

IN THE CIRCUIT COURT OF COUNTY, MISSISSIPPI

PLAINTIFFS

VS. CIVIL ACTION NO.

DEFENDANT

DEFENDANT'S MOTION TO COMPLETE PLAINTIFFS TO
PRODUCE DOCUMENTS AT TRIAL

COMES NOW DEFENDANT, , by and through his attorneys of record herein, and files this his Motion to Complete Plaintiffs to Produce Documents at Trial, and would show unto the Court the following:

1.

Plaintiff, , sustained facial cuts in this accident which resulted in some facial scarring. This is the main aspect of her claim for personal injuries. On , 20 , chose to undergo a voluntary and elective scar revision surgery performed by . testified that 's facial scars look worse now than they did before the surgery because of the surgical incisions. also testified that the scars look worse now as a result of the surgery than they will look six months from now. The Defendant previously moved for a trial continuance on the ground that he would suffer prejudice if was allowed to create worse looking injuries by having elective surgery shortly before trial and then exhibit to the jury injuries which appear worse than they did before the surgery and worse than they will appear after the surgical wounds have healed.

2.

The Plaintiff intends to introduce into evidence photographs of her facial wounds shortly after the accident occurred. The Plaintiff will also show the jury in Court what her face looks like after the surgery was performed. The Defendant wants the jury to see what Plaintiffs scars looked like within the several months before surgery. During the recent deposition of which was taken on , 20 , he was asked the

following questions and gave the following answers regarding photographs of _____ :

Q. You've got some family pictures taken with your kids and so forth before this operation?

A. _____ .

Q. You've got some taken at the hospital after your child was born?

A. _____ .

Q. And you've got some when she came home, of your wife?

A. _____ .

Q. We request that we be furnished with copies of the photographs, family photographs, taken of _____ before the operation, immediately before the operation, or within a three month, four month period before the operation, so that we can show to the jury what the scars looked like before the operation.

3.

The Plaintiff, _____ , has executed the signature page on his deposition without any changes. A true and correct copy of the excerpt from _____ deposition concerning the photographs of his wife before the surgery is attached hereto and incorporated herein by reference as Exhibit 1A.

4.

The Defendant requests the Court to compel the Plaintiffs to produce the photographs mentioned by _____ in his deposition which reflect the facial scarring of _____ before her elective surgery. These photographs are extremely relevant and go to the very heart of _____ 's claim for damages due to facial scarring and the Defendant's defense that the scars were not as bad as _____ claims they were before surgery. Clearly, if the Plaintiff is allowed to exhibit the condition of her facial scars after an elective surgical procedure which has indeed made her scars appear to be worse than they were before the surgery, the Defendant should be entitled to show the jury what the scars looked like before the surgery took place. _____ had her second child in _____ , 20____ . It is hard to imagine any family not taking photographs of mother and baby on such a joyous occasion. _____ has admitted that these photographs exist and this is

further confirmed by the executed signature page to his deposition transcript indicating no changes to his testimony.

WHEREFORE, PREMISES CONSIDERED, Defendant, , respectfully request the Court to enter an Order compelling the Plaintiffs to produce the photographs taken of shortly before her elective surgery for the reasons stated herein.

RESPECTFULLY SUBMITTED, this the ____ day of _____, 20____.

By:

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I, , do hereby certify that I have this day sent by facsimile No. and mailed, via United States mail, a true and correct copy of the above and foregoing pleading to the following counsel for Plaintiffs:

ATTORNEY FOR PLAINTIFFS,

THIS, the ____ day of _____, 20____.