

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

FILED by _____ D.C.
JUL 02 2012
STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. - MIAMI

Edward T Johnson
Plaintiff,

vs.

SANJAY RAZDAN, M.D.
Defendant

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

JUN 28 2012

EXHIBIT List Description

- 1. Dade C. I. Medical Dept.
Refused. 4-28-09
- 2. Dade C. I. Medical Dept.
Refused. 6-15-09
- 3. Dade C. I. Medical Dept.
Refused. 3-18-10
- 4. C. DWares
Dade C. I. Medical Dept.
ARNP/FNP Emergency calls to
Dr. Razdan. 6-23-10. 9:12
- 5. R. Ruez
Dade C. I. Medical Dept.
RN Emergency calls to
Dr. Razdan. 6-23-10. 9:15, 9:20, 9:30

see attached exhibits

**STATE OF FLORIDA
DEPARTMENT OF CORRECTIONS
CONSULTATION REQUEST/CONSULTANT'S REPORT**

27c. Request

TO Institution: <i>Unitec</i>	FROM Institution: <i>Dcy</i>	DATE OF REQUEST: <i>4-28-09</i>
Reason(s) for consultation: Evaluate and recommend <u>diagnostic plan</u> Evaluate and recommend <u>treatment plan</u> Other (specify): _____	Type of consultation: Emergency _____ <u>Urgent</u> _____ Routine _____ Follow-up _____	DATE APPOINTMENT MADE: _____ Staff Signature: _____
Follow-up consults require justification		APPOINTMENT DATE: _____

Condition is (check one): Acute Trauma Acute Illness Chronic
 History of present illness (include onset, presentation, progress, therapy):

70 Primate Ca

Physical findings:
Initial Oncologic Consult less referred by J/n

Diagnostic findings (explain laboratory, x-ray, or other test findings):
Please Consider Primate Bz Asap!!!

Other pertinent information:

Provisional diagnosis:

Health Care Provider Signature/Stamp: *Julio Poveda, MD*

CHO/Designee Approval Signature/Stamp:

AUTHORIZATION FOR SPECIALITY EVALUATION

I, the undersigned, have had explained to me and understand that I require _____ which cannot be accomplished at _____
 I also understand that should hospitalization and/or surgery be necessary, a separate consent form will be signed prior to such hospitalization and/or surgery. I therefore consent to be referred to a reception and medical center, or such other health care facility as may be appropriate for the reason(s) stated, and consent to undergo health care services as may be necessary to evaluate my health status.

Signature of Patient: _____ **Date:** _____

Signature of Witness: _____ **Date:** _____

IT IS ABSOLUTELY NECESSARY THAT INMATES ARE NOT MADE AWARE OF ANY INFORMATION PENDING ANY APPOINTMENT OUTSIDE THE INSTITUTION

Inmate Name: *Johnson, Benny*
DC#: *013118* - **Race/Sex:** *B/M*
Date of Birth: *10-23-42*
EOS DATE: _____

RECEIVED
MAY 01 2009

CONSULTANT'S REPORT

EXHIBIT 2

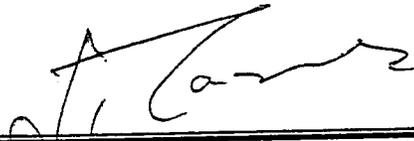
NO PROCEDURE(S) MAY BE PERFORMED WITHOUT PRIOR APPROVAL BY THE REGIONAL MEDICAL EXECUTIVE DIRECTOR, DEPARTMENT OF CORRECTIONS

Additional History: -64 year old male
-Elevated PSA 27.5 ng/ml [12/28/07]
-Minimal LUTS → Nocturia, Hesitancy

Findings:

PATIENT REFUSED
BIOPSY.

Recommendations:

Consultant Signature/Stamp: 

Date: 6/15/09

IT IS ABSOLUTELY NECESSARY THAT INMATES ARE NOT MADE AWARE OF ANY INFORMATION PENDING ANY APPOINTMENT OUTSIDE THE INSTITUTION

Inmate Name Elbert Johnson
DC# 013113 Race/Sex B/M
Date of Birth 10/23/1942
Institution _____
EOS DATE: 06/15/09

USE ADDITIONAL SHEET(S) AS NECESSARY

Form is not to be amended, revised or altered without approval of the Deputy Assistant Secretary of Health Services Administration

EXHIBIT 3

**STATE OF FLORIDA
DEPARTMENT OF CORRECTIONS
CONSULTATION REQUEST/CONSULTANT'S REPORT**

TO Institution: <u>Urology</u>	FROM Institution: <u>DCI</u>	DATE OF REQUEST: <u>3-18-10</u>
Reason(s) for consultation: Evaluate and recommend diagnostic plan <input checked="" type="checkbox"/> Evaluate and recommend treatment plan <input checked="" type="checkbox"/> Other (specify): _____	Type of consultation: Emergency _____ <u>Urgent</u> <input checked="" type="checkbox"/> Routine _____ Follow-up _____	DATE APPOINTMENT MADE: <u>3-30-10</u>
Follow-up consults require justification		Staff Signature: <i>[Signature]</i>
		APPOINTMENT DATE: <u>5-17-10</u>

Condition is (check one): Acute Trauma Acute Illness Chronic
 History of present illness (include onset, presentation, progress, therapy):
67 year old BM cT PSA. pt out to urology on 3/17/10 & He requested Trus prostate Bx ASAP!

Diagnostic findings (explain laboratory, x-ray, or other test findings):
 * 2/22/10 - PSA 5.4*
11/9/09 - PSA 6.9
7/10/09 - PSA 6.9
6/5/09 PSA 6.0
11/7/08 PSA 6.9
12/28/07 PSA 27.5*

Other pertinent information:
 Provisional diagnosis:
No Prostate CA
 Health Care Provider Signature/Stamp: *[Signature]* **DWADES A.R.N.P. DADEC1**
 CHO/Designee Approval Signature/Stamp:

AUTHORIZATION FOR SPECIALITY EVALUATION

I, the undersigned, have had explained to me and understand that I require _____ which cannot be accomplished at _____. I also understand that should hospitalization and/or surgery be necessary, a separate consent form will be signed prior to such hospitalization and/or surgery. I therefore consent to be referred to a reception and medical center, or such other health care facility as may be appropriate for the reason(s) stated, and consent to undergo health care services as may be necessary to evaluate my health status.

