

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2 RONALD E. LAKEMAN,

3 Petitioner,

4 vs.

5 THE EIGHTH JUDICIAL DISTRICT
6 COURT OF THE STATE OF NEVADA,
7 COUNTY OF CLARK, DEPARTMENT 21,

8 Respondent,

9 THE STATE OF NEVADA,

10 Real Party In Interest.
11

) Case No.:
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)
) Consolidated District Court Nos. 12C265107
) & 12C283381

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Tracie K. Lindeman
Clerk of Supreme Court

12 **RONALD LAKEMAN'S PETITION FOR WRIT OF MANDAMUS**
13 **OR, IN THE ALTERNATIVE, WRIT OF PROHIBITION**

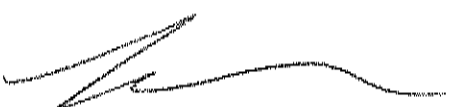
14 Petitioner RONALD E. LAKEMAN by and through his attorney of record, FREDERICK A.
15 SANCROCE, ESQ., hereby petitions this Honorable Supreme Court to issue a writ of mandamus to
16 compel the district court to dismiss a constitutionally defective second-degree murder charge, or
17 alternatively, a writ of prohibition to prevent further proceedings on the defective murder count.
18 More particularly, Petitioner seeks relief from the district court's order, entered on January 8, 2013,
19 denying his petition for writ of habeas corpus and alternative motion to dismiss the murder count.
20

21 Counsel requests a one-hour oral argument to address the constitutional issues of first
22 impression which are raised in this petition.
23

24 Trial in this matter is set for April 22, 2013. Petitioner has satisfied the requirements of
25 verification and proof of service. (See Attachment A and B) This petition is based upon the Due
26 Process clauses of the Fifth, Sixth and Fourteenth Amendments to the United
27 ///
28

1 States Constitution; Article 6, Section 5 of the Nevada Constitution; NRS 6.110 to 6.140, 172.045 to
2 172.065, 172.255, 172.275, and 173.075, and the following Points and Authorities.

3 Dated this 27th day of March 27, 2013.

4
5 
6 FREDERICK A. SANTACROCE, ESQ.
7 SANTACROCE LAW OFFICES, LTD.
8 Nevada Bar No. 5121
9 5440 W. Sahara Ave., Third Floor
10 Las Vegas, NV 89146
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14 POINTS AND AUTHORITIES

15 I. ISSUES PRESENTED

- 16 A. WAS THE EVIDENCE PRODUCED AT THE GRAND JURY WAS INSUFFICIENT TO
17 FIND PROBABLE CAUSE THAT THE DEFENDANT LAKEMAN COMMITTED THE
18 CRIME CHARGED IN THE INDICTMENT (second degree murder)?
- 19 B. DID THE STATE VIOLATE THE GRAND JURY RIGHT TO DUE PROCESS BY
20 IMPROPERLY INSTRUCTING THE GRAND JURORS ON THE ELEMENTS OF
21 SECOND DEGREE FELONY MURDER?

22 II. JURISDICTION

23 This Petition for extraordinary relief is properly before this Court pursuant to NRS 34.320 and
24 34.160. A petition for a writ of mandamus or prohibition is the appropriate method of challenging a
25 defective indictment. *See, Gordon v. Eighth Judicial District Court*, 112 Nev. 216, 227, 913 P.2d
26 240, 247 (1996) (review of writ challenging sufficiency of indictment); *Lane v. Torvinen*, 97 Nev.
27 121, 122, n.1, 624 P.2d 1385 (1981) ("prohibition is an appropriate remedy to resolve a claim that
28 the indictment does not charge a public offence"); *Garnick v. District Court*, 81 Nev. 531, 407 P.2d
163 (1965) (review writ challenging ambiguous information). If the Petitioner did not present this
writ, he would arguably waive his right to hereafter challenge the validity of the indictment. *See,*
Simpson v. District Court, 88 Nev. 654, 661, 503 P.2d 1225 (1973).

III. STATEMENT OF PROCEDURAL FACTS

On June 4, 2010, a grand jury sitting in Clark County returned an indictment in case no 10C265107 against the Petitioner stemming from medical procedures and billing practices at the Endoscopy Center of Southern Nevada.

On June 11, 2010, the indictment was amended. The amended indictment charged the defendants with the following: a single count of racketeering; seven counts of performance of an act in reckless disregard of person; seven counts of criminal neglect of patients; ten accounts of insurance fraud; one count of theft; and two counts of obtaining money under false pretenses.

On August 10, 2012, the majority of the grand jurors who returned the first indictment reconvened to return a separate indictment against the Petitioner and his codefendants for the alleged murder of Rudolfo Meana (Exhibit 1). A true bill for second degree murder was returned in Case No. 12C283381 (Exhibit 2, Grand Jury Transcript).

The indictment contained a single count of second degree murder based on alternative theories of criminal liability and alternative means. Petitioner filed for writ of habeas corpus which was denied by the district court on or about February 14, 2013 (Exhibit 3).

This writ specifically challenges the second degree murder indictment against Petitioner Ronald Lakeman.

IV. FACTS

Petitioner Ronald Ernest Lakeman (Lakeman) was a Certified Registered Nurse Anesthetist employed by the Endoscopy Center of Southern Nevada at all relevant times herein.

Lakeman is charged with Murder (Second Degree) (Category A Felony- NRS 200.010, 200.020, 200.030, 200.070, 0.060, 202.595, 200.495), specifically that Defendant Lakeman, willfully, feloniously, without authority of law, and with malice aforethought, the killing of Rodolfo

1 Meana, by introducing Hepatitis C virus into the body of Rodolfo Meana, based upon the following
2 principles of criminal liability, to wit: (1) by the killing occurring under circumstances showing an
3 abandoned and malignant heart; and/or during the commission of an unlawful act, to wit: criminal
4 neglect of patients, and/or performance of an unlawful act in reckless disregard of persons or
5 property, which in its consequences, naturally tends to destroy the life of a human being; and/or (3)
6 the killing being committed in the prosecution of a felonious intent, to wit: criminal neglect of
7 patients, and/or performance of an act in reckless disregard of persons or property, which in its
8 consequences, naturally tends to destroy the life of a human being, by directly or indirectly using
9 and/or introducing contaminated medical instruments, supplies, and/or drugs upon or into the body
10 of Rodolfo Meana which were contaminated with Hepatitis C virus; Defendants being responsible
11 under on or more of the following principles of criminal liability to wit: (1) by directly committing
12 said acts; and/or (2) by aiding or abetting each other and/or others including uncharged confederates
13 in the commission of the crime(s) of criminal neglect of patients, and or performance of an act in
14 reckless disregard of persons or property by directly counseling, encouraging, hiring, commanding,
15 inducing, or procuring each other, and/or other to utilize a patient care delivery system which
16 directly or indirectly limited the use of medical instruments, and/or supplies and/or drugs; scheduled
17 and/or treated an unreasonable number of patients per day, and/or rushed patients or patient
18 procedures all at the expense of patient safety and/or well being, and which resulted in substandard
19 care and/or jeopardized the safety of Rodolfo Meana, Defendants acting with the intent to commit
20 the crime(s) of criminal neglect of patients, and/or performance of an act in reckless disregard of
21 persons or property; and/or (3) pursuant to a conspiracy to commit the crime(s) of criminal neglect of
22 patients, and/or performance of an act in reckless disregard of person or property, Defendants acting
23 in concert throughout.
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1 V. DISCUSSION OF ISSUES

2 A. THE EVIDENCE PRODUCED AT THE GRAND JURY WAS INSUFFICIENT TO
3 FIND PROBABLE CAUSE THAT THE DEFENDANT LAKEMAN COMMITTED
4 THE CRIME CHARGED IN THE INDICTMENT

5 It is indisputed that Lakeman never treated Rodolfo Meana, never had any contact with Rodolfo
6 Meana, and never directly introduced Hepatitis C virus directly into Rodolfo Meana. The only
7 theory applicable to Defendant Lakeman was stated by Deputy District Attorney Staudaher to the
8 Grand Jury.

9 A JURROR: That would mean those three people, even if one of those persons
10 wasn't involved—how can I say it? Because this is the question Anne had. One of
11 those people weren't involved (Lakeman) in the procedure on that day on Mr.
12 Rodolfo—sorry excuse me. Go ahead, do you think—

13 MR. STAUDAHER: In order for you to—remember there's three theories of
14 criminal liability that are involved here: Directly committing the act, aiding or
15 abetting others in the commission of those acts, conspiring with others to commit
16 the acts. If you find—you don't have to find all three. You don't have to find a
17 particular one. But if you find that all three individuals are involved or liable under
18 one of those theories of criminal liability, some may be more than one, but you
19 have to find that at least they are involved under one of those three theories of
20 criminal liability in order for you to come back with a finding with regard to
21 murder as to each individual.

22 A JURROR: Okay.

23 (G.J., Transcript pages 61-62)

24 The State improperly instructed the Grand Jury as to Lakeman when it instructed "you don't
25 have to find a particular one."

26 Without specific allegations, as to which theory of criminal liability the Grand Jury found as it
27 relates to Lakeman, it is impossible to defend. The defense is entitled to know which theory of
28 criminal liability it must defend against (NRS 193.0155).

This Court has specifically limited the application for second degree felony murder and
felonious intent murder to protect against the potential for "untoward prosecution" of people for the

1 commission of an unlawful act that results in unintended death. Ramirez v. State, 126 Nev. Adv.
2 Op. 22, 235 P.3d 619, 621-23 (2010); Labastida v. State, 115 Nev. 298, 306-07, 986 P.2d 443, 448-
3 49 (1999); Sherrif v. Morris, 99 Nev. 109, 118, 659 P.2d 852, 859 (1983). In limiting the scope of
4 second degree felony murder offense, the Court created essential elements that bear upon the
5 predicate felonies and proximate cause of death.
6

7 In Morris, this Court first recognized the offense of second degree felony murder. *See*,
8 Ramirez, 235 P.3d at 621-22 (explaining the judicial evolution of the elements of the second degree
9 felony murder rule). Like the instant case, Morris, involved a pretrial petition for writ of habeas
10 corpus challenging the validity of a second degree murder indictment. 99 Nev. At 109, 956 P.2d at
11 854. The Morris Court expressly limited the application of second degree felony murder and
12 felonious intent murder by creating the following three elements: (1) the predicate felony must be
13 inherently dangerous in the abstract; (2) the death must be a directly foreseeable consequence of the
14 felony; and (3) the defendant's conduct must be the immediate and direct cause of the death without
15 the intervention of some other source or agency. Id. at 118-19, 659 P.2d at 859. Morris ruled that the
16 restrictions on second degree murder rule applied to both the felony murder and felonious intent
17 prongs of the involuntary murder statute. Id. at 119, 659 P.2d at 859.
18

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20 This Court subsequently clarified first element in Labastida, stating that nature of the
21 predicate felony must be analyzed by looking at the manner in which the defendant committed the
22 felony as opposed to analyzing the felony in the abstract. 115 Nev. at 307, 986 P.2d at 859. This
23 element limits the kinds of felonies upon which the second degree murder is predicated, restricting it
24 to those felonies that are inherently dangerous, i.e., "the death or injury is a directly foreseeable
25 consequence of the illegal act." Ramirez, 235 P.3d at 622 n.2.
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1 The second element, which is at issue in the instant case, serves as a restriction upon the
2 proximate or legal cause. The second degree felony murder rule only applies when the defendant's
3 act is the immediate and direct cause of death. Labastida, 115 Nev. At 306-07, 986 P.2d at 448-49;
4 Morris, 99 Nev. At 118-119, 659 P.2d at 859. Morris defined "immediate" as meaning "without
5 intervention if some other source or agency." 99 Nev. at 119-119, 659 p.2d at 859. Hence, even
6 though an act or felony may be inherently dangerous, a defendant cannot be held liable for second
7 degree murder if the acts of the victim or a third party were the direct cause of death. Labastida, 115
8 Nev. at 307, 986 P.2d at 448-49 (defendant's felony child neglect was not the immediate and direct
9 result of her son's death when her boyfriend's abuse killed the child) *see*, Morris, 99 Nev. at 118-
10 119, 659 P.2d at 859 ("[T]he casual relationship must extend beyond the unlawful sale of the drugs
11 to the involvement by commission or omission in the ingestion of a lethal dosage by the decedent.")
12

13
14 Petitioner calls this Court's attention to count 29 (murder second degree) of the Third
15 Amended Indictment. (Exhibit 1, page 28) An indictment, on its face, must contain each and every
16 element of the offense and must allege facts showing how the defendant allegedly committed each
17 of the elements. Hancock, 114 Nev. at 164, 955 P.2d at 185; NRS 173.075. As discussed above, the
18 judicially-created elements in Morris and its progeny must also be alleged with specificity in an
19 indictment alleging second degree felony murder and felonious intent murder. If the indictment
20 omits an essential element of the offense, no crime in fact charged and the defective charge must be
21 dismissed. Rovnianek, 41 Nev. 141, 168 P. 327,382.
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24 Additionally, where a defendant is charged with aiding and abetting, the incident must specify
25 the manner and means by which the defendant aided and abetted the commission of an offense. Ikie
26 v. State, 107 Nev. 916, 919, 823 P.2d 258, 261 (1991); Barren v. State, 99 Nev. 661, 667, 669 P.2d
27 725, 728 (1983). The lumping together if multiple defendants in a single count without delineating
28

1 what acts or omission each committed raises due process concerns. *See, Hancock*, 114 Nev. at 165-
2 66, 955 P.2d at 185-86.

3 No where in Count 29 of the Third Amended Complaint does it specifically state what
4 Defendant Lakeman was alleged to have done. Instead, the State pleads alternative theories which
5 may or may not apply to Defendant Lakeman. The Defense is left to guess which theory it must
6 defend against. The alternatively pled theories of criminal liability make it impossible to distinguish
7 which of the three Defendants, if any, performed an act that was the immediate and direct cause of
8 Meana's death. This is especially problematic for Defendant Lakeman since he had no contact with;
9 did not treat; nor ever came in contact with Meana. Lakeman was merely an employee of the
10 |Endoscopy Center at the time Meana was allegedly infected.
11

12
13 Count 29 of the Third Amended Complaint fails to give adequate and fair notice to Defendant
14 Lakeman and must therefore be dismissed.

15 **B. DID THE STATE VIOLATE THE GRAND JURY RIGHT TO DUE PROCESS BY**
16 **IMPROPERLY INSTRUCTING THE GRAND JURORS ON THE ELEMENTS OF**
17 **SECOND DEGREE FELONY MURDER?**

18 The only witnesses the State proffered to the Grand Jury was Maynard Bagang a police
19 officer with the Las Vegas Metropolitan Police Department (G.J., Transcript page 12, line 19) and
20 Alane Olson a medical examiner with the Clark County Coroner's Office. (G.J. Transcript, page 22,
21 line 10)

22 Officer Bagang's function was to "facilitate the autopsy, identify the body and witness the
23 autopsy." (G.J. Transcript page 15, lines 2-3)

24
25 Dr. Olson's function was "strictly that of an observer since I am not licensed to practice
26 medicine in the Philippines and performing an autopsy is in fact the practice of medicine. So my
27 presence was strictly that of an observer at the examination." (G.J. Transcript, page 26, lines 9-14)
28

1 These are the only two witnesses presented to the Grand Jury hearing the evidence to indict
2 Lakeman for murder. Neither of these witnesses testified as to any facts supporting an indictment
3 for directly committing the act, aiding or abetting others in the commission of those acts, conspiring
4 with others to commit the acts.

5 In fact, no evidence was presented to this Grand Jury at this date, time and place as to
6 aiding or abetting or conspiracy. The State attempted to get around this hurdle by instructing the
7 Grand Jury as follows:

8 "Again, Exhibit 3 is the disc you received or the information thereon related to all the
9 transcripts of the prior presentations as well as exhibits. I know you've individually been canvassed
10 on this but I just want to make sure there's no questions related to that evidence that you're using in
11 this particular case or any question regarding the law so far that it has been provided to you with
12 regard to this charge, the murder charge. Any questions? (G.J. Transcript, page 58, lines 15-23)

13 A JURROR: My question is I just wanted clarification, if we're not supposed to
14 tie in what we know from previous testimony and exhibits and—

15 MR. STAUDAHER: Go ahead, finish your question.

16 A JURROR: To use that information that we previously heard into tying it into—

17 A JURROR: Charges.

18 A JURROR: -- charge of second degree murder. Do we use that information or
19 we do not?

20 MR. STAUDAHER: Let me make sure we're clear on this. The reason that those
21 exhibits and that prior testimony were provided to you and that you had to go
22 through then was so you—for example, the deceased in this case you heard
23 testimony from. He's not coming in to give you testimony, nor could he because
24 he's no longer with us. So, yes you do take into account the evidence that was
25 presented, the exhibits, the testimony from that prior case. Because the reason that
26 you are all constituted here as the original Grand Jury and had previously received
27 all that information is to avoid having to re-present the entirety of all of that
28 matter to a new Grand jury. So yes, you are to take into consideration everything
that was on that disk which includes all of the prior transcripts, all of the prior

1 exhibits, everything that went into your decisions in the prior case. But this is a
2 separate charge.

3 (G.J. Transcript, pages 59-60)

4 NRS 172.135 provides, in part,

- 5 1. In the investigation of a charge, for the purpose of either presentment or
6 indictment, the grand jury can receive no other evidence than such as is given
7 by witnesses produced and sworn before them or furnished by legal
8 documentary evidence or by deposition of witnesses taken as provided in this
9 title.....
- 10 2. The grand jury can receive none but legal evidence, and the best evidence in
11 degree, to the exclusion of hearsay or secondary evidence.

12 The instruction by Mr. Staudaher that the grand jury consider the testimony of Mr. Meana even
13 though it was hearsay was improper and violative of NRS 172.135(2).

14 The State did not instruct the Grand Jury on the essential element of the second-degree
15 felony murder and felonious intent offense as it related to Defendant Lakeman. They did not
16 instruct the Grand Jury on the "direct-and-immediate causal relationship" element as it related to
17 Defendant Lakeman. (NRS 172.095(2))

18 As this court ruled in Ramirez, second degree felony murder instructions must address
19 both the inherently dangerous felony element and the immediate and-direct-causal-relationship
20 element. 235 P.3d at 622.

21 The State gave the following instruction to the Grand Jury:

22 You're here to determine whether or not second degree murder, because that's
23 what were proceeding on, not first degree murder, but second degree murder, and
24 the different theories under that that we brought forth to you, whether or not they
25 apply in this particular case. Now you have previously found related to this
26 victim, because you returned a true bill as to both the criminal neglect of patient
27 charge as well as performance of an act in reckless disregard, you have to make a
28 determination under one scenario whether or not those are dangerous felonies.
Did they result in harm or death to someone? The other aspect of it is based on
all the information you have, were the actions of the individuals either directly,

1 or by aiding and abetting each other, or by conspiring, reckless indifference to
2 human life, that kind of thing, and that's what you're here to decide.

3 G.J., Transcript, pages 60-61.

4 The above instruction is an incorrect and incomplete statement of the second degree felony
5 murder elements. After giving the above instruction, one of the jurors questioned the State.

6 A JUROR: That would mean those three people, even if one of those persons
7 wasn't involved – how can I say it? Because this is the question Anne had. One
8 of those people weren't involved [Lakeman] in the procedure on that day on Mr.
Rodolfo – sorry, excuse me Go ahead, do you think –

9 MR. STAUDAHER: In order for you to – remember there's three theories of
10 criminal liability that are involved here: Directly committing the act, aiding or
11 abetting others in the commission of those acts, conspiring with others to commit
12 those acts. If you find – you don't have to find all three. You don't have to find a
13 particular one. But if you find that all three individuals are involved or liable
14 under one of those three theories of criminal liability, some may be more than
one, but you have to find that at least they are involved under one of those three
theories of criminal liability in order for you to come back with a finding with
regard to murder as to each individual.

15 G.J., Transcript, pages. 61-62

16 The State failed to instruct the jurors as to the direct and immediate-casual-relationship
17 element. The State's instruction misstated the essential elements of the second degree felony murder
18 and felonious intent murder.
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20 On or about June 2010, this Grand Jury returned a 28 count indictment against Lakeman and
21 two other defendants. That Grand Jury was subsequently discharged.

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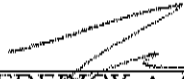
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VI. CONCLUSION

Based upon the foregoing, Petitioner's fundamental right to substantive and procedural due process as well as his right to fair notice was violated. Petitioner therefore respectfully requests this Court to dismiss the second degree murder charge.

Dated this 27th Day of March, 2013.


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Attorney for Petitioner

(Attachment A)

- Dated this 27th Day of March, 2013.

- 13 -

(Attachment B)

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Mr. Davis

Melissa Davis

EXHIBIT “1”

1 **AIND**

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565

5 MICHAEL V. STAUDAHER
6 Chief Deputy District Attorney
7 Nevada Bar #008273
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

12
13 DISTRICT COURT
14 CLARK COUNTY, NEVADA
15

16 THE STATE OF NEVADA,

17 Plaintiff,

18 -vs-

19 DIPAK KANTILAL DESAI,
20 #1240942
21 RONALD ERNEST LAKEMAN,
22 #2753504

23 Defendant(s).

CASE NO: 10C265107-2

DEPT NO: XXI

24 **THIRD AMENDED**
25 **INDICTMENT**

26 STATE OF NEVADA }
27 COUNTY OF CLARK } ss.

28 The Defendant(s) above named, DIPAK KANTILAL DESAI and RONALD ERNEST LAKEMAN accused by the Clark County Grand Jury of the crime(s) of **INSURANCE FRAUD (Category D Felony - NRS 686A.2815); PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS OR PROPERTY RESULTING IN SUBSTANTIAL BODILY HARM (Category C Felony - NRS 0.060, 202.595); CRIMINAL NEGLECT OF PATIENTS RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony - NRS 0.060, 200.495); THEFT (Category B Felony - NRS 205.0832, 205.0835); OBTAINING MONEY UNDER FALSE PRETENSES (Category B Felony - NRS 205.265, 205.380) and MURDER (SECOND DEGREE) (Category A Felony - NRS 200.010, 200.020, 200.030, 200.070, 202.595, 200.495), committed at and**

1 within the County of Clark, State of Nevada, on or between June 3, 2005, and April 27,
2 2012, as follows:

3 COUNT 1 - INSURANCE FRAUD

4 Defendants and KEITH MATHAHS did on or about July 25, 2007, knowingly and
5 willfully present, or cause to be presented a statement as a part of, or in support of, a claim
6 for payment or other benefits under a policy of insurance issued pursuant to Title 57 of the
7 Nevada Revised Statutes, knowing that the statement concealed or omitted facts, or
8 contained false or misleading information concerning a fact material to said claim; and/or
9 did assist, abet, solicit or conspire to present or cause to be presented a statement to an
10 insurer, a reinsurer, a producer, a broker or any agent thereof, knowing that said statement
11 concealed or omitted facts, or did contain false or misleading information concerning a fact
12 material to a claim for payment or other benefits under such policy issued pursuant to Title
13 57 of the Nevada Revised Statutes, by falsely representing to ANTHEM BLUE CROSS –
14 BLUE SHIELD that the billed anesthesia time and/or charges for the endoscopic procedure
15 performed on SHARRIEFF ZIYAD were more than the actual anesthetic time and/or
16 charges, said false representation resulting in the payment of money to the Defendants and
17 KEITH MATHAHS and/or their medical practice and/or the racketeering enterprise which
18 exceeded that which would have normally been allowed for said procedure; Defendants and
19 KEITH MATHAHS being responsible under one or more of the following principles of
20 criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting
21 each other in the commission of the crime by directly or indirectly counseling, encouraging,
22 hiring, commanding, inducing, or procuring each other, and/or others to commit said acts,
23 Defendants and KEITH MATHAHS acting with the intent to commit said crime, and/or (3)
24 pursuant to a conspiracy to commit this crime.

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1 COUNT 3 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
2 OR PROPERTY RESULTING IN SUBSTANTIAL BODILY HARM

3 Defendants and KEITH MATHAHS did on or about July 25, 2007, then and there
4 willfully and unlawfully perform acts in willful or wanton disregard of the safety of persons
5 or property resulting in substantial bodily harm to MICHAEL WASHINGTON, to wit:
6 transmitting the Hepatitis C virus to MICHAEL WASHINGTON, in the following manner,
7 to wit: by directly or indirectly using and/or introducing contaminated medical instruments,
8 supplies, and/or drugs upon or into the body of MICHAEL WASHINGTON which were
9 contaminated with the Hepatitis C virus; Defendants and KEITH MATHAHS being
10 responsible under one or more of the following principles of criminal liability, to wit: (1) by
11 directly committing said acts; and/or (2) aiding or abetting each other in the commission of
12 the crime by directly or indirectly counseling, encouraging, hiring, commanding, inducing,
13 or procuring each other, and/or others to utilize a patient care delivery system which directly
14 or indirectly limited the use of medical instruments, and/or supplies, and/or drugs; scheduled
15 and/or treated an unreasonable number of patients per day, and/or rushed patients or patient
16 procedures, Defendants and KEITH MATHAHS acting with the intent to commit said crime
17 in order to fraudulently increase the insurance billing and/or money reimbursement for the
18 medical procedure performed on the said MICHAEL WASHINGTON; specifically, as to
19 DEFENDANT DESAI, that he directly or indirectly both instructed DEFENDANT
20 LAKEMAN, and KEITH MATHAHS and said others to perform said acts and created a
21 work environment where DEFENDANT LAKEMAN, and KEITH MATHAHS and others
22 were pressured to commit the said acts described above; specifically, as to DEFENDANT
23 LAKEMAN, engaging in conduct against universally accepted standards of medical care,
24 that he limited the use of medical supplies, and/or drugs and rushed patients, and/or patient
25 procedures which in turn allowed DEFENDANT DESAI to directly or indirectly treat and/or
26 perform an unreasonable number of patient procedures in a single day all at the expense of
27 patient safety and well being, and which resulted in substandard care and jeopardized the
28 safety of MICHAEL WASHINGTON and/or (3) pursuant to a conspiracy to commit this

1 crime, Defendants and KEITH MATHAHS acting in concert throughout.

