

**IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI  
FIRST JUDICIAL DISTRICT**

**ANGELA WILLIAMS, INDIVIDUALLY, AND  
ON BEHALF OF AND AS CONSERVATOR OF  
JAMES WILLIAMS**

**PLAINTIFFS**

**VS.**

**CIVIL ACTION NO. 17-399**

**ST. DOMINIC-JACKSON MEMORIAL  
HOSPITAL, DR. ORHAN ILERCIL,  
AND JOHN DOES 1-10**

**DEFENDANTS**

**AMENDED**  
**PRE-TRIAL ORDER**

1. This Agreed Pretrial Order was submitted to the Court on January \_\_\_\_, 2019.

2. Counsel appeared as follows:

**A. For Plaintiff(s):**

Heber S. Simmons III, MSB No. 8523  
A Bryan Smith III, MSB No. 100008  
SIMMONS SMITH MERCIER & HARRIS  
240 Trace Colony Park Drive, Suite 200  
Ridgeland, Mississippi 39157  
Telephone: (601) 914-2882  
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**B. For Defendant Orhan Ilercil, M.D.:**

Whitman B. Johnson III, MSB. No. 3158  
Senica M. Tubwell, MSB No. 104074  
CURRIE JOHNSON & MYERS, P.A.  
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3. Nature of the Case is:

**A. By Plaintiff:**

This is a medical malpractice case arising out of James Williams' admission to St. Dominic Hospital for anterior and posterior cervical decompression and fusion surgery at C3-C7. The surgeon that performed the surgeries was Dr. Orhan Ilercil. Mr. Williams developed a post-operative hematoma which restricted his airway and caused him to sustain an anoxic brain injury. Angela Williams, individually and as Conservator of James Williams, filed suit against St. Dominic Hospital and Dr. Ilercil alleging both parties to be negligent and responsible for Mr. Williams' injuries and permanent disabilities. Mrs. Williams reached settlement terms with St. Dominic Hospital prior to trial. Thereafter, James Williams expired on or about December 13, 2018. Plaintiff amended her complaint to include the claim of wrongful death. Plaintiff is proceeding to trial on her pending claims against Defendant Ilercil as administratrix of the Estate of James Williams.

**B. By Defendant Orhan Ilercil, M.D.**

Plaintiff has made claims of medical negligence that caused plaintiff's injuries and death against Dr. Ilercil, which are denied.

4. A Concise Summary of the Ultimate Facts claimed:

**A. By Plaintiff:**

James Williams, a sixty-two (62) year old African American male, presented to Dr. Orhan Ilercil at MS Brain & Spine on June 15, 2015, for an initial neurosurgical consultation. Mr. Williams had experienced the effects of myelopathy secondary to cervical spondylosis and stenosis for quite some time. Defendant Dr. Ilercil recommended an anterior and posterior cervical

decompression and fusion at C3-C7 to relieve the compression of his spinal cord and reduce his neurological symptoms.

Mr. Williams was admitted to St. Dominic Hospital on the morning of September 4, 2015. In-house surgical clearance was performed prior to the procedure. Anesthesia was started at 11:40 AM and ended at 3:54 PM. The medical records indicate Dr. Ilercil completed the anterior and posterior operations without complication and Mr. Williams was transferred to the Post-Anesthesia Care Unit ("PACU").

Report was given to the PACU nurse, Susan Armstrong, RN, at approximately 3:54 PM. PACU orders written prior to admission included routine vitals and neuro checks every 15 minutes; notify MD of shortness of breath, difficulty swallowing, or excessive swelling in the neck; and a soft cervical collar at all times. The soft cervical collar was not placed in the PACU.

At 4:00 PM, Nurse Armstrong noted Mr. Williams was extremely combative, shaking his head from side to side, and trying to get up. Dr. Ilercil performed a limited evaluation of Mr. Williams at 4:41 PM. Nurse Armstrong noted the patient appeared to be swollen above his dressing on the left side and reported her findings to Dr. Ilercil. After evaluating Mr. Williams, and assessing no trouble breathing, swallowing, or speaking, Dr. Ilercil advised Nurse Armstrong to simply watch Mr. Williams closely and issued no new orders. In his progress note he described the swelling as superficial in the subcutaneous tissue of the anterior wound. His plan was to have Mr. Williams observed in the ICU overnight due to his comorbidities prior to being transferred to the floor the following morning.

