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IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS

FILED
FEB 21 2013
KATHERINE M. KEEFE
McHENRY COUNTY CLERK

MARK MCDONALD, individually, as)
Special Administrator of the Estate of Julie)
McDonald, and as father of Ian McDonald,)
Quinlin McDonald, and Chloe McDonald,)
minor children,)

Plaintiff,)

v.)

No.: 12 LA 326

LAW OFFICES OF THOMAS J.)
POPOVICH, P.C., JAMES P. TUTAJ, and)
THOMAS J. POPOVICH,)

Defendants,)

PLAINTIFF'S RULE 213(f) DISCLOSURES

NOW COMES the Plaintiff, MARK MCDONALD, individually, as Special Administrator of the Estate of Julie McDonald, and as father of Ian McDonald, Quinlin McDonald, and Chloe McDonald, minor children, by and through his attorneys, ROMANUCCI & BLANDIN, LLC, in answering the Rule 213(f) interrogatories of the Defendants, LAW OFFICES OF THOMAS J. POPOVICH, P.C., JAMES TUTAJ, and THOMAS J. POPOVICH, pursuant to Supreme Court Rule 213, states as follows:

213(f)(1) Disclosures:

Plaintiffs hereby set out for its own witnesses, as if fully written out herein, the identity, testimony and disclosure of each and every lay witness disclosed under Rule 213(f)(1) by every other party in this case, including the defendant(s). Plaintiffs reserve the right to call each and every such lay witness disclosed by every other party to this action in accordance with the Rule 213 disclosures regarding those lay witnesses identified by every other party to this litigation.

If counsel or any other attorney objects to the authenticity or foundation of any record, photograph or document at trial and said objection is sustained, plaintiffs' counsel will call record keepers to testify that these records, documents, and/or photographs which are prepared, generated and stored in the ordinary course of business, that the copies of those records and photographs which were produced are authentic, and true and accurate and lay all further foundation testimony for the admission of each record, photograph and/or document, including that the photographs are fair and accurate representations of the items depicted.

If counsel or any attorney objects to the authenticity or foundation of sworn deposition testimony in this case, or if witnesses refuse to acknowledge answers provided in said deposition, plaintiff reserves the right to call court reporters from each such deposition to establish needed foundation authenticity, the witness' prior deposition testimony, or other testimony.

To the extent that any witness identified herein as a "lay witness" is later construed by the court as an "independent" or "controlled" expert witness, then that witness and testimony is hereby disclosed as "independent" and/or "controlled" expert witness and testimony pursuant to Rule 213(f)(2) or Rule 213(f)(3).

The Plaintiffs reserve the right to call and hereby discloses each and every witness who has or will provide deposition testimony in this case, in plaintiff's case-in-chief at trial, or in rebuttal. Plaintiffs expect each witness will testify at trial consistently with the content of any deposition given by him/her testimony.

Mark McDonald
221 Winsor Street
Elkhorn, WI 53121

Mark McDonald is the Plaintiff in this matter and is expected to testify regarding the pre-occurrence and post-occurrence events and facts of the subject occurrence, including his observations of the medical care Julie McDonald received prior to her death, as well as the facts and circumstances surrounding her death. He will also testify regarding his pain, suffering, and damages proximately caused by the occurrence, including any financial detriment proximately resulting from the subject occurrence. Further, Mr. McDonald is expected to testify as to conversations with physicians regarding their care and treatment of Julie McDonald prior and subsequent to the occurrence. Mr. McDonald is expected to testify as to conversations and correspondence with Defendants regarding their handling of the legal matters attached to the subject occurrence. He is expected to testify consistent with any deposition given in this matter.

Cole McDonald
221 Winsor Street
Elkhorn, WI 53121

Cole McDonald is the eldest son of the Plaintiff in this matter and is expected to testify regarding the impact the loss of his mother has had on his life. Further, Cole is expected to testify regarding his loss of love, society, and affection due to the death of his mother. He is expected to testify consistent with any deposition given in this matter.

