Dr. Lewis did not advise her of the treatment options or the risks and benefits of those options. Dr. Lewis performed another surgery on September 12, 2005, but still did not tell her how the hardware was positioned. After this second procedure, Mrs. Hartwig was still experiencing pain so she went to receive treatment from her family doctor, Dr. Meador referred her to Dr. Moriarity, who investigated the case with the aid of several other physicians. He performed a removal surgery to take out the malpositioned hardware, from which Ms. Hartwig suffered ileus and was admitted for a lengthy hospital stay.

(B) **By the Defendants:** The Plaintiff came to see Dr. Lewis with complaints of pain. On August 1, 2005, Dr. Lewis operated on the Plaintiff performing an anterior lumbar interbody fusion, commonly referred to as an "ALIF". Dr. Lewis provided reasonable post-operative care to the Plaintiff. Due to continued pain, Mrs. Hartwig ultimately required a second procedure in another area of the spine. On September 12, 2005, Dr. Lewis performed a lumbar laminectomy and decompression on the Plaintiff. After the laminectomy, the Plaintiff began seeing another neurosurgeon who removed the hardware put in by Dr. Lewis during the August 1, 2005 surgery. Dr. Lewis denies any and all allegations that the spinal hardware was malpositioned or required removal.

4. Facts established by pleadings, admissions or stipulations:

1. None

5. Contested issues of fact are:

1. Whether Dr. Lewis met the standard of care in the placement of the spinal fixation plate he used in the Plaintiff's August 1, 2005 surgery, in her post-operative care, and in failing to inform her of the material risks necessary for her informed consent to be given.

2. The extent of the damages or injuries to plaintiffs, if any.

3. Whether the Defendants' conduct warrants an award of punitive damages (objection by defendants).

6. Contested issues of law are:
 1. Any motions *in limine* filed by the parties.
 2. Any question of fact which is a mixed question of law and fact is included herein.
 3. Whether the Defendants' conduct warrants an award of punitive damages (objection by defendants).

7. Witnesses:

The following is a list of witnesses who each party anticipates calling at the trial (excluding witnesses used solely for impeachment). The listing of a WILL CALL witness herein constitutes a representation, upon which opposing counsel may rely, that the witness will be present at trial in the absence of reasonable written notice to opposing counsel to the contrary. The listing of a MAY CALL witness constitutes a representation that counsel reasonably expects to call the witness at trial, but is not bound to do so.

(A) By the Plaintiff: May/Will testify live

<u>Witness</u>	<u>Will/May Call</u>	<u>Fact/Expert</u>	<u>Liability/Damages</u>
Joanne Hartwig	Will Call	fact	liability
Tammi Fulgham	May Call	fact	liability
Dr. Jack Moriarity	May Call	fact/expert	liability/damages
Dr. Brent Meador	May Call	fact/expert	liability/damages
Dr. John Davis	May Call	fact/expert	liability/damages
Dr. Kenneth Ball	May Call	fact/expert	liability/damages
Dr. Ed Rigdon	May Call	Fact/expert	liability/damages

Any witness listed by the Defendants.

May/Will testify by deposition:

None anticipated at this time.

(B) By the Defendants: May/ Will testify live

<u>Witness</u>	<u>Will/May Call</u>	<u>Fact/Expert</u>	<u>Liability/Damages</u>
Dr. Adam Lewis	Will Call	fact/expert	liability/damages
Dr. Robert T. Greenfield	May Call	expert	liability/damages
Dr. Peter Neglen	May Call	expert	liability/damages
Dr. Michael Currie	May Call	expert	liability/damages
Dr. Orhan Ilercil	May Call	fact/expert	liability/damages
Dr. David Carroll	May Call	fact/expert	liability/damages

May/Will testify by deposition:

None anticipated at this time.

8. The following is a list and brief description of all exhibits (except exhibits to be used for impeachment purposes only) to be offered in evidence by the parties.

- a) Joanne Hartwig's medical records from Jackson Neurosurgery Clinic
- b) Joanne Hartwig's medical records from St. Dominic Hospital
- c) Joanne Hartwig's medical records from Rankin County Medical Center (objection per Motion *in Limine*)
- d) Joanne Hartwig's medical records from River Oaks Hospital
- e) Joanne Hartwig's medical records from Dr. Ed Rigdon
- f) Joanne Hartwig's medical records from Dr. Jack Moriarity (objection per Motion *in Limine*)
- g) Joanne Hartwig's medical records from Dr. Ann Meyers (objection per relevance and Motion *in Limine*)
- h) Joanne Hartwig's medical records from Dr. Brent Meador
- i) Imaging Studies of Joanne Hartwig performed at St. Dominic Hospital
- j) Imaging studies of Joanne Hartwig performed at River Oaks Hospital.
- k) The Hardware removed from Ms. Hartwig;
- l) Hardware exemplar;
- m) Curriculum Vitae of Adam I. Lewis, M.D.
- n) Curriculum Vitae of Robert T. Greenfield, III, M.D.
- o) Curriculum Vitae of Peter Neglen, M.D.
- p) Curriculum Vitae of John L. Moriarity, Jr., M.D.
- q) Bone graft;
- r) Selected records from composite set (to be offered by each party)
- s) Medical bills with summary tabulation (objection in part to relevance and causation)
- t) Dr. Adam Lewis' surgery schedule for August 1 and September 12, 2005 (objection to relevance)
- u) Financial records (objection to relevance)

Plaintiff is endeavoring to redact from medical records and bills mentions of insurance coverage, Medicare coverage, third party administrator or other collateral entity.

Demonstrative aids: The parties may enlarge demonstrative aids before trial, but each party reserves the right to use any document created during trial or blow ups of any exhibit or part thereof. The Parties may also use spinal models, plates, or screws of the type involved.

9. Anticipated or pending Motions before the Court: Motions *in Limine* by each party.

10. Other matters to aid the Court:

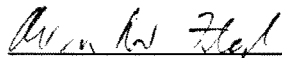
Defendants need to call one of their witnesses, Dr. Robert Greenfield, on Wednesday, May 11, 2011, due to a personal conflict later that week, specifically Dr. Greenfield's son's graduation.

Ordered that the above allowances and agreements are binding on all parties in the above styled cause unless this order be hereafter modified by the Court for good cause and to prevent manifest injustice.

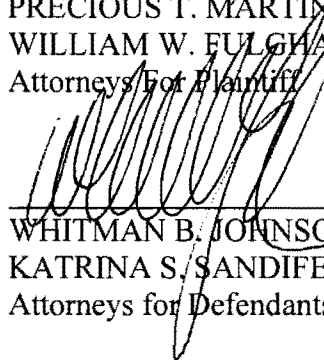
SO ORDERED, this the 9th day of May, 2011.



JUDGE WINSTON KIDD



PRECIOUS T. MARTIN, ESQ.
WILLIAM W. FULGHAM, ESQ.
Attorneys For Plaintiff



WHITMAN B. JOHNSON III, ESQ.
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