

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

CRISTIANO DINIZ and ANTONIO )  
THOMAS, individually and on )  
behalf of those similarly situated, )

Plaintiffs, )

vs. )

ALPHA OB GYN GROUP, P.C. and )  
DR. DANIEL E. MCBRAYER, SR., )

Defendants. )

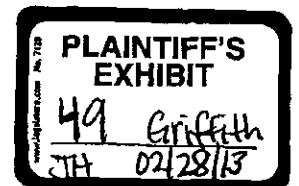
Civil Action File No.  
1:12cv-02621-JOF

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**DEFENDANTS' INITIAL DISCLOSURES**

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Come now Defendants, Alpha OB Gyn Group, P.C. and Dr. Daniel E. McBrayer, Sr., (individual and collectively as "Defendants") and hereby file Defendants' Initial Disclosures pursuant to Rule 26 of the Federal Rules of Civil Procedure, and without waiving any claim of attorney-client privilege, work product protection, or trade secret protection, respectfully submit their Initial Disclosures to Plaintiffs. Defendants expressly reserve the right to supplement these disclosures and to introduce additional information in connection with any motion, hearing, or trial as discovery proceeds.



**1) If the defendant is improperly identified, state defendant's correct identification and state whether defendant will accept service of an amended summons and complaint reflecting the information furnished in this disclosure response.**

Without conceding the merits of Plaintiffs' claims, and specifically denying them, the Defendants state that they have been properly identified.

**2) Provide the names of any parties whom defendant contends are necessary parties to this action, but who have not been named by plaintiff. If defendant contends that there is a question of misjoinder of parties, provide the reasons for defendant's contention.**

None identified at this time.

**3) Provide a detailed factual basis for the defense or defenses and any counterclaims or crossclaims asserted by defendant in the responsive pleading.**

The Defendants refer to their Answer and First Amended Answer for a factual basis for the defenses of the Defendants in this matter. Because discovery has not yet begun, the Defendants reserve the right to supplement this disclosure in accordance with Fed. R. Civ. P. 26. Without limiting the factual and legal defenses available to them stated in their Answer, or limiting their ability to supplement this

response as additional facts are developed during discovery or otherwise, the Defendants offer the following details as a factual basis for their defenses:

The Defendants deny that they have wronged Plaintiffs as it relates to overtime pursuant to the Federal laws as it relates to wages and hours. Defendants further aver that the Plaintiffs were paid for all hours worked and were even compensated for time they did not work. Defendants were not terminated as retribution, but because of lack of work and subordination.

**4) Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and illustrative case law which Defendants contend are applicable to this action.**

Defendants incorporate into their response to this question all of those statutes, codes, legal principles, standards and customs or usages, and illustrative case law that are contained under: the Fair Labor Standards Act; Georgia Department of Labor Guidelines; Georgia Overtime Laws; Federal and State employment and labor laws.

**5) Provide the name and, if known, the address and telephone number of each individual likely to have discoverable information that you may use to support your claims or defenses, unless solely for impeachment, identifying the subjects of the information. (Attach witness list to Initial Disclosures as Attachment A.)**

See Attachment A.

**6) Provide the name of any person who may be used at trial to present evidence under Rules 702, 702, or 705 of the Federal Rules of Evidence. For all experts described in Fed. R. Civ. P. 26(a)(2)(B), provide a separate written report satisfying the provisions of that rule. (Attach expert witness list and written reports to Initial Disclosures as Attachment B.)**

None identified at this time.

**7) Provide a copy of, or description by category and location of, all documents, data compilations, and tangible things in your possession, custody, or control that you may use to support your claims or defenses unless solely for impeachment, identifying the subjects of the information. (Attach document list and descriptions to Initial Disclosures as Attachment C.)**

Listed in Attachment C are those documents that the Defendant may use to support their claims or defenses. The Defendants reserve the right to supplement their response in accordance with the Federal Rules, the Local Rules, and the Rules and Orders of this Court.

**8) In the space provided below, provide a computation of any category of damages claimed by you. In addition, include a copy of, or describe by category and location of, the documents or other evidentiary material, not privileged or protected from disclosure on which such**

**computation is based, including material bearing on the nature and extent of injuries suffered, making such documents or evidentiary material available for inspection and copying under Fed. R. Civ. P. 34. (Attach any copies and descriptions to Initial Disclosures as Attachment D.)**

None at this time.

**9) If defendant contends that some other person or legal entity is, in whole or in part, liable to the plaintiff or defendant in this matter, state the full name, address, and telephone number of such person or entity and describe in detail the basis of such liability.**

None.

**10) Attach for inspection and copying as under Fed. R. Civ. P. 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments to satisfy the judgment. (Attach copy of insurance agreement to Initial Disclosures as Attachment E.)**

No insurance agreement identified at this time.

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This 1<sup>st</sup> day of October, 2012.

RESPECTFULLY SUBMITTED,

s/ A. KEITH LOGUE

A. Keith Logue

SBN 456250

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Marietta, GA 30062

(770) 321-5750

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CERTIFICATE OF SERVICE

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Pursuant to Local Rule 7.1D, the undersigned counsel for Defendants hereby certifies that the foregoing has been prepared with a font size and point selection (Times New Roman, 14 pt.) which was approved by the Court, and I further certify that the **Defendants' Initial Disclosures** has been electronically filed with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following counsel of record:

Andrew Weiner, Esq.  
Georgia Bar No. 808278  
[aw@andrewweinerlaw.com](mailto:aw@andrewweinerlaw.com)  
Stacy L. Rushing  
Georgia Bar No. 557370  
[rushing@atlantaemployeelawyer.com](mailto:rushing@atlantaemployeelawyer.com)  
The Weiner Law Firm LLC  
3524 Piedmont Road  
7 Piedmont Center, 3<sup>rd</sup> Floor  
Atlanta, GA 30305

This 1<sup>st</sup> day of October, 2012.

s/ A. KEITH LOGUE  
A. Keith Logue



**Attachment "A"**

This disclosure lists persons who may have information that the Defendants may use to support their defenses to all of the claims pled in Plaintiffs' Complaint, without regard to the legal merit of those claims. All of the persons listed below may be contacted through the undersigned counsel.

By serving this disclosure, the Defendants do not waive any of their legal challenges to those claims or acknowledge that any of these persons possess discoverable information. The Defendants will amend or supplement this disclosure as necessary as this matter proceeds.

NAME	TITLE
Daniel E. McBrayer, M.D. Alpha Group 1640 Powers Ferry Road, Bldg. 23 Marietta, GA 30067 (404) 584-8428	Owner
Ana Duran 1522 Park Grove Drive Lawrenceville, GA 30046 678-362-2990	Former Employee Ultra Sound Technician/Back Office Manager
Kensy Griffith 65 Victorian Court Dallas, GA 30157 678-386-5915	Medical Assistant
Judith Pumareio 4905 Jones Bridge Place Drive Alpharetta, GA 678-571-6981	Cashier
Jennifer Sampson 126 Sampson Path Douglasville, GA 30134 404-992-5567	Former Employee – Billing Secretary

NAME	TITLE
Ramona Thomas 345 Twin Hill Court Austell, GA 30168 678-708-7682	Medical Assistant

**Attachment "C"**

This disclosure lists documents that the Defendants may use to support their claims or defenses. By serving this disclosure, the Defendants do not waive any of their legal challenges to those claims or objections they may have to the relevance and admissibility of these documents.

1. Policies and procedures regarding overtime;
2. Time Cards; and
3. Handwritten time sheets.