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CIRCUIT COURT FOR
BALTIMORE CITY

IN THE CIRCUIT COURT FOR BALTIMORE CITY
2013 OCT -4 AM 9:06

Plaintiff, v. Defendants.	CIVIL DIVISION Case No.:
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PLAINTIFF'S RESPONSE TO DEFENDANTS' AND
MOTION TO COMPEL THE DEPOSITIONS OF
PLAINTIFF'S EXPERT WITNESSES, AND TO COMPEL OPINIONS FROM
PLAINTIFF'S EXPERT AND COUNTER MOTION
FOR PROTECTIVE ORDER
(Request for a Hearing)

Plaintiff, by and through his attorneys, and

hereby files this Response to the Defendants' Motion to Compel the Depositions of Plaintiff's Expert Witnesses and To Compel Opinions of and Counter Motion For Protective Order and support thereof states as follows:

1. Defendants' Motion to Compel Deposition of Plaintiff's Experts Witnesses Deposition is identical to the Motion to Compel filed by Defendants and

therefore, Plaintiff incorporates by reference herein his Response to Defendants and

motion that was filed with this court on September 30, 2013, and requests the same relief.

2. The Defendants also move to compel the opinions of radiologist,

The Defendants' claim that Plaintiff withdrew this expert is false. Plaintiff sent a letter to Defendants dated August 28, 2013, in response to this incorrect claim by

Defendants' counsel. This letter attached as "Exhibit 1" which states: "In response to Ms. [redacted] letter please be advised that I did not make a final decision whether to forego calling Dr. [redacted] as an expert in this case nor was there any final decision regarding any breaches of the standard of care by Dr. [redacted]. Dr. [redacted] remains an expert in this case."

3. In the event that all counsel reached an agreement on the scheduling of expert witness depositions, Dr. [redacted] was available for his discovery deposition on September 25, 26, and 27, 2013. Defense counsel was not available on the dates Dr. [redacted] was available. As of this date the parties remain at an impasse regarding the scheduling of expert witnesses' depositions.
 4. Defense counsel claims that the Plaintiff did not disclose the opinions that Dr. [redacted] intends to give in this case. This is but another false accusation that Plaintiff must now address with this court.
 5. On August 29, 2013, Dr. [redacted] prepared a written report that contained his opinions. See attached "Exhibit 2." This report (along with 103 other documents) was sent regular mail and via email to the Defense counsel on August 29, 2013, the same day Plaintiff received Dr. [redacted] report. Plaintiff filed a formal Notice of Discovery with the court regarding this document production. See attached "Exhibit 3." Defense counsel confirmed receipt of these documents in her own email to Plaintiff's paralegal on the same date. See attached "Exhibit 4." (Dr. [redacted] report is found at page 3 of the 103 page document production.)
- In this written report Dr. [redacted] opined that:

"In his preliminary and final interpretations of the imaging findings of this examination, Dr. [redacted] correctly identified the presence of

a left knee joint effusion, a finding which in and of itself may be variable in its specificity with respect to acute traumatic injury. He failed however, to identify and report the finding of lipohemarthrosis, which was a specific indicator of acute internal derangement to the left knee. In my expert opinion, this failure to identify and report this finding to the emergency department staff constituted a deviation of the standard of care expected of a radiologist interpreting emergency department images. I hold this opinion to a reasonable degree of medical certainty."

See attached "Exhibit 1."

It is clear that Defense counsel never read the documents provided to her on August 29, 2013, otherwise she would have realized that Plaintiff disclosed the opinions that she is now seeking this court to order the Plaintiff to disclose. Having provided Dr. [redacted] opinions to the Defendants' counsel via his written report dated August 29, 2013, the Defendants' Motion to Compel this information is MOOT.

WHEREFORE: The Plaintiff requests that this Honorable Court enter an Order Regulating the Discovery Depositions for Expert Witnesses and set a fee schedule for the pre-payment of experts costs for discovery depositions, order Defense counsel to reimburse Plaintiff counsel the sum of \$3,000.00 for Dr. [redacted] Discovery Deposition, and find that the Defendants' Motion to Compel Dr. [redacted] to provide his opinions in this case is MOOT.

Respectfully submitted,

MILLER & ZOIS, LLC

Attorney for Plaintiff

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REQUEST FOR A HEARING CIVIL DIVISION

Plaintiff respectfully requests a hearing on the foregoing Motion.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 3 2013, a copy of this document was mailed, first class, postage prepaid, to: