

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ESTATE OF BERNICE GOLDBERG,	:	
by the EXECUTOR GARY GOLDBERG,	:	
	:	CIVIL ACTION
Plaintiff,	:	
	:	
v.	:	NO. 14-980
	:	
PHILIP NIMOITYN, M.D., JAY	:	
SELLERS, M.D., JOHN DOES 1-10,	:	
JANE DOES 1-10, and CORPORATE	:	
DOES 1-10,	:	
	:	
Defendants.	:	

**ORDER**

**AND NOW**, this 29<sup>th</sup> day of *July*, 2014, upon consideration of the Motion of Defendants Thomas Jefferson University Hospitals, Inc., Philip Nimoityn, M.D., and Jay Sellers, M.D. to Dismiss (Docket No. 7), Defendants' Supplemental Memorandum of Law in Support of Motion to Dismiss (Docket No. 8), Plaintiff Gary Goldberg's Response (Docket No. 9), Defendants' Second Supplemental Memorandum in Support of Motion to Dismiss (Docket No. 10), and Plaintiff's Second Supplemental Memorandum of Law in Support of Plaintiff's Opposition (Docket No. 11), it is hereby **ORDERED** as follows:

1. Defendants' Motion to Dismiss the negligence cause of action against Defendant Nimoityn is **DENIED**;
2. Defendants' Motion to Dismiss the punitive damages claim against Defendant Nimoityn, all claims against Defendant Sellers, and all claims against Thomas Jefferson University Hospitals is **GRANTED** and these claims are **DISMISSED WITHOUT PREJUDICE**.
3. Plaintiff shall have twenty (20) days from the date of this Order to file a Second Amended Complaint correcting any of the pleading deficiencies identified in the

Court's accompanying Memorandum Opinion. Plaintiff's failure or inability to correct such errors shall, upon proper motion by Defendants, result in dismissal of any still-deficient claims.

It is so **ORDERED**.

BY THE COURT:

*s/Ronald L. Buckwalter*  
RONALD L. BUCKWALTER, S.J.