2 COUNT 4 - CRIMINAL NEGLECT OF PATIENTS RESULTING IN SUBSTANTIAL
3 BODILY HARM

4 Defendants and KEITH MATHAHS on or about July 25, 2007, being professional
5 caretakers of MICHAEL WASHINGTON, did act or omit to act in an aggravated, reckless
6 or gross manner, failing to provide such service, care or supervision as is reasonable and
7 necessary to maintain the health or safety of said MICHAEL WASHINGTON, resulting in
8 substantial bodily harm to MICHAEL WASHINGTON, to wit: transmitting the Hepatitis C
9 virus to MICHAEL WASHINGTON, said acts or omissions being such a departure from
10 what would be the conduct of an ordinarily prudent, careful person under the same
11 circumstances that it is contrary to a proper regard for danger to human life or constitutes
12 indifference to the resulting consequences, said consequences of the negligent act or
13 omission being reasonably foreseeable; said danger to human life not being the result of
14 inattention, mistaken judgment or misadventure, but the natural and probable result of said
15 aggravated reckless or grossly negligent act or omission, to wit: by directly or indirectly
16 using and/or introducing contaminated medical instruments, supplies, and/or drugs upon or
17 into the body of MICHAEL WASHINGTON which were contaminated with the Hepatitis C
18 virus; Defendants and KEITH MATHAHS being responsible under one or more of the
19 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
20 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
21 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
22 others to utilize a patient care delivery system which directly or indirectly limited the use of
23 medical instruments, and/or supplies, and/or drugs; scheduled and/or treated an unreasonable
24 number of patients per day, and/or rushed patients or patient procedures, Defendants and
25 KEITH MATHAHS acting with the intent to commit said crime in order to fraudulently
26 increase the insurance billing and/or money reimbursement for the medical procedure
27 performed on the said MICHAEL WASHINGTON; specifically, as to DEFENDANT
28 DESAI, that he directly or indirectly both instructed DEFENDANT LAKEMAN, and

1 KEITH MATHAHS and said others to perform said acts and created a work environment
2 where DEFENDANT LAKEMAN, and KEITH MATHAHS and others were pressured to
3 commit the said acts described above; specifically, as to DEFENDANT LAKEMAN,
4 engaging in conduct against universally accepted standards of medical care, that he limited
5 the use of medical supplies, and/or drugs and rushed patients, and/or patient procedures
6 which in turn allowed DEFENDANT DESAI to directly or indirectly treat and/or perform an
7 unreasonable number of patient procedures in a single day all at the expense of patient safety
8 and well being, and which resulted in substandard care and jeopardized the safety of
9 MICHAEL WASHINGTON and/or (3) pursuant to a conspiracy to commit this crime,
10 Defendants and KEITH MATHAHS acting in concert throughout.

11 COUNT 5 - INSURANCE FRAUD

12 Defendants and KEITH MATHAHS did on or about July 25, 2007, knowingly and
13 willfully present, or cause to be presented a statement as a part of, or in support of, a claim
14 for payment or other benefits under a policy of insurance issued pursuant to Title 57 of the
15 Nevada Revised Statutes, knowing that the statement concealed or omitted facts, or
16 contained false or misleading information concerning a fact material to said claim; and/or
17 did assist, abet, solicit or conspire to present or cause to be presented a statement to an
18 insurer, a reinsurer, a producer, a broker or any agent thereof, knowing that said statement
19 concealed or omitted facts, or did contain false or misleading information concerning a fact
20 material to a claim for payment or other benefits under such policy issued pursuant to Title
21 57 of the Nevada Revised Statutes, by falsely representing to VETERANS
22 ADMINISTRATION that the billed anesthesia time and/or charges for the endoscopic
23 procedure performed on MICHAEL WASHINGTON were more than the actual anesthetic
24 time and/or charges, said false representation resulting in the payment of money to
25 Defendants and KEITH MATHAHS and/or their medical practice and/or the racketeering
26 enterprise which exceeded that which would have normally been allowed for said procedure;
27 Defendants and KEITH MATHAHS being responsible under one or more of the following
28 principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding

1 or abetting each other in the commission of the crime by directly or indirectly counseling,
2 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to
3 commit said acts, Defendants and KEITH MATHAHS acting with the intent to commit said
4 crime, and/or (3) pursuant to a conspiracy to commit this crime.

5 COUNT 6 - INSURANCE FRAUD

6 Defendants and KEITH MATHAHS did on or about September 21, 2007, knowingly
7 and willfully present, or cause to be presented a statement as a part of, or in support of, a
8 claim for payment or other benefits under a policy of insurance issued pursuant to Title 57 of
9 the Nevada Revised Statutes, knowing that the statement concealed or omitted facts, or
10 contained false or misleading information concerning a fact material to said claim; and/or
11 did assist, abet, solicit or conspire to present or cause to be presented a statement to an
12 insurer, a reinsurer, a producer, a broker or any agent thereof, knowing that said statement
13 concealed or omitted facts, or did contain false or misleading information concerning a fact
14 material to a claim for payment or other benefits under such policy issued pursuant to Title
15 57 of the Nevada Revised Statutes, by falsely representing to ANTHEM BLUE CROSS
16 AND BLUE SHIELD that the billed anesthesia time and/or charges for the endoscopic
17 procedure performed on KENNETH RUBINO were more than the actual anesthetic time
18 and/or charges, said false representation resulting in the payment of money to Defendants
19 and KEITH MATHAHS and/or their medical practice and/or the racketeering enterprise
20 which exceeded that which would have normally been allowed for said procedure;
21 Defendants and KEITH MATHAHS being responsible under one or more of the following
22 principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding
23 or abetting each other in the commission of the crime by directly or indirectly counseling,
24 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to
25 commit said acts, Defendants and KEITH MATHAHS acting with the intent to commit said
26 crime, and/or (3) pursuant to a conspiracy to commit this crime.

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1 COUNT 7 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
2 OR PROPERTY RESULTING IN SUBSTANTIAL BODILY HARM

3 Defendants and KEITH MATHAHS did on or about September 21, 2007, then and
4 there willfully and unlawfully perform acts in willful or wanton disregard of the safety of
5 persons or property resulting in substantial bodily harm to STACY HUTCHINSON, to wit:
6 transmitting the Hepatitis C virus to STACY HUTCHINSON, in the following manner, to
7 wit: by directly or indirectly using and/or introducing contaminated medical instruments,
8 supplies, and/or drugs upon or into the body of STACY HUTCHINSON which were
9 contaminated with the Hepatitis C virus; Defendants and KEITH MATHAHS being
10 responsible under one or more of the following principles of criminal liability, to wit: (1) by
11 directly committing said acts; and/or (2) aiding or abetting each other in the commission of
12 the crime by directly or indirectly counseling, encouraging, hiring, commanding, inducing,
13 or procuring each other, and/or others to utilize a patient care delivery system which directly
14 or indirectly limited the use of medical instruments, and/or supplies, and/or drugs; scheduled
15 and/or treated an unreasonable number of patients per day, and/or rushed patients or patient
16 procedures, Defendants and KEITH MATHAHS acting with the intent to commit said crime
17 in order to fraudulently increase the insurance billing and/or money reimbursement for the
18 medical procedure performed on the said STACY HUTCHINSON; specifically, as to
19 DEFENDANT DESAI, that he directly or indirectly both instructed DEFENDANT
20 LAKEMAN, and KEITH MATHAHS and said others to perform said acts and created a
21 work environment where DEFENDANT LAKEMAN, and KEITH MATHAHS and others
22 were pressured to commit the said acts described above; specifically, as to DEFENDANT
23 LAKEMAN, engaging in conduct against universally accepted standards of medical care,
24 that he limited the use of medical supplies, and/or drugs and rushed patients, and/or patient
25 procedures which in turn allowed DEFENDANT DESAI to directly or indirectly treat and/or
26 perform an unreasonable number of patient procedures in a single day all at the expense of
27 patient safety and well being, and which resulted in substandard care and jeopardized the
28 safety of STACY HUTCHINSON and/or (3) pursuant to a conspiracy to commit this crime,