Signature of Patient: *[Signature]* Date: _____
 Signature of Witness: _____ Date: _____

IT IS ABSOLUTELY NECESSARY THAT INMATES ARE NOT MADE AWARE OF ANY INFORMATION PENDING ANY APPOINTMENT OUTSIDE THE INSTITUTION

Inmate Name Johnson, Elbert
 DC# 03118 Race/Sex BM
 Date of Birth 10-23-42
 EOS DATE: _____

L. INSUA
 CONSULT COORDINATOR
 DADEC1

RECEIVED
 MAR 24 2010

FLORIDA DEPARTMENT OF CORRECTIONS
 Chronological Record of Health Care

Allergies: MCOA

DATE/TIME

06/23/10/9A

(1) ⊕ pain, pull my galaxy, I want to go
 (2) older B/M, appears comfortable, NAD.
 Signs:
 APOX3
 NECK: J & A ⊕ JVD FROM
 HEENT: NCA/T Sclera nonicteric
 CV: S1S2 RRR ⊕ K LTR
 LUNGS: CTR BILAT
 ABD: ⊕ abd non dist / rigid
 GU: ⊕ Hematuria, of note: 240 cc irrigated
 yesterday afternoon (SNSU) → total output
 since = approx 200. IE: NO UA output
 since this irrigation yesterday per nursing
 report.

(3) S/P Trus BK (i neg BK results per Case discussion)
 ? urinary Retention
 Hematuria
 BPH: / MVO RF?? Renal Insufficiency

(4) Call placed again to Dr. Razdan's office
 awaiting return call.
 will get CMP + EBC and send this AM
 (5) Reportable S/Sx, ⊕'s
 COMP/

R. RUEL RN
 DADE CL

Note
 6/23/10
 0915

06/23/10/920

Call again to Dr. Razdan's
 office answering service, message left —
 ⊕ abd dist, limited UA output
 since irrigation and hematuria
 Case now discusses: A. Purocorbo
 who requests direct admit to KMC
 OUC floor.
 COMP/

R. RUEL RN
 DADE CL

Note
 6/23/10
 0930

C. Lwares
 ARNP/FNP
 Dade CL

C. Lwares
 ARNP/FNP
 Dade CL

Inmate Name Johnson, Elbert
 DC# 013118 Race/Sex B/M
 Date of Birth 10/25/42
 Institution DADE CL

S- Subjective Data
 O- Objective Data
 A- Assessment of S and O Data
 P- Plan
 E- Education

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

ELBERT JOHNSON, :
 :
 Plaintiff, :
 :
 v. : ORDER INSTRUCTING PRO SE
 : PLAINTIFF CONCERNING RESPONSE
 SANJAY RAZDAN, et al., : TO MOTION FOR SUMMARY JUDGMENT
 :
 Defendants. :

In this prisoner civil rights action the defendant Sanjay Razdan has filed a motion for summary judgment pursuant to Fed.R.Civ.P. 56, or a motion to dismiss with supporting documentation which the court will treat as a motion for summary judgment pursuant to Fed.R.Civ.P. 12(b)(6) **[DE #46]**.

The plaintiff is hereby notified that this Court will consider this motion without oral hearing, and that he may file a response in opposition thereto for consideration by the Court. Somerville v. Hall, 2 F.3d 1563 (11 Cir. 1993); Griffith v. Wainwright, 772 F.2d 822, 825 (11 Cir. 1985); Moore v. Florida, 703 F.2d 516 (11 Cir. 1983); Barker v. Norman, 651 F.2d 1107 (5 Cir. 1981); Kibort v. Hampton, 538 F.2d 90 (5 Cir. 1976).

The attention of the plaintiff is particularly drawn to all provisions of Fed.R.Civ.P. 56, and specifically to that portion of Rule 56(e), which provides:

If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c), the court may:

- (1) give an opportunity to properly support or address the fact;
- (2) consider the fact undisputed for purposes of the motion;

- (3) grant summary judgment if the motion and supporting materials—including the facts considered undisputed—show that the movant is entitled to it; or
- (4) issue any other appropriate order

The plaintiff is specifically cautioned as follows:

1. Any issue determined by summary judgment will not be tried. If a summary judgment is granted as to all issues, there will be no trial and a final judgment will be entered without further proceedings.
2. The evidence presented by the defendant in support of the motion for summary judgment may be accepted by the Court as true if it is not contradicted by affidavits or other sworn evidence such as depositions, submitted by the plaintiff.
3. The plaintiff cannot rely solely on his complaint and other initial pleadings, but must respond with affidavits, depositions, or otherwise, to show that there are material issues of fact which require a trial.

Coleman v. Smith, 828 F.2d 714 (11 Cir. 1987); Brown v. Shinbaum, 828 F.2d 707 (11 Cir. 1987). Thereupon, it is

ORDERED that if plaintiff files a response to the pending motion for summary judgment, such response shall be filed on or before **July 27, 2012**.

DONE AND ORDERED at Miami, Florida, this 2nd day of July, 2012.

s/Patrick A. White
PATRICK A. WHITE
U.S. MAGISTRATE JUDGE

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

Robert Emerito Paradela, Esq.
Patrick K. Dahl, Esq.
Wicker, Smith, et al.
515 East Las Olas Boulevard
Suite 1400 SunTrust Bank
Fort Lauderdale, FL 33301

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.

_____ /

DR. RAZDAN'S PRE-TRIAL STATEMENT

Defendant, Sanjay Razdan, M.D. ("Dr. Razdan"), by and through his attorneys, Wicker, Smith, O'Hara, McCoy & Ford, P.A., pursuant to the Court's Scheduling Order dated November 3, 2011 (DE 29) and the Court's subsequent extension of deadlines (DE 39), submits this "Pre Trial Statement." In particular, Dr. Razdan states as follows:

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

In 2008, Elbert Johnson ("Johnson"), an inmate in the Florida correctional system, was transferred to the Dade Correctional Institution (Dade C.I.). Upon his transfer, health care providers at Dade C.I. noticed that Johnson's Prostate Specific Antigen ("PSA") values were elevated and recommended that he undergo a prostate biopsy to determine whether suffered from, among other things, prostate cancer. Twenty-months later, after repeatedly refusing the recommendations of numerous health care providers (including the Defendant, Sanjay Razdan, M.D. ("Dr. Razdan")), Johnson agreed to and underwent the biopsy.

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

Dr. Razdan performed the biopsy on May 17, 2010. Following the biopsy, Johnson experienced several episodes of severe urinary dysfunction manifested by urinary retention and an inability to void urine.

Johnson filed this §1983 action in which he contends that the medical care and treatment that Dr. Razdan provided was improper and/or inadequate and amounted to cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution. (DE 9.) Stated differently, Johnson has filed a complaint in which he claims that Dr. Razdan: (i) performed an unnecessary prostate biopsy; (ii) performed that prostate biopsy improperly; and/or (iii) failed to treat him appropriately following the biopsy. (DE 9.)

(b) A written statement of the facts that will be offered by oral or documentary evidence at trial;

Defendant identifies the following facts/ evidence that may be presented at trial. Due to the fact that it is unclear what evidence may be introduced by Johnson, facts/ evidence concerning some or all of these issues may not be required. These “facts” are being identified simply to avoid the potential for surprise.

