

# EXHIBIT 6

EXHIBIT 6

1 CASE NO. 08TRT 00131B

2 DEPT. NO. II

REC'D & FILED

2008 MAR -3 PM 2:49

ALAN GLOYER

BY CLERK  
DEPUTY

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6 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR CARSON CITY  
8

9 ANGELA KLINKE,

10 Plaintiff,

11 vs.

AMENDED COMPLAINT

12 JOSE MONTELONGO, TRI-COUNTY  
13 EQUIPMENT & LEASING LLC,  
14 and DOES I-V,  
15 Defendants.

16 COMES NOW Plaintiff above referenced, by and through her  
17 undersigned counsel, KILPATRICK, JOHNSTON & ADLER, and for causes  
18 of action against Defendants alleges as follows:

19 I

20 That the true names or capacities, whether individual,  
21 corporate, or associates, agents or employees of the Defendants,  
22 and all of them named herein as DOES I-V, are unknown to the  
23 Plaintiff who therefore sues said Defendants by such fictitious  
24 names. The Plaintiff pray leave to amend this complaint to show  
25 the true names and capacities when the same have been fully  
26 determined.

27 ///

28 ///

KILPATRICK, JOHNSTON & ADLER, Attorneys at Law, 412 North Division St., Carson City, Nevada 89703-4168, (775) 882-6112, 883-5149

II

That at all times relevant to these proceedings, the Plaintiff was and remains a resident of the city of Carson City, State of Nevada.

III

That at all times relevant to these proceedings, the Defendant Jose Montelongo was and remains a resident of the City of Sparks, County of Washoe, State of Nevada. That at all times relevant to these proceedings, defendant Tri-County Equipment & Leasing LLC was and remains a domestic limited-liability company doing business in the County of Washoe, State of Nevada.

IV

That on or about June 1, 2007, Defendant Montelongo negligently operated his vehicle so as to cause a collision with the vehicle owned and operated by Plaintiff, said collision taking place within the County of Washoe, State of Nevada.

V

That at all times relevant to these proceedings, Defendant Montelongo was acting within the course and scope of his employment with Defendant Tri-County Equipment & Leasing LLC and that Defendant Tri-County Equipment & Leasing LLC is therefore vicariously liable for any and all damages proximately caused by the negligent conduct of their employee.

VI

That as a direct and proximate result of the negligent conduct of the Defendant Montelongo, Plaintiff suffered certain personal

injuries the exact nature and extent of which are unknown at this time, including but not limited to the termination of her pregnancy and other injuries subject to proof at the time of trial or hearing.

VII

As a further direct and proximate result of the negligent conduct of Defendant Montelongo the Plaintiff sustained certain economic loss including loss of income and loss-of-use of her vehicle which was a total loss.

VIII

Plaintiff is entitled to an award of damages to reasonably compensate her for her medical expenses, general damages, termination of pregnancy, economic loss, and such other damages as may be established subject to proof at the time of trial or hearing.

IX

Plaintiff has been required to retain the services of counsel and has incurred costs of suit herein.

X

That Plaintiff is not a debtor in bankruptcy.

WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

1. For money damages in an amount to be determined at the time of trial or hearing.

2. For a reasonable attorney's fee together with costs of suit and interest as provided by statute.

1 3. For such other and further relief as may be deemed proper  
2 by this court.

3 DATED this 30<sup>th</sup> day of March, 2008.

4 KILPATRICK, JOHNSTON & ADLER  
5 Attorneys for Plaintiff  
6 412 North Division Street  
7 Carson City, Nevada 89703

8 BY: Charles M. Kilpatrick

9 CHARLES M. KILPATRICK, NBN 00275  
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KILPATRICK, JOHNSTON & ADLER, Attorneys at Law, 412 North Division St., Carson City, Nevada 89703-4168, (775) 882-6112, 883-5149

KILPATRICK, JOHNSTON & ADLER  
*Attorneys and Counselors at Law*  
412 NORTH DIVISION STREET  
CARSON CITY, NEVADA 89703-4168

CHARLES M. KILPATRICK, LTD.  
ROBERT G. JOHNSTON  
ERNEST E. ADLER  
ANGELA D. BULLENTINI

(775) 882-6112  
(775) 883-5148  
FAX (775) 882-6114

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( ) Ernest Adler ( ) Angela Bullentini

OPERATOR: ( ) Jo ( ) Allen (X) Rose ( ) Lorraine

CASE OR MATTER: Klinke v. Montelongo, et al

Attached is a copy of the Amended Complaint filed 3-3-08 as requested

IF YOU DO NOT RECEIVE ALL OF THE PAGE(S), PLEASE CALL SENDER'S OPERATOR AS SOON AS POSSIBLE AT (775) 882-6112.