Nurse Armstrong called report to Caitlin Voyles, RN in the Intensive Care Unit ("ICU") and transferred Mr. Williams to the unit at 4:56 PM. He was received by Kristi Watson, RN at 5:12 PM with severe swelling noted at the cervical surgery site. Nurse Voyles completed the initial

assessment of Mr. Williams at 5:20 PM and noted that he exhibited 2+ edema to the neck, which Dr. Ilercil was already aware. Dr. Nurudeen Shekoni was consulted by Dr. Ilercil to evaluate and treat Mr. Williams' post-operative hypertension, which peaked at 229/114 in the PACU. Dr. Shekoni ordered a Cardene infusion to reduce his blood pressure.

Nurse Watson applied the soft surgical collar to Mr. Williams and also spoke with Dr. Ilercil in the ICU stockroom about her concerns regarding the neck edema. In documenting her conversation with him her note states: Dr. Ilercil notified of neck edema and possible hematoma. Following the conversation, Dr. Ilercil issued no new orders. The following morning, telephone orders received at 8:15 AM from Dr. Ilercil were for removal of the cervical collar, which Dr. Ilercil testified was for patient comfort.

On orders from Dr. Ilercil, Mr. Williams was transferred to the nursing floor at approximately 2:00 PM on September 5, 2015. He was to receive telemetry monitoring as well as vital signs with neuro checks every four hours. No orders were written for heightened observation or awareness relative to Mr. Williams' swelling. Dr. Ilercil's order for notification of a physician for any shortness of breath, difficulty swallowing, or excessive swelling in the neck remained in effect at this time. Dr. Ilercil visually assessed Mr. Williams at 4:15 PM and observed that swelling remained around the incision. He also found his neurovascular exam to be stable as Mr. Williams reported improvement in his upper extremities.

Rhonda Howard, RN was assigned to Mr. Williams during the evening shift on September 5<sup>th</sup>. She completed her initial assessment of him at approximately 7:30 PM and noted his speech was slurred and muffled. His reflexes had also decreased in strength from the previous assessment. Neither finding was conveyed to Dr. Ilercil. At 9:07 PM, Nurse Howard administered Mr.

Williams' routine medications, which he had difficulty swallowing. Again, this event was not reported to Dr. Ilercil.

At approximately 11:12 PM, Mr. Williams heart rate was noted to be 194 with respirations of 26. His oxygen saturation levels had decreased from a prior assessment performed at 9:31 PM. Vitals were obtained every six (6) minutes thereafter; however, oxygen saturation values are notably absent from those assessments. At 11:30 PM, respiratory therapy placed Mr. Williams on an EZPAP mask. Around the same time, telemetry notified Nurse Howard that Mr. Williams' heart rate was 180. Upon assessment, he complained of shortness of breath as well. Instead of calling Dr. Ilercil, she contacted Dr. Shekoni and received STAT orders for ABG's, EKG, and CT Chest per PE protocol. Upon information and belief, Nurse Howard (and other nurses) had previously been told by Dr. Ilercil not to call him. Respiratory therapy returned and according to Nurse Howard's chart entry, suctioned Mr. Williams' nasotracheal tube and obtained a moderate amount of thick yellow secretion. He was transferred to radiology for the CT at approximately 12:20 AM. Thereafter, a code was called.

The code sheet completed by Nurse Howard reflects the arrest was called at 12:49 AM. Dr. Miley immediately responded, and noted the airway was compromised with swelling/blood clot at neck. He attempted unsuccessfully to evacuate the clot with McGill forceps, and proceeded to intubate Mr. Williams. Upon regaining a stable rhythm, the code was ended and Mr. Williams was transferred back to the ICU for further care.

The CT chest Dr. Shekoni ordered at 11:30 PM revealed a suspected large prevertebral hematoma with airway compromise. Specifically, the imaging revealed a mass involving the base of the neck extending along the anterior cervical spine into the superior mediastinum incompletely

visualized or characterized. The airway was narrowing at the time of imaging. By the time Nurse Howard received these results Mr. Williams had already arrested.

