

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 24-1431

REGINALD MACK,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Rebecca Beach Smith, Senior District Judge. (2:22-cv-00315-RBS-DEM)

Submitted: September 19, 2024

Decided: September 23, 2024

Before NIEMEYER, RICHARDSON, and HEYTENS, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Reginald Mack, Appellant Pro Se. Daniel Patrick Shean, OFFICE OF THE UNITED STATES ATTORNEY, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Reginald Mack appeals the district court's order granting summary judgment to the United States on Mack's complaint filed under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671-80. We have reviewed the record and find no reversible error. Accordingly, we affirm the district court's order. *Mack v. United States*, No. 2:22-cv-00315-RBS-DEM (E.D. Va. Apr. 12, 2024). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division

REGINALD MACK,

Plaintiff,

v.

ACTION NO. 2:22cv315

UNITED STATES OF AMERICA,

Defendant.

MEMORANDUM DISMISSAL ORDER

Pro se Plaintiff Reginald Mack ("Plaintiff") filed this medical negligence action against Defendant United States of America ("Defendant") pursuant to the Federal Tort Claims Act ("FTCA").¹ Compl. at 1-6, ECF No. 1. This matter is before the court on the following motions:

- (i) Defendant's Motion for Summary Judgment, ECF No. 35;
- (ii) Defendant's Motion to Exclude Opinion Testimony of Plaintiff's Treating Physicians ("Motion to Exclude"), ECF No. 32;
- (iii) Defendant's Motion to Strike ("First Motion to Strike"), ECF No. 47;
- (iv) Defendant's Motion for Extension of Time to Conduct De Bene Esse Deposition of Dr. Leslie Cloud ("Motion for Extension"), ECF No. 49;

¹ Plaintiff was represented by counsel when he initiated this action; however, the court subsequently granted a Motion to Withdraw filed by Plaintiff's counsel. See Order at 1, ECF No. 8.

- (v) Defendant's Motion to Strike ("Second Motion to Strike"), ECF No. 55;
- (vi) Defendant's Motion to Compel Plaintiff to Testify in Question-and-Answer Format at Trial ("Motion to Compel"), ECF No. 58;
- (vii) Plaintiff's Motion for Extension of Time to Meet Plaintiff's Rule 26(a)(3)(A) Pretrial Disclosures ("Motion for Extension"), ECF No. 61;
- (viii) Plaintiff's Motion for Summary Judgment, ECF No. 62;
- (ix) Defendant's Motion in Limine to Preclude Plaintiff from Presenting Untimely Disclosed Evidence at Trial ("Motion in Limine"), ECF No. 63; and
- (x) Plaintiff's "Motion to Correct Error [in] Plaintiff's Motion for Summary Judgment Pursuant to Federal Rule of Civil Procedure 56" ("Motion to Correct"), ECF No. 71.

The court concludes that oral argument is unnecessary because the facts and legal arguments are adequately presented in the parties' briefs. For the reasons set forth below, Defendant's First Motion to Strike, ECF No. 47, is DENIED; Defendant's Second Motion to Strike, ECF No. 55, is DENIED; Defendant's Motion for Summary Judgment, ECF No. 35, is GRANTED; Defendant's Motion to Exclude, ECF No. 32, is DISMISSED as moot; Defendant's Motion for Extension, ECF No. 49, is DISMISSED as moot; Defendant's Motion to Compel, ECF No. 58, is DISMISSED as moot; Plaintiff's Motion for Extension, ECF No. 61, is DISMISSED as moot; Plaintiff's Motion for Summary Judgment, ECF No. 62, is DISMISSED as moot; Defendant's Motion in Limine, ECF No. 63, is DISMISSED as moot; Plaintiff's

Motion to Correct, ECF No. 71, is DISMISSED as moot; and this civil action is DISMISSED.

I. Relevant Procedural Background

Plaintiff initiated this action on July 25, 2022. Compl., ECF No. 1. As its initial responsive pleading to Plaintiff's Complaint, Defendant filed a Motion for Summary Judgment. Mot. Summ. J., ECF No. 9. In a Memorandum Order entered on June 8, 2023, the court denied Defendant's summary judgment motion without prejudice to Defendant's right to file another summary judgment motion at a later date. Mem. Order at 12, ECF No. 17.