CONFIDENTIALITY NOTICE: The document(s) accompanying this fax contain confidential information which is legally privileged. The information is intended only for the use of the named recipient. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking of any action in reliance on the contents of this telecopied information except its direct delivery to the intended recipient is strictly prohibited. If you have received this fax in error, please notify us

# EXHIBIT 5

EXHIBIT 5

ORIGINAL

Case No.: 08-TRT-00013-1B

Dept. No.: 2

REC'D &amp; FILED

2009 SEP 23 PM 1:49

ALAN GLOVER

CLERK

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF CARSON CITY

ANGELA KLINKE,

Plaintiff,

vs.

JOSE MONTELONGO, TRI-COUNTY  
EQUIPMENT & LEASING, LLC, and DOES  
I-V,

Defendants.

**STIPULATION TO DISMISS  
DEFENDANT MONTELONGO**

Plaintiff Angela Klinke and Defendants Jose Montelongo and Tri-County Equipment & Leasing, LLC, by and through their undersigned counsel of record, hereby stipulate that Defendant Jose Montelongo only, may be dismissed with prejudice from this action, each party to bear their own attorney's fees and costs.

**AFFIRMATION  
Pursuant to NRS 239B.030**

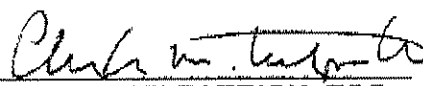
The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 23 day of September, 2009.


KILPATRICK, JOHNSTON &amp; ADLER

BURTON, BARTLETT &amp; GLOGOVAC

By:

  
CHARLES M. KILPATRICK, ESQ.  
Nevada Bar No. 00275  
Attorneys for Plaintiff

By:

  
MICHAEL A. PIRTAR, ESQ.  
Nevada Bar No. 003789  
Attorneys for Defendants



# EXHIBIT 4

EXHIBIT 4

1 CHARLES M. KILPATRICK  
Nevada State Bar No. 00275  
2 ANGELA D. BULLENTINI  
Nevada State Bar No. 10524  
3 Kilpatrick, Johnston & Adler  
412 North Division Street  
4 Carson City, Nevada 89703  
5 (775) 882-6112  
Attorneys for Plaintiffs

6 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7  
8 IN AND FOR CARSON CITY

9 ANGELA KLINKE, Case No. CV08-TRT-00131B  
10 Plaintiff, Dept. No. I  
11 vs.  
12 TRI-COUNTY EQUIPMENT &  
13 LEASING LLC,  
14 Defendant.  
15 \_\_\_\_\_/

16 NOTICE OF ENTRY OF JUDGMENT

17 PLEASE TAKE NOTICE that Judgment on Verdict was entered by the  
18 above-entitled Court on November 16, 2009.

19 DATED this 16th day of November, 2009.

20 KILPATRICK, JOHNSTON & ADLER  
Attorneys for Plaintiff  
21 412 North Division Street  
22 Carson City, Nevada 89703

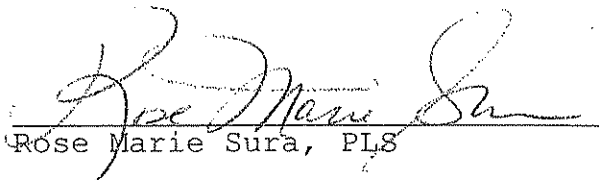
23  
24 BY:

Charles M. Kilpatrick  
CHARLES M. KILPATRICK  
25  
26  
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28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of KILPATRICK, JOHNSTON & ADLER, and that on this 16<sup>th</sup> day of November, 2009, I gave to Reno Carson Messenger Service for delivery, a copy of the NOTICE OF ENTRY OF JUDGMENT along with a copy of the JUDGMENT ON VERDICT addressed to:

Michael A. Pintar, Esq.  
Burton, Bartlett & Glogovac  
50 W. Liberty St., Suite 700  
Reno, NV 89501

  
Rose Marie Sura, PLS

RECEIVED

NOV 17 2009

Burton, Bartlett & Glogovac

## EXHIBIT 3

EXHIBIT 3

1 Case No. 08 TRT 00013 1B

2 Dept. No. 1

REC'D & FILED

2009 JUN 30 PM 4: 24

ALAN GLOVER  
M. KALE  
BY \_\_\_\_\_ CLERK  
DEPUTY

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6 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
7 **IN AND FOR CARSON CITY**  
8

9 ANGELA KLINKE,

10 Plaintiff,

11 vs.