1 Defendants and KEITH MATHAHS acting in concert throughout.

2 COUNT 8 - CRIMINAL NEGLECT OF PATIENTS RESULTING IN SUBSTANTIAL
3 BODILY HARM

4 Defendants and KEITH MATHAHS on or about September 21, 2007, being
5 professional caretakers of STACY HUTCHINSON, did act or omit to act in an aggravated,
6 reckless or gross manner, failing to provide such service, care or supervision as is reasonable
7 and necessary to maintain the health or safety of said STACY HUTCHINSON, resulting in
8 substantial bodily harm to STACY HUTCHINSON, to wit: transmitting the Hepatitis C
9 virus to STACY HUTCHINSON, said acts or omissions being such a departure from what
10 would be the conduct of an ordinarily prudent, careful person under the same circumstances
11 that it is contrary to a proper regard for danger to human life or constitutes indifference to
12 the resulting consequences, said consequences of the negligent act or omission being
13 reasonably foreseeable; said danger to human life not being the result of inattention,
14 mistaken judgment or misadventure, but the natural and probable result of said aggravated
15 reckless or grossly negligent act or omission, to wit: by directly or indirectly using and/or
16 introducing contaminated medical instruments, supplies, and/or drugs upon or into the body
17 of STACY HUTCHINSON which were contaminated with the Hepatitis C virus; Defendants
18 and KEITH MATHAHS being responsible under one or more of the following principles of
19 criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting
20 each other in the commission of the crime by directly or indirectly counseling, encouraging,
21 hiring, commanding, inducing, or procuring each other, and/or others to utilize a patient care
22 delivery system which directly or indirectly limited the use of medical instruments, and/or
23 supplies, and/or drugs; scheduled and/or treated an unreasonable number of patients per day,
24 and/or rushed patients or patient procedures, Defendants and KEITH MATHAHS acting
25 with the intent to commit said crime in order to fraudulently increase the insurance billing
26 and/or money reimbursement for the medical procedure performed on the said STACY
27 HUTCHINSON; specifically, as to DEFENDANT DESAI, that he directly or indirectly both
28 instructed DEFENDANT LAKEMAN, and KEITH MATHAHS and said others to perform

1 said acts and created a work environment where DEFENDANT LAKEMAN, and KEITH
2 MATHAHS and others were pressured to commit the said acts described above; specifically,
3 as to DEFENDANT LAKEMAN, engaging in conduct against universally accepted
4 standards of medical care, that he limited the use of medical supplies, and/or drugs and
5 rushed patients, and/or patient procedures which in turn allowed DEFENDANT DESAI to
6 directly or indirectly treat and/or perform an unreasonable number of patient procedures in a
7 single day all at the expense of patient safety and well being, and which resulted in
8 substandard care and jeopardized the safety of STACY HUTCHINSON and/or (3) pursuant
9 to a conspiracy to commit this crime, Defendants and KEITH MATHAHS acting in concert
10 throughout.

11 COUNT 9 - INSURANCE FRAUD

12 Defendants and KEITH MATHAHS did on or about September 21, 2007, knowingly
13 and willfully present, or cause to be presented a statement as a part of, or in support of, a
14 claim for payment or other benefits under a policy of insurance issued pursuant to Title 57 of
15 the Nevada Revised Statutes, knowing that the statement concealed or omitted facts, or
16 contained false or misleading information concerning a fact material to said claim; and/or
17 did assist, abet, solicit or conspire to present or cause to be presented a statement to an
18 insurer, a reinsurer, a producer, a broker or any agent thereof, knowing that said statement
19 concealed or omitted facts, or did contain false or misleading information concerning a fact
20 material to a claim for payment or other benefits under such policy issued pursuant to Title
21 57 of the Nevada Revised Statutes, by falsely representing to HEALTH PLAN OF
22 NEVADA that the billed anesthesia time and/or charges for the endoscopic procedure
23 performed on STACY HUTCHINSON were more than the actual anesthetic time and/or
24 charges, said false representation resulting in the payment of money to Defendants and
25 KEITH MATHAHS and/or their medical practice and/or the racketeering enterprise which
26 exceeded that which would have normally been allowed for said procedure; Defendants and
27 KEITH MATHAHS being responsible under one or more of the following principles of
28 criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting

1 each other in the commission of the crime by directly or indirectly counseling, encouraging,
2 hiring, commanding, inducing, or procuring each other, and/or others to commit said acts,
3 Defendants and KEITH MATHAHS acting with the intent to commit said crime, and/or (3)
4 pursuant to a conspiracy to commit this crime.

5 COUNT 10 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
6 OR PROPERTY RESULTING IN SUBSTANTIAL BODILY HARM

7 Defendants and KEITH MATHAHS did on or about September 21, 2007, then and
8 there willfully and unlawfully perform acts in willful or wanton disregard of the safety of
9 persons or property resulting in substantial bodily harm to RUDOLFO MEANA, to wit:
10 transmitting the Hepatitis C virus to RUDOLFO MEANA, in the following manner, to wit:
11 by directly or indirectly using and/or introducing contaminated medical instruments,
12 supplies, and/or drugs upon or into the body of RUDOLFO MEANA which were
13 contaminated with the Hepatitis C virus; Defendants and KEITH MATHAHS being
14 responsible under one or more of the following principles of criminal liability, to wit: (1) by
15 directly committing said acts; and/or (2) aiding or abetting each other in the commission of
16 the crime by directly or indirectly counseling, encouraging, hiring, commanding, inducing,
17 or procuring each other, and/or others to utilize a patient care delivery system which directly
18 or indirectly limited the use of medical instruments, and/or supplies, and/or drugs; scheduled
19 and/or treated an unreasonable number of patients per day, and/or rushed patients or patient
20 procedures, Defendants and KEITH MATHAHS acting with the intent to commit said crime
21 in order to fraudulently increase the insurance billing and/or money reimbursement for the
22 medical procedure performed on the said RUDOLFO MEANA; specifically, as to
23 DEFENDANT DESAI, that he directly or indirectly both instructed DEFENDANT
24 LAKEMAN, and KEITH MATHAHS and said others to perform said acts and created a
25 work environment where DEFENDANT LAKEMAN, and KEITH MATHAHS and others
26 were pressured to commit the said acts described above; specifically, as to DEFENDANT
27 LAKEMAN, engaging in conduct against universally accepted standards of medical care,
28 that he obtained the medical supplies, and/or drugs utilized in the treatment of KENNETH

1 RUBINO and RODOLFO MEANA which were subsequently contaminated with the
2 Hepatitis C virus and thereafter directly or indirectly shared, exchanged or transferred said
3 contaminated medical supplies, and/or drugs between himself and KEITH MATHAHS
4 and/or between treatment rooms before, during or after the endoscopic procedure performed
5 on KENNETH RUBINO which resulted in the transmission of the Hepatitis C virus into the
6 body of RODOLFO MEANA and others and/or (3) pursuant to a conspiracy to commit this
7 crime, Defendants and KEITH MATHAHS acting in concert throughout.

8 COUNT 11 - CRIMINAL NEGLECT OF PATIENTS RESULTING IN SUBSTANTIAL
9 BODILY HARM

10 Defendants and KEITH MATHAHS on or about September 21, 2007, being
11 professional caretakers of RUDOLFO MEANA, did act or omit to act in an aggravated,
12 reckless or gross manner, failing to provide such service, care or supervision as is reasonable
13 and necessary to maintain the health or safety of said RUDOLFO MEANA, resulting in
14 substantial bodily harm to RUDOLFO MEANA, to wit: transmitting the Hepatitis C virus to
15 RUDOLFO MEANA, said acts or omissions being such a departure from what would be the
16 conduct of an ordinarily prudent, careful person under the same circumstances that it is
17 contrary to a proper regard for danger to human life or constitutes indifference to the
18 resulting consequences, said consequences of the negligent act or omission being reasonably
19 foreseeable; said danger to human life not being the result of inattention, mistaken judgment
20 or misadventure, but the natural and probable result of said aggravated reckless or grossly
21 negligent act or omission, to wit: by directly or indirectly using and/or introducing
22 contaminated medical instruments, supplies, and/or drugs upon or into the body of
23 RUDOLFO MEANA which were contaminated with the Hepatitis C virus; Defendants and
24 KEITH MATHAHS being responsible under one or more of the following principles of
25 criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting
26 each other in the commission of the crime by directly or indirectly counseling, encouraging,
27 hiring, commanding, inducing, or procuring each other, and/or others to utilize a patient care
28 delivery system which directly or indirectly limited the use of medical instruments, and/or

1 supplies, and/or drugs; scheduled and/or treated an unreasonable number of patients per day,
2 and/or rushed patients or patient procedures, Defendants and KEITH MATHAHS acting
3 with the intent to commit said crime in order to fraudulently increase the insurance billing
4 and/or money reimbursement for the medical procedure performed on the said RUDOLFO
5 MEANA; specifically, as to DEFENDANT DESAI, that he directly or indirectly both
6 instructed DEFENDANT LAKEMAN, and KEITH MATHAHS and said others to perform
7 said acts and created a work environment where DEFENDANT LAKEMAN, and KEITH
8 MATHAHS and others were pressured to commit the said acts described above; specifically,
9 as to DEFENDANT LAKEMAN, engaging in conduct against universally accepted
10 standards of medical care, that he obtained the medical supplies, and/or drugs utilized in the
11 treatment of KENNETH RUBINO and RODOLFO MEANA which were subsequently
12 contaminated with the Hepatitis C virus and thereafter directly or indirectly shared,
13 exchanged or transferred said contaminated medical supplies, and/or drugs between himself
14 and KEITH MATHAHS and/or between treatment rooms before, during or after the
15 endoscopic procedure performed on KENNETH RUBINO which resulted in the
16 transmission of the Hepatitis C virus into the body of RODOLFO MEANA and others and/or
17 (3) pursuant to a conspiracy to commit this crime, Defendants and KEITH MATHAHS
18 acting in concert throughout.

