UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

**Case No.** 11 CV 21118 FAM

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UNITED STATES DISTRICT
COURT for the SOUTHERN
DISTRICT of Florida

RECEIVED
SEP 19 2011
By

Elbert Johnson
Plaintiff,
Vs.
SANJAY RAZDAN, M.D.
Defendant,

CASE NO: 1:11-CV-21118-FAM
Magistrate Judge:
PATRICK WHITE

FILED by D.C.
SEP 19 2011
STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. – MIAMI

Plaintiff Response to
Defendant's Motion to
Dismiss and Memorandum
in Support of Motion to
Dismiss.

The Plaintiff, Elbert Johnson, Moves this Honorable Court for the entry of an order denying the Defendant Dr. Razdan's Motion to dismiss the Plaintiff's pro se Complaint. The Plaintiff also Move for the entry of an order to Dismiss the Defendant's Memorandum in Support of Motion to Dismiss. The grounds for this Response is set forth more fully as following:

on August 31, 2011, the Defendant DR. Razdan allege that the plaintiff, Elbert Johnson, Complaint does not rise to the level of a Constitutional Violation that is insufficient to State a Claim upon Which relief can be granted is Misplaced according to Ashcroft V. IQBal, 129 S. Ct. 1937 (2009)

# Argument

under federal Rule of Civil Procedure Rule 8(a)(2) The Plaintiff, Elbert Johnson, Complaint Contain a "short and Plain Statement of a claim of deliberately indifferent toward his Medical Need Showing that the Plaintiff is entitled to relief." As the Court held in Twombly 127 S. Ct. 1955, 167 L. Ed. 2d 929.

The Pleading Standard Rule 8 announces does not require "detailed factual allegation." But it demands more than an unadorned, the Defendant unlawfully Harmed Me accusation Id, at 127 S. Ct. 1955 (Citing LaPasom V. Allain, 478 U.S. 265, 266. 106 S. Ct. 2932, 92 L. Ed. 2d 209 (1986). The Plaintiff, Johnson does not offer "labels and Conclusion" or "A formulaic Recitation of the elements of cause of action." 127 S. Ct. 1955. The Plaintiff, Johnson Complaint Contain Sufficient factual allegation that state a Claim for relief that is Plausible on its face Id; 127 S. Ct. 1955, A Claim that has factual Plausibility that will allows this Honorable Court to draw a reasonable inference that the Defendant DR. Razdan is liable for being Deliberately indifferent in providing grossly inadequate Medical Care in regards to Plaintiff Johnson.

Moreover, Defendant DR Razdan alleging that the Plaintiff, Johnson Complaint amount to Negligence or Medical Malpractice is Clearly Misplace. This because according to federal Courts, if the Care that a defendant provides is grossly inadequate (Grossly, inexcusably Bad) or if the defendant

than formal pleadings by lawyer, and Complaint could be dismissed for failure to state a Claim only if it appeared beyond doubt that Plaintiff could prove no set of facts in support of Claim which would entitle him to relief. Conley V. Gibson, 78 S. Ct. 99

## Conclusion

finally taking those facts as a whole a trier of facts in entitled to make the finding as to whether the defendant DR RAZdan realized He was at the exhibiting deliberately indifferent to Plaintiff's Medical Needs. Therefore, The Plaintiff Johnson, Respectfully request that this Honorable Court enter an order granting his Motion by entering a order denying the defendant's DR RAZdan's Motion to dismiss in its entirety, and enter an order denying defendant DR Razdan Memorandeum in Support of Motion to dismiss the Plaintiff Motion.

S: Elbert Johnson

I hereby certify that on this 19 day of Sept. 2011 I place in prison official hands Plaintiff Response to defendant's Motion to Dismiss and Memorandum in Support of DR Razdan Motion to Dismiss, for Mailing to the Clerk of Court of the U.S. District Court Southern District of Florida. Office of the Clerk-Room 8 No 9 400 North Miami Avenue, Miami, Florida 33128 I also certify that the foregoing Document was Mail to Counsel of Record Identified on the attached Service List in the Manner Specified.

S: Elbert Johnson
Elbert Johnson #013118
Dade Correctional Inst.
19000 S.W. 377 Street
Florida City, Florida 33034

Service List

Wicker, Smith, O'Hara, McCoy & Ford, P.A.
Attorney for
515 E. Las Olas Boulevard
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P.O. Box 14460
Ft. Lauderdale, Florida 33302
By: /s/ Patrick K. K. Dahl
Patrick K. Dahl
Florida Bar No. 084109

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-21118-CIV-MORENO
MAGISTRATE P. A. WHITE

ELBERT JOHNSON,

Plaintiff,

v.

SANJAY RADZAN,

Defendant.

REPORT OF MAGISTRATE JUDGE (DE#20)

## I. Introduction

The pro-se plaintiff, Elbert Johnson, filed a civil rights complaint pursuant to 42 U.S.C. §1983,(De#1) and an amended complaint (DE#9), alleging denial of adequate medical treatment. The plaintiff is permitted to proceed in forma pauperis.

This Cause is before the Court upon Defendant Razdan's Motion to Dismiss (DE#20) and Memorandum of Law.