Defendant filed an Answer to Plaintiff's Complaint on June 29, 2023. Answer, ECF No. 18. Thereafter, the court issued its Rule 16(b) Scheduling Order, and the parties proceeded with discovery. Rule 16(b) Scheduling Order, ECF No. 21. The discovery periods for both parties have closed. Id. at 2-3.

On November 13, 2023, Defendant filed a Motion for Summary Judgment and provided Plaintiff with a proper Roseboro Notice pursuant to Rule 7(K) of the Local Civil Rules of the United States District Court for the Eastern District of Virginia. Mot. Summ. J., ECF No. 35; Roseboro Notice, ECF No. 37; see Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975); see also E.D. Va. Loc. Civ. R. 7(K). Plaintiff did not respond to Defendant's Motion for Summary Judgment, and his deadline to do so has expired.

Defendant also filed a Motion to Exclude on November 13, 2023. Mot. Exclude, ECF No. 32. Plaintiff filed an untimely Opposition to Defendant's Motion to Exclude,² and subsequently filed two unauthorized Surreplies.³ Opp'n, ECF No. 41; Surreplies, ECF Nos. 46, 53. Thereafter, Defendant filed a First Motion to Strike and a Second Motion to Strike, in which Defendant asks the court to strike Plaintiff's unauthorized Surreplies. First Mot. Strike, ECF No. 47; Second Mot. Strike, ECF No. 55.

On December 19, 2023, Defendant filed a Motion for Extension, in which Defendant seeks to extend its deadline to conduct a de bene esse deposition of its expert. Mot. Extension, ECF No. 49. Plaintiff filed a timely Opposition to Defendant's Motion for Extension, and Defendant filed a timely Reply. Opp'n, ECF No. 52; Reply, ECF No. 54.

Defendant also filed a Motion to Compel and a Motion in Limine, and Plaintiff filed a Motion for Extension, a Motion for Summary Judgment, and a Motion to Correct. Mot. Compel, ECF No. 58; Mot. Limine, ECF No. 63; Mot. Extension, ECF No. 61; Mot.

² In deference to Plaintiff's pro se status, the court will excuse Plaintiff's untimeliness.

³ After a moving party files a reply brief in support of its motion, "[n]o further briefs or written communications may be filed without first obtaining leave of [c]ourt." E.D. Va. Loc. Civ. R. 7(F)(1).

"as to any material fact and that the moving party is entitled to a judgment as a matter of law." Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986); see Seabulk Offshore, Ltd. v. Am. Home Assur. Co., 377 F.3d 408, 418 (4th Cir. 2004); see also Fed. R. Civ. P. 56(a). "A dispute is genuine if a reasonable jury could return a verdict for the nonmoving party . . . [and] [a] fact is material if it might affect the outcome of the suit under the governing law." Jacobs v. N.C. Admin. Off. of the Cts., 780 F.3d 562, 568 (4th Cir. 2015) (citations omitted). The moving party has the initial burden to show the absence of an essential element of the nonmoving party's case and to demonstrate that the moving party is entitled to judgment as a matter of law. Honor v. Booz-Allen & Hamilton, Inc., 383 F.3d 180, 185 (4th Cir. 2004); McLean v. Patten Cmtys., Inc., 332 F.3d 714, 718 (4th Cir. 2003); see Celotex, 477 U.S. at 322-25.

When the moving party has met its burden to show that the evidence is insufficient to support the nonmoving party's case, the burden then shifts to the nonmoving party to present specific facts demonstrating that there is a genuine issue for trial. Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586-87 (1986); Honor, 383 F.3d at 185; McLean, 332 F.3d at 718-19. To successfully defeat a motion for summary judgment, the nonmoving party must rely on more than conclusory allegations, "mere speculation," the "building of one inference upon another," the

"mere existence of a scintilla of evidence," or the appearance of "some metaphysical doubt" concerning a material fact. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 252 (1986); Thompson v. Potomac Elec. Power Co., 312 F.3d 645, 649 (4th Cir. 2002); Tao of Sys. Integration, Inc. v. Analytical Servs. & Materials, Inc., 330 F. Supp. 2d 668, 671 (E.D. Va. 2004). Rather, there must be sufficient evidence that would enable a reasonable fact-finder to return a verdict for the nonmoving party. See Anderson, 477 U.S. at 252.