Micaela McDonald
709 8th Avenue South East Apt #4
Minneapolis, MN 55414

Micaela McDonald is the eldest daughter of the Plaintiff in this matter, and is expected to testify regarding the impact the loss of her mother has had on her life. Further, Micaela is expected to testify regarding her loss of love, society, and affection due to the death of her mother. She is expected to testify consistent with any deposition given in this matter.

Sydney McDonald
221 Winsor Street
Elkhorn, WI 53121

Sydney McDonald is the daughter of the Plaintiff in this matter and is expected to testify regarding the impact the loss of her mother has had on her life. Further, Sydney is expected to testify regarding her loss of love, society, and affection due to the death of her mother. She is expected to testify consistent with any deposition given in this matter.

Ian McDonald
221 Winsor Street
Elkhorn, WI 53121

Ian McDonald is the son of the Plaintiff in this matter and is expected to testify regarding the impact the loss of his mother has had on his life. Further, Ian is expected to testify regarding his loss of love, society, and affection due to the death of his mother. He is expected to testify consistent with any deposition given in this matter.

Chloe McDonald
221 Winsor Street
Elkhorn, WI 53121

Chloe McDonald is the youngest daughter of the Plaintiff in this matter and is expected to testify regarding the impact the loss of her mother has had on her life. Further, Chloe is expected to testify regarding her loss of love, society, and affection due to the death of her mother. She is expected to testify consistent with any deposition given in this matter.

Quinlan McDonald
221 Winsor Street
Elkhorn, WI 53121

Quinlan McDonald is the youngest son of the Plaintiff in this matter and is expected to testify regarding the impact the loss of his mother has had on his life. Further, Quinlan is expected to testify regarding his loss of love, society, and affection due to the death of his mother. He is expected to testify consistent with any deposition given in this matter.

Beth Sweeney
26 Winsor Street
Elkhorn, WI 53121
(262) 745-3765

Beth Sweeney is a neighbor and friend of the McDonald family and is expected to testify regarding the pre-occurrence and post-occurrence events and facts of the subject occurrence, including her observations of the medical care Julie McDonald received prior to her death, as well as the facts and circumstances surrounding her death. She is expected to testify consistent with any deposition given in this matter.

Tom Popovich
3416 W. Elm Street
McHenry, IL 60050

Tom Popovich is a Defendant and will be called as an adverse witness, pursuant to ILCS 5/2-1102. Mr. Popovich previously represented the Plaintiff in the initial Complaint against Aurora Health Care. He is expected to testify regarding his handling of the Plaintiff's legal matters, as well as any facts or circumstances regarding the subject occurrence. He is expected to testify consistent with any deposition given in this matter.

James Tutaj
3416 W. Elm Street
McHenry, IL 60050

James Tutaj is a Defendant and will be called as an adverse witness, pursuant to 735 ILCS 5/2-1102. Mr. Tutaj previously represented the Plaintiff in the initial Complaint against Aurora Health Care. He is expected to testify regarding his handling of the Plaintiff's legal matters, as well as any facts or circumstances regarding the subject occurrence. He is expected to testify consistent with any deposition given in this matter.

213(f)(2) Disclosures:

Plaintiffs expressly adopt its responses above (lay witnesses) and below (controlled expert witnesses) as part of his/her response of his/her Rule 213(f)(2) disclosures. Insofar as the matters expressed in this Response to Rule 213(f)(2) disclosures are later construed by the court as including opinion testimony of either lay or controlled expert witnesses, then such testimony, factual basis, or expert opinion is hereby disclosed pursuant to and incorporated into the disclosures of plaintiffs' lay witnesses disclosure and/or controlled expert witnesses of Plaintiffs' disclosures herein referenced. To the extent any witnesses or testimony disclosed pursuant to this disclosure (independent expert witnesses) or controlled expert witnesses disclosure are later construed by the court as factual testimony, then those witnesses and their factual testimony is hereby incorporated herein as a portion of plaintiff's Rule 213(f)(1) disclosures.

The qualifications of the witnesses disclosed below are contained in their deposition transcripts, curriculum vitae, resumes and/or referred to in their deposition transcripts.