## II. Analysis

### A. Applicable Law for Reviewing Motion to Dismiss

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, a defendant may move to dismiss a complaint because the plaintiff has failed to state a claim upon which relief may be granted. See Fed.R.Civ.P. 12(b)(6). The complaint may be dismissed if the plaintiff does not plead facts that state a claim to relief that is plausible on its face. See Bell Atlantic Corp. v. Twombly, 127 S.Ct. 1955 (2007)(retiring the oft-criticized "no set of facts"

language previously used to describe the motion to dismiss standard and determining that because plaintiffs had "not nudged their claims across the line from conceivable to plausible, their complaint must be dismissed" for failure to state a claim); Watts v. FIU, 495 F.3d 1289 (11 Cir. 2007). While a complaint attacked for failure to state a claim upon which relief can be granted does not need detailed factual allegations, a plaintiff's obligation to provide the grounds of his entitlement to relief "requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." Twombly, 127 S.Ct. at 1964-65. The rules of pleading do "not require heightened fact pleading of specifics . . . ." The Court's inquiry at this stage focuses on whether the challenged pleadings "give the defendant fair notice of what the . . . claim is and the grounds upon which it rests." Erickson v. Pardus, 127 S.Ct. 2197, 2200 (2007)(quoting Twombly, 127 S.Ct. at 1964).

The standard for determining whether a complaint states a claim upon which relief may be granted is the same whether under 28 U.S.C. §1915(e)(2)(B) or Fed.R.Civ.P. 12(b)(6) or (c). See Mitchell v. Farcass, 112 F.3d 1483, 1490 (11 Cir. 1997)("The language of section 1915(e)(2)(B)(ii) tracks the language of Federal Rule of Civil Procedure 12(b)(6)").

B. Factual Allegations

A Report and Recommendation was entered by the Undersigned following a preliminary screening of the complaint and amended complaint. It was determined that the amended complaint (DE#9) was the operative complaint. The plaintiff named Dr. Sanjay Razdan, a urologist at Kendal Regional Medical Center. The facts as stated in the preliminary report revealed that as a result of the defendant's

allegedly poor surgical techniques and deliberate indifference to his medical condition, he suffered from permanent damage to his organs.

The plaintiff contends that on or about May of 2009, Dr. Poveda sent him for a prostate biopsy, stating that his number was high. He told Poveda that he had a biopsy a few months ago, which was negative and signed a refusal. Sometime in June of 2009, he was taken with other inmates to Jackson South Medical Center to see Dr. Razdan, a urologist, and he again signed a refusal for a biopsy. He states that he signed multiple refusals in July, August September and November of 2009.

In January of 2010, Dr. Poveda persuaded him to take a biopsy. He states that Razdan performed the biopsy manually. He was bleeding and in unbearable pain. Following the procedure, he was bloody and his right testicle was swollen. He was told there was nothing they could do for him. He declared a medical emergency, and was given pills, but remained in severe pain. He states he was seen in sick call and was told him there was nothing he could receive except Ibuprofin. Nurse Dwares, upon seeing how swollen he was, prescribed 500 cc of penicillin and put him on an antibiotic for ten days. The bleeding stopped but he could not urinate. Nurse Ruell attempted to catheterize him. He said that he had requested pain medication for the plaintiff, and would ask again. The catheter was filled with blood, and he was admitted to Kendall Regional Medical Center. He was given an ultra sound and it was determined he had liver damage. He had to wear a colostomy and was rushed back to the medical center, as he could not urinate normally. He was in severe pain and swollen. He was told both of his kidneys had been damaged, as well as his liver. In September of 2010, Dr. Razdan performed a second surgery so he could urinate. He

contends he still cannot urinate normally, his right testicle is swollen and he cannot get an erection. His biopsy proved to be normal. He seeks monetary damages.

It was determined for purposes of initial screening that the claims of denial of adequate medical treatment should proceed against Dr. Razdan, and he was served by the United States Marshal. The defendant filed a motion to dismiss.

Defendant Razdan's Motion to Dismiss (DE#20)

The defendant seeks to either dismiss the complaint for failure to state a claim of deliberate indifference to his medical needs or for the Court to Order the plaintiff to file a second amended complaint so that each paragraph is numbered to comply with Fed.R.Civ.P. 10(b).

The defendant contends that there is no evidence that he was notified of the plaintiff's complications, and that his actions at most could be considered negligent.

The standard for determining whether a complaint states a claim upon which relief may be granted is the same whether under 28 U.S.C. §1915(e)(2)(B) or Fed.R.Civ.P. 12(b)(6) or (c). See Mitchell v. Farcass, 112 F.3d 1483, 1490 (11 Cir. 1997)("The language of section 1915(e)(2)(B)(ii) tracks the language of Federal Rule of Civil Procedure 12(b)(6)"). It has already been determined in the preliminary screening that at this preliminary stage the plaintiff has stated a claim. The Report and Recommendation was adopted by Chief United States District Judge Federico A. Moreno on August 22, 2011.

As stated in the Preliminary Report, the plaintiff alleges that Razdan ignored his pain during the biopsy procedure, and walked out of the room when it was finished, despite the fact that he was bleeding. He claims that after a long period of pain and bleeding, along with an inability to urinate he was returned to Kendall Medical Center. At that time Razdan told him there had been liver damage, gave him a prescription and sent him back to the institution. He was eventually rushed back to the hospital swollen, and in pain. He contends that Razdan cut a hole in his bladder, inserted a tube and said "clean him up" and walked out. He then learned his kidneys had been damaged. On the ninth day of his hospitalization, Dr. Razdan informed him he had to perform a second surgery. Following this surgery he was left with residual damage, including a swollen testicle, and an inability to urinate properly. He essentially claims that Razdan caused his serious medical condition by being deliberately indifferent to his medical needs, and continued to be deliberately indifferent to his increasingly serious condition. At this preliminary stage, it was determined that the plaintiff minimally stated a claim of an Eighth Amendment violation.

