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Attorneys for Defendants Mitchell and Jessen

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON
AT SPOKANE**

SULEIMAN ABDULLAH SALIM, et
al.,

Plaintiffs,

vs.

JAMES E. MITCHELL and JOHN
JESSEN,

Defendants.

NO. CV-15-0286-JLQ

**DECLARATION OF DR. JOSEPH
J. CARTER IN SUPPORT OF
DEFENDANTS' MOTION TO
COMPEL IMES AND
DEPOSITIONS, AND FOR
RELIEF FROM RELATED
DEADLINES**

Without Oral Argument
December 16, 2016

DECL. OF DR. JOSEPH J. CARTER IN
SUPPORT OF MOTION TO COMPEL IMES
AND DEPOSITIONS
NO. CV-15-0286-JLQ

Betts Patterson Mines
One Convention Place
701 Pike Street, Suite 1400
Seattle, Washington 98101-3927
(206) 292-9988

1 I, Dr. Joseph J. Carter, hereby certify under penalty of perjury, that the
2 following is true and correct and within my personal knowledge:

3 1. I am over the age of 18, have personal knowledge of all facts
4 contained in this declaration, and am competent to testify as a witness to those
5 facts.

6 2. I am an Associate Professor of Surgery at New York University
7 School of Medicine and the Associate Medical Director and Patient Safety Officer
8 at Bellevue Hospital Center, and I have been retained as a medical expert by
9 Defendants James Elmer Mitchell and John "Bruce" Jessen (collectively,
10 "Defendants") in the above-captioned action. Attached as **Exhibit 1** is a true and
11 correct copy of my resume.

12 REDACTED

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1 REDACTED

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4 10. I declare under penalty of perjury under the laws of the United States
5 of America that the foregoing is true and correct.

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7 
8 Dr. Joseph J. Carter, M.D., M.B.A.

9 Executed this 11 day of November, 2016

10 at New York, NY

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of November, 2016, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

| | |
|---|--|
| <p>Emily Chiang <u>echiang@aclu-wa.org</u> ACLU of Washington Foundation 901 Fifth Ave, Suite 630 Seattle, WA 98164</p> | <p>Paul Hoffman <u>hoffpaul@aol.com</u> Schonbrun Seplow Harris & Hoffman, LLP 723 Ocean Front Walk, Suite 100 Venice, CA 90291</p> |
| <p>Andrew L. Warden <u>Andrew.Warden@usdoj.gov</u> Senior Trial Counsel Timothy A. Johnson <u>Timothy.Johnson4@usdoj.gov</u> Trial Attorney United States Department of Justice Civil Division, Federal Programs Branch 20 Massachusetts Ave NW Washington, DC 20530</p> | <p>Steven M. Watt, admitted <i>pro hac vice</i> <u>swatt@aclu.org</u> Dror Ladin, admitted <i>pro hac vice</i> <u>dladin@aclu.org</u> Hina Shamsi, admitted <i>pro hac vice</i> <u>hshamsi@aclu.org</u> ACLU Foundation 125 Broad Street, 18th Floor New York, NY 10007</p> |
| <p>Avram D. Frey, admitted <i>pro hac vice</i> <u>afrey@gibbonslaw.com</u> Daniel J. McGrady, admitted <i>pro hac vice</i> <u>dmcgrady@gibbonslaw.com</u> Kate E. Janukowicz, admitted <i>pro hac vice</i> <u>kjanukowicz@gibbonslaw.com</u> Lawrence S. Lustberg, admitted <i>pro hac vice</i> <u>llustberg@gibbonslaw.com</u> Gibbons PC One Gateway Center Newark, NJ 07102</p> | |

By s/ Shane Kangas
 Shane Kangas
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 Betts, Patterson & Mines, P.S.

DECL. OF DR. JOSEPH J. CARTER IN
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 NO. CV-15-0286-JLQ

- 4 -

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Exhibit 1

Joseph J. Carter, F.A.C.S., F.A.S.C.R.S.
333 East 30th St, Apt 20A
New York, NY 10016
e-mail: joseph.carter@nyumc.org
(718) 637-1388

Current Employment:

Associate Medical Director, Bellevue Hospital Center
Chief Patient Safety Officer, Bellevue Hospital Center
Associate Professor, Department of Surgery, New York University School of
Medicine

Education:

Medical Doctorate, New York University School of Medicine, New York
May 1996
Masters of Business Administration, Fuqua School of Business at Duke
University, North Carolina, May 2011
Bachelor of Science in Chemistry, Georgetown University, Washington DC,
May 1992