1. The Plaintiff, Elbert Johnson (“Johnson”) was born on October 23, 1942, He is sixty-nine years old.

2. Johnson has spent the majority of his adult life incarcerated. He was convicted in 1960 for uttering a forged document. He received a thirty year sentence for robbery in connection with a subsequent 1972 conviction. He was released in 1979 before being convicted again in 1980.

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

3. In 1980, Johnson was convicted for armed robbery and second degree attempted murder. In addition, he was convicted of “escape.” In total, he is presently serving a 130 year sentence in connection with that conviction.

4. Since September, 2008, Johnson has been serving his time at the Dade Correctional Institute (“Dade C.I.”), a Florida prison.

5. Johnson completed courses to obtain his GED while incarcerated.

6. Johnson is not a doctor and he has no medical training whatsoever. He has never practiced medicine in any state. He has never performed a transurethral ultrasound biopsy and he is not an urologist.

7. In 1980, Johnson was convicted for armed robbery and second degree attempted murder. In addition, he was convicted of “escape.” In total, he is presently serving a 130 year sentence in connection with that conviction.

8. Since the fall of 2008, Johnson has been serving his time at the Dade Correctional Institute (“Dade C.I.”), a Florida prison.

9. Prior to September, 2008, while incarcerated at Century Correction Institute, Johnson had undergone a PSA test that revealed a significantly elevated PSA level of 27.5 ng/ml.

10. Johnson reports to have seen Dr. Abraham on three separate occasions with the last one resulting in a biopsy of his prostate to rule out cancer.

11. Following his arrival at Dade C.I., numerous Dade C.I. healthcare providers recommended that Johnson undergo a prostate biopsy to determine whether he suffered from a significant medical condition such as prostate cancer.

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

12. Following his arrival at Dade C.I., numerous Dade C.I. healthcare providers, including Dr. Proveda, recommended that Johnson undergo a prostate biopsy to determine whether he suffered from a significant medical condition such as prostate cancer.

13. These recommendations ultimately lead to Johnson being referred to Dr. Razdan for evaluation.

14. Dr. Razdan first saw Johnson on October 27, 2008.

15. As part of his examination, Dr. Razdan performed a digital rectal examination on Johnson. That examination revealed that Johnson had a “firm prostate” measuring approximately 40g. This was a significant finding which, in conjunction with the prior reported elevated PSA levels and Johnson’s age (66 years old), warranted further evaluation in the form of a biopsy to confirm or eliminate prostate cancer from the differential diagnosis.

16. Dr. Razdan discussed his desire to perform the prostate biopsy with Johnson and Johnson refused to undergo the procedure at that time.

17. Dr. Razdan saw Johnson again on June 15, 2009. At that time, Johnson had been referred by Dade C.I. physician Dr. Julio Proveda for a urological consult and prostate biopsy to determine whether Johnson had prostate cancer.

18. Johnson again refused the biopsy.

19. Dr. Razdan saw Johnson for a third time on March 17, 2010. At this time, Johnson was again referred to Dr. Razdan by Dr. Proveda for evaluation in connection

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

with continued elevated PSA levels and suspected prostate cancer and prostatic involvement.

20. At this time, the biopsy was again discussed and the procedure was subsequently scheduled to be performed in May 2010.

21. Between 2008 and May 2010, no less than three separate health care providers (besides Dr. Razdan) had recommended that Johnson undergo a biopsy in light of his clinical presentation.

22. Despite this, Johnson, an individual with no medical training or expertise, contends that the biopsy should not have been performed.

23. On May 17, 2010, Dr. Razdan performed a Transrectal Ultrasound Guided Biopsy (“TRUS”) on Johnson. Core samples of the prostatic tissue were taken utilizing a biopsy needle. The procedure was completed without complications, appropriate core samples were obtained, and Johnson was returned to Dade C.I. without incident.

24. Following the biopsy, Johnson returned to Dade C.I. He remained in the Dade C.I. infirmary for approximately one night until he was discharged the following day (June 18, 2010).

25. Following his discharge from the infirmary, Johnson allegedly had episodes of bloody urine for two or three more days. However, that condition subsequently resolved after Johnson began receiving treatment at Dade C.I.

26. Approximately ten to eleven days after the biopsy, and while he was still at Dade C.I., Johnson began experiencing difficulty urinating.

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

27. Johnson was treated for this new condition by health care providers at Dade C.I.

28. Johnson acknowledges that Dr. Razdan was neither notified nor contacted about these new symptoms until the day before Johnson was sent from Dade C.I. to Kendall Hospital on June 23, 2010, at the earliest.

29. After being contacted, Dr. Razdan promptly implemented a plan to diagnose and treat Johnson's conditions. Dr. Razdan, had been advised that a foley catheter had been placed and Johnson's condition was stabilizing.

30. On June 23, 2012, the first day of Johnson's admission, he ordered a renal/bladder ultrasound.

31. On June 24, 2012, Dr. Razdan examined Johnson at Kendall Regional Medical Center and, at that time, the voiding/ retention issues had resolved significantly through the use of the Foley catheter. Dr. Razdan entered an order reflecting that the Foley should remain in place until the Bun/Creatinine levels stabilized and ordered further studies to confirm that the condition was and remained improving.

32. On June 25, 2012, Dr. Razdan consulted with Dr. Barros, the Kendall Regional Medical Center admitting physician, at which time it was determined that Johnson could be discharged with the Foley catheter in place to avoid further urinary blockages.

33. Following his discharge from Kendall Regional Medical Center, Mr. Johnson returned to Dade C.I.

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

34. Despite Dr. Razdan's request to see Johnson for a follow-up examination one week after discharge, Johnson was not taken back to Dr. Razdan for follow-up treatment.

35. Approximately three weeks after returning to Dade C.I., Johnson's Foley was removed and he began experiencing urinary issues again.

36. Dr. Razdan was not advised or consulted by Dade C.I. personnel concerning: (i) the removal of the Foley catheter; or (ii) Johnson's development of new urinary symptoms.

37. By July 16, 2010, Johnson had apparently experienced a significant episode of urinary retention and he was again taken to Kendall Regional Medical Center for treatment.

38. Dr. Razdan was again consulted and responded.

39. On July 16, 2010, Dr. Razdan initiated a plan to obtain CT scans, ultrasounds, and initiated medications.

40. By July 17, 2010, attempts to re-insert a Foley catheter had proven unsuccessful.

41. On July 17, 2010, Dr. Razdan successfully placed a suprapubic catheter in order to allow Johnson to void urine.

42. Dr. Razdan remained actively involved in Mr. Johnson's treatment during this period as reflected in the Kendall Regional Medical Center records before Mr. Johnson was ultimately discharged on July 24, 2010.

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

43. Following the July admission, Dr. Razdan neither stopped treating nor deprived Johnson of medical care and treatment.