The defendant's motion to dismiss has not changed the out come of that Report and Recommendation. It may be determined at the summary judgment stage, when the facts are more fully developed, that the plaintiff's claim is not sufficient, however the claims shall proceed at this early stage.

As to the defendant's argument that the plaintiff should be ordered to file a second amended complaint, upon review of the pro-se plaintiff's complaints, it appears that paragraphs in the amended complaint are separated and clearly stated, although not numbered. As this plaintiff is not represented by counsel, it

appears he has attempted to conform to the spirit of Rule 10(b), if not the letter. This argument is without merit.

## III. Conclusion

It is therefore recommended that Defendant Razdan's Motion to dismiss (DE#20) be denied.

Objections to this report may be filed with the District Judge within fourteen days of receipt of a copy of the report.

Dated this 21st day of September, 2011.

UNITED STATES MAGISTRATE JUDGE

cc: Elbert Johnson, Pro Se
#013118
Dade Correctional Institution
Address of Record

Patrick Dahl
Wicker, Smith, Ohara, McCoy, and Ford, P.A.
Attorney of record

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Miami Division
**Case Number: 11-21118-CIV-MORENO**

ELBERT JOHNSON,

Plaintiff,

vs.

SANJAY RAZDAN,

Defendant.
_____/

**ORDER ADOPTING MAGISTRATE'S REPORT AND RECOMMENDATION**

THE MATTER was referred to the Honorable Patrick A. White, United States Magistrate Judge for a Report and Recommendation on Defendant Razdan's Motion to Dismiss **(D.E. No. 20)**, filed on **August 31, 2011**. The Magistrate Judge filed a Report and Recommendation **(D.E. No. 25)** on **September 21, 2011**. The Court has reviewed the entire file and record. The Court has made a *de novo* review of the issues that the objections to the Magistrate Judge's Report and Recommendation present, and being otherwise fully advised in the premises, it is

**ADJUDGED** that United States Magistrate Judge Patrick A. White's Report and Recommendation **(D.E. No. 25)** on **September 21, 2011** is **AFFIRMED** and **ADOPTED**. Accordingly, it is

**ADJUDGED** that:

(1) Defendant Razdan's Motion to Dismiss is DENIED.

DONE AND ORDERED in Chambers at Miami, Florida, this 27th day of October, 2011.

FEDERICO A. MORENO
UNITED STATES DISTRICT JUDGE

Copies provided to:

United States Magistrate Judge Patrick A. White

Counsel of Record

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-21118-CIV-MORENO
MAGISTRATE JUDGE P. A. WHITE

ELBERT JOHNSON,

Plaintiff,

v.

SANJAY RAZDAN, et al.,

Defendants.

ORDER SCHEDULING PRETRIAL PROCEEDINGS WHEN PLAINTIFF IS PROCEEDING PRO SE

The plaintiff in this case is incarcerated, without counsel, so that it would be difficult for either the plaintiff or the defendants to comply fully with the pretrial procedures required by Local Rule 16.1 of this Court. It is thereupon

ORDERED AND ADJUDGED as follows:

1. All discovery methods listed in Rule 26(a), Federal Rules of Civil Procedure, shall be completed by **February 21, 2012.** This shall include all motions relating to discovery.

2. All motions to join additional parties or amend the pleadings shall be filed by **March 6, 2012.**

3. All motions to dismiss and/or for summary judgment shall be filed by **March 27, 2012.**

4. On or before **April 10, 2012,** the plaintiff shall file with the Court and serve upon counsel for the defendants a document called "Pretrial Statement." The Pretrial Statement shall contain the following things:

(a) A brief general statement of what the case is about;

(b) A written statement of the facts that will be offered by oral or documentary evidence at trial; this means that the plaintiff must explain what he intends to prove at trial and how he intends to prove it;

(c) A list of all exhibits to be offered into evidence at the trial of the case;

(d) A list of the full names and addresses of places of employment for all the non-inmate witnesses that the plaintiff intends to call (the plaintiff must notify the Court of any changes in their addresses);

(e) A list of the full names, inmate numbers, and places of incarceration of all the inmate witness that plaintiff intends to call (the plaintiff must notify the Court of any changes in their places of incarceration); and

(f) A summary of the testimony that the plaintiff expects each of his witnesses to give.

5. On or before **April 24, 2012**, defendants shall file and serve upon plaintiff a "Pretrial Statement," which shall comply with paragraph 4(a)-(f).

6. Failure of the parties to disclose fully in the Pretrial Statement the substance of the evidence to be offered at trial may result in the exclusion of that evidence at the trial. Exceptions will be (1) matters which the Court determines were not discover-

able at the time of the pretrial conference, (2) privileged matters, and (3) matters to be used solely for impeachment purposes.

7. If the plaintiff fails to file a Pretrial Statement, as required by paragraph 4 of this order, paragraph 5 of this order shall be suspended and the defendants shall notify the Court of plaintiff's failure to comply. The plaintiff is cautioned that failure to file the Pretrial Statement may result in dismissal of this case for lack of prosecution.

8. The plaintiff shall serve upon defense counsel, at the address given for him/her in this order, a copy of every pleading, motion, memorandum, or other paper submitted for consideration by the Court and shall include on the original document filed with the Clerk of the Court a certificate stating the date that a true and correct copy of the pleading, motion, memorandum, or other paper was mailed to counsel. All pleadings, motions, memoranda, or other papers shall be filed with the Clerk and must include a certificate of service or they will be disregarded by the Court.

