



Dr. Dulaney has requested, and will be provided, a sample of H3O sufficient to enable appropriate chemical analysis and upon completion of same, will provide a supplemental report.

Finally, Dr. Dulaney is expected to testify that H3O, used as described by Dr. Smith in his depositions of May 28, 2002 and October 10, 2003, had no caustic, corrosive or harmful effects on Plaintiff and that neither the actions nor omissions of Lumen Food Corp. contributed to or caused, in any way, the damages complained of by Plaintiff. Dr. Dulaney will rely upon his education, training and experience.

Dr. Dulaney has or will review the following: Plaintiffs' Petitions (latest amended version), Answers of all Defendants, discovery requests and responses among all parties, all document productions of the parties, the depositions of all persons taken in this matter (including pre-suit depositions), the laboratory findings and report of Armstrong Forensic Laboratory, Dr. Wayne Snodgrass' report and attachments, the expert reports of Donald J. Coney, MD, and Linda M. Stevenson, the report of ACS Labs/Ernest P. Williams, and any/all of Plaintiff's medical records.

Dr. Dulaney's CV is attached hereto.

## II.

The following expert(s), while not retained by Lumen Food Corp., are expected to testify in this litigation:

Homer Jacobs, M.D.  
Obstetrics and Gynecology  
(Address/phone provided by counsel for Parkview Hospital)  
El Paso, Texas

Dr. Jacobs is expected to provide testimony about Plaintiff's alleged damages in this case, including but not limited to past and current medical condition, prognosis regarding Plaintiff's injuries, and/or any other topic covered in this report. Additionally, Dr. Jacobs may provide testimony as to future medical care. Dr. Jacobs is expected to testify about the medical care received by Plaintiff, as provided by both Dr. Charles Smith and the staff of Parkview Hospital. Dr. Jacobs is expected to testify that the post-operative complications experienced by Plaintiff were in no way caused by the use of H3O on Plaintiff and that H3O did not cause or contribute to any damages alleged by Plaintiff. Dr. Jacobs will rely upon his education, training and experience. His report is being provided by counsel for Parkview Hospital.

Dr. Jacobs has or will review the following: Plaintiffs' Petitions (latest amended version), Answers of all Defendants, discovery requests and responses between all parties, all document productions of the parties, the depositions of all persons taken in this matter (including pre-suit depositions), the laboratory findings and report of Armstrong Forensic Laboratory, Dr. Wayne Snodgrass' report and attachments, the expert reports of Donald

J. Coney, MD, and Linda M. Stevenson, the report of ACS Labs/Ernest P. Williams, and any/all of Plaintiff's medical records.

Dr. Jacobs' CV is being provided by counsel for Parkview Hospital.

Ernest P. Williams  
ACS Labs, Inc., Lab Director  
16203 Park Row  
Suite 100  
Houston, Texas 77084  
(281) 579-8522

Mr. Williams is expected to testify about the liability and causation issues in this case. More specifically, he is expected to testify on the chemical/physical effect, or lack thereof, of the use of H3O, as described by Dr. Charles Smith in his depositions of May 28, 2002 and October 10, 2003, on Plaintiff Sharon Lee. Dr. Williams is expected to testify that (1) the testing performed by Armstrong Forensic Laboratory does not duplicate the solution used by Dr. Smith in his care of Plaintiff and that such testing does not have relevance or significance in terms of the analysis of the potential cause and effect of any post-operative complications experienced by Plaintiff; (2) the testing performed by Plaintiff's expert(s) is not consistent with the manner in which the H3O was used by Dr. Smith, as testified about in more detail in his depositions of May 28, 2002 and October 10, 2003. Furthermore, it is not clear, but appears to be the case, that the H3O used in the Armstrong Labs testing was not from the exact same H3O used by Dr. Smith on Plaintiff.

ACS Labs was provided a sample of H3O from the exact same bottle used by Dr. Smith (as more fully described in his depositions) on Plaintiff. The sample was diluted in accordance with Dr. Smith's use at the time of its application to Plaintiff and then tested. Chemical analysis revealed that its prior acid active state no longer existed. The details of this testing are attached hereto by letter report to Dr. Smith dated October 6, 2003.