**ORDER DENYING MOTION**  
**FOR RECONSIDERATION**

12 JOSE MONTELONGO, TRI-COUNTY  
13 EQUIPMENT & LEASING, LLC, and  
DOES I-V,

14 Defendants.  
15 \_\_\_\_\_ /

16 This matter is before this Court on Defendants' Motion for Reconsideration of Granting  
17 of Plaintiff's Motion in Limine filed on June 10, 2009. An Opposition thereto was filed on  
18 June 17, 2009. Defendants filed a Reply and a Request for Submission on June 25, 2009.

19 The Motion in Limine filed by Plaintiff seeks to exclude (1) any reference to evidence of  
20 Plaintiff's receipt of worker's compensation benefits, based on her receipt thereof under  
21 California worker's compensation being an employee in a Starbuck's Coffee in California; and  
22 (2) exclude any reference or evidence of a July 13, 2007 automobile accident involving Plaintiff.

23 **1. Evidence of California Worker's Compensation Benefits**

24 This issue is governed by the Nevada Supreme Court case of *Proctor v. Castelletti*, 112  
25 Nev. 88, 90, 911 P.2d 853 (1996), which provides that Nevada has a per se rule barring the  
26 admission of a collateral source of payment for an injury. The basis for this, as set forth in the  
27 Proctor case, is that collateral source evidence would inevitably prejudice the jury and greatly  
28 increase the likelihood that a jury will reduce a plaintiff's award of damage because it knows that

1 the plaintiff is already receiving compensation. See also, *Bass-Davis v. Davis*, 122 Nev. 442,  
2 454, 134 P.3d 103 (2006), and *Bynum v. Magro*, 101 P. 3d 1149, 1154 (Hawaii 2004). There is  
3 one exception to this rule in the State of Nevada and that is if the plaintiff is receiving benefits  
4 under Chapters 616A to 616D, inclusive, or Chapter 617 of the Nevada Revised Statutes, then  
5 pursuant to NRS 616C.215(2) and (10), evidence of the amount of compensation received by the  
6 employee, including any future compensation, must be reduced by the amount of the damages  
7 recovered in the tort action. NRS 616C.215 (10) reflects how the jury is to be instructed on this  
8 issue.

9 What is important in this case is that Plaintiff's benefits in issue were received from a  
10 California workmen's compensation policy and were not paid under Chapter 616A to 616D,  
11 inclusive; or Chapter 617 of the Nevada Revised Statutes. Plaintiff was an employee of a  
12 California Starbucks, and governed by the California policy for workmen compensation. It is  
13 presumed that the California workmen's compensation provider has or would have a lien as to  
14 any recovery awarded to the Plaintiff in this matter to recover for the benefits provided. This is  
15 not dispositive of this issue, however.

16 Thus, absent an award under Chapter 616A to 616D or Chapter 617 of the Nevada  
17 Revised Statutes, the collateral source rule bars any evidence as to the benefits received under  
18 the California workman's compensation policy. Nothing under NRS 616C.215 indicates that it  
19 applies to benefits received under another state's workmen's compensation statutes. This is a  
20 limited exception applicable only to Nevada benefits as reflected above.

21 **2. Evidence Regarding a Subsequent Accident**

22 Here, the Plaintiff seeks to preclude evidence of a subsequent accident incurred by  
23 Plaintiff on July 13, 2007. The accident in issue took place on June 1, 2007. Absent some  
24 evidence that the Plaintiff incurred some injury or an aggregation of the injuries sustained in the  
25 June 1, 2007 accident, this accident would not be relevant to the case before this Court. See,  
26 NRS 48.025.

