

No. 23-5614

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IN THE SUPREME COURT OF THE UNITED STATES

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*ELLISON O. JORDAN,*  
Petitioner

vs.

*THE PENNSYLVANIA STATE UNIVERSITY, et, al,*  
Respondents

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On Petition for a Writ of Certiorari to the Superior Court of Pennsylvania,  
Middle District

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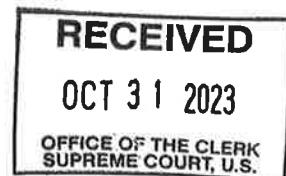
**PETITIONER RESPONSE TO BRIEF OF PROFESSIONAL LIABILITY  
RESPONDENTS IN OPPOSITION TO PETITION FOR WRIT OF  
CERTIORARI**

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Ellison O. Jordan  
P.O. Box 4704  
Upper Marlboro, MD 20775  
(301) 875-8773

*PRO SE*

*i.*



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**IN THE SUPREME COURT OF THE UNITED STATES****INRODUCTION**

Petitioner respectfully disagrees with Respondents brief in opposition to this Courts review and granting of the Petition for Writ of Certiorari.

**FACTUAL BACKGROUND**

The Petitioner “Filed for Record” a Medical Malpractice, Professional Liability and Vicarious Liability complaint on January 31, 2020. All Respondents during the period of July 2016 – February 2020 were employees, agents, and/or subsidiaries of The Pennsylvania State University (PSU). During this period, Respondent Scott A. Lynch was also a Professor at PSU (See Appendix A).

The Petitioner “Filed for Record” Certificates of Merit with written statements on February 28, 2020. The Certificates of Merit with written statements from Dr. Scott A. Lynch (Respondent) and Dr. Tokish were required by the Lower Court to be filed on Centre County “Confidential Document Form” due to medical information included with the certificate (See Appendix B).

The Petitioner “Filed for Record”, on May 29, 2020, with the Lower Court a letter to the Prothonotary notifying the Court of nonreceipt of the Notices and Judgements of Non-Pros from the Court. In addition, the Petitioner asked “...*what my rights are*

*concerning the judgements if you were to determine an error had not been made and the judgements are valid...”* The Prothonotary did not respond to the Petitioner’s letter/requests (See Appendix D).

The Centre County Court Judge stated during the June 25, 2020, conference hearing concerning the Certificates of Merit (See Appendix C):

1. ***“I saw”*** when the Court was shown a copy of the February 28<sup>th</sup> Certificate of Merit;
2. ***“I understand that.”*** when the Court was told ***“...But this is a written statement from Dr. Lynch on here that is included where he says, Ellison should not bending his knee...”***;
3. ***“I don’t need to hear –“***when the Court was told ***“And then also Dr. Tokish “***;
4. ***“Fine, thank you Thank you, I’ll let you know”*** when the Court was told ***“...but it’s a clear statement from two physicians.”***

The Centre County Court pursuant to PA Rule 236 issued Notices and Judgments of Non-Pros on May 12, 13 and 15, 2020. The Notices and Judgments were issued as follows:

1. Notice and Judgment, dated May 12, 2020, Respondent Scott A. Lynch, for ***“failure to file a Complaint.”*** (See Appendix E);

2. Notice and Judgment, dated May 12, 2020, Respondents Andy Mutnan, Renee Messina, Brendan M. Carr, Tim Bream and Wes Sohns, for ***“failure to file a Complaint.”*** (See Appendix F);
3. Notice and Judgment, dated May 13, 2020, Respondents Andy Mutnan, Renee Messina, Brendan M. Carr, Tim Bream and Wes Sohns, for ***“failure to file a Complaint.”*** (See Appendix G);
4. Notice, dated May 15, 2020, Respondent Scott A. Lynch, for ***“failure to file a written statement from an appropriate Licensed Professional.”*** (See Appendix H);
5. Judgment, dated May 15, 2020, Respondent Scott A. Lynch, for ***“failure to file a Complaint.”*** (See Appendix I);

In the Centre County Court ORDER dated July 15, 2020, the Judge states:

1. ***“...Plaintiff did file certificate of merit but without the required written statement from a licensed professional...Instead Plaintiff simply attached the medical records which support his cause of action. Plaintiff’s attachment of medical records is insufficient and failed to satisfy the requirements of Rule 1042.5...”*** (page 5);
2. ***“Every Defendant besides the university Defendant filed a Notice of Intention to Enter Judgment of Non-Pros.”*** (page 5);