Finally, Mr. Williams is expected to testify that H3O, used as described by Dr. Smith in his depositions, provided no caustic or harmful effects to Plaintiff and that neither the actions nor omissions of Lumen Foods Corp. contributed or caused, in any way, the damages complained of by Plaintiff. Mr. Williams will rely upon his education, training and experience.

Mr. Williams has or will review the following: Plaintiffs' Petitions (latest amended version), Answers of all Defendants, discovery requests and responses between all parties, all document productions of the parties, the depositions of all persons taken in this matter (including pre-suit depositions), the laboratory findings and report of Armstrong Forensic Laboratory, Dr. Wayne Snodgrass' report and attachments, the expert reports of Donald J. Coney, MD, and Linda M. Stevenson, and the report of ACS Labs/Ernest P. Williams, and any/all of Plaintiff's medical records.

Mr. Williams' CV is attached hereto.

Craig Johnson and/or Richard Danielson  
Bio Vir Laboratories, Inc.  
685 Stone Road, Unit 6  
Benicia, CA 94510-1126  
Tele.: (707) 747-5906  
Fax: (707) 747-1751  
(Did testing on H3O)

Mr. Johnson or Mr. Danielson is expected to testify about their testing of H3O made by HPT and the results thereof.

Messieurs Johnson and Danielson have reviewed their documentation of their testing.

Their CV's will be produced.

### III.

The following individuals are employees or owners of Defendant Lumen Foods Corp. who, through their experience, education and knowledge may have opinions regarding issues relevant to this case, including the non-caustic nature of diluted H3O when diluted as directed, and its potential healing effects. These individuals have not been specially retained to provide opinions in this matter, and it is not their duty as employees or representatives of Defendants to regularly give expert testimony.

Greg Caton  
Cathryn Caton  
Lumen Foods Corp.  
409 Scott Street  
Lake Charles, Louisiana 70601

### IV.

Defendant reserves the right to supplement this designation further within the time limitations imposed by the Court and/or by any alterations of same by subsequent Court Order and/or by agreement of the parties pursuant to the Texas Rules of Civil Procedure and/or the Texas Rules of Evidence.

### V.

Defendant reserves the right to withdraw the designation of any expert witness and to aver positively that such previously designated expert will not be called as an expert witness at trial and to re-designate same as a consulting expert, who cannot be called by opposing counsel.

VI.

Defendant reserves the right to elicit the opinion testimony of experts designated and called by other parties to this suit.

VII.

Defendant hereby designates and may call to testify as adverse witnesses any and all of the other Defendants and/or Plaintiffs hereto and any and all expert witnesses designated by any other Defendant and/or Plaintiff, whether or not such other Defendant and/or Plaintiff is still a party hereto at the time of trial.

VIII.

Defendant reserves the right to call any physician/specialist who has examined Plaintiff for any condition before or after the date of the accident.

IX.

Defendant reserves the right to elicit technical or other specialized knowledge or expert opinion testimony, through direct or cross-examination, from the potential fact witnesses, based on the witness' knowledge, skill, experience, training or education, and concerning the subject of the witness' personal knowledge and involvement in the matters at issue, including but not limited to individuals retained by, employed by and/or working on behalf of Defendants Lumen Foods Corp., Herbologics, Ltd. and Alpha Omega Labs, whether past or present.

Respectfully submitted,

FULBRIGHT WINNIFORD,  
A Professional Corporation  
Attorneys at Law  
P. O. Box 7575  
Waco, Texas 76714-7575  
(254) 776-6000  
(254) 776-8555 [FAX]

BY: \_\_\_\_\_  
GERALD L. BOLFING  
State Bar No. 02574850

ATTORNEYS FOR DEFENDANT,  
LUMEN FOOD CORP.

**CERTIFICATE OF SERVICE**

A true and correct copy of the above and foregoing instrument was forwarded to all attorneys of record in accordance with the applicable Texas Rules of Civil Procedure on this 3rd day of February, 2004.

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GERALD L. BOLFING