The report of the independent medical witness discussed below are contained within the medical records obtained during the discovery in this litigation from each respective physician or the medical witness. This Plaintiffs specifically reserve the right to discuss medical events, patient history, physical examinations, diagnosis, and any other aspect of the care rendered by each physician or other independent expert witness listed below; including issues of causation, permanency; and, future medical care.

Plaintiffs expressly reserve the right to call any fact, independent, or controlled opinion witnesses disclosed by defendant's counsel, or any other party to this litigation pursuant to Rule 213(f)(2), at the time of trial in defendant's case-in-chief, or at any other time, with respect to all facts, basis, and opinions disclosed in other parties' Rule 213(f)(2) answers or testified to in the witnesses' depositions.

The Plaintiffs reserve the right to call and hereby discloses each and every witness who has or will provide deposition testimony in this case, in plaintiffs' case-in-chief at trial, or in rebuttal. Plaintiffs expect each witness will testify at trial consistently with the content of his/her deposition testimony. With respect to treating physicians disclosed, plaintiffs anticipate that those physicians will testify consistently with their medical charting regarding history, the physical examination, plan, diagnosis and recommendations.

Plaintiffs hereby adopt each and every witness named by other party to the lawsuit, including the defendants, as if fully written out herein, including each and every independent expert witness disclosed by every other party in this case. Plaintiffs reserve the right to call each and every such independent expert witness disclosed by every other party to this action in accordance with Rule 213 witness identity and testimony disclosures relating to those independent expert witnesses identified by every other party to this litigation.

Theodore J. Galvani, M.D.
9703 Fox Bluff Lane
Spring Grove, IL 60081

Other Various Representatives from Aurora Health Center
3000 W. Montana Ave.
Milwaukee, WI 53215

The abovementioned physician, as well as other representatives from Aurora Health Center, is expected to testify as to the facts and circumstances of the occurrence, his care and treatment of Julie McDonald prior to her death, and his general observations of the medical condition of Julie McDonald. Dr. Galvani is expected to testify as to the timeline of his treatment of Julie McDonald, his observations of her medical condition, the differential diagnosis arrived at for Julie McDonald, his ultimate diagnosis for her, and the treatment plan he put into place. It is anticipated that he will testify consistent with the answers to discovery generated in this matter, his medical records and charts for Julie McDonald, any other documents generated, and any deposition he has given in this matter.

These individuals will further testify regarding the following subject matter:

- a) Their credentials, training, schooling, residencies, fellowships, memberships in professional societies and organizations, publications and research, and experience in treating symptoms such as those displayed by Julie McDonald;
- b) All factual observations that these individuals made during their treatment of Julie McDonald, including all aspects of the factual and medical history that was gleaned, or was observed and/or interpreted in Julie McDonald's medical records and reports from other physicians and medical providers that provided care to Julie McDonald. In addition, they will testify that such records and reports are the type reasonably relied on by physicians and staff during the treatment and in forming opinions about the nature and extent of Julie McDonald's condition before her death;

- c) All facts relating to the purpose for, details of, and observations made by them during all physical examinations performed on Julie McDonald;
- d) All factual observations made by them during the treatment of Julie McDonald;
- e) That the diagnosis, prognosis, and care and treatment plan arrived at by these individuals for Julie McDonald's condition and injuries was reasonable, necessary, and causally related to her symptoms.

Eric Schmetter
3 East Geneva Street
Elkhorn, WI 53121
(262) 723-6466

The abovementioned pharmacist, is expected to testify as to the facts and circumstances of the occurrence, his care and treatment of Julie McDonald prior to her death, and his general observations of the medical condition of Julie McDonald. Mr. Schmetter is expected to testify as to the timeline of his treatment of Julie McDonald and his observations of her medical condition. It is anticipated that he will testify consistent with the answers to discovery generated in this matter, his medical records and charts for Julie McDonald, any other documents generated, and any deposition he has given in this matter.

Mr. Schmetter will further testify regarding the following subject matter:

- a) His credentials, training, schooling, residencies, fellowships, memberships in professional societies and organizations, publications and research, and experience in treating symptoms such as those displayed by Julie McDonald;
- b) All factual observations that he made while treating Julie McDonald, including all aspects of the factual and medical history that was provided to Mr. Schmetter, or was observed and/or interpreted in Julie McDonald's medical records and reports from other physicians and medical providers that provided care to Julie McDonald prior to her death.