Post-Graduate Training:

Internship: General Surgery, University of Connecticut, Farmington CT, July
1996- June 1997
Residency: General Surgery, University of Connecticut, Farmington CT, July
1997-June 1999, July 2001- June 2003
Post-Doctoral Research: Laparoscopic Physiology Laboratory, Columbia
University, New York, July 1999-June 2001
Preceptors: Richard L. Whelan, M.D; Emina H. Huang, M.D.
Fellowship: Colon and Rectal Surgery, New York Presbyterian, New York, NY
July 2003- June 2004

Professional Credentials:

New York State Medical License, May 2003
American Board of Surgery, September 2004
American Board of Colon and Rectal Surgery, September 2005
Instructor, Advanced Trauma Life Support Training Program

Professional Organizations and Societies:

American College of Surgeons, Fellow, 2008
American Society of Colon and Rectal Surgeons, Fellow, 2009
New York Surgical Society

Postgraduate Courses:

Endoscopic Management of Colorectal Disease.
SAGES Hands-On Postgraduate Course, March 2000
The Role of Laparoscopic Techniques in Colorectal Surgery.

Mount Sinai Minimally Invasive Surgery Center, August 2000
Taking it to the Next Level: Advanced Laparoscopic Techniques.
SAGES Hands-On Postgraduate Course, April 2001
Advanced Trauma Operative Management Course
University of Connecticut, October 2001
Advanced Laparoscopic Bowel and Colon/Rectal Surgery
American Society of Colon/Rectal Surgeons Workshop, November 2003
Endorectal Ultrasound Course with Hands-On Lab
American Society of Colon/Rectal Surgeons Annual Meeting, May 2004

Honors:

Attending of the Year, Department of Surgery, New York University Medical Center, 2005.

Robert Warren Painter Memorial Award for Outstanding Resident, Hartford Hospital, University of Connecticut Integrated Surgical Residency, 2003.

Fuqua Scholar, Graduating in top 10% of Class at Fuqua School of Business at Duke University, 2011.

First Place, Best Podium Presentation. Reduction of Postoperative Tumor Establishment and Metastasis with Perioperative Immunotherapy in Murine Models. NYSCRS Annual Residents Night, 2001.

Second Place, Best Podium Presentation. Open Cecectomy is Associated with Significantly More Pulmonary Metastases than Laparoscopic Cecectomy or Anesthesia Alone in a Murine Model. General Surgery Annual Resident Competition, Scientific and Annual Meeting of Connecticut ACS, 2000.

Poster Award. Reduction of Laparotomy Associated Lung Metastases after Perioperative Flt-3 Ligand Administration in a Murine Model. SAGES Scientific Session 2001.

Basic Science Poster Award. Significant Reduction of Laparotomy Associated Lung Metastases after Perioperative Immunomodulation in Mice. ASCRS Annual Meeting, June 2001. (Award sponsored by the New Jersey Society of Colon and Rectal Surgeons)

Poster of Distinction. Blockade of the Receptor for Advanced Glycation Endproducts Ameliorates Colitis. Digestive Disease Week, May 2002 (Award sponsored by the Society for Surgery of the Alimentary Tract)

Publications:

Original Peer Reviewed Articles:

TW King TW, OZ Lerman, **J Carter**, SM Warren. Exertional compartment syndrome of the thigh: A rare diagnosis and literature review. *J Emerg Med.* 2010, Aug; 32(2):e93-99

AY Lee, **J Carter**, MS Hochberg, AM Stone, SL Cohen, HL Pachter. The Timing of Surgery for Cholecystitis: A Review of 202 Consecutive Patients at a Large Municipal Hospital. *American Journal of Surgery* 2007; 195(4): 467-470

J Carter, D Feingold, A Oh, I Kirman, P Wildbrett, G Stapleton, Z Asi, R Fowler, G Bhagat, E Huang, RL Fine, RL Whelan. Perioperative Immunomodulation with Flt3 Ligand or a Whole Tumor Cell Vaccine is Associated with a Reduction in Lung Metastasis Formation After Laparotomy in Mice. *Surgical Innovation* 2006; 13(1): 41-47

J Carter, D Feingold, P Wildbrett, I Kirman, Z Asi, G Stapleton, E Huang, RL Fine, RL Whelan. Significant Reduction of Laparotomy Associated Lung Metastases and Subcutaneous Tumors After Perioperative Immunomodulation with Flt3 Ligand in Mice. *Surgical Innovation* 2005; 12(4): 319-325

