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June 14, 2017

DeKalb County Courthouse
ATTN: Ms. Nicole Spain-Staton
556 N. McDonough St
Suite 3230
Decatur, GA 30030

RE: [REDACTED] v. *Joseph Eletto Transfer, Inc., et. al.*
State Court of DeKalb County
Civil Action File No.: 16A60531

Dear Judge Jacobs, Ms. Spain-Staton, Ms. Thompson, and Ms. Arthur,

Plaintiff writes this letter to respectfully request a trial date at the Court's earliest opportunity. A special setting or first-out setting would be wonderful, if the Court is able to accommodate that.

This case is ready for trial. Plaintiff has deposed Defendant Eletto's safety director, the driver of the truck that struck Plaintiff, and Dr. Julio Petilon (Plaintiff's back surgeon). Plaintiff has filed a medical narrative from a different surgeon. Defendants have deposed Plaintiff. The parties have exchanged written discovery. The only possible remaining deposition would be a deposition of Defendants' hired doctor, whom Defendants first disclosed on March 1, 2017. Defendants have indicated that they intend to present the doctor to the jury via video deposition. Plaintiff has repeatedly asked Defendants to name a date for the doctor's deposition, and although Defendants have not responded to those requests, securing the hired doctor's testimony will not take long.

There are no pending motions that should delay the trial. Plaintiff filed a motion to compel and for attorneys' fees on February 10, 2017, and after Plaintiff filed the motion, Defendants produced the evidence—so the only remaining question is attorneys' fees. That motion need not delay the trial; in fact if it were necessary, the Court could decide that issue *after* the trial. Defendant filed a motion to extend (really, reopen) discovery on March 17, 2017, and although Plaintiff opposed that motion, the date through which Defendants sought to extend discovery was June 15. Since June 15 is tomorrow, that motion is really moot. Therefore, there is no pending motion that should delay trial.

The parties agreed to mediate the case. Plaintiff agreed on April 27, 2017 to go to mediation, and then reluctantly accepted Defendants' proposed mediation date of June 27, 2017 (at the time, that date seemed too distant). Today, Defendants contacted Plaintiff and said that June 27 no longer worked, and proposed dates in August. Plaintiff remains willing to mediate, but these delays are unnecessary. A trial date would get things moving and provide a sure means of resolution should mediation prove unsuccessful.

The case is ready for trial, and has been ready for some time. Plaintiff respectfully requests a trial date, and if possible, a special or first-out setting. If Plaintiff needs to withdraw and recast the motion for fees in some way in order to accelerate the trial date, Plaintiff will do that pursuant to whatever direction the Court provides.

Thank you very much for your time and attention,

Sincerely,

BUTLER TOBIN LLC



James E. Butler III

cc: karthur@dekalbcountyga.gov
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