44. After having treated Johnson during two separate episodes of urinary retention, Dr. Razdan identified and implemented a potential solution, one that Johnson agreed with and one which eventually resolved the persistent and serious problems.

45. Following discharge from Kendall Regional Medical Center on July 24, 2010, Johnson returned to Dade C.I. with the suprapubic catheter in place.

46. On August 26, 2010, Johnson was seen by Dr. Razdan and he noted that Johnson was unable to void through his urethra due to a constriction of the urethra and prostate around the bladder.

47. Dr. Razdan determined that the most appropriate treatment to resolve this condition was to remove a portion of the prostate and to eliminate the stricture preventing urine flow.

48. On September 17, 2010 Dr. Razdan performed a Holmium Laser Enucleation and Ablation of the Prostate (“HoLEAP”) and Johnson’s urinary problems resolved.

49. On June 17, 2010, Johnson prepared an “Emergency Grievance” which he signed. In that emergency grievance, Johnson states that following either the biopsy or subsequent treatment, he sustained some form of injury. In particular, Johnson contends that he suffered injuries in the form of: (i) an inability to obtain an erection; (ii) pain; (iii) urinary difficulties; swollen testicle; (iv) liver damage, (v) bloody urine.

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

50. On June 13, 2011, Johnson filed his *pro se* §1983 Amended Complaint in the United States District Court for the Southern District of Florida (“Complaint”).

51. In the Amended Complaint, Johnson attempted to characterize the medical care and treatment he received as cruel and unusual punishment in violation of the Eighth Amendments to the United States Constitution.

52. Dr. Kaplan is medical doctor licensed to practice medicine in the State of Florida. He is a board certified Urologist and a Fellow of the American College of Surgeons.

53. In his career, Dr. Kaplan has treated a number of patients for elevated PSA numbers, including issues associated with enlarged prostates and urinary retention.

54. In his career, Dr. Kaplan has performed many Transrectal Ultrasound Guided Biopsy (“TRUS”) procedures.

55. In his career, Dr. Kaplan has performed many HoLEAP type procedures.

56. Dr. Kaplan has reviewed all of the pertinent medical records, pleadings and discovery in connection with this action. These materials are of a type commonly utilized by members of Dr. Kaplan’s filed in evaluating care and treatment provided to patients.

57. Dr. Razdan is medical doctor licensed to practice medicine in the State of Florida. He is a board certified Urologist and a Fellow of the American College of Surgeons.

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

58. In his career, Dr. Razdan has treated thousands of patients for urinary retention and related conditions, including issues associated with an enlarged prostate and elevated PSA numbers.

59. In his career, Dr. Razdan has performed hundreds of Transrectal Ultrasound Guided Biopsies (“TRUS”).

60. In his career, Dr. Razdan has performed hundreds of HoLEAP procedures.

61. Dr. Razdan has reviewed all of the pertinent medical records, pleadings and discovery in connection with this action. These materials are of a type commonly utilized by members of Dr. Razdan’s filed in evaluating care and treatment provided to patients.

62. The care and treatment rendered by Dr. Razdan complied with the prevailing standard of care.

63. The May 17, 2010, Transrectal Ultrasound Guided Biopsy (“TRUS”), performed by Dr. Razdan was medically indicated and properly performed. Based upon Johnson’s continued elevated PSA numbers, coupled with his age, the performance of the Transrectal Ultrasound Guided Biopsy (“TRUS”) was medically indicated and necessary to rule out the possible diagnosis of prostate cancer.

64. Johnson’s history of elevated PSA levels prior to 2008, coupled with other relevant factors such as: (i) a firm prostate identified by digital rectal examinations; (ii) the patient’s age (the older a patient, the higher chance of developing certain conditions, including prostate cancer); (iii) race; and (iv) recommendations from other healthcare providers, influenced Dr. Razdan’s decision to recommend that Mr. Johnson undergo a

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

subsequent prostate biopsy which was entirely appropriate, medically indicated, and within the applicable standard of care.

65. There is nothing contained within the records to suggest or imply that either Dr. Razdan's performance or subsequent post-TRUS Biopsy monitoring of Mr. Johnson was inappropriate, constituted a deviation from the applicable standard of care, or was designed to deliberately inflict pain upon Mr. Johnson.

66. Following a TRUS biopsy, a patient may experience discomfort, blood in bloody urine, and/or blood from rectum with bowel movements. These conditions are common and can last for a little as a few days or a few weeks and its mere presence is not indicative of any problem, complication, or improper performance of the biopsy itself.

67. Discomfort can occur and cannot be predicted based upon the sensitivity of the individual patient.

68. Although Mr. Johnson claims that he was not given any analgesic agents or "cleaned out" prior to the procedure, the applicable standard of care neither requires the usage of analgesic agents or any form of enema in connection with the performance of the procedure. Therefore, there is nothing to suggest that the procedure was performed improperly or in such a manner so as to cause unnecessary pain to Johnson.

69. Dr. Razdan's performance of the TRUS biopsy on May 17, 2010, was done appropriately and in accordance with the standard of care.

70. Holmium Laser Enucleation and Ablation of the Prostate ("HoLEAP") is a known, recognized, and commonly employed treatment for urine retention such as that experienced by Johnson.

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

71. The available records reflect that the procedure was performed properly and in accordance with the applicable standard of care. The September 17, 2010, operative report reflects that Dr. Razdan completed the procedure appropriately, without complications, and in accordance with the applicable standard of care.

72. The September 17, 2010 Holmium Laser Enucleation and Ablation of the Prostate (“HoLEAP”) performed by Dr. Razdan was both medically indicated and properly performed.

73. It was appropriate to recommend and perform the HoLEAP procedure to address Johnson’s continued condition of urine retention.

74. Urinary retention, if left untreated, can allow for the development of significant problems including, among other things, kidney failure, sepsis, as well as further significant and irreversible problems.

75. The HoLEAP involves the ablation and enucleation of prostatic tissue. The procedure involves introducing a tube into the tip of the penis, through the urethra. This is followed by the insertion of a laser component to generate heat to vaporize portions of the prostate. The laser is used for the purpose of making an incision, ablation and hemostasis. The laser is utilized in a specific pattern to free and then vaporize prostatic tissue which is subsequently extracted through the instrument, leaving a hollow channel, then catheter is placed to facilitate healing.

76. The available records reflect that the procedure was performed properly and in accordance with the applicable standard of care.

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

77. The September 17, 2010, operative report reflects that Dr. Razdan completed the procedure appropriately, without complications, and in accordance with the applicable standard of care.

78. Johnson did not sustain any injury or damages as a result of either procedure by Dr. Razdan.

79. Nothing in the medical records to suggest that were any complications or problems associated with Dr. Razdan's performance of the HoLEAP procedure which would lead one to conclude that anything was done improperly or below the standard of care.