Although the court is not "to weigh the evidence and determine the truth of the matter" at the summary judgment phase, the court is required to "determine whether there is a genuine issue for trial." Tolan v. Cotton, 572 U.S. 650, 656 (2014) (quoting Anderson, 477 U.S. at 249); see Jacobs, 780 F.3d at 568-69. In determining whether there is a genuine issue for trial, "[t]he relevant inquiry is 'whether the evidence presents a sufficient disagreement to require submission to a jury or whether it is so one-sided that one party must prevail as a matter of law.'" Stewart v. MTR Gaming Grp., Inc., 581 F. App'x 245, 247 (4th Cir. 2014) (quoting Anderson, 477 U.S. at 251-52).

B. Statement of Undisputed Material Facts

Defendant's Motion for Summary Judgment is based on Plaintiff's failure to obtain the necessary expert testimony to establish the causation element of Plaintiff's medical negligence

claim. Mem. Supp. Mot. Summ. J. at 1-13, ECF No. 36. Thus, the facts that are relevant and material to Defendant's summary judgment argument are minimal, undisputed, and summarized as follows:

Plaintiff filed a Complaint, in which he alleges that over the course of several years, Plaintiff received—and ingested—medications from the United States Department of Veterans Affairs ("VA") that were intended for another individual with the same name. Compl. at 3. The medications included Prolixin, Isoniazid, Folic Acid, Felodipine, Pseudoephedrine, Fluphenazine, Thiamine, and Multivitamins. Id.

Plaintiff claims that as a result of the "prolonged use" of these medications, he experienced several health problems, including "dystonia, blepharospasm, akinesia of his eye, mood disorder, liver issues, inflammation, restless leg syndrome, repeated fevers, and a gall bladder infection resulting in cholecystectomy." Id. at 4. In Plaintiff's responses to certain discovery requests, Plaintiff also claims that he suffers from hypertension, obesity, obstructive sleep apnea, diffuse fatty infiltration of liver, a bilateral renal cyst, splenic hemangioma, mild prostate enlargement, deep venous thrombosis, edema, cellulitis, and various foot, ankle, and abdominal issues. Interrog. Resp. at 7, ECF No. 31.

Plaintiff asserts a medical negligence claim against Defendant pursuant to the FTCA. Compl. at 5-6. Plaintiff claims that the VA's actions, i.e., providing Plaintiff with improper medications, breached the applicable standard of care and caused Plaintiff to suffer the health conditions discussed above. Id.

On August 3, 2023, the court issued a Rule 16(b) Scheduling Order that imposed the following expert-related deadlines:

The party having the burden of proof upon the primary issue to which potential Rule 702, 703 or 705 evidence is directed shall identify expert witnesses to be proffered upon such an issue by name, residence and business address, occupation and field of expertise on October 6, 2023. The disclosure outlined in Rule 26(a)(2)(B) shall be made on November 6, 2023. In addition to the disclosures required by Rule 26(a)(2)(B), the same disclosures shall be made on the same dates regarding all witnesses proffered by a party for the purpose of presenting evidence under Rules 702, 703, or 705 of the Federal Rules of Evidence, whose first direct contact with the case or the parties occurred subsequent to the filing of this action.

Rule 16(b) Scheduling Order at 1-2.

On October 2, 2023, Plaintiff filed a document with the court titled, "Plaintiff's Rule 26(a)(2)(A) Initial Disclosures" ("Disclosures"). Disclosures, ECF No. 24. In the Disclosures, Plaintiff identified the name and contact information of five medical professionals who treated Plaintiff over the years, namely: Derrick Ridley, M.D.; Ranjit Pullarkart, M.D.; Earl Johnson, M.D.; Jonathan T. Butler, M.D.; and Caroline Isoe, a nurse practitioner. Id. at 2. Plaintiff stated that these medical

professionals may be called upon to testify regarding "[a]ny matter within his [or her] personal knowledge relevant to Plaintiff's care and treatment, including but not limited to information reflected in Plaintiff's personal treatment records" during the relevant timeframe.⁵ Id.