3. "...Plaintiff never filed any certificates of merit with a written statement from an appropriate licensed professional and the Prothonotary's Office entered Judgement of Non Pros in favor of the Defendants on May 12 and May 13, 2020." (page 5)<sup>1</sup>
4. "Entry of Judgement of Non Pros in favor of the Defendants is proper in this case." (page 5)

In OPINION and ORDER dated December 4, 2020, the Judge states:

1. "On May 12 and May 13, 2020, the Centre County Prothonotary's Office entered Judgment of Non Pros in favor of all the Defendants other than the University Defendants." (page 3)
2. "...all of Plaintiff's medical malpractice claims against those other entities and agents were dismissed for failure to file a proper certificate of merit so the Penn State University cannot be held vicariously liable for their alleged malpractice." (page 17)
3. "...The termination of the claims against the other defendants in this case extinguishes the vicarious liability claim against University Defendants." (page 18)

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<sup>1</sup> Prothonotary issued Judgment dated May 15, 2020, "...in favor of Defendant, Scott A. Lynch, and against the Plaintiff, Ellison O. Jorda, for failure to file a complaint" (See Appendix I). The Judge did not reference the May 15, 2020, judgment in the July 15, 2020, ORDER.

## **ARGUMENT**

The Petitioner asserts timely Certificates of Merit were “Filed for Record” with the Centre County Prothonotary Office pursuant to Pa. Rule 1042.3 and 1042.10. The Certificates of Merit, which included two physician statements, were accepted and “Filed for Record” by the Prothonotary’s Office on February 28, 2020, pursuant to Pa. Rule 1042.3(e), which states:

### **Rule 1042.3. Certificate of Merit.**

(e) If a certificate of merit is not signed by an attorney, the party signing the certificate of merit shall, in addition to the other requirements of this rule, attach to the certificate of merit the written statement from an appropriate licensed professional as required by subdivisions (a)(1) and (2). If the written statement is not attached to the certificate of merit, a defendant seeking to enter a judgment of non pros shall file a written notice of intent to enter a judgment of non pros for failure to file a written statement under Rule 1042.11.

The Centre County Prothonotary and Judge assigned to the Petitioner’s case did not issue a letter, opinion and/or order stating the accepted “Filed for Record” Certificates of Merit did not comply with the requirements of 1042.3, 3(e) or .10 prior to July 15, 2020. The Judge acknowledged the filed Certificates of Merit with written statements during the June 25, 2020, conference hearing. The Judge did not state to the Petitioner nor the Respondents during the hearing that the filed Certificates of

Merit or written statements were “*insufficient*”. Furthermore, the Judge did not state during the hearing that Dr. Lynch and Dr. Tokish were not “*appropriate licensed professional*”. Thus, the Petitioner left the hearing with the understanding the timely “Filed for Record” Certificates of Merit with written statements from appropriate licensed professionals were appropriate and sufficient.

The Judge did not state the Certificates of Merit were “*insufficient*” until the July 15, 2020, OPINION and ORDER was issued. The Judge did not allow the Petitioner an opportunity to correct any deficiencies with the Certificates of Merit and/or written statements prior to the dismissal of the claims with prejudice.

The Petitioner points this Court to Pa. Rule 1042.12 (see below). The rule prohibits the Prothonotary from issuing a judgment when a written statement has been filed prior to the filing of praecipe. The Petitioner submitted the written statements prior to the filing of any praecipe by the Respondents. The Petitioner asserts that the written statements as filed did not warrant dismissal of claims with prejudice given that Rule 1042.12 (*Official Note*) states “*The prothonotary may not enter judgment if the written statement has been filed prior to the filing of the praecipe*”. In addition, none of the four (4) Judgments entered by the Prothonotary were entered for “*failure to file a written statement from an appropriate licensed professional*” pursuant to Pa. Rule 1042.12.

**Rule 1042.12. Entry of Judgment of Non Pros for Failure to File a Written Statement from an Appropriate Licensed Professional. Form of Praeclipe.**

(a) The prothonotary, on praecipe of the defendant, shall enter a judgment of non pros against the plaintiff for failure to file a written statement under Rule 1042.3(e) provided that

- (1) no written statement has been filed,
- (2) the defendant has attached to the praecipe a certificate of service of the notice of intention to enter the judgment of non pros, and
- (3) the praecipe is filed no less than thirty days after the date of the filing of the notice of intention to enter judgment of non pros.

Official Note

**The prothonotary may not enter judgment if the written statement has been filed prior to the filing of the praecipe.**

Rule 237.1 does not apply to a judgment of non pros entered under this rule.