19 COUNT 12 - INSURANCE FRAUD

20 Defendants and KEITH MATHAHS did on or about September 21, 2007, knowingly
21 and willfully present, or cause to be presented a statement as a part of, or in support of, a
22 claim for payment or other benefits under a policy of insurance issued pursuant to Title 57 of
23 the Nevada Revised Statutes, knowing that the statement concealed or omitted facts, or
24 contained false or misleading information concerning a fact material to said claim; and/or
25 did assist, abet, solicit or conspire to present or cause to be presented a statement to an
26 insurer, a reinsurer, a producer, a broker or any agent thereof, knowing that said statement
27 concealed or omitted facts, or did contain false or misleading information concerning a fact
28 material to a claim for payment or other benefits under such policy issued pursuant to Title

1 57 of the Nevada Revised Statutes, by falsely representing to SECURE HORIZONS and/or
2 PACIFICARE that the billed anesthesia time and/or charges for the endoscopic procedure
3 performed on RUDOLFO MEANA were more than the actual anesthetic time and/or
4 charges, said false representation resulting in the payment of money to Defendants and
5 KEITH MATHAHS and/or their medical practice and/or the racketeering enterprise which
6 exceeded that which would have normally been allowed for said procedure; Defendants and
7 KEITH MATHAHS being responsible under one or more of the following principles of
8 criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting
9 each other in the commission of the crime by directly or indirectly counseling, encouraging,
10 hiring, commanding, inducing, or procuring each other, and/or others to commit said acts,
11 Defendants and KEITH MATHAHS acting with the intent to commit said crime, and/or (3)
12 pursuant to a conspiracy to commit this crime.

13 COUNT 13 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
14 OR PROPERTY RESULTING IN SUBSTANTIAL BODILY HARM

15 Defendants and KEITH MATHAHS did on or about September 21, 2007, then and
16 there willfully and unlawfully perform acts in willful or wanton disregard of the safety of
17 persons or property resulting in substantial bodily harm to PATTY ASPINWALL, to wit:
18 transmitting the Hepatitis C virus to PATTY ASPINWALL, in the following manner, to wit:
19 (1) by directly committing said acts; and/or (2) aiding or abetting each other in the
20 commission of the crime by directly or indirectly counseling, encouraging, hiring,
21 commanding, inducing, or procuring each other, and/or others to utilize a patient care
22 delivery system which directly or indirectly limited the use of medical instruments, and/or
23 supplies, and/or drugs; scheduled and/or treated an unreasonable number of patients per day,
24 and/or rushed patients or patient procedures, Defendants and KEITH MATHAHS acting
25 with the intent to commit said crime in order to fraudulently increase the insurance billing
26 and/or money reimbursement for the medical procedure performed on the said PATTY
27 ASPINWALL; specifically, as to DEFENDANT DESAI, that he directly or indirectly both
28 instructed DEFENDANT LAKEMAN, and KEITH MATHAHS and said others to perform

1 said acts and created a work environment where DEFENDANT LAKEMAN, KEITH
2 MATHAHS and others were pressured to commit the said acts described above; specifically,
3 as to DEFENDANT LAKEMAN, engaging in conduct against universally accepted
4 standards of medical care, that he limited the use of medical supplies, and/or drugs and
5 rushed patients, and/or patient procedures which in turn allowed DEFENDANT DESAI to
6 directly or indirectly treat and/or perform an unreasonable number of patient procedures in a
7 single day all at the expense of patient safety and well being, and which resulted in
8 substandard care and jeopardized the safety of PATTY ASPINWALL and/or (3) pursuant to
9 a conspiracy to commit this crime, Defendants and KEITH MATHAHS acting in concert
10 throughout.

11 COUNT 14 - CRIMINAL NEGLECT OF PATIENTS RESULTING IN SUBSTANTIAL
12 BODILY HARM

13 Defendants and KEITH MATHAHS on or about September 21, 2007, being
14 professional caretakers of PATTY ASPINWALL, did act or omit to act in an aggravated,
15 reckless or gross manner, failing to provide such service, care or supervision as is reasonable
16 and necessary to maintain the health or safety of said PATTY ASPINWALL, resulting in
17 substantial bodily harm to PATTY ASPINWALL, to wit: transmitting the Hepatitis C virus
18 to PATTY ASPINWALL, said acts or omissions being such a departure from what would be
19 the conduct of an ordinarily prudent, careful person under the same circumstances that it is
20 contrary to a proper regard for danger to human life or constitutes indifference to the
21 resulting consequences, said consequences of the negligent act or omission being reasonably
22 foreseeable; said danger to human life not being the result of inattention, mistaken judgment
23 or misadventure, but the natural and probable result of said aggravated reckless or grossly
24 negligent act or omission, to wit: (1) by directly committing said acts; and/or (2) aiding or
25 abetting each other in the commission of the crime by directly or indirectly counseling,
26 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to utilize
27 a patient care delivery system which directly or indirectly limited the use of medical
28 instruments, and/or supplies, and/or drugs; scheduled and/or treated an unreasonable number

1 of patients per day, and/or rushed patients or patient procedures, Defendants and KEITH
2 MATHAHS acting with the intent to commit said crime in order to fraudulently increase the
3 insurance billing and/or money reimbursement for the medical procedure performed on the
4 said PATTY ASPINWALL; specifically, as to DEFENDANT DESAI, that he directly or
5 indirectly both instructed DEFENDANT LAKEMAN, and KEITH MATHAHS and said
6 others to perform said acts and created a work environment where DEFENDANT
7 LAKEMAN, and KEITH MATHAHS and others were pressured to commit the said acts
8 described above; specifically, as to DEFENDANT LAKEMAN, engaging in conduct against
9 universally accepted standards of medical care, that he limited the use of medical supplies,
10 and/or drugs and rushed patients, and/or patient procedures which in turn allowed
11 DEFENDANT DESAI to directly or indirectly treat and/or perform an unreasonable number
12 of patient procedures in a single day all at the expense of patient safety and well being, and
13 which resulted in substandard care and jeopardized the safety of PATTY ASPINWALL
14 and/or (3) pursuant to a conspiracy to commit this crime, Defendants and KEITH
15 MATHAHS acting in concert throughout.

16 COUNT 15 - INSURANCE FRAUD

17 Defendants and KEITH MATHAHS did on or about September 21, 2007, knowingly
18 and willfully present, or cause to be presented a statement as a part of, or in support of, a
19 claim for payment or other benefits under a policy of insurance issued pursuant to Title 57 of
20 the Nevada Revised Statutes, knowing that the statement concealed or omitted facts, or
21 contained false or misleading information concerning a fact material to said claim; and/or
22 did assist, abet, solicit or conspire to present or cause to be presented a statement to an
23 insurer, a reinsurer, a producer, a broker or any agent thereof, knowing that said statement
24 concealed or omitted facts, or did contain false or misleading information concerning a fact
25 material to a claim for payment or other benefits under such policy issued pursuant to Title
26 57 of the Nevada Revised Statutes, by falsely representing to ANTHEM BLUE CROSS
27 AND BLUE SHIELD that the billed anesthesia time and/or charges for the endoscopic
28 procedure performed on PATTY ASPINWALL were more than the actual anesthetic time

1 and/or charges, said false representation resulting in the payment of money to Defendants
2 and KEITH MATHAHS and/or their medical practice and/or the racketeering enterprise
3 which exceeded that which would have normally been allowed for said procedure;
4 Defendants and KEITH MATHAHS being responsible under one or more of the following
5 principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding
6 or abetting each other in the commission of the crime by directly or indirectly counseling,
7 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to
8 commit said acts, Defendants and KEITH MATHAHS acting with the intent to commit said
9 crime, and/or (3) pursuant to a conspiracy to commit this crime.