80. Nothing Dr. Razdan did or failed to do caused or contributed to any purported injury claimed by Johnson.

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

1. Elbert Johnson's Medical Records from Kendall Regional Medical Center Admission dates: 6/23/10, 7/16/10, and 9/17/10 (Composite Exhibit)
2. Elbert Johnson's Medical Records from Sanjay Razdan, M.D. (Composite Exhibit)
3. Elbert Johnson's Medical Records from Dade Correctional Institution (Composite Exhibit)
4. Elbert Johnson's Criminal Incarceration Records from Dade Correctional Institution (Composite Exhibit)
5. Certified Copy of Elbert Johnson's Present and Past Convictions (Composite Exhibit)
6. December 30, 2007 PSA Test
7. September 26, 2008 Consultation Request/ Consultant's Report (Dr. Proveda)

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

8. October 27, 2008 Initial Patient History Record (Dr. Razdan)
9. April 28, 2009 Consultation Request/ Consultant's Report (Dr. Proveda)
10. June 15, 2009 Consultant's Report (Dr. Razdan)
11. December 7, 2009 Consultation Request/ Consultant's Report (Dr. Proveda)
11. March 17, 2010 Consultant's Report (Dr. Razdan)
12. March 18, 2008 - Consultation Request/ Consultant's Report (Dr. Edwards)
14. May 17, Consultant's Report/TRUS Biopsy (Dr. Razdan)
15. June 23, 2010 Kendall Regional Medical Center - Admitting Physician's Orders (Dr. Jose Barros)
16. June 23, 2010 Physician's Orders (Dr. Razdan)
17. June 24, 2010 Physician's Orders (Dr. Razdan)
18. June 24, 2010 Report of Consultation (Dr. Razdan)
19. June 25, 2010 Kendall Regional Medical Center - Discharge Summary (Dr. Barros)
20. July 16, 2010 Kendall Regional Medical Center - Admitting Physician's Orders (Dr. Jose Barros)
21. July 16, 2010 Physician's Orders (Dr. Razdan)
22. July 16, 2010 Report of Consultation (Dr. Razdan)
23. July 17, 2010 Physician's Orders (Dr. Razdan)
24. July 17, 2010 Physician's Progress Notes (Dr. Razdan)
25. July 19, 2010 Physician's Progress Notes (Dr. Razdan)
26. July 19, 2010 Radiology Report – CT Abdomen-Pevis w/o contrast (Dr. Terrero)

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

27. July 20, 2010 Radiology Report – US Testicular (Dr. Terrero)
28. July 21, 2010 Physician’s Orders (Dr. Razdan)
29. July 21, 2010 Physician’s Progress Notes (Dr. Razdan)
30. July 24, 2010 Physician’s Orders (Dr. Razdan)
31. July 25, 2010 Kendall Regional Medical Center - Discharge Summary (Dr. Barros)
32. August 26, 2010 Consultant’s Report (Dr. Razdan)
33. August 27, 2010 Consultation Request/ Consultant’s Report (Dr. Proveda)
34. August 30, 2010 Pre-Operative Elective Surgery Orders (Dr. Razdan)
35. September 16, 2010 Medical Clearance (Dr. Proveda)
36. September 17, 2010 Consultant’s Report (Dr. Razdan)
37. September 17, 2010 Kendall Regional Medical Center - Admitting Physician’s Orders (Dr. Jose Barros)
38. September 17, 2010 History and Physical (Dr. Razdan)
39. September 17, 2010 Kendall Regional Medical Center - Anesthesia Consent
40. September 17, 2010 Kendall Regional Medical Center – Consent for Operation and Other Procedures
41. September 16, 2010 Intra-Operative Report (Dr. Razdan)
42. September 17, 2010 Operative Report - HoLEAP (Dr. Razdan)
43. September 17, 2010 Urology Post-Op Orders (Dr. Razdan)
44. September 17, 2010 Post-Op/Post Procedure Note (Dr. Razdan)
45. September 18, 2010 Physician’s Orders (Dr. Razdan)
46. September 18, 2010 Short Stay Summary (Dr. Barros)

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

47. September 20, 2010 Consultation Request/Consultant's Report (C. Dwares, ARNP)
48. October 11, 2010 Consultation Request/Consultant's Report (Dr. Proveda)
49. October 11, 2010 Consultant's Report (Dr. Razdan)
50. December 15, 2010 Consultant's Report (Dr. Razdan)
51. Sanjay Razdan, M.D.'s Curriculum Vitae
52. Marshall Kaplan, M.D.'s Curriculum Vitae
53. Deposition testimony of Elbert Johnson taken April 25, 2012
54. Deposition testimony of Elbert Johnson taken May 3, 2012
55. Johnson Emergency Grievance dated June 17, 2010
56. Johnson Request for Administrative Remedy or Appeal dated January 18, 2011
57. Defendant's First Request for Production of Documents to Elbert Johnson dated January 13, 2012
58. Johnson's Answers to Interrogatories dated February 3, 2012
59. Dr. Razdan's Answers to Interrogatories dated March 16, 2012
60. Dr. Razdan's Response to Request for Production of Documents dated December 26, 2011
61. Dr. Razdan's Response to Request for Production of Documents dated January 26, 2012
62. Affidavit of Marshall Kaplan, M.D.
63. Affidavit of Sanjay Razdan, M.D.
64. Expert Report of Marshall Kaplan, M.D.
65. To the extent not previously identified, all documents and exhibits designated by the plaintiff, Elbert Johnson.

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

66. To the extent not previously identified, all depositions taken, Answers to Interrogatories, Responses to Requests for Production, and Requests for Admissions in this cause.
67. To the extent not previously identified, all records produced or that will be produced by all records custodians listed in this party's list of witnesses.
68. To the extent not previously identified, Defendant reserves the right to use charts, diagrams, and exemplars at the trial of this action.
69. To the extent not previously identified, demonstrative evidence necessary to any expert witness' opinion.

(d) A list of the full names and addresses of places of employment for all the non-inmate witnesses that the [defendant] intends to call

Defendant identifies the following individuals that may present testimony at trial.

Due to the fact that it is unclear what evidence may be introduced by Johnson, testimony from some (or all) of these individuals may not be required. These individuals are being identified simply to avoid the potential for surprise.