27 The Defendant argues that the report of Dr. John Siegler supports a claim that due to the  
28 significant damage incurred in the July 13, 2007 accident, that it is very possible that this could

1 have resulted in additional injuries. However, Dr. Siegler's deposition further reflects that he  
2 stated, "I simply do not have enough information regarding this accident to postulate further."  
3 Nor does Dr. Siegler testimony qualify under NRS 50.275, given his inability to testify as to an  
4 opinion. Opinion testimony should not be received if shown to rest upon assumptions rather  
5 than facts. *Wrenn v. State*, 89 Nev. 71, 73, 506 P.2d 418 (1973). No witness is allowed to  
6 speculate. Given the lack of evidence to the contrary by Defendant, to allow this speculative  
7 evidence would be inappropriate. See, NRS 48.015.

8 Therefore, good cause appearing,

9 IT IS HEREBY ORDERED that Defendants' Motion for Reconsideration of Granting of  
10 Plaintiff's Motion in Limine is DENIED.

11 DATED this 30th day of June, 2009.

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15 JAMES T. RUSSELL  
16 District Judge  
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**CERTIFICATE OF MAILING**

I hereby certify that on the 30<sup>th</sup> day of June, 2009, I placed a copy of  
the foregoing in the United States Mail, postage prepaid, addressed as follows:

Michael A. Pinter, Esq.  
50 West Liberty Street #700  
Reno NV 89501

Charles M. Kilpatrick, Esq.  
412 N. Division Street  
Carson City NV 89703



CHRISTINE ERVEN  
Judicial Assistant

RECEIVED  
JUL 02 2009  
Burton, Bartlett & Glogovac



## EXHIBIT 2

EXHIBIT 2

1 CASE NO. 08 TRT 00013 1B

2 DEPT. 2

47  
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2009 JUN -1 AM 11:45

ALAN GLOVER

BY DEBIEY CLERK  
C. COOPER

6 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR CARSON CITY

9 ANGELA KLINKE,

10 Plaintiff,

11 vs.

ORDER ON PLAINTIFF'S  
AND DEFENDANT'S  
PRE-TRIAL MOTIONS IN  
LIMINE

13 JOSE MONTELONGO, TRI-COUNTY  
14 EQUIPMENT & LEASING LLC,  
and DOES I-V,  
15 Defendants.

16  
17 After review and consideration of the pleadings filed in support of and in  
18 opposition to Motions in Limine filed by the Plaintiff, ANGELA KLINKE (hereinafter  
19 "Plaintiff"), and Defendants, JOSE MONTELONGO and TRI-COUNTY EQUIPMENT &  
20 LEASING LLC (hereinafter "Defendants"), respectively, along with oral argument given  
21 on May 13, 2009, the Court finds as follows:

22 I. Plaintiff's Motions in Limine

23 On April 15, 2009, the Plaintiff filed Plaintiff's Motion in Limine seeking an Order  
24 in Limine as to the following: 1) reference to or evidence regarding a July 13, 2007  
25 automobile accident involving the Plaintiff; 2) reference to or evidence regarding the  
26 Plaintiff's receipt of California worker's compensation benefits; 3) reference to or  
27 evidence regarding the Plaintiff's receipt of write-offs or paydowns from providers  
28 receiving payments for medical services; and 4) reference to or evidence of the Plaintiff's

1 receipt of a California worker's compensation settlement and/or benefits.

2 A. Plaintiff's Motion in Limine Regarding the July 13, 2007 Auto Accident

3 The Court requires additional evidence in order to rule on the admissibility of  
4 evidence concerning the July 13, 2007 auto accident. Accordingly, IT IS HEREBY  
5 ORDERED, that the parties make an offer of proof before trial, after which time the  
6 Court will make a ruling as to this Motion.

7 B. Plaintiff's Motions in Limine Regarding the Plaintiff's Receipt of California  
8 Worker's Compensation Benefits and/or Compensation Settlement

9 Nevada has adopted a per se rule barring the admission of a collateral source of  
10 payment for an injury into evidence for any purpose. Proctor v. Castelletti, 112 Nev. 88,  
11 911 P.2d 853 (1996).

12 Although NRS 616C.215 carves out an exception to this collateral source rule, the  
13 statute is limited to claims brought pursuant to NRS Chapters 616A to 616D. See NRS  
14 616C.215(2). The record reflects that the Plaintiff's worker's compensation claim was  
15 brought pursuant to California law and that benefits were paid under a California  
16 worker's compensation policy. Therefore, the Court finds that NRS 616C.215 does not  
17 apply. As such, evidence regarding the worker's compensation benefits received by the  
18 Plaintiff is inadmissible, as the payments constitute a collateral source of payment for the  
19 Plaintiff's injury.

