

EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

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REBECCA SUNSHINE,

Plaintiff,

Index No.: 57292/2016

- against -

JACK BERGER, M.D., ARIS COMNINELLIS, M.D.,
CHRISTOPHER MATTERN, M.D., STEPHEN
ANDRUS, M.D. and WESTMED MEDICAL GROUP,

EXPERT AFFIRMATION
(INTERNAL MEDICINE)

Defendants.

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STEVEN C. MARTIN, M.D., a physician duly licensed to practice medicine in the State of New York, affirms, under penalty of perjury, that the following facts are true:

1. I am a physician duly licensed to practice medicine in the State of New York. I graduated from Columbia University Medical School in 1982. From 1982-1986, I completed training at the University of Michigan Hospitals. This included an internship and residency in internal medicine. From 1986-1988, I did a fellowship in internal medicine at the University of Pennsylvania. I am Board certified in internal medicine. I currently specialize in internal medicine in the New York metropolitan area. I am fully familiar with the standards of care in the field of internal medicine that existed in New York and nationally at the time of the treatment at issue, including the appropriate management of patients with back, hip and leg pain. I have years of experience seeing and treating patients with a variety of complaints, including pain in a specific area of the body.

2. I am not a party to this litigation. This affirmation is submitted in support of the motion for summary judgment on behalf of the defendants. My opinions are based on my review of the pleadings, the pertinent medical records, and the testimonial evidence in this

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action. All of my opinions in this affirmation are made to a reasonable degree of medical certainty.

3. Based on my review of this case, my familiarity with the standards of practice in the medical community, my training and years of experience treating patients with back and hip pain, and specializing in the field of internal medicine, it is my opinion to a reasonable degree of medical certainty that the care provided by Dr. Comninellis was at all times consistent with the standard of care. It is also my opinion that no act or omission by Dr. Comninellis caused or contributed to the damages in this case.

4. Dr. Comninellis is an internist who first became involved in Mrs. Sunshine's care when she rendered a preoperative evaluation for an unrelated gynecological procedure on January 10, 2014. During the visit, Mrs. Sunshine made complaints of back and leg pain. Mrs. Sunshine had one follow up visit with Dr. Comninellis to address these complaints on January 14, 2015. Dr. Comninellis provided appropriate care to this patient. When this patient presented with complaints of pain in the back and hip, Dr. Comninellis prescribed appropriate medication and advised the patient to follow up within the week if her complaints of pain persisted. In fact, Mrs. Sunshine returned four days later with continued complaints of pain. Dr. Comninellis appropriately ordered x-rays, which were reported as normal by the radiologist. When the x-rays were normal, Dr. Comninellis appropriately referred this patient to an orthopedic specialist. Dr. Comninellis did not see Mrs. Sunshine for these complaints during the time period at issue after this. Her efforts to treat this patient's complaints of back and leg pain, as an internist, were timely and appropriate. Dr. Comninellis properly referred Mrs. Sunshine to a specialist when it was warranted. After she referred the patient to a specialist, as will be explained below, Dr. Comninellis was entitled to rely on the specialists'

evaluations and diagnoses of this patient, and did not have a duty to question their treatment of the patient.

Allegations

5. The allegations against Dr. Comninellis in this case are based on her treatment of Mrs. Sunshine from January 2014 through March 2014. However, there is no evidence that Dr. Comninellis saw Mrs. Sunshine in either February or March 2014. Mrs. Sunshine reached out to Dr. Comninellis via email in February 2014 about an unrelated medical issue. In March 2014, Mrs. Sunshine spoke with the patient via telephone on one occasion. The allegations of negligence against Dr. Comninellis are focused on the care she rendered to Mrs. Sunshine at WESTMED, which involves less than one week of care and two office visits.

6. Based on my review of the pleadings in this case, the crux of plaintiff's argument is that Dr. Comninellis failed to conduct a proper workup for plaintiff's symptomology from January through March 2014 and failed to diagnose and treat an infection in plaintiff's left hip. Plaintiff claims that there was a delay in diagnosing the infection and that the defendants negligently diagnosed her with rheumatoid arthritis instead of an infection. As a result, Mrs. Sunshine claims she needed a hip replacement.

Relevant Facts

7. On January 10th, Mrs. Sunshine saw internist Dr. Aris Comninellis for a preoperative visit for a gynecological procedure. The purpose of the visit was to medically clear Mrs. Sunshine for the gynecological surgery. However, at the visit, Mrs. Sunshine complained of lower back and leg pain for the past few days. Mrs. Sunshine indicated increased pain while lying down and left hip pain with active flexion sitting or laying flat. She reported seeing a chiropractor and being an avid runner. Her vital signs were normal at this visit. Dr.

Comninellis did a thorough physical examination and found mild tenderness in the left sacroiliac joint and pain in the left thigh when she flexed her hip in lying or sitting position. Dr.

Comninellis prescribed Mobic, a non-steroidal anti-inflammatory medication (NSAID), for one week and recommended stretching the back, if tolerated. She was also instructed to call in one week if there was still pain in the back or leg. Bloodwork was ordered as part of the preoperative evaluation for the procedure (a loop electrosurgical excision) for a gynecological condition. The results of the bloodwork were normal, including the white blood count. Later that day, Dr. Comninellis communicated the results of this bloodwork to Mrs. Sunshine and advised Mrs. Sunshine to let her know if the back pain did not improve.

8. Mrs. Sunshine presented to Urgent Care the following day, January 11th, and was seen by a non-party physician. She complained of left lower back pain that radiated to the leg for the last 3-4 days. The Mobic was not helping. On examination, she had pain in the left sciatic notch. The diagnosis was sciatica. Mrs. Sunshine requested stronger medication and a work note. She was prescribed Prednisone, a corticosteroid, and Skelaxin, a muscle relaxant.

9. On January 13th, Mrs. Sunshine wrote to Dr. Comninellis indicating that she had gone for the Urgent Care visit and that she was prescribed a muscle relaxant which was helping. However, she still had pain and was having trouble walking. She said that she thought physical therapy might help.

10. On January 14th, Mrs. Sunshine returned to Dr. Comninellis with continued complaints of hip and back pain. Dr. Comninellis did a physical examination and found slight tenderness in the lower lumbar spine, pain in the left hip with internal/external rotation and slight tenderness in the left groin area. Mrs. Sunshine was unable to ambulate due to pain in the left hip. Dr. Comninellis suspected primary hip inflammation and possible

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