1. Dr. Sanjay Razdan, M.D.
Urology Center of Excellence of South Florida
Deering Medical Plaza
9380 SW 150th Street, Suite 200
Miami, Florida 33176
2. Dr. Marshall Kaplan, M.D., F.A.C.S.
Urology Associates of West Broward, LLP
7710 NW 71 Court # 303
Tamarac, Florida 33321-2932
3. Dr. Julio Proveda
Florida Department of Corrections
Dade Correctional Institution
19000 S. W. 377th Street
Florida City, Florida 33034-6409
4. C. Dwares, A.R.N.P
Florida Department of Corrections
Dade Correctional Institution

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

- 19000 S. W. 377th Street
Florida City, Florida 33034-6409
5. Dr. Jorge Aguilar
Florida Department of Corrections
Dade Correctional Institution
19000 S. W. 377th Street
Florida City, Florida 33034-6409
 6. Dr. Jose Barros
Kendall Regional Medical Center
11750 SW Bird Road
Miami, FL 33175
 7. Dr. Dario Pancorbo
Kendall Regional Medical Center
11750 SW Bird Road
Miami, FL 33175
 8. Dr. Robert Hernandez
Kendall Regional Medical Center
11750 SW Bird Road
Miami, FL 33175
 9. Carolyn Small, RN
Kendall Regional Medical Center
11750 SW Bird Road
Miami, FL 33175
 10. Records Custodian – Dr. Sanjay Razdan (if necessary)
Deering Medical Plaza
9380 SW 150th Street, Suite 200
Miami, Florida 33176
 11. Records Custodian – Kendall Regional Medical Center (if necessary)
Kendall Regional Medical Center
11750 SW Bird Road
Miami, FL 33175
 12. Records Custodian – Dade Correctional Institution (if necessary)
Florida Department of Corrections
Dade Correctional Institution
19000 S. W. 377th Street

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

Florida City, Florida 33034-6409

13. Records Custodian – Century Correctional Institute (if necessary)
Florida Department of Corrections
Century Correctional Institute
400 Tedder Road
Century, FL 32535
14. All witnesses disclosed by Plaintiff.

(e) A list of the full names, inmate numbers, and places of incarceration of all the inmate witnesses that defendant intends to call; and

1. Elbert Johnson
Inmate No. 013118
Dade Correctional Institution
19000 S. W. 377th Street
Florida City, Florida 33034-6409

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

Defendant provides the following summary of testimony that may be present testimony at trial. Due to the fact that it is unclear what evidence and/or testimony may be presented by Johnson, testimony from some (or all) of these individuals may not be required. These individuals are being identified simply to avoid the potential for surprise.

1. Dr. Sanjay Razdan, M.D.
Urology Center of Excellence of South Florida
Deering Medical Plaza
9380 SW 150th Street, Suite 200
Miami, Florida 33176

It is anticipated that Dr. Razdan will testify regarding his background, education, training and experience concerning the practice of medicine, generally, as well as his practice in the areas of urology, in particular. It is anticipated that Dr. Razdan will testify regarding his experience in treating the medical conditions such as those presented by the plaintiff, Elbert Johnson.

Dr. Razdan is expected to testify concerning his involvement with and care and treatment of Johnson including his interactions, examinations and conversations with

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

Johnson. In particular, it is anticipated that Dr. Razdan will testify concerning his treatment, including all events surrounding his performance of the Transrectal Ultrasound Guided Biopsy (“TRUS”) on May 17, 2010 and the HoLeap procedure on September 17, 2010. It is anticipated that he will testify concerning the indications for the procedures, the performance of the procedures, and his discussions with Johnson concerning the procedures.

Dr. Razdan is expected to testify that his medical care and treatment of Johnson was medically indicated and complied with the applicable standard of care. He is expected to render opinions to that effect based upon his review of available records, his education, training and experience, his first hand knowledge of events in this case.

Dr. Razdan is expected to testify concerning matters described in his curriculum vitae, his medical records, the medical records from Kendall Regional Medical Center, and as reflected in his pleadings and related matters in this action.

In addition, Dr. Razdan is expected to testify regarding documents he reviewed and prepared, correspondence and records he drafted and received, and communications by and between himself and Johnson relating to the various treatment, risks, and benefits. Dr. Razdan is expected to testify regarding the foundation for various documents and conversations. He is expected to testify consistent with the subject matter and opinions contained in his affidavit submitted in support of his Motion for Summary Judgment.

2. Elbert Johnson
Inmate No. 013118
Dade Correctional Institution
19000 S. W. 377th Street
Florida City, Florida 33034-6409

Johnson is expected to testify concerning his background, education and criminal history. In particular, it is anticipated that Johnson will testify concerning the matters described in his deposition, including his incarceration, need for medical treatment, and absence of medical training.

Johnson is expected to testify concerning the general subject matters and areas covered in his depositions that were previously taken. In addition, it is expected that he will testify concerning his interactions with, treatment received from, and conversations with health care providers including both Dr. Razdan as well as those at both Dade Correctional Institutional, Century Correctional Institute, and Kendall Regional Medical Center.

In addition, Johnson is expected to testify regarding documents he reviewed and prepared, correspondence and records he drafted and received, and communications by and between himself and Dr. Razdan relating to the various treatment, risks, and benefits.

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

Johnson is expected to testify regarding the foundation for various documents and conversations. He is expected to testify consistent with the subject matter covered in his deposition testimony and discovery responses.

3. Dr. Marshall Kaplan, M.D., F.A.C.S.
Urology Associates of West Broward, LLP
7710 NW 71 Court # 303
Tamarac, Florida 33321-2932

Dr. Kaplan is expected to testify concerning background, education, training and experience. The general subject matter upon which Dr. Kaplan is expected to testify has previously been disclosed and is reflected in his expert report and affidavit submitted in support of Dr. Razdan's Motion for Summary Judgment.

4. Dr. Julio Proveda
Florida Department of Corrections
Dade Correctional Institution
19000 S. W. 377th Street
Florida City, Florida 33034-6409

Dr. Proveda is expected to testify concerning his background, education, training and experience. He is expected to testify concerning his position as the medical director at Dade Correctional Institution.

In addition, Dr. Proveda is expected to testify concerning his interactions with and treatment of Johnson prior to and subsequent to the procedures that are the subject in this case, including his interactions with and discussions of the procedures with Johnson as part of the pre-procedure medical clearance process.

In addition, Dr. Proveda is expected to testify regarding documents he reviewed and prepared, correspondence and records he drafted and received, and communications by and between himself, Johnson and/or Dr. Razdan relating to the various treatment, risks, and benefits. Dr. Proveda is expected to testify regarding the foundation for various documents and conversations. Dr. Proveda is expected to testify consistent with his records as reflected in the Dade Correctional Institution chart and the Consultation Request documents.

5. C. Dwares, A.R.N.P
Florida Department of Corrections
Dade Correctional Institution
19000 S. W. 377th Street
Florida City, Florida 33034-6409

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

Mr. Dwares is expected to testify concerning his background, education, training and experience. He is expected to testify concerning his employment at the Dade Correctional Institution.

In addition, Mr. Dwares is expected to testify concerning his interactions with and treatment of Johnson prior to and subsequent to the procedures that are the subject in this case, including his interactions with and discussions of the procedures with Johnson as part of the pre-procedure medical clearance process.