Mark D. Molot, M.D.
Walworth County Coroner's Office
W4054 County Road NN
Elkhorn, WI 53121

Dr. Molot is the pathologist who performed the autopsy of Julie McDonald. He is expected to testify consistent with his discovery deposition, his medical charts and records, along with his post-mortem examination of Julie McDonald, and his knowledge of Julie McDonald's pathological presentation upon examination. He will testify regarding the topics disclosed in the pathological records, reports, charts and films generated by, ordered by, or reviewed by him:

Dr. Molot will further testify regarding the following subject matter:

- a) His credentials, medical training, schooling, residencies, fellowships, memberships in professional societies and organizations, publications and research, and experience in performing autopsies on patients similar to Julie McDonald;
- b) All factual observations that he made during his post-mortem examination of Julie McDonald, including all aspects of the factual and medical history that was provided to Dr. Molot, or was observed and/or interpreted in Julie McDonald's medical records and reports from other physicians and medical providers that provided care to Julie McDonald prior to her death. In addition, he will testify that such records and reports are the type reasonably relied on by physicians during the post-mortem examination and in forming opinions about the pathology and/or cause of death for patients, and that such documentation is reliable;
- c) All facts relating to the purpose for, details of, and observations made by Dr. Molot during his post-mortem examinations performed on Julie McDonald;
- d) That his medical bills are usual, customary, and causally related to the post-mortem examination of Julie McDonald.

213(f)(3) Disclosures:

Plaintiffs expressly adopt its responses to above, lay witnesses and independent expert witnesses, as part of his/her response to this interrogatory (controlled expert witnesses). Insofar as the matters expressed in this answer to Rule 213(f)(3) are later construed by the court as including opinion testimony of either independent or lay witnesses, then such testimony, factual basis, or expert testimony is hereby disclosed pursuant to and incorporated into the 213(f)(1) and/or 213(f)(2) disclosures of the plaintiffs. To the extent that any witness or testimony disclosed pursuant to independent expert witnesses disclosure and this, controlled expert disclosures, are later construed by this court as factual testimony, then that factual testimony is hereby incorporated herein as a portion of plaintiff's 213(f)(1) (lay witnesses) disclosures.

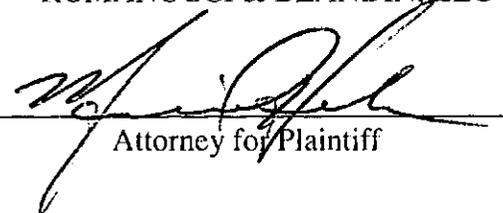
The qualifications of the witnesses disclosed below are contained in their deposition transcripts, curriculum vitae, resumes and/or referred to in their deposition transcripts. All of the opinions expressed by plaintiffs' witnesses listed below are based upon their individual education, training, experience and review of any applicable reference or other published materials for consultation, and that witness' review of materials pertinent to this particular case.

Plaintiffs hereby set out as additional witnesses, as though fully set forth herein, each and every one of the controlled expert witnesses of each and every other party, including defendants. Plaintiffs reserved the right to call each and every such controlled expert witness disclosed by every other party to this action in accordance with the Rule 213 disclosures regarding those controlled expert witnesses identified by every party to this litigation.

Plaintiffs will disclose 213(f)(3) controlled expert witnesses pursuant to the discovery schedule set by this court.

Plaintiffs specifically reserve the right to supplement these disclosures as discovery in this matter progresses. Furthermore, Plaintiffs reserve the right to adopt any disclosures made by the Defendants in this matter, including any disclosures to be made in the future.

Respectfully Submitted,
ROMANUCCI & BLANDIN, LLC

By: 

Attorney for Plaintiff

Stephan D. Blandin
Michael E. Holden
ROMANUCCI & BLANDIN, LLC
33 North La Salle Street
Suite 2000
Chicago, Illinois 60602
Tel: (312) 458-1000
Fax: (312) 458-1004
Atty. No.: 35875