On September 8, 2015, an MRI of Mr. Williams' brain was consistent with an anoxic brain injury. As a result of this injury, Mr. Williams required significant medical care, including tracheostomy and peg tube placement. He was transferred to Select Specialty Hospital on September 22, 2015, in a comatose state. Mr. Williams remained in a vegetative state from September 5, 2015, until he died on December 13, 2018, of complications directly related to the medical care he received and failed to receive at St. Dominic Hospital on September 5-6, 2015. Mr. Williams lived his final three years at home with his wife, Angela Williams. Mrs. Williams provided round the clock care including but not limited to bathing, turning him every two hours to prevent skin breakdown, feeding, keeping his tracheostomy tube clear, and administering his medications. She continuously cared for her husband from his discharge from Select Specialty Hospital on October 15, 2015 until his death on December 13, 2018.

**B. By Defendant Orhan Ilercil, M.D.**

In June of 2015, the plaintiff Mr. Williams was seen by Dr. Ilercil for complaints associated with spondylosis and myelopathy. Mr. Williams was admitted to St. Dominic Hospital on September 4, 2015, for surgery to decompress and then fuse C3-4, C4-5, C5-6, and C6-7.

The procedure went well and Mr. Williams was transferred to the PACU and then to ICU for overnight observation. Dr. Ilercil gave orders that he be notified for swallowing or breathing difficulties. Postoperatively, Mr. Williams was in stable condition and was transferred to the floor on the afternoon of September 5, 2015. When Dr. Ilercil saw Mr. Williams on the afternoon of September 5, he was doing well with no trouble swallowing or breathing. On the night of September 5, Mr. Williams developed trouble swallowing and then developed breathing

difficulties. Dr. Ilercil was not contacted about these difficulties despite written orders. Nurse Rhonda Howard instead called the internal medicine consultant who ordered a CT scan. An orderly was called for transport and he and Nurse Howard had a significant disagreement over the patient's stability for transport due to his breathing difficulties. Mr. Williams was ultimately taken for the scan. Sometime after returning from the CT scan, Mr. Williams went into respiratory arrest. He was eventually intubated and stabilized and ultimately transferred to the ICU under the primary medical care of another physician. Dr. Ilercil was first notified of the patient's condition after the arrest.

Dr. Ilercil was not guilty of negligence in his care and treatment of Mr. Williams, whose arrest and subsequent outcome occurred because of the failure of the nursing staff to follow written orders, to notify Dr. Ilercil, and to respond appropriately to Mr. Williams' symptoms. Additionally, the plaintiffs have settled with the hospital and are receiving an amount in excess of the damages alleged to be recoverable such that no recovery should be made from this defendant.

5. Facts established by pleadings, admissions, or stipulations: None

6. The contested issues of fact are as follows:

**A. By Plaintiff:**

1) Whether Defendant Orhan Ilercil, M.D.'s post-operative management of James Williams' represents a breach of the applicable medical standard of care.

2) Whether any breach of the applicable medical standard of care on the part of Defendant Orhan Ilercil, M.D. proximately caused and/or contributed to cause James Williams' decompensation, respiratory arrest, code, anoxic brain injury, and Mr. Williams' death.

3) The amount of James Williams' damages.

**B. By Defendant Orhan Ilercil, M.D.**

1) Whether there was any breach of the standard of care by Dr. Ilercil that caused or contributed to Mr. Williams' arrest and any damages flowing therefrom.

2) Whether the sole proximate or intervening cause of Mr. Williams' arrest and subsequent injuries was the negligent failure of the nursing staff to notify Dr. Ilercil of a change in condition or pursuant to specific orders.

3) Whether the nursing staff and specifically Nurse Howard was guilty of negligence.

4) Whether the neurosurgery standard of care required the use of hypothermia after the arrest and whether its use would have resulted in a substantively better outcome.

5) What is the factual effect of plaintiff's settlement with co-defendant St. Dominic.

6) Does the settlement between plaintiffs and defendant hospital provide full compensation so as to negate any possible recovery against Dr. Ilercil.

7) Any questions of law listed below.

7. The contested issues of law are as follows:

**A. By Plaintiff:**

1) Whether Defendant Orhan Ilercil, M.D.'s post-operative management of James Williams' represents a breach of the applicable medical standard of care.