9. A pretrial conference may be set pursuant to Local Rule 16.1 of the United States District Court for the Southern District of Florida, after the pretrial statements have been filed. Prior to such a conference, the parties or their counsel shall meet in a good faith effort to:

(a) discuss the possibility of settlement;

(b) stipulate (agree) in writing to as many facts and issues as possible to avoid unnecessary evidence;

(c) examine all exhibits and documents proposed to be used at the trial, except

that impeachment documents need not be revealed;

(d) mark all exhibits and prepare an exhibit list;

(e) initial and date opposing party's exhibits;

(f) prepare a list of motions or other matters which require Court attention; and

(g) discuss any other matters that may help in concluding this case.

10. All motions filed by defense counsel must include a proposed order for the undersigned Magistrate Judge's signature.

DONE AND ORDERED at Miami, Florida, this 3rd day of November, 2011.

**s/Patrick A. White**
UNITED STATES MAGISTRATE JUDGE

cc: Elbert Johnson, Pro Se
DC #013118
Dade Correctional Institution
19000 S.W. 377th Street
Florida City, FL 33034-6499

Patrick K. Dahl, Esquire
Wicker, Smith, et al.
SunTrust Center, Suite 1400
515 East Las Olas Boulevard
Fort Lauderdale, FL 33301

Hon. Federico A. Moreno, Chief Judge

69181-7

UNITED STATES DISTRICT COURT
THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:11-CV-21118-MORENO
Magistrate Judge: Patrick White

ELBERT JOHNSON,

Plaintiff,

vs.

SANJAY RAZDAN, M.D.,

Defendant.
_____/

**ANSWER, AFFIRMATIVE DEFENSES, AND JURY DEMAND**

Defendant, Sanjay Razdan, M.D., by and through his attorneys, Wicker, Smith, O'Hara, McCoy & Ford, P.A., states by way of Answer to the Complaint[1] filed by the plaintiff, Elbert Johnson, as follows:

1. In Item A below, place your name in the first blank and place your present address in the third blank.

A. Name of plaintiff: Elbert Johnson
Inmate #: 013118
Address: Dade Correctional Institution
19000 S.W. 377 Street
Florida City, FL 33034

**ANSWER:** Defendant admits that plaintiff identified himself as reflected in paragraph 1, sub-paragraph A.

[1] Plaintiff's complaint is presented in narrative form as opposed to containing numbered paragraphs as required by Rule 10(b) of the Federal Rules of Civil Procedure. Defendant has broken the narrative complaint into individually numbered paragraphs in order to prepare and present his answer.

> 2. In Item B below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use Item C for the names, positions, and places of employment for any additional defendants.
>
> B. Defendant: Sanjay Razdan, is employed as urology at Kendall Regional Medical Center, 11750 S.W. 40th St., Miami, FL 33175

**ANSWER:** Defendant admits that he is a board certified urologist licensed to practice medicine in the State of Florida. Defendant denies the remaining allegations contained at paragraph 2.

> C. Additional Defendants: Dwares, J, NP at Dade Correctional Institution, 1900 S.W. 377 Street, Florida City, FL 33034. Ron Ruell, nurse at Dade Correctional Institution, 1900 S.W. 377 Street, Florida City, FL 33034

**ANSWER:** Defendant denies that Dwares, J or Ron Ruell are parties this action pursuant to the order dated August 3, 2011.

> 4. On or about May 2009, I was on call-out to see Doctor Poveda. He said, "Elbert, I've been going through your medical record and you are in good health, but I notice that your prostrate number is high.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 4 and, therefore, neither admits nor denies same.

> 5. I said, "I just taking a prostate biopsy a few months ago before I was transferred here and the number that you are referring to were the same as they are now, and the result came back negative as you can also notice in my medical record."

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 5 and, therefore, neither admits nor denies same.

> 6. The he said, "well, I still like for you to see the urology." I signed a refusal.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 6 and, therefore, neither admits nor denies same.

> 7. On and about June 2009, I was call, put into a van with two other inmates and taking to Jackson South Medical Center to see Doctor Razdan office.

**ANSWER:** Dr. Razdan admits that he saw Johnson in June 2009. Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the remaining allegations contained at paragraph 7 and, therefore, neither admits nor denies same.

> 8. Doctor Razdan assistance came into the inmates waiting room and said, "Elbert, if you will fill out these papers, we will go ahead with the biopsy." I said, "Ms. I do not know what you are talking about, because I am not taking a biopsy. Matter of fact, I really do not know why I am here because I've signed a refusal. She said, "O.K." and walked out.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 8 and, therefore, neither admits nor denies same.

> 9. On and about July 2009, I was call-out to see Aguilar and he said, "Elbert, I strongly think that you

> should take the biopsy." I said, "look, its nothing wrong with me. I do not have cancer, so why should I take it." I signed another refusal.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 9 and, therefore, neither admits nor denies same.

> 10. In Aug. 2009, I was call and put into a van with three inmates and taking to Kendall Medical Center to Doctor Razdan new office. Doctor Razdan came into the inmates waiting room and said, "Elbert, are you ready today to take the biopsy?" I said, "no, and I do not know why I am here. I've signed a refusal. He said, "O.K."

**ANSWER:** Defendant denies the allegations and characterizations contained at paragraph 10.

> 11. In Sept. 2009, I was on call-out to see Dwares and he said, "Elbert, I notice in your record that you've taking a prostate biopsy and it came back negative, but it will not hurt to take it again." I said, "you are right. I've taking one and I am not taking another one." I signed another refusal.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 11 and, therefore, neither admits nor denies same.