10 COUNT 16 - INSURANCE FRAUD

11 Defendants and KEITH MATHAHS did on or about September 21, 2007, knowingly
12 and willfully present, or cause to be presented a statement as a part of, or in support of, a
13 claim for payment or other benefits under a policy of insurance issued pursuant to Title 57 of
14 the Nevada Revised Statutes, knowing that the statement concealed or omitted facts, or
15 contained false or misleading information concerning a fact material to said claim; and/or
16 did assist, abet, solicit or conspire to present or cause to be presented a statement to an
17 insurer, a reinsurer, a producer, a broker or any agent thereof, knowing that said statement
18 concealed or omitted facts, or did contain false or misleading information concerning a fact
19 material to a claim for payment or other benefits under such policy issued pursuant to Title
20 57 of the Nevada Revised Statutes, by falsely representing to UNITED HEALTH
21 SERVICES that the billed anesthesia time and/or charges for the endoscopic procedure
22 performed on PATTY ASPINWALL were more than the actual anesthetic time and/or
23 charges, said false representation resulting in the payment of money to Defendants and
24 KEITH MATHAHS and/or their medical practice and/or the racketeering enterprise which
25 exceeded that which would have normally been allowed for said procedure; Defendants and
26 KEITH MATHAHS being responsible under one or more of the following principles of
27 criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting
28 each other in the commission of the crime by directly or indirectly counseling, encouraging,

1 hiring, commanding, inducing, or procuring each other, and/or others to commit said acts,
2 Defendants and KEITH MATHAHS acting with the intent to commit said crime, and/or (3)
3 pursuant to a conspiracy to commit this crime.

4 COUNT 17 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
5 OR PROPERTY RESULTING IN SUBSTANTIAL BODILY HARM

6 Defendants and KEITH MATHAHS did on or about September 21, 2007, then and
7 there willfully and unlawfully perform acts in willful or wanton disregard of the safety of
8 persons or property resulting in substantial bodily harm to SONIA ORELLANA-RIVERA,
9 to wit: transmitting the Hepatitis C virus to SONIA ORELLANA-RIVERA, in the following
10 manner, to wit: by directly or indirectly using and/or introducing contaminated medical
11 instruments, supplies, and/or drugs upon or into the body of SONIA ORELLANA-RIVERA
12 which were contaminated with the Hepatitis C virus; Defendants and KEITH MATHAHS
13 being responsible under one or more of the following principles of criminal liability, to wit:
14 (1) by directly committing said acts; and/or (2) aiding or abetting each other in the
15 commission of the crime by directly or indirectly counseling, encouraging, hiring,
16 commanding, inducing, or procuring each other, and/or others to utilize a patient care
17 delivery system which directly or indirectly limited the use of medical instruments, and/or
18 supplies, and/or drugs; scheduled and/or treated an unreasonable number of patients per day,
19 and/or rushed patients or patient procedures, Defendants and KEITH MATHAHS acting
20 with the intent to commit said crime in order to fraudulently increase the insurance billing
21 and/or money reimbursement for the medical procedure performed on the said SONIA
22 ORELLANA-RIVERA; specifically, as to DEFENDANT DESAI, that he directly or
23 indirectly both instructed DEFENDANT LAKEMAN, and KEITH MATHAHS and said
24 others to perform said acts and created a work environment where DEFENDANT
25 LAKEMAN, and KEITH MATHAHS and others were pressured to commit the said acts
26 described above; specifically, as to DEFENDANT LAKEMAN, engaging in conduct against
27 universally accepted standards of medical care, that he obtained the medical supplies, and/or
28 drugs utilized in the treatment of KENNETH RUBINO and SONIA ORELLANA-RIVERA

1 which were subsequently contaminated with the Hepatitis C virus and thereafter directly or
2 indirectly shared, exchanged or transferred said contaminated medical supplies, and/or drugs
3 between himself and KEITH MATHAHS and/or between treatment rooms before, during or
4 after the endoscopic procedure performed on KENNETH RUBINO which resulted in the
5 transmission of the Hepatitis C virus into the body of SONIA ORELLANA-RIVERA and
6 others and/or (3) pursuant to a conspiracy to commit this crime, Defendants and KEITH
7 MATHAHS acting in concert throughout.

8 COUNT 18 - CRIMINAL NEGLECT OF PATIENTS RESULTING IN SUBSTANTIAL
9 BODILY HARM

10 Defendants and KEITH MATHAHS on or about September 21, 2007, being
11 professional caretakers of SONIA ORELLANA-RIVERA, did act or omit to act in an
12 aggravated, reckless or gross manner, failing to provide such service, care or supervision as
13 is reasonable and necessary to maintain the health or safety of said SONIA ORELLANA-
14 RIVERA, resulting in substantial bodily harm to SONIA ORELLANA-RIVERA, to wit:
15 transmitting the Hepatitis C virus to SONIA ORELLANA-RIVERA, said acts or omissions
16 being such a departure from what would be the conduct of an ordinarily prudent, careful
17 person under the same circumstances that it is contrary to a proper regard for danger to
18 human life or constitutes indifference to the resulting consequences, said consequences of
19 the negligent act or omission being reasonably foreseeable; said danger to human life not
20 being the result of inattention, mistaken judgment or misadventure, but the natural and
21 probable result of said aggravated reckless or grossly negligent act or omission, to wit: by
22 directly or indirectly using and/or introducing contaminated medical instruments, supplies,
23 and/or drugs upon or into the body of SONIA ORELLANA-RIVERA which were
24 contaminated with the Hepatitis C virus; Defendants and KEITH MATHAHS being
25 responsible under one or more of the following principles of criminal liability, to wit: (1) by
26 directly committing said acts; and/or (2) aiding or abetting each other in the commission of
27 the crime by directly or indirectly counseling, encouraging, hiring, commanding, inducing,
28 or procuring each other, and/or others to utilize a patient care delivery system which directly

1 or indirectly limited the use of medical instruments, and/or supplies, and/or drugs; scheduled
2 and/or treated an unreasonable number of patients per day, and/or rushed patients or patient
3 procedures, Defendants and KEITH MATHAHS acting with the intent to commit said crime
4 in order to fraudulently increase the insurance billing and/or money reimbursement for the
5 medical procedure performed on the said SONIA ORELLANA-RIVERA; specifically, as to
6 DEFENDANT DESAI, that he directly or indirectly both instructed DEFENDANT
7 LAKEMAN, and KEITH MATHAHS and said others to perform said acts and created a
8 work environment where DEFENDANT LAKEMAN, and KEITH MATHAHS and others
9 were pressured to commit the said acts described above; specifically, as to DEFENDANT
10 LAKEMAN, engaging in conduct against universally accepted standards of medical care,
11 that he obtained the medical supplies, and/or drugs utilized in the treatment of KENNETH
12 RUBINO AND SONIA ORELLANA-RIVERA which were subsequently contaminated with
13 the Hepatitis C virus and thereafter directly or indirectly shared, exchanged or transferred
14 said contaminated medical supplies, and/or drugs between himself and KEITH MATHAHS
15 and/or between treatment rooms before, during or after the endoscopic procedure performed
16 on KENNETH RUBINO which resulted in the transmission of the Hepatitis C virus into the
17 body of SONIA ORELLANA-RIVERA and others and/or (3) pursuant to a conspiracy to
18 commit this crime, Defendants and KEITH MATHAHS acting in concert throughout.

19 COUNT 19 - INSURANCE FRAUD

20 Defendants and KEITH MATHAHS did on or about September 21, 2007, knowingly
21 and willfully present, or cause to be presented a statement as a part of, or in support of, a
22 claim for payment or other benefits under a policy of insurance issued pursuant to Title 57 of
23 the Nevada Revised Statutes, knowing that the statement concealed or omitted facts, or
24 contained false or misleading information concerning a fact material to said claim; and/or
25 did assist, abet, solicit or conspire to present or cause to be presented a statement to an
26 insurer, a reinsurer, a producer, a broker or any agent thereof, knowing that said statement
27 concealed or omitted facts, or did contain false or misleading information concerning a fact
28 material to a claim for payment or other benefits under such policy issued pursuant to Title

57 of the Nevada Revised Statutes, by falsely representing to CULINARY WORKERS HEALTH FUND that the billed anesthesia time and/or charges for the endoscopic procedure performed on SONIA ORELLANA-RIVERA were more than the actual anesthetic time and/or charges, said false representation resulting in the payment of money to Defendants and KEITH MATHAHS and/or their medical practice and/or the racketeering enterprise which exceeded that which would have normally been allowed for said procedure; Defendants and KEITH MATHAHS being responsible under one or more of the following principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting each other in the commission of the crime by directly or indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or others to commit said acts, Defendants and KEITH MATHAHS acting with the intent to commit said crime, and/or (3) pursuant to a conspiracy to commit this crime.