See Rule 208.2(a)(4) for the content of the certificate of service.

The Petitioner asserts and the Judge stated the claims were terminated against the non-University Defendants/Respondents based on the Judgments dated May 12 and May 13, 2020. The Judge declared the Judgments entered in favor of the Defendants were “*proper in this case*”. Based on the evidence in the case and in particular the appendixes within, all the judgments were issued based on “*failure to file a complaint.*”

The Respondents nor any of the Courts which have reviewed the case have stated the Petitioner failed to file a complaint. Thus, the Judge erred concerning the judgments. In addition, the Centre County Court violated the Petitioner's right to jury trial.

## CONCLUSION

For the reasons set forth within, the Petitioner respectfully requests this Court to grant the Petition for Writ of Certiorari. The Petitioner had a constitutional right to demand a jury trial. The Petitioner timely demanded a jury trial. The Petitioner did not waive the demand for a jury trial. Therefore, the Petitioner had a constitutional right to have a jury decide whether the duty determined by the Court of Common Pleas was breached by the Respondents and whether the Respondents breach caused the Petitioner's injuries. The Court of Common Pleas, Centre County of Pennsylvania, denied the Petitioner's constitutional right to a trial by jury. In addition, the **Prothonotary never issued any judgments in favor of the Respondents for “failure to file a written statement”.**

Respectfully submitted:

  
Signature

Ellison O. Jordan  
P. O. Box 4704  
Upper Marlboro, MD. 20775  
[4jfam2020@gmail.com](mailto:4jfam2020@gmail.com)



# Scott A. Lynch, MD



4.7 out of 5 from 135 Patient Satisfaction

Ratings. Learn more about the survey.



Orthopaedic Surgery,  
Sports Medicine

Call for an  
appointment

**Academic Appointments**

717-531-

Director, Sports Medicine  
Service

5638

Practice Site Clinical Director,  
Bone and Joint Institute

F: 717-531-

Professor, Penn State College  
of Medicine

4205

## About Me

Dr. Scott Lynch joined faculty at Penn State Health Milton S. Hershey Medical Center in June, 1998 as an Orthopaedic Surgeon with sub-specialization in Sports Medicine.

Prior to coming to Hershey, he did his Orthopaedic residency at the University of Vermont and then did two Sports Medicine Fellowships, one at the Cleveland Clinic and one overseas at the Karolinska Institute in Stockholm, Sweden.

APPENDIX A

**CONFIDENTIAL  
DOCUMENT FORM**



*Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*

204 Pa. Code § 213.81

[www.pacourts.us/public-records](http://www.pacourts.us/public-records)

Ellison O. Jordan  
(Party name as displayed in case caption)

2020-28  
Docket/Case No.

vs.  
The Penn State Univ. et al  
(Party name as displayed in case caption)

Civil  
Court

This form is associated with the pleading titled

Cert. of Merit, dated Feb 28, 2020

Pursuant to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*, the Confidential Document Form shall accompany a filing where a confidential document is required by law, ordered by the court, or is otherwise necessary to effect the disposition of a matter. This form shall be accessible to the public, however the documents attached shall not be publicly accessible, except as ordered by a court. The documents attached will be available to the parties, counsel of record, the court, and the custodian. Please only attach documents necessary for the purposes of this case. Complete the entire form and check all that apply. This form and any additional pages must be served on all unrepresented parties and counsel of record.

Type of Confidential Document	Paragraph, page, etc. where the confidential document is referenced in the filing:
<input type="checkbox"/> Financial Source Documents	<u>Cert. of Merit</u>
<input type="checkbox"/> Tax Returns and schedules	<u>Events Pg 1-5; Attachments 1, 2, 5, 6, 7, 9, 10, 11-2</u>
<input type="checkbox"/> W-2 forms and schedules including 1099 forms or similar documents	<u>11, 12, 13, 14, 18, 19, 21-27, 28, 29-30, 31-3</u>
<input type="checkbox"/> Wage stubs, earning statements, or other similar documents	<u>30, 31, 32, 33, 34, 35, 36</u>
<input type="checkbox"/> Credit card statements	<u>38, 39, 40, 41-5</u>
<input type="checkbox"/> Financial institution statements (e.g., investment/bank statements)	<u>40-45</u>
<input type="checkbox"/> Check registers	
<input type="checkbox"/> Checks or equivalent	
<input type="checkbox"/> Loan application documents	
<input type="checkbox"/> Minors' educational records	
<input checked="" type="checkbox"/> Medical/Psychological records	<u>Attachments 1-37</u>
<input type="checkbox"/> Children and Youth Services' records	<u>Attachments 1-36</u>
<input type="checkbox"/> Marital Property Inventory and Pre-Trial Statement as provided in Pa.R.C.P. No. 1920.33	
<input type="checkbox"/> Income and Expense Statement as provided in Pa.R.C.P. No. 1910.27(c)	
<input type="checkbox"/> Agreements between the parties as used in 23 Pa.C.S. §3105	