> 12. On and about Nov. 2009, I was on call-out, put into a van and taking to Kendall Medical Center to Doctor Razdan Office. Doctor Razdan came into the inmates waiting room and said, "Elbert, are you to take the biopsy?" I said, "No." Then he said, "look at you. Cancer is eating you up. Do you want to die. I do not care. You have cost me to lose ten-thousand dollars by keep coming here." I said, "I've not cost you to lose anything. I've been signing refusal and you must be keep sending for me." He looked toward officer Polk and officer Terry and said in a

real loud voice, "do not bring him here again! I do not want to see him." And rushed out of the room.

**ANSWER:** Defendant denies the allegations and characterizations contained at paragraph 12.

13. On and about Jan. 2010, I was on call-out again to see Doctor Poveda and I was persuaded to take the biopsy.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 13 and, therefore, neither admits nor denies same.

14. On and about March 2010, I was taking to Kendall Medical Center to Doctor Razdan office. He came into the waiting room and said, "Elbert, are you ready this time?" With a smile on his face. I said, "yes, I am going to go ahead and take it." He then did the paperwork and said, "I will see you in my office in about a month or so, O.K."

**ANSWER:** Defendant admits seeing Johnson in March 2010. Defendant denies the remaining allegations and characterizations contained at paragraph 14.

15. On and about May 2010, I was taking to Doctor Razdan office at Kendall Medical Center. Doctor Razdan assistance come into the waiting room and said, "Elbert, we are ready for you."

**ANSWER:** Defendant admits seeing Johnson in May 2010. Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the remaining allegations contained at paragraph 15.

16. She taking officer Polk and I into a office which I notice that I did not see any kind of machines in there, so, I asked her "are you going to give me something to clean me out?" She said, "no, its not necessary."

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 16 and, therefore, neither admits nor denies same.

17. In about five minutes Doctor Razdan came in, sit down and said, "pass me." Then I looked back and she passed him a long too with little blades on the end of it. He was doing the biopsy manual.

**ANSWER:** Defendant admits that he performed a transrectal ultrasound guided biopsy on May 17, 2010 and that the procedure involves the utilization of certain instruments. Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the remaining allegations contained at paragraph 17 and, therefore, neither admits nor denies same.

18. Doctor Razdan start digging into my prostate like he did not care whether or not that he was hurting me. I was in unbearable pains. I was groaning and moaning. He was hurting me so bad!

**ANSWER:** Defendant denies the allegations and characterizations contained at paragraph 18.

19. And he was just saying, "o you've a large prostate, don't push me out over and over.

**ANSWER:** Defendant denies the allegations and characterizations contained at paragraph 19.

20. When he finished, he just got up and walked out.

**ANSWER:** Defendant denies the allegations and characterizations contained at paragraph 20.

21. I was still hurting. I asked officer Polk to take me to the bathroom and I drop my pants and I was bleeding pretty bad from the biopsy procedure.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 21 and, therefore, neither admits nor denies same.

22. When we arrived back at the Institution, I had to be check out through the infirmary and as the nurse was taking my blood pressure, she saw blood on my pants and she said, "what is that?" I said, "I just taking a prostate biopsy and its just blood from it." She said, "oh no, I am going to keep you over night to see the doctor. " I then said, "can I have some antibiotic." She said, "the doctor will give you something in the morning."

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 22 and, therefore, neither admits nor denies same.

23. When morning came, I was release without seeing a doctor. Later that day, I felt something running down my leg. I drop my pants and my boxer was bloody and my right testic[le] was swollen about the size of a golf ball and paining real bad!

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 23 and, therefore, neither admits nor denies same.

24. I went to medical and was told that the urology had a follow-up on me and its nothing that they can do for me.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 24 and, therefore, neither admits nor denies same.

> 25. I then filed a emergency grievance to the warden which was approved 13 days later. Meanwhile, I was going through severe pains. I went to a supervisor name is Maldonado and asked him can he get me into medical and get me some help.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 25 and, therefore, neither admits nor denies same.

> 26. He taken me and declared a medical emergency and he was told that I can not declare a medical emergency. Maldonado got a little upset and went to security and was told that they cannot stop me from declaring a medical emergency.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 26 and, therefore, neither admits nor denies same.

> 27. Security told me to sit because somebody is going to see me. After a while, a nurse case and said, "what's your problem." I said, "I am bleeding any my testic[le] is swollen and I am in pains."

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 27 and, therefore, neither admits nor denies same.

> 28. She gave me a small container and said, "bring me some urine." I went into the bathroom and

> grabbed the sink and went through pains to get some urine out. I took her what I had.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 28 and, therefore, neither admits nor denies same.

> 29. She left and came back with two pills and said, "this is all that I can do for you. The urology has a follow-up on you. I am sorry."

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 29 and, therefore, neither admits nor denies same.

> 30. That night, I tried to urinate and I had to grabbed the sink and cry out oh god help me! I was in unbearable pains and I needed help.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 30 and, therefore, neither admits nor denies same.

> 31. Morning come. I tried to sign up for sick-call and was told that the list was full. I was in pains. A female Sgt. Mrs. Wilson said, "Johnson how are you doing." I said, Sgt. I am in pain and the officer said that the sick-call list is full. Sgt. Wilson call the officer and said, "put Johnson on that list." Then the officer added my name on the list.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 31 and, therefore, neither admits nor denies same.