2) Whether any breach of the applicable medical standard of care on the part of Defendant Orhan Ilercil, M.D. proximately caused and/or contributed to cause James Williams' decompensation, respiratory arrest, code, anoxic brain injury, and Mr. Williams' death.

3) The amount of James Williams' damages.

**B. By Defendant Orhan Ilercil, M.D.**

- 1) All questions of fact listed above.
- 2) The effect of the hospital's settlement on the alleged liability of Dr. Ilercil.
- 3) Whether defendant is entitled to a ruling as a matter of law that the hospital through its employees was guilty of negligence as a matter of law.
- 4) What is the legal effect of the plaintiff's settlement with the hospital on the claim against Dr. Ilercil.
- 5) Whether Dr. Ilercil is entitled to an offset for settlement amounts paid by the hospital.
- 6) Possible application of Miss. Code Ann. § 85-5-7.
- 7) Possible application of § 11-1-60, both to non-economic and economic damages.
8. Elements of damages or other relief sought:

**A. By Plaintiff:**

Plaintiff seeks recovery of economic damages for James Williams' past medical expenses, funeral expenses and compensation for the services provided by Angela Williams. These damages total \$870,824.61. Plaintiff also seeks recovery for the pain, suffering and mental anguish sustained by James Williams, which is \$500,000 based upon the statutory cap. Thus, the total value of Plaintiff's claimed damages is \$1,370,824.61.

**B. By Defendant Orhan Ilercil, M.D.**

The only relief sought is judgment in favor of the defendant.

9. List all exhibits, each marked for identification, and make available to counsel for examination:

**A. Exhibits offered by Plaintiff:**

P-1 St. Dominic Hospital medical records (Bates stamped WilliamsJ 000001-001260);

P-2 Mississippi Brain & Spine medical records (Bates stamped MSBrain&Spine 000001-000103);

P-3 Compassus Hospice medical records (Bate stamped Compassus 000001-001280);

P-4 Deaconess Homecare medical records (Bate stamped Deaconess 000001-000215);

P-5 Southwest Mississippi Regional Medical Center (Bate stamped SWRMC 000001-000093);

P-6 Select Specialty Hospital medical records (Bate stamped 000001-000016);

P-7 St. Luke Home Health Services medical records (Bate stamped 000001-000801);

P-8 Thrift Home Care medical records (Bate stamped 000001-000319);

P-9 Three photographs of James and Angela Williams (Bates stamped Williams photographs 000001-000003);

P-10 Two videos of James Williams at home;

P-11 AAA Ambulance Service medical bills (Bates stamped AAA.bills 000001-000027);

P-12 AMR Mobile Medic medical bills (Bates stamped AMR.000001-

AMR.000002);

P-13 Beacham Memorial Hospital medical bills (Bates stamped 000001-000005);

P-14 Compassus Hospice medical bills (Bates stamped Compassus.bills.000001-0000036);

P-15 Deaconess Homecare medical bills (Bates stamped Deaconess bills 000001-000003);

P-16 Jackson Pulmonary medical bills (Bates stamped Jackson Pulmonary 000001-000015);

P-17 Physicians Anesthesia Group medical bills (Bates stamped Physicians Anesthesia 000001-000004);

P-18 Select Specialty Hospital medical bills (Bates stamped Select.bills 000001-0000022);

P-19 St. Dominic Medical Associates medical bills (Bates stamped St. Dominic Med. Associates 000001-000004);

P-20 St. Luke Home Health Services medical bills (Bates stamped St. Luke 000001-000006);

P-21 Southwest Mississippi Regional Medical Center medical bills (Bates stamped SWRMC.000001-000003);

P-22 Thrift Home Care medical bills (Bates stamped Thrift Home Care 000001-000075);

P-23 MS Brain and Spine bills (Bates stamped MS Brain and Spine bill. 000001);

P-24 Craft Funeral Home Receipt (Bates stamped Funeral bill.000001);

P-25 Plaintiff Medical Expense Summary;

P-26 Radiology films of James Williams from St. Dominic Hospital;

Plaintiff may offer expert CV's.