20 Accordingly, and good cause appearing, IT IS HEREBY ORDERED that the  
21 Plaintiff's Motion in Limine regarding the Plaintiff's receipt of California worker's  
22 compensation benefits and/or a compensation settlement is GRANTED.

23 C. Plaintiff's Motion in Limine Regarding the Plaintiff's Receipt of Write-Offs  
24 or Paydowns from Providers Receiving Payments

25 After reviewing the record, the Court finds the write-offs or paydowns from  
26 providers to constitute a collateral source of payment. Therefore, any evidence  
27 pertaining to these write-offs or paydowns is inadmissible under Proctor v. Castelletti,  
28 supra.

1 Accordingly, and good cause appearing, IT IS HEREBY ORDERED that the  
2 Plaintiff's Motion in Limine regarding the Plaintiff's receipt of write-offs or paydowns  
3 from providers is GRANTED.

4 II. Defendants' Motions in Limine

5 A. Defendants' Motion in Limine #1

6 The Court has reviewed and considered the points and authorities in support of  
7 and in opposition to Defendants' Motion in Limine #1 concerning the following: 1)  
8 exclusion of medical expenses not incurred by the Plaintiff; 2) exclusion of traffic  
9 accident report, opinion testimony of the investigating officer; and reference to the traffic  
10 citation; 3) reference to insurance; 4) reference to any settlement negotiations, offers, or  
11 demands; 5) mention of attorney's fees; and 6) exclusion of economic damages and claim  
12 for lost wages.

13 i. Exclusion of Medical Expenses Not Incurred by the Plaintiff

14 As discussed above, the Plaintiff's receipt of California worker's compensation  
15 benefits in this case is barred by the collateral source rule stated in Proctor v. Castelletti,  
16 supra.

17 Accordingly, and good cause appearing, IT IS HEREBY ORDERED THAT the  
18 Defendant's Motion in Limine to exclude medical expenses not incurred by the Plaintiff  
19 is DENIED.

20 ii. Exclusion of Economic Damages and the Plaintiff's Claim for Lost  
21 Wages

22 The Defendants have failed to cite to any relevant Nevada law that would bar  
23 evidence of the Plaintiff's economic damages including lost wages. The Court finds that  
24 the issue of whether the Plaintiff has incurred economic damages as a result of the  
25 subject accident is a question of fact to be decided by the jury.

26 Accordingly, and good cause appearing, the Defendants' Motion in Limine to bar  
27 evidence relating to the Plaintiff's economic damages claim is DENIED.

28 iii. Exclusion of the Traffic Accident Report, Opinion Testimony of the

Investigating Officer, Reference to the Traffic Citation, Insurance,  
Settlement Negotiations, Offers, or Demands, and Mention of  
Attorney's Fees

The foregoing Motions in Limine were submitted without opposition and are  
hereby GRANTED.

B. Defendants' Motion in Limine #2

The Court has reviewed and considered the points and authorities in support of  
and in opposition to Defendants' Motion in Limine #2 concerning the expert testimony  
of Bruce Mullen, M.D.

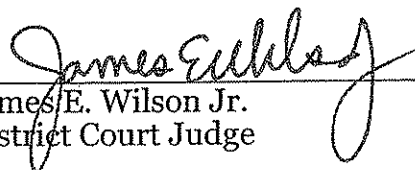
The Court finds that Dr. Mullen qualifies as an expert witness pursuant to NRS  
50.275. The Court further finds that Dr. Mullen was properly designated an expert  
witness by the Plaintiff pursuant to NRCP 16.1(2). As such, Dr. Mullen may provide  
expert trial testimony as to causation and the injuries that the Plaintiff alleges as a result  
of the June 1, 2007 auto accident.

Notwithstanding the foregoing, the Court will re-open the discovery period for the  
limited purpose of providing the Defendants an opportunity to depose Dr. Mullen prior  
to trial.

Accordingly, and good cause appearing, IT IS HEREBY ORDERED that  
Defendants' Motion in Limine #2 is DENIED.

IT IS SO ORDERED.

DATED this 29 day of May, 2009.


