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**United States District Court**  
For the Northern District of California

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

WILLIA PUGH, et al.,  
Plaintiffs,

No. C 08-4159 PJH

v.

**FINAL PRETRIAL ORDER**

DOCTORS MEDICAL CENTER, et al.,  
Defendants.

Pursuant to Rule 16(e) of the Federal Rules of Civil Procedure, this final pretrial order is hereby entered and shall control the course of the trial unless modified by a subsequent order. The joint pretrial statement of the parties is incorporated herein except as modified by the court's ruling on the pretrial motions and objections.

I. MOTIONS IN LIMINE

Plaintiff's pretrial conference motion to amend the first amended complaint ("FAC") is DENIED.

Doctors Medical Center's motion to exclude the investigative report of the Department of Public Health is GRANTED, however, percipient witnesses who gave statements to the investigator may themselves testify.

As no opposition was filed, Doctors Medical Center's motions to exclude evidence of damages from physical injury to Tommie Pugh, to exclude evidence of Tommie Pugh's

1 emotional distress following his departure from the medical center, and to exclude evidence  
2 of claims and injuries not pled in the FAC are GRANTED.

3 Dr. Johnson's motion to exclude portions of the Department of Public Health's  
4 investigative report is GRANTED.

5 Dr. Johnson's motion to exclude evidence or argument regarding his discriminatory  
6 intent is DENIED.

7 As no opposition was filed, Dr. Johnson's motions to exclude evidence or argument  
8 regarding insurance coverage, to exclude evidence or argument regarding other claims or  
9 lawsuits against him, and to exclude plaintiffs' untimely disclosed expert rebuttal report are  
10 GRANTED.

11 II. WITNESSES & EXHIBITS

12 Any objections to witnesses and exhibits shall be brought to the court's attention on  
13 the afternoon preceding that witness's testimony or the introduction of the exhibit. The  
14 court anticipates the first conference about witnesses and exhibits will take place on the  
15 first day of trial following impanelment of the jury and opening statements.

16 III. VOIR DIRE

17 Each party will be permitted 15 minutes for followup questions after the court's voir  
18 dire of the entire panel and before the exercise of any challenges. The court will  
19 incorporate those questions submitted jointly by the parties. Case specific questionnaires  
20 are not used unless jointly requested by all parties. Thus, Dr. Johnson's separately  
21 proposed questionnaire will not be used.

22 IV. JURY INSTRUCTIONS

23 The court will instruct the jury in accordance with the standard 9th Circuit Model  
24 instructions set forth in the case management and pretrial order. In addition the court will  
25 give the joint instructions submitted by the parties EXCEPT "Evidence in Electronic Format"  
26 will not be given as the court does not send computers or projectors into the jury room and  
27 Special Instruction No. 2 will not be given as it is an incorrect statement of the law. The  
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1 parties shall each submit revised instructions on EMTALA and negligence per se no later  
2 than April 26, 2010. Additionally, two instructions are necessary but are not included in the  
3 parties' joint set: 1) claims and defenses and 2) damages. The parties shall submit jointly  
4 these two instructions on the first day of trial.

5 V. TRIAL SCHEDULE AND TIME LIMITS

6 Jury Trial will commence on Monday May 3, 2010, and run for six court days on  
7 Mondays, Tuesdays, Thursdays and Fridays. The trial day is from 8:30 a.m. to 1:30 p.m.  
8 with two 15-minute breaks. Each of the four parties will be permitted 5 hours for direct and  
9 cross-examinations and opening statements.

10 Counsel shall familiarize themselves with the court's Trial Rules filed on April 22,  
11 2010, with which they will be required to comply at trial.

12 IT IS SO ORDERED.

13 Dated: April 26, 2010



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15 PHYLLIS J. HAMILTON  
16 United States District Judge  
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