Defendant served interrogatories and document requests on Plaintiff to obtain, among other things, additional details regarding the expert-related testimony Plaintiff may seek to introduce in this action. Interrogs., ECF No. 33-1, at 2-6 (requesting information regarding any expert witnesses Plaintiff may have retained and any treating physicians who may testify at trial); Doc. Reqs., ECF No. 33-1, at 7-10 (requesting the production of the required disclosures for any expert witnesses or treating physicians who may testify at trial).

Plaintiff responded to Defendant's discovery requests, but did not directly address the expert-related interrogatories or document requests. Interrog. Resp. at 10-11. Instead, Plaintiff simply provided Defendant with another copy of his previously filed Disclosures. Id. at 13-15; see Disclosures at 3 (identifying the contact information for Dr. Ridley, Dr. Pullarkart, Dr. Johnson, Dr. Butler, and Nurse Practitioner Isoe, and stating that these

⁵ The court notes that Plaintiff's Disclosures did not provide any information regarding the specific facts or opinions to which the medical professionals were expected to testify. See Disclosures at 1-4, ECF No. 24.

individuals may be called upon to testify regarding "[a]ny matter within his [or her] personal knowledge relevant to Plaintiff's care and treatment, including but not limited to information reflected in Plaintiff's personal treatment records" during the relevant timeframe).

C. Analysis

Plaintiff's medical negligence claim, although brought pursuant to the FTCA, is governed by Virginia law. See Cary v. United States, 343 F. App'x 926, 927 (4th Cir. 2009) (explaining that claims brought under the FTCA "are governed by the substantive law of the state where the alleged negligence occurred"); Robinson v. King, No. 2:09cv418, 2010 U.S. Dist. LEXIS 144926, at *7 n.2 (E.D. Va. Nov. 12, 2010) (noting that Virginia law controls the substantive points of an FTCA case alleging medical malpractice in Virginia); see also 28 U.S.C. § 1346(b)(1).

In Virginia, a medical malpractice plaintiff "must establish not only that the defendant violated the applicable standard of care, and was therefore negligent, he must also sustain the burden of showing that the negligent acts constituted a proximate cause of the injury." Dixon v. Sublett, 809 S.E.2d 617, 620 (Va. 2018) (internal quotation omitted); see Robinson v. King, No. 2:09cv418, 2010 U.S. Dist. LEXIS 144926, at *5 (E.D. Va. Nov. 12, 2010). As the Virginia Supreme Court has explained, "expert testimony is ordinarily necessary to establish the appropriate standard of

care, to establish a deviation from the standard, and to establish that such deviation was the proximate cause of the claimed damages." Perdieu v. Blackstone Fam. Prac. Ctr., 568 S.E.2d 703, 710 (Va. 2002). However, "in certain rare circumstances," where "the alleged acts of negligence clearly lie within the range of a jury's common knowledge and experience," expert testimony is unnecessary. Coston v. Bio-Medical Applications of Va., Inc., 654 S.E.2d 560, 562 (Va. 2008).

In its Motion for Summary Judgment, Defendant argues that Plaintiff is required to proffer expert testimony to support his claim that the VA's alleged negligence proximately caused Plaintiff's alleged injuries. Mem. Supp. Mot. Summ. J. at 10-11. Specifically, Defendant argues:

Plaintiff contends that his prolonged ingestion of Prolixin, Isoniazid, and other medications for several years caused numerous "medication-related" and "secondary" injuries, including but not limited to mood disorder, hypertension, obesity, obstructive sleep apnea, diffuse fatty infiltration of the liver, a bilateral renal cyst, splenic hemangioma, mild prostatic enlargement, dystonia, and the loss of Plaintiff's gall bladder. ECF No. 31 at 7. Whether Plaintiff's alleged ingestion of such medications caused such injuries "is a complex question of pharmacology outside the purview of the average fact-finder" and consequently requires supporting expert testimony. See Freeman [v. United States], [No. 7:13cv564,] 2014 WL 2967922, at *2 [(W.D. Va. June 30, 2014)]. Because Plaintiff does not have such supporting evidence, Defendant is entitled to judgment as a matter of law.