> 32. When I did get a chance to be seen by Ron Espina[? Who does sick call, he said, "Elbert what is your problem?" I said, "I am in pains and bleeding, please give me something for pains. Man that urology has messed me up."

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 32 and, therefore, neither admits nor denies same.

> 33. He said, "I believe that you are in pains and maybe the urology was a little rough doing the biopsy, but was here yesterday and they did not do any thing for you, its nothing that I can do."

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 34 and, therefore, neither admits nor denies same.

> 34. I said, "I said, "please! Give me something." He said, "the only thing that I've to give you some Ibuprofen."

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 34 and, therefore, neither admits nor denies same.

> 35. I took them and left. That night I was going through unbearable pains trying to urinate. I only could call-out to God to help me.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 35 and, therefore, neither admits nor denies same.

36. Morning came and I had to get some help. I went to another maintenance supervisor named Pedro. He took me back to medical sick call and said, "Elbert is in severe pains. What about seeing him."

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 36 and, therefore, neither admits nor denies same.

37. Espinal said, "he is no better than anyone else. He is going to have to wait out there like the rest." Pedro said, "well, Elbert, I guess that you have to wait."

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 38 and, therefore, neither admits nor denies same.

38. In about an hour, I was call. Espinal said, "Elbert what going on." I said, "man, I need help. I am bleeding and in sever pains when I try to urinate. My testis is swollen and hurting." He said, "let me see."

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 38 and, therefore, neither admits nor denies same.

39. I drop my pants and Dwares said less drop all the red tape and put him on 500cc penicillin starting right now for three days then put him on antibiotic twice a day for ten days."

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 39 and, therefore, neither admits nor denies same.

40. After the penicillin the bleeding stop, and the antibiotic was seem to help or ease the pains in my testis. I was on antibiotic for seven days and I was told that was my last day.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 40 and, therefore, neither admits nor denies same.

41. In three days my testis started paining and when I try to urinate it hurted me so bad. That night I thought that I was going to die! I just prayed and ask God to help me.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 41 and, therefore, neither admits nor denies same.

42. I could not urinate. I could only cry out for help please! Somebody help me! God help me!

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 42 and, therefore, neither admits nor denies same.

43. I made it til morning and a inmate ran to my cell and said, "pop what's wrong? I could only say help me please!

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 43 and, therefore, neither admits nor denies same.

44. He ran and got another wheel chair put me into it and called for the officer over the dorm to open the door and call medical and tell them we are coming.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 44 and, therefore, neither admits nor denies same.

> 45. When we got to medical, I was put on table and the nurses were holding me down. No one knew what to do. I was just hollowing calling out for something for pains!

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 45 and, therefore, neither admits nor denies same.

> 46. Please! Help me oh God help me! They just let me suffered.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 46 and, therefore, neither admits nor denies same.

> 47. Everyone was just standing there looking. A nurse name Ms. Morales was holding my head. I asked her why the will not give me something for pains. She said, "I've been to them four times and asked them to give you something and I am going to ask them again."

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 47 and, therefore, neither admits nor denies same.

> 48. In about three hours or so a nurse name Ron Ruell decided to put a tube into my penis. I was hollowing and crying out. God Help me! Ron poke and push for about an hour and thirty minutes and could not get the tube

into my penis then he shot two tubes of water into my penis.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 48 and, therefore, neither admits nor denies same.

49. I just knew that I was going to die. I can not describe the pains that I was going through. Ron could not get the tube into my penis only blood came out.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 49 and, therefore, neither admits nor denies same.

50. Then Dwares start poking and nothing trying to put the tube into my penis. Dwares poke for about an hour or so, final they decide to give me something for pains.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 50 and, therefore, neither admits nor denies same.

51. I was admitted to the infirmary. The next day, I was taking to Kendall Regional Medical Center.

**ANSWER:** Defendant admits that Johnson was taken to Kendall Regional in July 2010. Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the remaining allegations contained at paragraph 51 and, therefore, neither admits nor denies same.

52. After being admitted to a bed, a R.N. by the name Arthur looked at the urine bag that I had on me which the other thing was in it was blood. He said, "something is

> wrong. Let me take a look at that." Then he said, "who done this?" I said, "they done it at the institution." He said, "I hate to say this, but they did not know what they was doing. The number is not right."

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 52 and, therefore, neither admits nor denies same.

> 53. He rejust the number and pushed down and the urine start flowing out. Three and one half liters come out of me. Arthur and the rest of the R.N. that was there was astonish and said, "Johnson, you are a lucky man. I do not know how that you made it."

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 53 and, therefore, neither admits nor denies same.

> 54. About an hour or so, a Doctor came in with a ultra sound machine and went over my lower body and left. The next morning Doctor Razdan came and said, "Elbert, your liver has been damage. I will write a prescription for that, by the way, you biopsy test result came back negative" and he walked out.

**ANSWER:** Defendants denies the allegations and characterizations contained at paragraph 54.

> 55. I was there in the hospital for three days and was transferred back to the institution. I had a urine bag which I wore for twenty-two days and it was taken off at the institution medical nurse.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 55 and, therefore, neither admits nor denies same.

> 56. Three days after the bag was remove, my urine stop again and I was rushed back to medical. I was going through unbearable pains no one in the informary would give me anything for pains until about two or three hours later.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 57 and, therefore, neither admits nor denies same.

> 57. I was final put into a van and taking back to Kendall Medical Center. I was in unbearable pains. My testis was swollen and paining so bad! I could urinate a little. I did not have any control over it. It just run a little and stop. I just knew that I was going to die!

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 57 and, therefore, neither admits nor denies same.