In addition, Mr. Dwares is expected to testify regarding documents he reviewed and prepared, correspondence and records he drafted and received, and communications by and between himself, Johnson and/or Dr. Razdan relating to the various treatment, risks, and benefits. Mr. Dwares is expected to testify regarding the foundation for various documents and conversations. Mr. Dwares is expected to testify consistent with his records as reflected in the Dade Correctional Institution chart and the Consultation Request documents.

6. Jorge Aguilar
Florida Department of Corrections
Dade Correctional Institution
19000 S. W. 377th Street
Florida City, Florida 33034-6409

Aguilar is expected to testify concerning his background, education, training and experience.

In addition, Aguilar is expected to testify concerning his interactions with and treatment of Johnson prior to and subsequent to the procedures that are the subject in this case, including his interactions with and discussions of the procedures with Johnson as part of the pre-procedure medical clearance process.

In addition, Aguilar is expected to testify regarding documents he reviewed and prepared, correspondence and records he drafted and received, and communications by and between himself, Johnson and/or Dr. Razdan relating to the various treatment, risks, and benefits. Aguilar is expected to testify regarding the foundation for various documents and conversations. Aguilar is expected to testify consistent with his records as reflected in the Dade Correctional Institution chart and the Consultation Request documents.

7. Dr. Jose Barros
Kendall Regional Medical Center
11750 SW Bird Road
Miami, FL 33175

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

Dr. Jose Barros is expected to testify concerning his background, education, training and experience. It is anticipated that Dr. Barros will testify regarding his experience in treating the medical conditions such as those presented by the plaintiff, Elbert Johnson. In addition, he is expected to testify concerning his employment at Kendall Regional Medical Center in 2010.

Dr. Barros is expected to testify concerning his involvement with and care and treatment of Johnson including his interactions, examinations and conversations with Johnson. In particular, it is anticipated that Dr. Barros will testify concerning his treatment, including all events surrounding Johnson's individual admissions to Kendall Regional Medical Center on June 23, 2010, July 16, 2010, and September 17, 2010.

In particular, it is anticipated that Dr. Barros will testify concerning his treatment, including all events leading up to and surrounding the HoLeap procedure performed by Dr. Razdan on September 17, 2010. It is anticipated that he will testify concerning the indications for the procedures and his discussions with Johnson and/or Dr. Razdan concerning the procedures.

Dr. Barros is expected to testify that his medical care and treatment of Johnson was medically indicated and complied with the applicable standard of care. He is expected to render opinions to that effect based upon his review of available records, his education, training and experience, his first hand knowledge of events in this case.

8. Dr. Dario Pancorbo
Kendall Regional Medical Center
11750 SW Bird Road
Miami, FL 33175

Dr. Dario Pancorbo is expected to testify concerning his background, education, training and experience. It is anticipated that Dr. Pancorbo will testify regarding his experience in treating the medical conditions such as those presented by the plaintiff, Elbert Johnson. In addition, he is expected to testify concerning his employment at Kendall Regional Medical Center in 2010.

Dr. Pancorbo is expected to testify concerning his involvement with and care and treatment of Johnson including his interactions, examinations and conversations with Johnson. In particular, it is anticipated that Dr. Pancorbo will testify concerning his treatment, including all events surrounding Johnson's individual admissions to Kendall Regional Medical Center on June 23, 2010, July 16, 2010, and September 17, 2010.

In particular, it is anticipated that Dr. Pancorbo will testify concerning his treatment, including all events leading up to and surrounding the HoLeap procedure performed by Dr. Razdan on September 17, 2010. It is anticipated that he will testify

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

concerning the indications for the procedures and his discussions with Johnson and/or Dr. Razdan concerning the procedures.

Dr. Pancorbo is expected to testify that his medical care and treatment of Johnson was medically indicated and complied with the applicable standard of care. He is expected to render opinions to that effect based upon his review of available records, his education, training and experience, his first hand knowledge of events in this case.

9. Dr. Robert Hernandez
Kendall Regional Medical Center
11750 SW Bird Road
Miami, FL 33175

Dr. Robert Hernandez is expected to testify concerning his background, education, training and experience. It is anticipated that Dr. Hernandez will testify regarding his experience in treating the medical conditions such as those presented by the plaintiff, Elbert Johnson. In addition, he is expected to testify concerning his employment at Kendall Regional Medical Center in 2010.

Dr. Hernandez is expected to testify concerning his involvement with and care and treatment of Johnson including his interactions, examinations and conversations with Johnson. In particular, it is anticipated that Dr. Hernandez will testify concerning his treatment, including all events surrounding Johnson's individual admissions to Kendall Regional Medical Center on June 23, 2010, July 16, 2010, and September 17, 2010.

In particular, it is anticipated that Dr. Hernandez will testify concerning his treatment, including all events leading up to and surrounding the HoLeap procedure performed by Dr. Razdan on September 17, 2010. It is anticipated that he will testify concerning the indications for the procedures and his discussions with Johnson and/or Dr. Razdan concerning the procedures.

Dr. Hernandez is expected to testify that his medical care and treatment of Johnson was medically indicated and complied with the applicable standard of care. He is expected to render opinions to that effect based upon his review of available records, his education, training and experience, his first hand knowledge of events in this case.

10. Carolyn Small, R.N.
Kendall Regional Medical Center
11750 SW Bird Road
Miami, FL 33175

Nurse Small is expected to testify concerning her background, education, training and experience. In addition, she is expected to testify concerning her employment at

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

Kendall Regional Medical Center in 2010, including her familiarity with hospital procedures, generally, and procedures relating to surgical consent, specifically.

Nurse Smal is expected to testify regarding her job duties and responsibilities as a nurse, pre-operatively, including matters concerning operative consent. She is expected to testify concerning her involvement in the consent process, documents that are completed, and her involvement in that process, generally.

In particular, Nurse Small is expected to testify concerning her interactions with Johnson on September 17, 2010, including her interactions, discussions, preparation of documents, and verifications of various consent documents prepared and reviewed prior to the September 17, 2010 procedure. In particular, she will testify concerning her compilation and preparation of the "Consent for Operation and Other Procedures" as reflected in the Kendall Regional Medical Center records, including her verification of pre-operative consent prior to surgery.

In addition, Nurse Small is expected to testify regarding documents she reviewed and prepared, records she drafted and received, and communications by and between herself, Johnson and/or Dr. Razdan relating to pre-operative surgical consent. Nurse Small is expected to testify regarding the foundation for various documents contained in the Kendall Regional Medical Center Chart. Nurse Small is expected to testify consistent with her notes records as reflected in the Kendall Regional Medical Center Chart.

11. Records Custodian – Dr. Sanjay Razdan (if necessary)
Deering Medical Plaza
9380 SW 150th Street, Suite 200
Miami, Florida 33176

This individual will testify concerning the requisite foundational elements necessary in connection with Dr. Razdan's Records.