Id. at 11.

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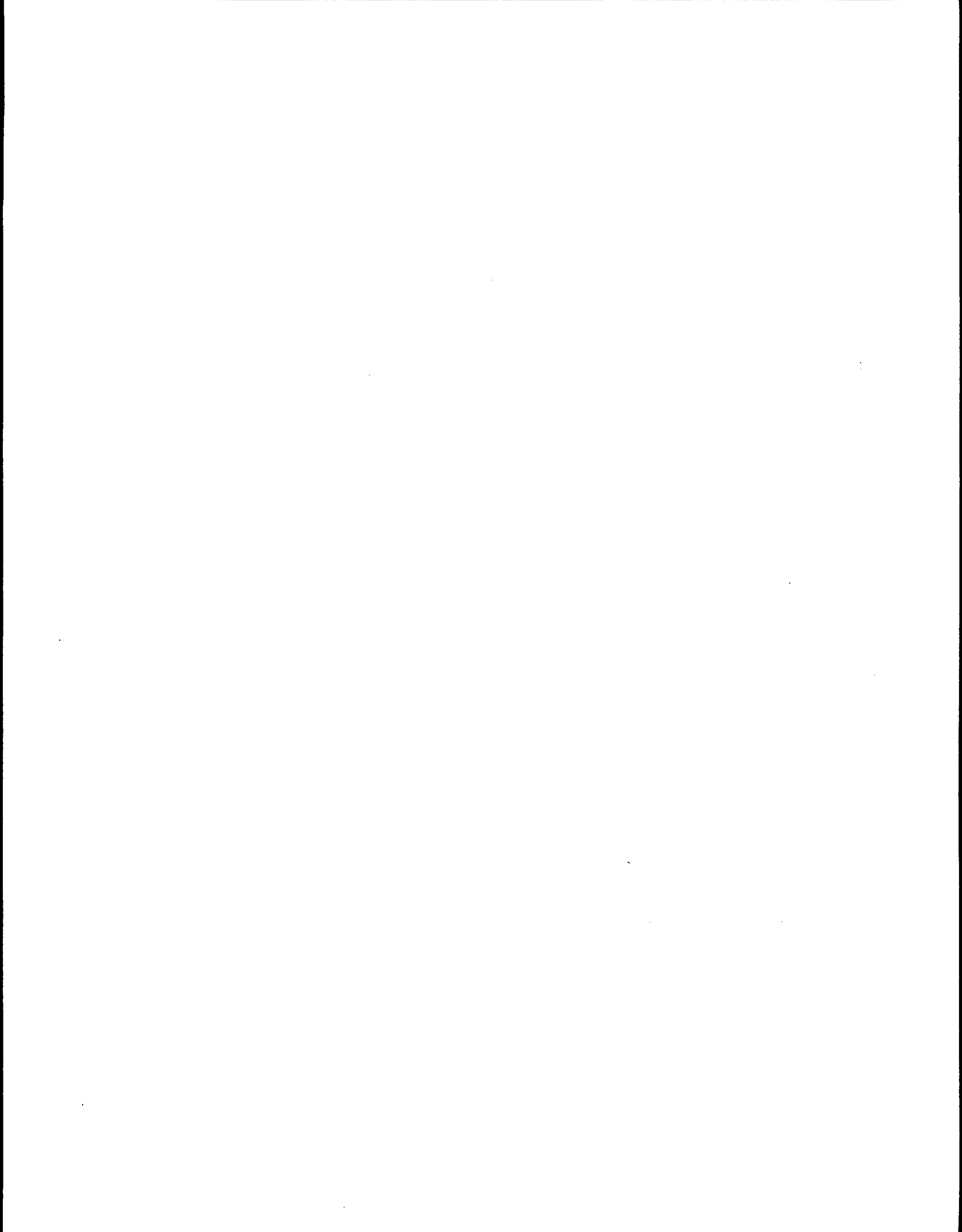
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As noted above, Plaintiff did not file a response to Defendant's Motion for Summary Judgment. However, Plaintiff did file documents in response to Defendant's Motion to Exclude. See Opp'n, ECF No. 41; Surreplies, ECF Nos. 46, 53. Plaintiff also filed his own summary judgment motion and a Motion to Correct, which seeks to "correct" certain aspects of Plaintiff's summary judgment motion. See Mot. Summ. J., ECF No. 62; Mot. Correct, ECF No. 71. The court has considered all of these documents in its analysis of Defendant's Motion for Summary Judgment.