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Ellison O. Jordan  
Signature of Attorney or Unrepresented Party

Name: Ellison O. Jordan

2/28/20  
Date

Attorney Number: (if applicable) 1/1

Address: P.O. Box 604  
State College, PA 16804

Telephone: 1/1

Email: 451am2520@gmail.com

**APPENDIX B**

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

ELLISON O. JORDAN )  
P.O. BOX 62. )  
State College, PA 16804 )  
Plaintiff )  
VS ) Docket No. 2020-28  
)  
THE PENNSYLVANIA STATE UNIVERSITY )  
(Known and Unknown Agents, Servants, and Employees )  
SANDY BARBOUR, CHARMELLE GREEN, )  
JAMES FRANKLIN, ANDY MUTNAN, )  
RENEE MESSINA, SCOTT A. LYNCH, MD, )  
PETER H. SEIDENBERG, MD, )  
JOHN S. REID, MD, BRENDAN M. CARR, )  
TIM BREAM, WES SOHNS, PENN STATE HEALTH )  
(Known and Unknown Agents, Servants, and Employees )  
THE MILTON S. HERSHEY MEDICAL CENTER )  
(Known and Unknown Agents, Servants, and Employees )  
PENN STATE HERSHEY MEDICAL GROUP )  
(Known and Unknown Agents, Servants, and Employees )  
and MOUNT NITTANY HEALTH )  
(Known and Unknown Agents, Servants, and Employees )  
Defendants )

Certificate of Merit as to

The Pennsylvania State University, Sandy Barbour, Charmelle Green, James Franklin, Andy Mutnan, Renee Messina, Scott A. Lynch, Peter H. Seidenberg, John S. Reid, Brendan M. Carr, Tim Bream, Wes Sohns, Penn State Health The Milton S. Hershey Medical Center, Penn State Hershey Medical Group and Mount Nittany Health

I, Ellison O. Jordan, certify that:

[X] an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by this defendant in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

AND

[X] the claim that this defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this defendant is responsible

deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm.

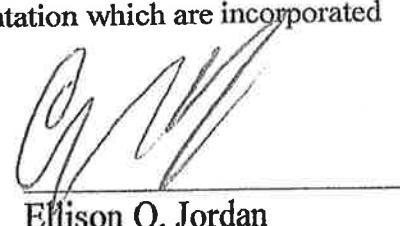
It is my assertion, based upon the review of the attached medical and supporting documentation (to include but not limited to written and electronic medical statements and documentation from Dr. Tokish and Dr. Lynch), there is a reasonable degree of medical probability that the care rendered to me by the defendants, directly and/or through their actual and/or apparent agents, servants and/or employees, departed from the applicable standard of care by negligently performing, interpreting, communicating and/or documenting the medical care provided to me. This negligence resulted in the (1) failure to follow discharge instructions from Dr. Tokish as well as instructions provided to Dr. Lynch from Dr. Tokish, (2) January 7 and 8, 2018 reinjury/new injury due to treatment provided by athletic trainers prior to clearance from an orthopedic physician of the right knee patella, (3) failure by the athletic trainers to report the reinjury/new injury as required by applicable policies and procedures, (4) failure by the athletic trainers to report the reinjury/new injury to Dr. Lynch, (5) failure by the athletic trainers to have the reinjury/new injury examined by a physician on the day of the reinjury/new injury, (6) failure to protect the reinjury/new injury from infection until it was examined by a physician, (7) need for additional surgery as a result of the reinjury/new injury on January 12, 2018 and increased risk of additional harm, (8) additional harm of an intraoperative right patella knee hardware infection, (9) fraudulent concealment of type of infection, (10) Failure to coordinate infection medication with Dr. Cook, ID specialist, (11) discharging with inadequate infection medication and failure to disclose type of infection by Dr. Reid, (12) improper discontinuance of infection medication by Dr. Reid without coordination with Dr. Cook, (13) providing additional infection medication and properly monitoring infection indication levels, and (14) intentional non disclosure of a complete and full medical records and (15) any other unknown failures to act or delay on the part of the defendants given a complete medical record has not been provided to the plaintiff as previously requested nor forwarded to Dr. Rue as requested.