  
James E. Wilson Jr.  
District Court Judge

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of The Honorable James E. Wilson, and I certify that on this 1 day of June, 2009, I deposited for mailing at Carson City, Nevada, or caused to be delivered by messenger service, a true and correct copy of the ORDER ON PLAINTIFF'S AND DEFENDANT'S PRE-TRIAL MOTIONS IN LIMINE and addressed to the following:

Charles M. Kilpatric, Esq.  
412 North Division Street  
Carson City, NV 89703

Michael A. Pinta, Esq.  
50 West Liberty St., Suite 700  
Reno, NV 89501

  
\_\_\_\_\_  
Susan Greenburg  
Judicial Assistant

# EXHIBIT 1

# EXHIBIT 1

1 CASE NO. 08TRT 00131B

2 DEPT. NO. ~~II~~ I

REC'D & FILED

2009 NOV 16 AM 10:41

ALAN GLOVER

C. COOPER

BY CLERK  
DEPUTY

6 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR CARSON CITY

9 ANGELA KLINKE,

10 Plaintiff,

11 vs.

JUDGMENT ON VERDICT

12 TRI-COUNTY EQUIPMENT &  
13 LEASING LLC,

14 Defendant.  
\_\_\_\_\_/

15  
16  
17 This matter came regularly on for trial before a jury on  
18 October 5-9, 2009. Plaintiff, ANGELA KLINKE, appeared in person  
19 and by and through her attorneys, CHARLES M. KILPATRICK, ESQ. and  
20 ANGELA BULLENTINI, ESQ. Defendant TRI-COUNTY EQUIPMENT & LEASING  
21 LLC, appeared in person, and by and through its counsel, MICHAEL  
22 PINTAR, ESQ. Testimony was taken, evidence was offered, introduced  
23 and admitted. Counsel argued the merits of their cases.

24 The jury rendered a verdict in favor of Plaintiff and against  
25 Defendant in the amount of \$27,510.

26 The Court requested that the jury be polled, and the Court  
27 found that the verdict was the verdict of eight (8) out of the  
28



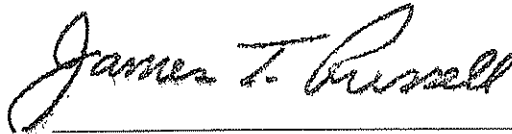
1 eight (8) jurors.

2 NOW, THEREFORE, judgment upon the verdict is hereby entered in  
3 favor of the Plaintiff and against the Defendant, as follows:

4 IT IS ORDERED, ADJUDGED AND DECREED that Plaintiff ANGELA  
5 KLINKE shall have and recover against Defendant TRI-COUNTY  
6 EQUIPMENT & LEASING, LLC the sum of \$27,510 together with pre-  
7 judgment interest in the amount of \$4,839.43 and such additional  
8 interest as may have accrued pursuant to NRS 17.130 until  
9 satisfaction of judgment.

10 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff is  
11 entitled to her costs of \$12,352.<sup>92</sup>, as the prevailing party under  
12 NRS 18.020.

13 DATED this 16<sup>th</sup> day of November, 2009.

14 

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16 DISTRICT JUDGE

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26 RECEIVED

27 NOV 17 2009

28 Burton, Bartlett & Glogovac

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

Electronically Filed  
Jan 05 2010 04:37 p.m.  
Tracie K. Lindeman

TRI-COUNTY EQUIPMENT & LEASING,  
LLC

Appellant(s),

No. 55121

vs.

ANGELA KLINKE

DOCKETING STATEMENT

CIVIL APPEALS

Respondent(s).

GENERAL INFORMATION

All appellants not in proper person must complete this docketing statement. NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, classifying cases for en banc, panel, or expedited treatment, compiling statistical information and identifying parties and their counsel.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. Id. Failure to attach documents as requested in this statement, completely fill out the statement, or to fail to file it in a timely manner, will constitute grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District FIRST Department 2 County CARSON CITY.  
Judge James T. Russell District Court Docket No. 08-TRT-00013 1B.

**2. Attorney filing this docket statement:**

Attorney Gregory J. Livingston, Esq. Telephone (775) 333-0400.  
Firm Burton Bartlett & Glogovac  
Address 50 West Liberty Street, Suite 700, Reno, Nevada 89501  
Client(s) Tri-County Equipment & Leasing, LLC.