Upon review, the court finds that Plaintiff's negligence claim involves medical-related issues that are "not within the common knowledge and experience of a jury." Perdieu, 568 S.E.2d at 711; see Freeman, 2014 WL 2967922, at *2 (finding that expert testimony was necessary to show that the use of the drug Allopurinol proximately caused the plaintiff's eye injury, and noting that "complex question[s] of pharmacology" lie "outside the purview of the average fact-finder"); Brondas v. Corizon Health, Inc., No. 7:14cv369, 2015 U.S. Dist. LEXIS 71921, at *21-22 (W.D. Va. June 3, 2015) (finding that expert testimony was necessary to show the potential effects of missing doses of medication, and noting that "the pharmacological significance" of missing doses was "outside the common knowledge and experience of the average juror"). Thus, the court further finds that to survive summary judgment, Plaintiff must proffer sufficient evidence from an



expert witness to support his contention that the VA's negligence, i.e., providing Plaintiff with improper medications, caused Plaintiff to experience the health conditions detailed herein. See Dixon, 809 S.E.2d at 620; Perdieu, 568 S.E.2d at 710. Plaintiff has not proffered such evidence.

As stated above, Plaintiff previously disclosed the names and contact information of five medical professionals who treated Plaintiff over the years, namely: Dr. Ridley, Dr. Pullarkart, Dr. Johnson, Dr. Butler, and Nurse Practitioner Isoe. Disclosures, ECF No. 24. However, Plaintiff testified during his November 29, 2023 deposition that he does not know whether any of these medical professionals are willing to testify on Plaintiff's behalf in this case. Pl. Dep., ECF No. 42-1, at 13-25. Plaintiff also testified that the medical professionals have not provided any summary of their opinions in this matter to Plaintiff. Id. Under these circumstances, the court finds that Plaintiff has not proffered adequate expert evidence regarding causation.⁶

⁶ Further, in his Motion for Summary Judgment and Motion to Correct, Plaintiff refers to a "Veteran benefits judge, an "emergency note" from "Dr. Voss," "investigations led by [the] Chief Surgeon and the Chief of Staff," and "Dr. Hawkins." Mot. Summ. J. at 1-5, ECF No. 62; Mot. Correct at 1-9, ECF No. 71. These individuals have not been identified by Plaintiff as expert witnesses in this matter and have not provided causation-related expert opinions. The court finds that Plaintiff's general references to these individuals are insufficient to overcome Defendant's summary judgment argument. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 252 (1996).

Without sufficient expert evidence regarding causation, the court finds that Plaintiff cannot establish a prima facie case of medical negligence under Virginia law. See Dixon, 809 S.E.2d at 620; Perdieu, 568 S.E.2d at 710; see also Matsushita Elec. Indus. Co., 475 U.S. at 586-87 (explaining that when a moving party has met its burden to show that the evidence is insufficient to support the nonmoving party's case, the burden then shifts to the nonmoving party to present specific facts demonstrating that there is a genuine issue for trial). As a result, the court further finds that there is no genuine issue of material fact as to Plaintiff's asserted claim, and that Defendant is entitled to judgment as a matter of law. Accordingly, Defendant's Motion for Summary Judgment, ECF No. 35, is GRANTED.