> 58. My prostate had swollen so severely until no one at the hospital could another urine tube into my bladder. The next morning Doctor Razdan came and tried to put a tube into my bladder and I felt liquid running over my body. Doctor Razdan had cut a hole into my bladder, put the tube into it, and sewed it up and said, "clean him up" and walked out.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 58 and, therefore, neither admits nor denies same.

59. In about thirty minutes, two nurses come with a form and said, "Johnson, sign this." I read it and refused to sign it.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 59 and, therefore, neither admits nor denies same.

60. After I was there three days, I was given a cat-scan and taking back to my room. In about an hour, two specialist come into my room and said, "Elbert both of your kidneys have been damage and also your liver but we are going to fix you up O.K." I said, "O.K. doc."

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 60 and, therefore, neither admits nor denies same.

61. In three more days, I was taking to a specialist to do ultra-sound test of my right testis and as he was testing, he was looking as something was badly wrong. He just kept going over and over the same spot. I could tell that something was wrong, so I said, "Doc, whats going on? Whats wrong?" He said, "Johnson, it is bad."

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 61 and, therefore, neither admits nor denies same.

62. I was taking back to my room. In about an hour those two specialist who said that they was going to fix me up come to my room with a ultra-sound machine and tested my right testis again over and over and they was looking at each other and from their body language and hearing bits and pieces of their conversation, I knew

something was wrong and Doctor Razdan had something to do with it. They left and I never saw either again.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 62 and, therefore, neither admits nor denies same.

63. On my ninth day, Doctor Razdan showed up for the first time with his head down looking as if he knew that he had did something wrong during the procedure of the prostate biopsy to cause me my life. He walk up to my bed and said, "Elbert" in a sad voice "how are you doing?" I did not say a word. I just looked at him, because I knew that he had dome something wrong to me.

**ANSWER:** Defendant lacks information sufficient to form a knowledge or belief as to the truth or falsity of the allegations contained at paragraph 63 and, therefore, neither admits nor denies same.

64. Then he said, "Elbert, I am going to have to do surgery on you." I said, "what!" He said, I am not going to cut you, it will be laser surgery and it will not hurt you. I want to go up in there and trim around the edge of your prostate so that you can peen out of your penis. I am going to send you back to the institution and I will see you in my office in about two weeks O.K."

**ANSWER:** Defendant admits recommending that Johnson undergo HoLEAP. Defendant denies the remaining allegations and characterizations contained at paragraph 64.

65. Around Sept. 2010, I was taking to Kendall Medical Center to have surgery. After the surgery, I had to have a urine bag for two weeks and it was remove. I can not urinate normal and my right testis is still swollen with knots on it and my penis will not erect proper.

**ANSWER:** Defendant admits performing HoLEAP at Kendall Medical Center on September 17, 2010. Defendant denies the remaining allegations and characterizations contained at paragraph 65.

> 66. Its obvious that during the prostate biopsy something was done wrong to cause my testis to swelled as it did and cause my urine to stop which almost took my life and has damage my life forever. My health was good until Doctor performed the prostate biopsy on me and my medical record will reveal that I did not have any kind of health problem.

**ANSWER:** Defendant denies the allegations, characterizations and legal conclusions contained at paragraph 66.

WHEREFORE, Defendant, Sanjay Razdan, M.D., denies that the Plaintiff is entitled to any relief whatsoever and respectfully requests that his Court enter judgment in his favor and against the Plaintiff, Elbert Johnson or for whatever other relief this Court deems just and proper.

## AFFIRMATIVE DEFENSES

In the alternative, without prejudice to his previous denials and without waiving Plaintiff's obligation to put on evidence regarding the elements necessary to sustain his claim, Sanjay Razdan, M.D., states by way of his Affirmative Defenses, as follows:

### FIRST AFFIRMATIVE DEFENSE

1. To the extent that the allegations contained in the complaint constitute the basis for any claim, it is only one for medical negligence.

2. Johnson did not, prior to filing suit, comply with the Florida requirements for maintaining such a claim.

3. As the 11th Circuit has observed, "Florida law requires that before filing any claim for personal injury or wrongful death arising from medical malpractice, the claimant conduct an investigation of the claim and send the defendant(s) a notice of intent to sue, along with a corroborating opinion by a medical expert." *Johnson v. McNeil*, 278 Fed.Appx. 866, 871 (11th Cir. 2008); citing Fla.Stat.Ann. §766.203(2).

4. The failure to comply with Florida's pre-suit requirements in a medical negligence action is grounds for dismissal. "Florida law mandates the dismissal of a claim for medical malpractice when the pre-suit requirements have not been fulfilled." *Johnson*, 278 Fed.Appx. at 872; citing Fla.Stat.Ann. §766.206(2).

**SECOND AFFIRMATIVE DEFENSE**

5. Dr. Razdan asserts that this Court lacks subject matter jurisdiction over this action by the Plaintiff's failure to comply with the conditions precedent prior to the filing of this action pursuant to Florida Statute §766.106 and §766.203.

**THIRD AFFIRMATIVE DEFENSE**

6. Dr. Razdan states that at all material times, he conducted himself within the prevailing professional standard of care and therefore the Plaintiff may not recover against this him.

**FOURTH AFFIRMATIVE DEFENSE**

7. Dr. Razdan states that Hutchinson has failed to mitigate his damages as and any such recovery should be proportionately reduced as a result of this failure.

CASE NO. 1:11-CV-21118-FAM

**JURY DEMAND**

Defendant, Sanjay Razdan, M.D., demands a trial by jury of all issues so triable as of right by a jury.