I assert the need for the January 12, 2020 right patella knee surgery as well as the continued harm, pain and suffering it caused "would have not occurred but for" the conduct of the defendants on January 7 and 8, 2018 as well as potential failures on December 9, and 24, 2017. I further assert the departures from the standard of care by the defendants directly and/or through their actual and/or apparent agents, servants and/or employees, proximately caused me to endure five (5) right knee surgeries during the period July 2016 – January 2019. In addition, it resulted in having an undisclosed knee infection for almost a year. I assert the negligence caused extraordinary harm, loss, isolation, expenses and mental suffering for me and my family.

Attached are supporting medical and medical related documentation which are incorporated herein.

Date: February 26, 2020

Signature:  
Name:



Ellison O. Jordan

Today 11:54 PM

ELLISON JORDAN

I was slightly bending my knee  
(30 degrees)  
Lifting my knee  
icing my knee  
They said I should be bending  
my knee 90 degrees by next  
week

DR. TOKISH

This is weird for Ellison to be limited today by the training staff. He said it was a little painful when bending the knee.

He doesn't see Dr. Lynch until Thursday when he gets his stitches out.

We will be emailing Dr. Lynch shortly. I would like to copy you on email and forward your text if it's okay with you. Please forward your email address.

We have medical power of attorney. It specifically covers medical concerns at PSU. If you need a copy, I will email you.

I have included Ellison in this text (301) 693-7386.

Again, you are appreciated. Mrs. Jordan

DR. TOKISH

Thx

Let me give dr lynch a text as well-  
Want to make sure we ate all on the same page...

## Conversations

Add and share your name and photo  
Set up...

3 People >

DR. TOKISH

Good morning deborah-  
I received a phone call last night from dr lynch, and we have been communicating about ellison's knee.  
After receiving your/ ellison's texts about the range of motion i spoke with both their head trainer tim, and dr lynch.

**ICE, ELLISON & DR LYNCH** 1/14/18  
Hey Dr Lynch and yes you guys can come by.

**ICE, ELLISON & DR LYNCH** 1/13/18  
G/M Dr. Lynch...Ellison is resting now.  
Painful night/morning.

**ICE, ELLISON & DR. TOKISH** 1/11/18

Hi iron Yes i am aware and sick about the setback. I have been in contact with dr ly...

**ICE, ELLISON & DR. TOKISH** 1/10/18  
Good morning deborah- I received a phone call last night from dr lynch, and...

I am not sure why it widened or pulled apart - i dont think he fell and dont know how far the knee was bent but in speaking to tim it sounds like they were appropriately cautious. I know that u guys are headed to hershey today for an opinion and am sure u are in good hands. Dr. Lynch i know is involved in every step here and am sure ellison will get the best care possible.  
Im so sorry he is going through this

Jt  
Please let me know how things go .

**DR LYNCH** 1/9/18  
Dr. Lynch i said we would see Dr. Reid tomorrow. My apology for any misunderstandings...

**DR LYNCH** 1/9/18  
Dr Lynch we will contact Ellison.

ELLISON JORDAN

**ICE & DR LYNCH** 1/9/18  
(RON) FWWD FROM DR. LYNCH:: J. Spence  
Reid, Hershey Medical Center is the ortho...  
I did ask multiple times if it was okay to bend my knee? Tim kept saying "yes! you keep asking that question three times!" i was just like whatever because he seemed he know what he was doing to my knee. The next day Monday, Wes was the person who was working on my knee and i was sitting of the edge of the table with my knee out the brace bending my knee slightly. I asked him how far was I bending my knee in terms of degrees and Wes said "30 degrees" then we did leg lifts and I was working on flexing my quad. I also took a shower without my brace on my knee because they said I can get my knee wet more.

**ICE, ELLISON & DR. TOKISH** 1/9/18  
Thanks Dr. Tokish!! Dr. Lynch said an x-ray

12:11 2018 9:20 AM

Jan 8, 2018, 11:17 PM

DR. TOKISH

Hi mrs jordan-  
Sorry for the delay-  
Long day-  
I would like him to keep  
the knee straight for 4  
weeks- 6. Weeks-  
If he is flexes too far, it can  
pull his knee apart this  
early- cant imagine they  
would do that, but happy  
to send along our  
protocol...

Basically keep knee  
straight , straight leg  
raises ok, but thats about



ELLISON >

14

Add and share your name and photo  
et Up...