12. Records Custodian – Kendall Regional Medical Center (if necessary)
Kendall Regional Medical Center
11750 SW Bird Road
Miami, FL 33175

This individual will testify concerning the requisite foundational elements necessary in connection with the Kendall Regional Medical Center Records.

13. Records Custodian – Dade Correctional Institution (if necessary)
Florida Department of Corrections
Dade Correctional Institution
19000 S. W. 377th Street

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

Florida City, Florida 33034-6409

This individual will testify concerning the requisite foundational elements necessary in connection with the Dade Correctional Institution records.

14. Records Custodian – Century Correctional Institute (if necessary)
Florida Department of Corrections
Century Correctional Institute
400 Tedder Road
Century, FL 32535

This individual will testify concerning the requisite foundational elements necessary in connection with the Century Correctional Institute records.

Depending upon testimony presented during Johnson's case in chief, Dr. Razdan reserves the right to call any witness disclosed by plaintiff to testify concerning matters covered during direct examination and/or to further examine and/or explore relevant lines of inquiry raised by such testimony.

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

I HEREBY CERTIFY that on July 23, 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.

WICKER, SMITH, O'HARA, MCCOY &
FORD, P.A.

Attorney for Sanjay Razdan, M.D.
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Service List

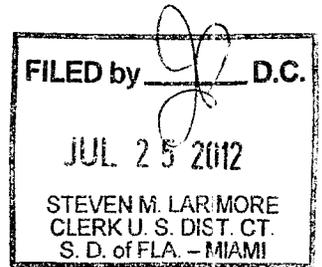
Elbert Johnson
Inmate/DC # 013118
Dade Correctional Institution
19000 SW 377th Street
Florida City, FL 33034-6499

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 11cv21118 FAM

**The attached hand-written
document
has been scanned and is
also available in the
SUPPLEMENTAL
PAPER FILE**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA



Elbert Johnson
Plaintiff,

vs.

Sanjay Rajdan
Defendant

Case No. 1:11-CV-21118-FAM

Response Motion to Summary
Judgment filed by Defendant

Come now, Plaintiff, Elbert Johnson, pro se and files his response motion to the Summary Judgment Motion filed by the Defendant, and will show why this Honorable Court should deny the Defendant's motion for Summary Judgment and grant Summary Judgment in his behalf.

1. In his Motion for Summary Judgment the Defendant alleges there is no genuine dispute as to any material fact and that the defendant [movant] is entitled to judgment as a matter of law. (Citing Fed. R. Civ. P. 56 (a).

Pursuant to Federal Rule of Civil Procedure 56 (e) the Plaintiff submits "the specific facts" demonstrating a genuine issue for trial:

2. As plaintiff asserted in his pretrial Statement, Plaintiff repeatedly refused to take a prostate biopsy, after being informed by Dr. Poveda that he needed to be examined for possible prostate cancer.

3. upon his forced visit to Dr. Razdan's office, the plaintiff again refused a prostate biopsy. See Exhibit A
4. Two weeks thereafter the plaintiff was again called to the doctor's office at Dade Correctional Medical Dept. and informed by Dr. Aguilera that he should reconsider his decision and undergo the prostate biopsy. Plaintiff refused again. See Exhibit B
5. Two weeks later the plaintiff was transported to Kendall Medical Center to Dr. Razdan's office - where upon he refused a prostate biopsy. See Exhibit C.
6. Despite the plaintiff's numerous refusals to submit to a prostate biopsy, Plaintiff Sinaad was persuaded by Dr. Poveda to undergo the prostate biopsy. Plaintiff was transported to Dr. Razdan's office on May 14, 2010 where he performed a prostate biopsy on Plaintiff. Dr. Razdan started digging into Plaintiff's prostate without any concern of hurting Plaintiff or causing severe damage to his prostate and without any kind of pain medication or antibiotic. Neither did Dr. Razdan explain to Plaintiff any risks involved and as a result from the prostate biopsy, Plaintiff developed a "severe urinary tract infection that required immediate medical attention." His stay in medical and the emergency calls from E. D. Wares and Ron Perez to Dr. Razdan's office. See Exhibit D which Dr. Razdan failed to acknowledge to an issue that he had created. The plaintiff did not have a medical issue until Dr. Razdan performed a manual prostate biopsy on him.

1. The plaintiff was crying out in pain, because from the infection had blocked his urinary tract and his excretion had stop. Plaintiff was in unbearable pain suffering and crying out for some body to give me something for pain! After Dr. Ruzdan did not acknowledge several calls. E. Draves and Ron Reed attempted to put a catheter into my penis and failed, without any kind of pain medication. Plaintiff was finally given something for pain. The next day, ^{minutes} was transported to Kendall medical center. Plaintiff was in severe pain and in an emergency situation. Plaintiff was crying out in pain. Dr. Ruzdan was immediately notified, but again failed to acknowledge. A R.N. by the name Arthur notice the suffering that I was going through and readjust the catheter number, and urination start flowing out of me. Three and one half liters came out of me. The next morning, Dr. Ruzdan came, and said, "your liver has been damage." ^{plaintiff} will prescribed something for it, and your test result came back negative." and he walked out.
2. After being hospitalized for three days. Plaintiff was discharged and send back to Dade Correctional Institution with a catheter in his penis, about three weeks Dade C. I. medical removed the catheter. In three days plaintiff urination tract or prostate got affected and plaintiff excretion stop causing a very severe emergency. Plaintiff was rushed back to Kendall medical

Center to the inmates receiving unit. Plaintiff was in severe pain, and crying out something for pain. Head Nurse. She immediately called Dr. Razdan and the call was ignored. She said, "I will try again in a minute or so. Plaintiff was crying out in pain. Mrs. Sheza came and said, "I am going to try again." Dr. Razdan ignored her call. She said, "I do not know what's going on." She then contact another doctor to O.K. some medication for pain for me. The next day Dr. Razdan came.

9. Plaintiff was in severe pain again. Dr. Razdan start to jabbing a catheter into my penis without giving me any kind of pain medication, and without any concern of hurting me. Plaintiff was howling and crying out in pain. A security correctional officer by the name Mrs. Tulkson, she scream at Dr. Razdan and said, "you give him something for pain."

Dr. Razdan then performed surgery on plaintiff without informing plaintiff that he had to perform surgery on him. Dr. Razdan performed the surgery without cleaning the area where it was blood on ^{plaintiff's} stomach where he was jabbing the catheter into ^{plaintiff's} penis. Dr. Razdan just cut or operated on ^{plaintiff} and sewed him up and said to the assistance nurses, "Clean him up" and walked out.

10. Plaintiff did not have any medical issues until and after Dr. Razdan performed the manual prostate biopsy on him.