I HEREBY CERTIFY that on November 7, 2011, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

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By: /s/ Patrick K. Dahl
Robert E. Paradela
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**Service List**

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Dade Correctional Institution
19000 S.W. 377 Street
Florida City, Florida 33034

69181-7

UNITED STATES DISTRICT COURT
THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:11-CV-21118-FAM
Magistrate Judge: Patrick White

ELBERT JOHNSON,

Plaintiff,

vs.

SANJAY RAZDAN, M.D.,

Defendant.
_____/

**DEFENDANT'S FIRST MOTION FOR EXTENSION OF TIME TO COMPLETE DISCOVERY**

Defendant, Sanjay Razdan, M.D. ("Dr. Razdan"), by and through his attorneys, Wicker, Smith, O'Hara, McCoy & Ford, P.A., moves this Court for the entry of an Order enlarging the time within which to complete fact discovery. In support thereof, Dr. Razdan states as follows:

1. The present action involves a claim by an inmate, Elbert Johnson ("Johnson"), in which he alleges that the medical care and treatment he received from Dr. Razdan constituted cruel and unusual punishment in violation of his constitutional rights.

2. On November 3, 2011, Magistrate Judge Patrick A. White entered an Order pursuant to which all discovery in this action was to be completed by February 21, 2012. (DE 29, p. 1.)

3. Dr. Razdan's counsel has diligently attempted to obtain information, documents and all the relevant materials sufficient to prepare a defense to this action. That has included subpoenaing medical records from various third party healthcare

providers involved in Johnson's treatment. However, due to the fact that Mr. Johnson is not represented by counsel and is proceeding pro se, the identification of the appropriate healthcare providers and the compilation of all these materials to ensure that they are complete has been rendered more difficult. This is not a criticism of Mr. Johnson. Rather, it is simply an acknowledgement of the circumstances involving pro so inmate litigation.

4. In addition, due to the delay in receiving certain records, Defendant has not proceeded with Mr. Johnson's deposition due to restrictions in place at Dade Correctional concerning time allotted for the completion of deposition. In order to completely and effectively examine Mr. Johnson within the time periods allotted at Dade Correctional, it requires significant advance preparation so that the examination can be completed.

5. The completion of Johnson's deposition likely will not be completed prior to the present date for the closure of discovery, February 21, 2012, due to an additional complication.

6. In addition, Robert E. Paradela, one of the attorneys primarily responsible for handling this matter, has been begun a four (4) week trial in the matter of *Robert Rhodes, individually and Robert and Karen Rhodes, as Husband and Wife vs. Michael J. Rush, M.D., et al.*, CACE 08-001102 (26), pending in the 17th Judicial Circuit, in and for Broward County, Florida, before Judge Henning. That case is presently scheduled to take approximately four (4) weeks to try. This will render Mr. Paradela unavailable to depose Mr. Johnson within the remaining time for discovery.

7. Accordingly, Dr. Razdan respectfully requests this Court for the entry of an Order granting the parties an additional forty-five (45) days within which to complete discovery. Similarly, Dr. Razdan would request the extension of the remaining discovery deadlines by a similar forty-five (45) day period.

WHEREFORE, Defendant, Sanjay Razdan, M.D., respectfully requests that this Court enter an Order extending the deadline set forth in its November 3, 2011 Order (DE 29) by forty-five (45) days, or for whatever other relief this Court deems just and proper.

I HEREBY CERTIFY that on February 3, 2012, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

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CASE NO. 1:11-CV-21118-FAM

**Service List**

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Dade Correctional Institution
19000 S.W. 377 Street
Florida City, Florida 33034

69181-7

UNITED STATES DISTRICT COURT
THE SOUTHERN DISTRICT OF FLORIDA

ELBERT JOHNSON,

Plaintiff,

vs.

SANJAY RAZDAN, M.D.,

Defendant.
_____/

CIRCUIT CIVIL DIVISION

CASE NO. 1:11-CV-21118-FAM

**ORDER ON DEFENDANT'S FIRST MOTION FOR EXTENSION OF TIME TO COMPLETE DISCOVERY**

This matter coming to be heard on Defendant, Dr. Sanjay Razdan, M.D.'s First Motion for Extension of Time to Complete Discovery, all parties having been given due notice and the Court having been fully advised on the premises;

IT IS HEREBY ORDERED THAT:

1. Defendant's Motion is Granted;

2. The deadlines set forth in the Court's November 3, 2011 Order (DE 29) are modified as follows:

a. All discovery methods listed in Rule 26(a), Federal Rules of Civil Procedure, shall be completed by **April 6, 2012**. This shall include all motions relating to discovery.

b. All motions to join additional parties or amend the pleadings shall be filed by **April 20, 2012**.

c. All motions to dismiss and/or for summary judgment shall be filed by **May 11, 2012**.

d. On or before **May 25, 2012**, the plaintiff shall file with the Court and serve upon counsel for the defendant a document called "Pretrial Statement." Said Pretrial Statement shall contain all information set forth in DE 29, ¶4(a)-(f).

e. On or before **June 8, 2012**, defendants shall file and serve upon plaintiff a "Pretrial Statement," which shall comply with DE 29, ¶4(a)-(f).

3. All other terms and conditions set forth in the Court's November 3, 2011 Order, DE 29, remain in full force and effect.

DONE AND ORDERED at Miami-Dade County, Florida, this _____ day of _____, 20____.

_____
Hon. Patrick A. White
United States Magistrate Judge

COPIES FURNISHED TO:

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