IV. The Remaining Motions

In addition to the motions addressed above, Defendant also filed (i) a Motion to Exclude, in which Defendant seeks to place certain restrictions on the potential testimony of any of Plaintiff's treating physicians who may agree to testify at trial;⁷ (ii) a Motion for Extension, in which Defendant seeks to extend its deadline to conduct a de bene esse deposition of its expert;

⁷ As addressed above, Plaintiff's treating physicians have not agreed to testify at trial and have not provided Plaintiff with any summary of their opinions. Pl. Dep., ECF No. 42-1, at 13-25; see supra note 6 and accompanying text. Therefore, Defendant is not seeking to exclude any particular, anticipated testimony.

(iii) a Motion to Compel, in which Defendant asks the court to implement certain "procedural safeguard[s]" during the trial of this matter; and (iv) a Motion in Limine, in which Defendant asks the court to preclude Plaintiff from presenting any untimely disclosed evidence at trial. Mot. Exclude, ECF No. 32; Mem. Supp. Mot. Exclude, ECF No. 33; Mot. Extension, ECF No. 49; Mem. Supp. Mot. Extension, ECF No. 50; Mot. Compel, ECF No. 58; Mem. Supp. Mot. Compel, ECF No. 59; Mot. Limine, ECF No. 63; Mem. Supp. Mot. Limine, ECF No. 64.

Plaintiff filed a Motion for Extension, in which he seeks to extend his deadline to submit his Rule 26(a)(3)(A) disclosures. Mot. Extension, ECF No. 61. Plaintiff included his proposed disclosures within his Motion for Extension. Id. at 2-8. Additionally, Plaintiff filed his own Motion for Summary Judgment and a Motion to Correct. Mot. Summ. J., ECF No. 62; Mot. Correct, ECF No. 71.

Because the court grants Defendant's Motion for Summary Judgment for the reasons stated herein, the court finds that the relief requested in the additional motions referenced above has been rendered moot. Accordingly, Defendant's Motion to Exclude, ECF No. 32, is DISMISSED as moot; Defendant's Motion for Extension, ECF No. 49, is DISMISSED as moot; Defendant's Motion to Compel, ECF No. 58, is DISMISSED as moot; Plaintiff's Motion for Extension, ECF No. 61, is DISMISSED as moot; Plaintiff's Motion for Summary

Judgment, ECF No. 62, is DISMISSED as moot; Defendant's Motion in Limine, ECF No. 63, is DISMISSED as moot; and Plaintiff's Motion to Correct, ECF No. 71, is DISMISSED as moot.

V. Conclusion

For the reasons set forth above, Defendant's First Motion to Strike, ECF No. 47, is DENIED; Defendant's Second Motion to Strike, ECF No. 55, is DENIED; Defendant's Motion for Summary Judgment, ECF No. 35, is GRANTED; Defendant's Motion to Exclude, ECF No. 32, is DISMISSED as moot; Defendant's Motion for Extension, ECF No. 49, is DISMISSED as moot; Defendant's Motion to Compel, ECF No. 58, is DISMISSED as moot; Plaintiff's Motion for Extension, ECF No. 61, is DISMISSED as moot; Plaintiff's Motion for Summary Judgment, ECF No. 62, is DISMISSED as moot; Defendant's Motion in Limine, ECF No. 63, is DISMISSED as moot; Plaintiff's Motion to Correct, ECF No. 71, is DISMISSED as moot; and this civil action is DISMISSED. The Clerk shall enter judgment for the Defendant.


Plaintiff may appeal this Memorandum Dismissal Order by forwarding a written notice of appeal to the Clerk of the United States District Court, Norfolk Division, 600 Granby Street, Norfolk, Virginia 23510. The written notice must be received by the Clerk within sixty days of the date of entry of this Memorandum Dismissal Order. If Plaintiff wishes to proceed in forma pauperis on appeal, the application to proceed in forma pauperis shall be

submitted to the Clerk of the United States District Court, Norfolk Division, 600 Granby Street, Norfolk, Virginia 23510.

The Clerk is DIRECTED to send a copy of this Memorandum Dismissal Order to Plaintiff and counsel for Defendant.

IT IS SO ORDERED.

April 12, 2024

/s/ 
Rebecca Beach Smith
Senior United States District Judge

**Additional material
from this filing is
available in the
Clerk's Office.**