Jan 9, 2018, 12:32 PM

you share that text from dr lynch please

< 40



DR LYNCH



Ronald A.



ELLISON

Today 6:17 AM

DR LYNCH

Thanks fo letting me know. I  
also got a text from Dr. Tokish.  
I will discuss this with the  
athletic trainers. Ellison  
shouldn't be bending his knee  
that far yet.

D

Jan 9, 2018, 9:55 PM

May 29, 2020

Jeremy S. Breon, Prothonotary  
Centre County Courthouse  
102 South Allegheny Street  
Bellefonte, PA. 16823

In Re: Ellison O. Jordan v. The Pennsylvania State University, et al.  
Docket No. 2020-28

Dear Mr. Breon:

On May 28, 2020, I opened emails from four (4) attorneys representing defendants in the referenced case which contained copies of your May 12, 2020 and May 13, 2020 Notices and Judgements of Non Pros for "failure to file written statement from an appropriate licensed professional". The attorney emails were dated May 26 and 27, 2020. Please know I have not received a the original Notices and Judgements or electronic copy of the Notices or Judgements from your office.

Given the COVID-19 cases in my area, I have not been to the Post Office for mail since early April 2020. In addition, it was my understanding all court related documents were being provided electronically. Thus, I have been monitoring my email account for any information from you and the defendants' attorneys. The last email I received from your office is dated May 14, 2020 which was a "FILED BY EMAIL", "FILED FOR RECORD", of my May 13, 2020 "Response to the Praeclipe for Entry of Judgement of Non Pros for Failure to File Written Statement from an Appropriate Licensed Professional".

As stated in my response and as documented on record, I submitted a timely Certificate of Merit with required statements on February 28, 2020. To my knowledge, your office has accepted the Certificate of Merit as timely and meeting the necessary requirements of Rule 1042.3. Given the facts concerning the Certificate of Merit, it was my understanding that you *"may not enter judgement if the written statement has been filed prior to the filing of the Praeclipe"*. Since the Certificate of Merit with written statements was recorded by your office on February 28, 2020 and a Praeclipe was not filed until on or about March 9, 2020, an error concerning the Judgements and Notices for Non Pros has occurred.

I respectfully request that a review of the above be conducted as soon as possible. In addition, I would appreciate if you provide documentation on what my rights are concerning the judgements if you were to determine an error has not been made and the judgements are valid. Please specify any applicable time requirements as well.

Your cooperation and prompt attention to this request is appreciated.

Best regards,

*Ellison Jordan*

Ellison O. Jordan  
Plaintiff

2. THE TRIAL COURT ERRED IN DENYING APPEALLANT'S  
PETITION FOR RELIEF OF JUDGMENT OF NON-PROS FOR FAILURE  
TO FILE WRITTEN STATEMENT FROM AN APPROPRIATE LICENSED  
PROFESSIONAL?

The following is taken from the June 25, 2020 TRANSCRIPT  
OF PROCEEDINGS (Argument), pages 28-31:

MRS. JORDAN: Yes, Your Honor. I have her a copy of the certificate of merit that was filed of record dated February 28<sup>th</sup>, ...

THE COURT: I saw.

MRS. JORDAN: ... However, it was my understanding from the office that the actual attachments could not be included for public record because it contained medical information ...But this is a written statement from Dr. Lynch on her that is included where he says, Ellison should not be bending his knee ...

THE COURT: I understand that.

MRS. JORDAN: And then also Dr. Tokish --

THE COURT: I don't need to hear --

MRS. JORDAN: ... This is Dr. Lynch on actually the day that it occurred, at the time said, and he was a supervisor to these athletic directors — trainers, who was given, and all the athletic trainers provided treatment before Dr. Lynch was able to do an evaluation ...Treatment was being provided by athletic trainers who are not physician, ... these individuals did not really have the authority to provide the type of treatment on this day when the Plaintiff's knee was bent again.

THE COURT: Okay. Okay, I understand.

MRS. JORDAN: ... but it's a clear statement from two physicians.

