IN THE CIRCUIT COURTS FOR
MONTGOMERY COUNTY AND ROBERTSON COUNTY, TENNESSEE

2014 OCT 28 PM 12: 09
FILED
CIRCUIT COURT CLERK

Plaintiff

vs. ALL HEALTHCARE LIABILITY ACTIONS

Defendant

STANDING ORDER CONCERNING TRCP 26 DISCLOSURES AND
EXPERT WITNESS TESTIMONY IN HEALTH CARE LIABILITY ACTIONS

In all healthcare liability actions (formerly medical malpractice actions) pending before the Circuit Courts of Montgomery County and Robertson County, Tennessee, any party identifying potential expert witnesses shall make a full Rule 26 disclosure of their proposed expert's testimony in narrative form complying with the further provisions of this order. The disclosure shall contain the verbatim direct testimony that the proposed expert will offer at trial. A copy thereof shall be filed and served upon opposing counsel within twenty-one (21) business days following the disclosure/identity of each witness as a potential expert witness. Such witness statement shall contain every material fact and/or opinion to which the witness would testify on direct examination at trial if the witness were asked the appropriate questions. A review of the written statements should enable opposing counsel to determine whether the taking of discovery dispositions of such witnesses is necessary. Since opposing counsel will know in advance the verbatim testimony of the witness at deposition and/or trial, if called, the necessity for many discovery depositions will be eliminated and costs of litigation substantially reduced. The presentation of the expert's testimony by deposition taken for proof will be encouraged thus eliminating expenses associated with their live testimony at trial.

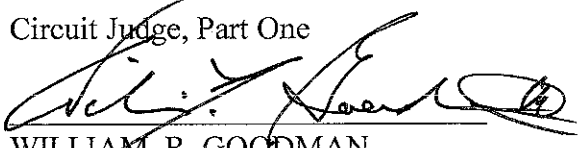
If the witness is called at trial either by deposition or in person, the witness will be sworn in the usual fashion and the written statement may either be read to the jury by the witness or counsel for the party offering the witness may direct questions to the witness to elicit appropriate responses contained in the written statement. Scripting of counsel's questions is not required, however, the witness(s) answers must be given verbatim from the written statement and no deviation therefrom will be permitted. During the reading of the statement, the witness may refer to a mechanical device, drawing, chart, photograph or other exhibit in order to illustrate his or her testimony. At the conclusion of the witness's direct examination in the manner described above, opposing counsel may cross examine the witness in the usual fashion. However, in responding to questions on cross examination, the witness may not offer an opinion on any subject not encompassed in the written statement. No expert witness will be allowed to offer any testimony beyond the scope of the written statement.

Without permission of the court, only one expert witness may testify at trial per party on standard of care and one per party on causation. If a party is qualified as an expert witness, that party may testify in addition to the standard of care and causation experts.

This Order will be effective immediately for all cases scheduled for trial or depositions January 1, 2015, or thereafter. Although this standing Order applies only to healthcare liability actions, it may also be applied in other cases involving expert testimony by specific Order of the Court.

ENTERED this the 28 day of October, 2014.

ROSS H. HICKS
Circuit Judge, Part One



WILLIAM R. GOODMAN
Circuit Judge, Part Two