J Carter, D Feingold, I Kirman, A Oh, P Wildbrett, Z Asi, R Fowler, E Huang, RL Whelan. Laparoscopic Assisted Cecectomy Reduces the Formation of Postoperative Pulmonary Metastases Compared to Open Cecectomy In A Murine Model. *Surgery* 2003; 134(3): 432-436

J Carter, RL Whelan. Evaluation and Medical Management of Diverticular Disease. *Seminars in Colon and Rectal Surgery* 2000; 11(4): 196-205

E Huang, **J Carter**, RL Whelan, YH Liu, J Rosenberg, H Rotterdam, AM Schmidt, D Stern, K Forde. Colonoscopy in Mice. *Surgical Endoscopy* 2002; 16(1): 22-24

P Wildbrett, A Oh, **J Carter**, H Schuster, M Bessler, CA Jacobi, RL Whelan. Increased rates of pulmonary metastases following sham laparotomy compared to CO₂ pneumoperitoneum and the inhibition of metastases utilizing perioperative immunodulation and a tumor vaccine. *Surgical Endoscopy* 2002; 16(8): 1162-1169

SW Lee, DL Feingold, **J Carter**, C Zhai, G Stapleton, N Gleason, RL Whelan. Peritoneal macrophage and blood monocyte functions after open and laparoscopic-assisted cecectomy in rats. *Surgical Endoscopy* 2003; 17(12): 1996-2002

I Kirman, Z Asi, **J Carter**, R Fowler, and RL Whelan. Combined whole tumor cell and monophosphoryl lipid A vaccine improved by encapsulation in murine colorectal cancer. *Surgical Endoscopy* 2002; 16(4): 654-658

D Feingold, T Addona, K Forde, T Arnell, **J Carter**, E Huang, RL Whelan. Safety and reliability of tattooing colorectal neoplasms prior to laparoscopic resection. *Journal of Gastrointestinal Surgery* 2004; 8(5): 543-546

S Vithianathan, Z Cooper, K Betten, G Stapleton, **J Carter**, E Huang, RL Whelan. Hybrid Laparoscopic Flexure Takedown and Open Procedure for Rectal Resection is Associated With Significantly Shorter Length of Stay than Equivalent Open Resection. *Diseases of the Colon and Rectum* 2001; 44(7): 927-35

S Yitta, MK Liang, R Berman, **J Carter**, H Yee, J Marks. Primary Squamous Cell Carcinoma of the Colon Associated with Hypercalcemia and Hyperleukocytosis: Report of a Case. *Digestive Surgery* 2006; 22(5): 371-374

J Welch, J Cohen, P Vignati, L Allen, J Morrow, **J Carter**. Pain control following elective gastrointestinal surgery: is epidural anesthesia warranted? *Connecticut Medicine* 1998; 62(8): 461-464

Reviews, Chapters and Editorials:

J Carter, RL Whelan. The Immunologic Consequences of Laparoscopy in Oncology. SD Wexner ed. In: *Surgical Oncology Clinics of North America* 2001; 10(3): 655-677

J Carter, RL Whelan. Hand-assisted Laparoscopic Colorectal Procedures: HAL anterior resection. JW Milsom, B Böhn, K Nakajima, eds. In: *Laparoscopic Colorectal Surgery*, 2nd edition (in press)

M Liang, J Marks, R Berman, **J Carter**. Management of Complicated Peptic Ulcer Disease. *Archives of Surgery* 2005; 140(9): 214

Abstracts:

J. Carter, A. Oh, I. Kirman, P. Wildbrett, G. Stapleton, Z. Asi, G. Bhagat, E. Huang, R. Fine, RL Whelan. Significant Reduction of Laparotomy-Associated Lung Metastases After Perioperative Immunomodulation in Mice. *Diseases of the Colon and Rectum* 2001; 44: A45

Podium Presentations:

A Lee, **J Carter**, M Hochberg, A Stone, HL Pachter. The Timing of Surgery for Cholecystitis: A Review of 202 Consecutive Patients at a Large Municipal Hospital. *New York Surgical Society* 2006

J Carter, Y Liu, S.W. Lee, G Stapleton, A Oh, H Gleason, C Zhai, E Huang, M

Bessler, R.L. Whelan. Increased Platelet Derived Growth Factor (PDGF) Release After Laparotomy Stimulates Systemic Tumor Growth in Mice. European Association for Endoscopy Surgery 8th International Congress, 2000

J Carter, I Kirman, P Wildbrett, RL Whelan. Open Cecectomy is Associated with Significantly More Pulmonary Metastases Than Laparoscopic Cecectomy or Anesthesia Alone in a Murine Model. General Surgery Annual Resident Competition, Scientific and Annual Meeting of Connecticut ACS 2000