THE COURT: Fine, thank you

Thank you, I'll let you know. (MRS. JORDAN: Question  
missing from transcript)

During the proceedings, the Appellant was able to direct counsel and the Honorable Judge Ruest to the written statements which had been provided in accordance with the Rules and instructions from the Prothonotary's staff. In addition, the Appellant requested a review of the Certificates of Merit in the March 9, 2020, letter filed for record to the Prothonotary. Also, the Prothonotary Office erred in the notices and judgments issued in the Defendant's favor against the Appellant. The following documents support this assertion:



JEREMY S. BREON  
PROTHONOTARY  
CENTRE COUNTY COURTHOUSE  
102 S. ALLEGHENY STREET, RM 102  
BELLEFONTE, PA 16823  
814-355-6796

**NOTICE**

DATE: May 12, 2020

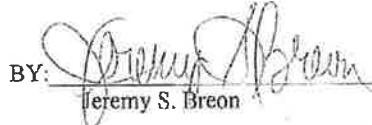
DOCKET #: 2020-0028

TO: Ellison O. Jordan

Pursuant to Rule 236 of the Pennsylvania Rules of Civil Procedure, you are hereby notified that a Judgment of Non Pros has been entered against you in the Prothonotary's Office by Scott A. Lynch, M.D., for failure to file a Complaint.

Please feel free to contact this office should you have any questions.

CENTRE COUNTY PROTHONOTARY  
AND CLERK OF COURTS:

BY:  (seal)  
Jeremy S. Breon

Mailing Date: 05/14/2020

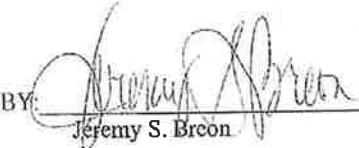
IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

ELLISON O. JORDAN, )  
Plaintiff )  
vs. ) NO. 2020-0028  
PENNSYLVANIA STATE UNIVERSITY, )  
SANDY BARBOUR, )  
CHARMELLE GREEN, )  
JAMES FRANKLIN, )  
ANDY MUTNAN, )  
RENEE MESSINA, )  
SCOTT A. LYNCH, )  
PETER H. SEIDENBERG, M.D., )  
JOHN S. REID, M.D., )  
BRENDAN M. CARR, )  
TIM BREAM, )  
WES SOHNS, )  
PENN STATE HEALTH, )  
MILTON S. HERSHEY MEDICAL CENTER, )  
PENN STATE HERSHEY MEDICAL GROUP, and )  
MOUNT NITTANY HEALTH, )  
Defendants )

JUDGMENT

AND NOW, this 12<sup>th</sup> day of May, 2020, a Judgment of Non Pros is entered in favor of the Defendant, Scott A. Lynch, and against the Plaintiff, Ellison O. Jordan, for failure to file a complaint.

CENTRE COUNTY PROTHONOTARY  
AND CLERK OF COURTS

BY:  (seal)  
Jeremy S. Breon

Mailing Date: 05/14/2020



JEREMY S. BREON  
PROTHONOTARY  
CENTRE COUNTY COURTHOUSE  
102 S. ALLEGHENY STREET, RM 102  
BELLEFONTE, PA 16823  
814-355-6796

**NOTICE**

DATE: May 12, 2020

DOCKET #: 2020-0028

TO: Ellison O. Jordan

Pursuant to Rule 236 of the Pennsylvania Rules of Civil Procedure, you are hereby notified that a Judgment of Non Pros has been entered against you in the Prothonotary's Office by Andy Mutnan, Renee Mcssina, Brendan M. Carr, Tim Bream and Wes Sohns, for failure to file a Complaint.

Please feel free to contact this office should you have any questions.

CENTRE COUNTY PROTHONOTARY  
AND CLERK OF COURTS:

BY: (seal)  
Jeremy S. Breon

Mailing Date: 05/14/2020

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

ELLISON O. JORDAN, )  
Plaintiff )  
vs. ) NO. 2020-0028  
PENNSYLVANIA STATE UNIVERSITY, )  
SANDY BARBOUR, )  
CHARMELLE GREEN, )  
JAMES FRANKLIN, )  
ANDY MUTNAN, )  
RENEE MESSINA, )  
SCOTT A. LYNCH, )  
PETER H. SEIDENBERG, M.D., )  
JOHN S. REID, M.D., )  
BRENDAN M. CARR, )  
TIM BREAM, )  
WES SOHNS, )  
PENN STATE HEALTH, )  
MILTON S. HERSHEY MEDICAL CENTER, )  
PENN STATE HERSHEY MEDICAL GROUP, and )  
MOUNT NITTANY HEALTH, )  
Defendants )

JUDGMENT

AND NOW, this 12<sup>th</sup> day of May, 2020, a Judgment of Non Pros is entered in favor of the Defendants, Andy Mutnan, Renee Messina, Brendan M. Carr, Tim Bream and Wes Sohns, and against the Plaintiff, Ellison O. Jordan, for failure to file a complaint.

