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IN THE THIRD JUDICIAL DISTRICT COURT  
SALT LAKE COUNTY, STATE OF UTAH

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DAVID SCOTT and DEBRA SCOTT,

Plaintiffs,

vs.

UNIVERSITY OF UTAH HOSPITAL AND  
MEDICAL CENTER,

Defendant.

**ORDER REGARDING MOTIONS IN  
LIMINE ADDRESSED AT FEBRUARY  
6, 2015 PRETRIAL CONFERENCE**

Case No. 110917738

Judge: Su J. Chon

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A pretrial conference was held on February 6, 2015. Plaintiffs were represented by Charles H. Thronson from Parsons Behle & Latimer. Defendant was represented by Terence L. Rooney and Bradley R. Blackham from Snow, Christensen & Martineau. The Court heard stipulations from counsel on various issues and oral argument on Defendant's Motion in Limine Re: Reptile Theory, Plaintiffs' Motion in Limine Regarding the Credentials and Curriculum Vitae of Fact Witnesses Peter Schloesser and Peter Maughan and Plaintiffs' Motion in Limine Regarding Discussion in and Decisions of Defendant's Tumor Board Regarding David Scott.

Pursuant to stipulations by the parties on certain issues and rulings from the Court on the remaining issues,

IT IS HEREBY ORDERED ADJUDGED AND DECREED that:

Based on the parties' stipulation, Plaintiffs' January 17, 2015 day-in-the-life video shall be received into evidence at trial so long as Debra Scott lays foundation for the video. Plaintiffs' counsel may call Debra Scott a second time in their case-in-chief to testify about other matters.

Based on the parties' stipulation, Plaintiffs' previously produced exemplar MRI will be received into evidence at trial so long as sufficient foundation is laid for it.

Based on the parties' stipulation, the Court will ask the venire the following additional questions during voir dire: Have you served in the military? What years did you serve? In what branch of the military did you serve? What was your rank?

Defendant's Motion in Limine Re: Reptile Theory is denied with the following restrictions ordered by the Court: (1) the parties may discuss safety as it relates to the standard of care; (2) the parties shall not urge the jury to ignore the standard of care established by expert testimony presented at trial and instead apply either a general safety standard or a community standard based on jurors' own beliefs about what constitutes an acceptable level of medical care; (3) the parties shall not make golden rule arguments; (4) the parties shall not argue or suggest that the jury serves as the conscience of the community in rendering a verdict; (5) the parties shall not argue or suggest to the jury that it send a message to medical providers through its verdict; (6) the parties shall not present arguments that appeal to or inflame passions or prejudices; and (7) the parties shall abide by Utah appellate court decisions relating to closing

arguments.

Plaintiffs' Motion in Limine Regarding the Credentials and Curriculum Vitae of Fact Witnesses Peter Schloesser and Peter Maughan is denied with the following qualifications: (1) the parties shall not offer the curricula vitae of either Dr. Schloesser or Dr. Maughan as exhibits; (2) Defendant may establish minimum competency for substantive testimony by questioning Dr. Schloesser and Dr. Maughan about medical school, postgraduate training, board certification and the nature of their professional practices but shall not go further in questioning them about their professional or personal backgrounds; and (3) Defendant may ask Dr. Schloesser or Dr. Maughan about publications authored by them that are relevant to the case but first must bring such publications to the Court's attention so that any objections may be ruled on before the publication is mentioned to the witness.

With respect to Plaintiffs' Motion in Limine Regarding Discussions in and Decisions of Defendant's Tumor Board Regarding David Scott, the Court defers rulings on questions that may be asked about tumor board proceedings until trial.

APPROVED AS TO FORM:

PARSONS BEHLE & LATIMER

By /s/ Charles H. Thronson  
*Attorneys for Plaintiffs*

Signed by Bradley R. Blackham with permission from Charles H. Thronson

SNOW, CHRISTENSEN & MARTINEAU

By /s/ Bradley R. Blackham  
*Attorneys for Defendant*

----- END OF ORDER-----

JUDGE'S ELECTRONIC SIGNATURE APPEARS AT THE TOP  
OF THE FIRST PAGE OF THIS DOCUMENT

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and correct copy of the foregoing **PRETRIAL ORDER FROM FEBRUARY 2, 2015 PRETRIAL CONFERENCE** to be served on the following individuals this 14<sup>th</sup> day of February 2015 by:

- Electronic filing with Court
- U.S. mail, postage prepaid
- Hand delivery
- Electronic mail
- Facsimile

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