**If this is a joint statement completed on behalf of multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.**

**3. Attorney(s) representing respondent(s):**

Attorney Charles M. Kilpatrick, Esq. Telephone (775) 882-6112.  
Firm Kilpatrick, Johnston & Adler  
Address 412 N. Division Street, Carson City, NV 89703  
Client(s) Angela Klinke

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_  
Client(s) \_\_\_\_\_

(List additional counsel on separate sheet if necessary)

**4. Nature of disposition below (check all that apply):**

<input type="checkbox"/> Judgment after bench trial	<input type="checkbox"/> Grant/Denial of NRCP 60(b) relief
<input checked="" type="checkbox"/> Judgment after jury verdict	<input type="checkbox"/> Grant/Denial of injunction
<input type="checkbox"/> Summary judgment	<input type="checkbox"/> Grant/Denial of declaratory relief
<input type="checkbox"/> Default Judgment	<input type="checkbox"/> Review of agency determination
<input type="checkbox"/> Dismissal	<input type="checkbox"/> Divorce decree:
<input type="checkbox"/> Lack of jurisdiction	<input type="checkbox"/> Original <input type="checkbox"/> Modification
<input type="checkbox"/> Failure to state a claim	<input type="checkbox"/> Other disposition (specify): _____
<input type="checkbox"/> Failure to prosecute	_____
<input type="checkbox"/> Other (specify) _____	_____

**5. Does this appeal raise issues concerning any of the following:**

<input type="checkbox"/> Child custody	<input type="checkbox"/> Termination of parental rights
<input type="checkbox"/> Venue	<input type="checkbox"/> Grant/Denial of injunction or TRO
<input type="checkbox"/> Adoption	<input type="checkbox"/> Juvenile matters

**6. Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal: N/A

**7. Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition: N/A

**8. Nature of the action.** Briefly describe the nature of the action, including a list of the causes of action pleaded, and the result below:

This is a personal injury action arising out of a June 1, 2007 automobile accident which occurred in Washoe Valley, Nevada. In her complaint against Appellant, Respondent asserted a sole cause of action for negligent operation of a motor vehicle. The matter proceeded to trial and the jury returned a verdict in favor of Respondent and awarded damages in the principal amount of \$27,510. Judgment was entered on the jury verdict.

**9. Issues on appeal.** State concisely the principal issue(s) in this appeal:

- (1) Whether the district court committed reversible error in granting Respondent's pre-trial motion *in limine* to exclude any reference to evidence of Appellant's receipt of worker's compensation benefits under California worker's compensation law?
- (2) Whether the district court committed reversible error in denying Appellant's pre-trial motion *in limine* to exclude evidence of medical expenses not incurred by Respondent?
- (3) Whether the district court committed reversible error in denying Appellant's motion to modify/reduce the amount of the jury verdict to include only the medical expenses actually incurred by the Respondent?

**10. Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceeding presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket number and identify the same or similar issues raised:

The undersigned is not aware of any proceedings presently pending before this court which raise the same or similar issues to those raised in the present appeal.

**11. Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

N/A X Yes \_\_\_\_\_ No \_\_\_\_\_

If not, explain.

**12. Other issues.** Does this appeal involve any of the following issues?

- ☐ Reversal of well-settled Nevada precedent (on an attachment, identify the cases(s))
- ☐ An issue arising under the United States and/or Nevada Constitutions
- ☐ A substantial issue of first-impression

- \_\_\_ An issue of public policy
  - \_\_\_ An issue where an banc consideration is necessary to maintain uniformity of this court's decisions
  - \_\_\_ A ballot question
- If so, explain

**13. Trial.** If this action proceeded to trial, how many days did the trial last? 5 days.

Was it a bench or jury trial? Jury Trial.

**14. Judicial disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal. If so, which Justice? No.

#### TIMELINESS OF NOTICE OF APPEAL

**15. Date of entry of written judgment or order appealed from.** November 16, 2009 (Attached as Exhibit 1). Attach a copy. If more than one judgment or order is appealed from, attach copies of each judgment or order from which an appeal is taken.

Also appealing from June 1, 2009 Order on Plaintiff's and Defendant's Pre-Trial Motions in Limine (Attached as Exhibit 2); and June 30, 2009 Order Denying Motion for Reconsideration (Attached as Exhibit 3).

(a) If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

**16. Date written notice of entry of judgment or order served:** November 16, 2009 (Attached as Exhibit 4)  
**Attach a copy, including proof of service, for each order or judgment appealed from.**

(a) Was service by delivery \_\_\_\_\_ or by mail By Courier Service (specify).

**17. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59),**

(a) Specify the type of motion, and the date and method of service of the motion, and date of filing.