CENTRE COUNTY PROTHONOTARY  
AND CLERK OF COURTS

BY:   
Jeremy S. Breon (seal)

Mailing Date: 05/14/2020



JEREMY S. BREON  
PROTHONOTARY  
CENTRE COUNTY COURTHOUSE  
102 S. ALLEGHENY STREET, RM 102  
BELLEFONTE, PA 16823  
814-355-6796

**NOTICE**

DATE: May 12, 2020

DOCKET #: 2020-0028

TO: Ellison O. Jordan

Pursuant to Rule 236 of the Pennsylvania Rules of Civil Procedure, you are hereby notified that a Judgment of Non Pros has been entered against you in the Prothonotary's Office by Andy Mutnan, Renee Messina, Brendan M. Carr, Tim Bream and Wes Sohns, for failure to file a Complaint.

Please feel free to contact this office should you have any questions.

CENTRE COUNTY PROTHONOTARY  
AND CLERK OF COURTS:

BY:  (seal)  
Jeremy S. Breon

Mailing Date: 05/14/2020

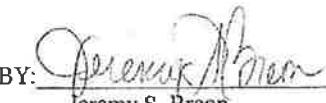
IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

ELLISON O. JORDAN, )  
Plaintiff )  
vs. ) NO. 2020-0028  
PENNSYLVANIA STATE UNIVERSITY, )  
SANDY BARBOUR, )  
CHARMELLE GREEN, )  
JAMES FRANKLIN, )  
ANDY MUTNAN, )  
RENEE MESSINA, )  
SCOTT A. LYNCH, )  
PETER H. SEIDENBERG, M.D., )  
JOHN S. REID, M.D., )  
BRENDAN M. CARR, )  
TIM BREAM, )  
WES SOHNS, )  
PENN STATE HEALTH, )  
MILTON S. HERSHEY MEDICAL CENTER, )  
PENN STATE HERSHEY MEDICAL GROUP, and )  
MOUNT NITTANY HEALTH, )  
Defendants )

JUDGMENT

AND NOW, this 10<sup>th</sup> day of May, 2020, a Judgment of Non Pros is entered in favor of the Defendants, Andy Mutnan, Renee Messina, Brendan M. Carr, Tim Bream and Wes Sohns, and against the Plaintiff, Ellison O. Jordan, for failure to file a complaint.

CENTRE COUNTY PROTHONOTARY  
AND CLERK OF COURTS

BY:   
Jeremy S. Breon (seal)

Mailing Date: 05/14/2020



JEREMY S. BREON  
PROTHONOTARY  
CENTRE COUNTY COURTHOUSE  
102 S. ALLEGHENY STREET, RM 102  
BELLEFONTE, PA 16823  
814-355-6796

NOTICE

DATE: May 15, 2020

DOCKET #: 2020-0028

TO: Ellison O. Jordan

Pursuant to Rule 236 of the Pennsylvania Rules of Civil Procedure, you are hereby notified that a Judgment of Non Pros has been entered against you in the Prothonotary's Office by Scott A. Lynch, M.D., for failure to file a written statement from an appropriate Licensed Professional.

Please feel free to contact this office should you have any questions.

CENTRE COUNTY PROTHONOTARY  
AND CLERK OF COURTS:

BY:

Jeremy S. Breon

(seal)

Mailing Date: 05/20/2020

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

ELLISON O. JORDAN, )  
Plaintiff )  
vs. ) NO. 2020-0028  
PENNSYLVANIA STATE UNIVERSITY, )  
SANDY BARBOUR, )  
CHARMELLE GREEN, )  
JAMES FRANKLIN, )  
ANDY MUTNAN, )  
RENEE MESSINA, )  
SCOTT A. LYNCH, )  
PETER H. SEIDENBERG, M.D., )  
JOHN S. REID, M.D., )  
BRENDAN M. CARR, )  
TIM BREAM, )  
WES SOHNS, )  
PENN STATE HEALTH, )  
MILTON S. HERSHEY MEDICAL CENTER, )  
PENN STATE HERSHEY MEDICAL GROUP, and )  
MOUNT NITTANY HEALTH, )  
Defendants )

JUDGMENT

AND NOW, this 15<sup>th</sup> day of May, 2020, a Judgment of Non Pros is entered in favor of the Defendant, Scott A. Lynch, and against the Plaintiff, Ellison O. Jordan, for failure to file a complaint.

CENTRE COUNTY PROTHONOTARY  
AND CLERK OF COURTS

BY:   
Jeremy S. Breon (seal)

Mailing Date: 05/20/2020