J Carter, A Oh, P Wildbrett, R Fine, R.L. Whelan. Reduction of Postoperative Tumor Establishment and Metastasis with Perioperative Immunotherapy in Murine Models. NYSCRS Annual Residents Night 2001

I Kirman, **J Carter**, Z Asi, R Fowler, M Bessler, R.L. Whelan. Solid Tumor Growth is Reduced in Mice Undergoing Surgery after Combined Cancer Cell Vaccine and MPLA Treatment. SAGES Scientific Session 2001

J Carter, A Oh, I Kirman, P Wildbrett, R Fowler, Z Asi, E Huang, M Bessler, R Fine, R Whelan. Significant Reduction Of Laparotomy Associated Tumor Establishment With Periop Flt3 Ligand In A Murine Model. European Association for Endoscopy Surgery 9th International Congress, 2001

J Carter, I Kirman, P Wildbrett, D Feingold, Z Asi, R Fowler, E Huang, R.L. Whelan. Reduction of Lung Metastases after Cecectomy with Laparoscopy and Perioperative Immunomodulation. SAGES Surgeons-In-Training Scientific Session 2002

J Carter, AM Schmidt, D Stern, H Rotterdam, K Forde, E Huang. Blockade of the Receptor for Advanced Glycation Endproducts Ameliorates Colitis. SSAT Residents Conference 2002

Poster Presentations:

J Carter, A Stone, L Capan, K Krasinski, C Larosa, E Mescon; L Lombardi. Using the Surgical “Time Out” to Standardize Preoperative Antibiotic Use May Decrease Surgical Site Infections after Colon Surgery. 11th Annual NPSF Patient Safety Congress May 2009

HH Sun, **J Carter**, A Stone, T Gao, HL Pachter. Ethnic Distribution Of Colorectal Carcinoma At A Large Urban New York Hospital. American Association of Cancer Research: The Science of Cancer Health Disparities 2007

J Carter, S.W. Lee, T Sonoda, K Nakajima, J.W. Milsom. Short Term Outcome Comparing Laparoscopic and Hand-Assisted Sphincter-Saving Distal Rectal Cancer Resections. Accepted for ASCRS Annual Meeting 2004

J Carter, A Oh, I Kirman, P Wildbrett, G Stapleton, Z Asi, G Bhagat, E Huang, R Fine, R.L. Whelan. Significant Reduction of Laparotomy Associated Lung Metastases After Perioperative Immunomodulation in Mice. ASCRS Annual Meeting 2001

J Carter, I Kirman, A Oh, P Wildbrett, Z Asi, R Fowler, E Huang, M Bessler, R.L. Whelan. Open Bowel Resection Stimulates the Formation of Pulmonary Metastases in Mice. ASCRS Annual Meeting 2001

J Carter, I Kirman, A Oh, P Wildbrett, G Stapleton, Z Asi, R Fowler, M Bessler, R.L. Whelan. Open Cecectomy is Associated with Significantly More Pulmonary Metastases than Laparoscopic Cecectomy or Anesthesia Alone in Mice. SAGES Scientific Session 2001

J Carter, AM Schmidt, D Stern, H Rotterdam, K Forde, E Huang. Blockade of the Receptor for Advanced Glycation Endproducts Ameliorates Colitis. Digestive Disease Week 2002

J Carter, I Kirman, P Wildbrett, D Feingold, Z Asi, R Fowler, E Huang, R.L. Whelan. Reduction of Lung Metastases after Cecectomy with Laparoscopy and Perioperative Immunomodulation. SAGES Scientific Session 2002

HH Sun, **J Carter**, A Stone, T Gao, HL Pachter. Ethnic Distribution of Colorectal Carcinoma at a Large Urban New York Hospital. America Association of Cancer Research Conference on Cancer Health Disparities 2007

E Huang, **J Carter**, Y Liu, J Rosenberg, R.L. Whelan, H Rotterdam, D Stern, K Forde. Murine Colonoscopy. SAGES Scientific Session 2000

A Oh, **J Carter**, P Wildbrett, G Stapleton, Z Asi, G Bhagat, E Huang, M Bessler, R Fine, R.L. Whelan. Reduction of Laparotomy Associated Lung Metastases after Perioperative Flt-3 Ligand Administration in a Murine Model. SAGES Scientific Session 2001

Other Presentations:

Participant in the International Conference for Experimental Laparoscopy (ICEL), 2000, 2001