NRCP 50(b) \_\_\_\_\_ Date served \_\_\_\_\_ By delivery \_\_\_\_\_ or by mail \_\_\_\_\_ Date of filing \_\_\_\_\_

NRCP 52(b) \_\_\_\_\_ Date served \_\_\_\_\_ By delivery \_\_\_\_\_ or by mail \_\_\_\_\_ Date of filing \_\_\_\_\_

NRCP 59 \_\_\_\_\_ Date served \_\_\_\_\_ By delivery \_\_\_\_\_ or by mail \_\_\_\_\_ Date of filing \_\_\_\_\_

**Attach copies of all post-trial tolling motions.**

**NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration do not toll the time for filing a notice of appeal.**

(b) Date of entry of written order resolving tolling motion \_\_\_\_\_ **Attach a copy.**

(c) Date written notice of entry of order resolving motion served. \_\_\_\_\_ **Attach a copy, including proof of service.**

(i) Was service by delivery \_\_\_\_\_ or by mail \_\_\_\_\_ (specify).

18. Date notice of appeal was filed December 17, 2009.

- (a) If more than one party has appealed from the judgment or order, list date each notice of appeal was filed and identify by name the party filing the notice of appeal:

19. Specify statute or rule governing the time limit for filing the notice of appeal, *e.g.*, NRAP 4(a), NRS 155.190, or other:

NRAP 4(a)(1)

#### SUBSTANTIVE APPEALABILITY

20. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

NRAP 3A(b)(1) X NRS 155.190 \_\_\_\_\_ (specify subsection)  
NRAP 3A(b)(2) \_\_\_\_\_ NRS 38.205 \_\_\_\_\_ (specify subsection)  
NRAP 3A(b)(3) \_\_\_\_\_ NRS 703.376 \_\_\_\_\_  
Other (specify) \_\_\_\_\_

Explain how each authority provides a basis for appeal from the judgment or order:

The November 16, 2009 Judgment on Jury Verdict finally and fully resolved all claims at issue in this matter.

21. List all parties involved in the action in the district court:

**Plaintiff Angela Klinke**  
**Defendant Tri-County Equipment & Leasing, LLC**  
**Defendant Jose Montelongo**

- (a) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

Defendant Jose Montelongo was voluntarily dismissed from this action by stipulation dated September 23, 2009. (See, attached Exhibit 5).

22. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims or third-party claims, and the trial court's disposition of each claim, and how each claim was resolved (*i. e.*, order, judgment, stipulation), and the date of disposition of each claim. Attach a copy of each disposition.

Respondent Angela Klinke asserted a negligence claim against Appellant and Defendant Jose Montelongo arising out of a June 1, 2007 automobile accident. The accident occurred when a generator being towed on a truck owned by Appellant and being operated by Defendant Jose Montelongo detached from the truck and struck Respondent's vehicle. Defendant Jose Montelongo was dismissed from the action prior to trial. The claim proceeded to trial on October 5, 2009, and the jury returned a verdict in favor of Respondent and against Appellant and awarded Respondent damages in the principal amount of \$27,510 on October 9, 2009. Judgment was entered on the jury verdict on November 16, 2009.

23. Attach copies of the last-filed version of all complaints, counterclaims, and/or cross-claims filed in the district court.

See Exhibit 6.

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action below:

Yes X No \_\_\_\_\_

25. If you answered "No" to the immediately previous question, complete the following:

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b):

Yes \_\_\_\_\_ No \_\_\_\_\_ If "Yes," attach a copy of the certification or order, including any notice of entry and proof of service.

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment:

Yes \_\_\_\_\_ No \_\_\_\_\_

26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

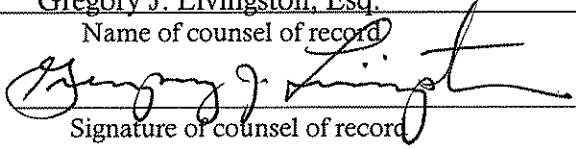
#### VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement .

Tri-County Equipment & Leasing, LLC  
Name of Appellant

January 5, 2010  
Date

Nevada, Washoe County  
State and county where signed

Gregory J. Livingston, Esq.  
Name of counsel of record  
  
Signature of counsel of record

**CERTIFICATE OF SERVICE**


I certify that on the 5 day of January, 2010, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es):

Charles M. Kilpatrick, Esq.  
KILPATRICK, JOHNSTON & ADLER  
412 N. Division Street  
Carson City, NV 89703

Dated this 5 day of January, 2010.

  
\_\_\_\_\_  
Monica Evans