**B. Exhibits offered by Defendant Orhan Ilercil, M.D.:**

D-1 Office file of Dr. Ilercil

D-2 St. Dominic hospital records

D-3 CT scans and other radiology studies of Mr. Williams

D-4 St. Dominic policies and procedures concerning Patient Evaluation

Response Team guidelines

D-5 Settlement documents between plaintiff and St. Dominic (objection to providing the jury with specific details concerning the settlement. Jurors may be informed that settlement was reached, but there is no evidentiary basis for providing any additional information as it is not probative in any regard).

Defendant reserves the right to offer excerpts of these records as well as any exhibits created during witness examination.

Defendant may offer expert CV's.

10. Any charts, graphs, diagrams, models, or other similar objects intended to be used in opening statements or closing arguments, but not to be offered into evidence:

Plaintiff may present blow-ups of certain portions of James Williams' medical records, photographs and/or video of Mr. Williams and Angela Williams, and blow-ups of deposition testimony during opening statements and/or closing arguments.

Defendant reserves the right to use blow-ups of any documents admitted into evidence. Defendant also reserves the right to anatomical models or depictions of the surgical area.

Defendant objects to use of blow-ups of deposition testimony at any point in trial.

11. List all witnesses (excluding only witnesses to be called solely for impeachment):

**A. By Plaintiff:**

<b>Name</b>	<b>Fact/Expert</b>	<b>May/Will Call</b>
Angela Williams	Fact	May
Kristi Watson	Fact	May
Susan Armstrong Reed	Fact	May
Christine Travis	Fact	May
Rhonda Howard	Fact	May
Kayla Kendall	Fact	May
Dr. Matthew Miley	Fact/Expert	May
Dr. Nurudeen Shekoni	Fact/Expert	May
Dr. Jonathan Citow	Expert	May
Dr. Orhan Ilercil	Fact/Expert	May
Dr. Moses Jones	Expert	Will
LaDonna Northington	Expert	May
Kathy Smith	Expert	Will

Plaintiff waives Heidi M. Harper and Jan Martin as trial experts, and designates them as consulting experts pursuant to Miss. R. Civ. P. 26(b)(4).

Defendant objects to plaintiff's listing of the hospital's previously designated experts (Citow, Northington) as not being designated by the plaintiff.

**B. By Defendant Orhan Ilercil,**

**M.D.:**

<u><b>Name</b></u>	<u><b>Fact/Expert</b></u>	<u><b>May/Will Call</b></u>
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Orhan Ilercil, M.D.	Fact/Expert	Will
Patrick Senatus, M.D.	Expert	May
Malcolm Taylor, M.D.	Expert	May
Elias G. Chalhub, M.D.	Expert	May
Daryll C. Dykes, M.D., Ph.D	Expert	May
Kevin McGrail, M.D.	Expert	May
Joyce Wade-Hamme, M.D.	Expert	May
Rita Wray, RN	Expert	May
Anthony Jones, M.D.	Expert	May
Gordon Sze, M.D.	Expert	May
Rhonda Howard	Fact	May
Eddrique Body	Fact	May
Nurudeen Shekoni, M.D.	Fact	May
Wendy Mann	Fact	May

Defendant reserves the right to call any witness listed by the plaintiff.

12. Discovery has been completed subject to ongoing supplementation.
13. Any unresolved matters to be considered before or during trial:
  - A. Defendant Orhan Ilercil M.D.'s Motion for Summary Judgment and supplement;
  - B. Motions in Limine filed by the parties.

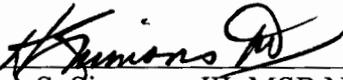
The Pleadings are hereby amended to conform to this Agreed Pretrial Order. The above statements are binding upon all parties, and this Order will control the course of the trial unless

this Order be hereafter modified by the Court for good cause shown and to prevent manifest injustice.

THIS, the 15<sup>th</sup> day of January, 2019.



\_\_\_\_\_  
CIRCUIT JUDGE



\_\_\_\_\_  
Hebel S. Simmons III, MSB No. 8523

A Bryan Smith III, MSB No. 100008

*Counsel for Plaintiff*



\_\_\_\_\_  
Whitman B. Johnson III MSB No.3158

Senica M. Tubwell, MSB No.104074

*Counsel for Defendant Orhan Ilercil, M.D.*