COUNT 20 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS OR PROPERTY RESULTING IN SUBSTANTIAL BODILY HARM

Defendants and KEITH MATHAHS did on or about September 21, 2007, then and there willfully and unlawfully perform acts in willful or wanton disregard of the safety of persons or property resulting in substantial bodily harm to CAROLE GRUESKIN, to wit: transmitting the Hepatitis C virus to CAROLE GRUESKIN, in the following manner, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting each other in the commission of the crime by directly or indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or others to utilize a patient care delivery system which directly or indirectly limited the use of medical instruments, and/or supplies, and/or drugs; scheduled and/or treated an unreasonable number of patients per day, and/or rushed patients or patient procedures, Defendants and KEITH MATHAHS acting with the intent to commit said crime in order to fraudulently increase the insurance billing and/or money reimbursement for the medical procedure performed on the said CAROLE GRUESKIN; specifically, as to DEFENDANT DESAI, that he directly or indirectly both instructed DEFENDANT LAKEMAN, and KEITH MATHAHS and said others to perform

1 said acts and created a work environment where DEFENDANT LAKEMAN, and KEITH
2 MATHAHS and others were pressured to commit the said acts described above; specifically,
3 as to DEFENDANT LAKEMAN, engaging in conduct against universally accepted
4 standards of medical care, that he limited the use of medical supplies, and/or drugs and
5 rushed patients, and/or patient procedures which in turn allowed DEFENDANT DESAI to
6 directly or indirectly treat and/or perform an unreasonable number of patient procedures in a
7 single day all at the expense of patient safety and well being, and which resulted in
8 substandard care and jeopardized the safety of CAROLE GRUESKIN and/or (3) pursuant to
9 a conspiracy to commit this crime, Defendants and KEITH MATHAHS acting in concert
10 throughout.

11 COUNT 21- CRIMINAL NEGLECT OF PATIENTS RESULTING IN SUBSTANTIAL
12 BODILY HARM

13 Defendants and KEITH MATHAHS on or about September 21, 2007, being
14 professional caretakers of CAROLE GRUESKIN, did act or omit to act in an aggravated,
15 reckless or gross manner, failing to provide such service, care or supervision as is reasonable
16 and necessary to maintain the health or safety of said CAROLE GRUESKIN, resulting in
17 substantial bodily harm to CAROLE GRUESKIN, to wit: transmitting the Hepatitis C virus
18 to CAROLE GRUESKIN, said acts or omissions being such a departure from what would be
19 the conduct of an ordinarily prudent, careful person under the same circumstances that it is
20 contrary to a proper regard for danger to human life or constitutes indifference to the
21 resulting consequences, said consequences of the negligent act or omission being reasonably
22 foreseeable; said danger to human life not being the result of inattention, mistaken judgment
23 or misadventure, but the natural and probable result of said aggravated reckless or grossly
24 negligent act or omission, to wit: (1) by directly committing said acts; and/or (2) aiding or
25 abetting each other in the commission of the crime by directly or indirectly counseling,
26 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to utilize
27 a patient care delivery system which directly or indirectly limited the use of medical
28 instruments, and/or supplies, and/or drugs; scheduled and/or treated an unreasonable number

1 of patients per day, and/or rushed patients or patient procedures, Defendants and KEITH
2 MATHAHS acting with the intent to commit said crime in order to fraudulently increase the
3 insurance billing and/or money reimbursement for the medical procedure performed on the
4 said CAROLE GRUESKIN; specifically, as to DEFENDANT DESAI, that he directly or
5 indirectly both instructed DEFENDANT LAKEMAN, and KEITH MATHAHS and said
6 others to perform said acts and created a work environment where DEFENDANT
7 LAKEMAN, and KEITH MATHAHS and others were pressured to commit the said acts
8 described above; specifically, as to DEFENDANT LAKEMAN, engaging in conduct against
9 universally accepted standards of medical care, that he limited the use of medical supplies,
10 and/or drugs and rushed patients, and/or patient procedures which in turn allowed
11 DEFENDANT DESAI to directly or indirectly treat and/or perform an unreasonable number
12 of patient procedures in a single day all at the expense of patient safety and well being, and
13 which resulted in substandard care and jeopardized the safety of CAROLE GRUESKIN
14 and/or (3) pursuant to a conspiracy to commit this crime, Defendants and KEITH
15 MATHAHS acting in concert throughout.

16 COUNT 22 - INSURANCE FRAUD

17 Defendants and KEITH MATHAHS did on or about September 21, 2007, knowingly
18 and willfully present, or cause to be presented a statement as a part of, or in support of, a
19 claim for payment or other benefits under a policy of insurance issued pursuant to Title 57 of
20 the Nevada Revised Statutes, knowing that the statement concealed or omitted facts, or
21 contained false or misleading information concerning a fact material to said claim; and/or
22 did assist, abet, solicit or conspire to present or cause to be presented a statement to an
23 insurer, a reinsurer, a producer, a broker or any agent thereof, knowing that said statement
24 concealed or omitted facts, or did contain false or misleading information concerning a fact
25 material to a claim for payment or other benefits under such policy issued pursuant to Title
26 57 of the Nevada Revised Statutes, by falsely representing to HEALTH PLAN OF
27 NEVADA that the billed anesthesia time and/or charges for the endoscopic procedure
28 performed on CAROLE GRUESKIN were more than the actual anesthetic time and/or

1 charges, said false representation resulting in the payment of money to Defendants and
2 KEITH MATHAHS and/or their medical practice and/or the racketeering enterprise which
3 exceeded that which would have normally been allowed for said procedure; Defendants and
4 KEITH MATHAHS being responsible under one or more of the following principles of
5 criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting
6 each other in the commission of the crime by directly or indirectly counseling, encouraging,
7 hiring, commanding, inducing, or procuring each other, and/or others to commit said acts,
8 Defendants and KEITH MATHAHS acting with the intent to commit said crime, and/or (3)
9 pursuant to a conspiracy to commit this crime.

10 COUNT 23 - PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS
11 OR PROPERTY RESULTING IN SUBSTANTIAL BODILY HARM

12 Defendants and KEITH MATHAHS did on or about September 21, 2007, then and
13 there willfully and unlawfully perform acts in willful or wanton disregard of the safety of
14 persons or property resulting in substantial bodily harm to GWENDOLYN MARTIN, to wit:
15 transmitting the Hepatitis C virus to GWENDOLYN MARTIN, in the following manner, to
16 wit: (1) by directly committing said acts; and/or (2) aiding or abetting each other in the
17 commission of the crime by directly or indirectly counseling, encouraging, hiring,
18 commanding, inducing, or procuring each other, and/or others to utilize a patient care
19 delivery system which directly or indirectly limited the use of medical instruments, and/or
20 supplies, and/or drugs; scheduled and/or treated an unreasonable number of patients per day,
21 and/or rushed patients or patient procedures, Defendants and KEITH MATHAHS acting
22 with the intent to commit said crime in order to fraudulently increase the insurance billing
23 and/or money reimbursement for the medical procedure performed on the said
24 GWENDOLYN MARTIN; specifically, as to DEFENDANT DESAI, that he directly or
25 indirectly both instructed DEFENDANT LAKEMAN, and KEITH MATHAHS and said
26 others to perform said acts and created a work environment where DEFENDANT
27 LAKEMAN, and KEITH MATHAHS and others were pressured to commit the said acts
28 described above; specifically, as to DEFENDANT LAKEMAN, engaging in conduct against

1 universally accepted standards of medical care, that he obtained the medical supplies, and/or
2 drugs utilized in the treatment of KENNETH RUBINO and GWENDOLYN MARTIN
3 which were subsequently contaminated with the Hepatitis C virus and thereafter directly or
4 indirectly shared, exchanged or transferred said contaminated medical supplies, and/or drugs
5 between himself and KEITH MATHAHS and/or between treatment rooms before, during or
6 after the endoscopic procedure performed on KENNETH RUBINO which resulted in the
7 transmission of the Hepatitis C virus into the body of GWENDOLYN MARTIN and others
8 and/or (3) pursuant to a conspiracy to commit this crime, Defendants and KEITH
9 MATHAHS acting in concert throughout.

10 COUNT 24 - CRIMINAL NEGLECT OF PATIENTS RESULTING IN SUBSTANTIAL
11 BODILY HARM

12 Defendants and KEITH MATHAHS on or about September 21, 2007, being
13 professional caretakers of GWENDOLYN MARTIN, did act or omit to act in an aggravated,
14 reckless or gross manner, failing to provide such service, care or supervision as is reasonable
15 and necessary to maintain the health or safety of said GWENDOLYN MARTIN, resulting in
16 substantial bodily harm to GWENDOLYN MARTIN, to wit: transmitting the Hepatitis C
17 virus to GWENDOLYN MARTIN, said acts or omissions being such a departure from what
18 would be the conduct of an ordinarily prudent, careful person under the same circumstances
19 that it is contrary to a proper regard for danger to human life or constitutes indifference to
20 the resulting consequences, said consequences of the negligent act or omission being
21 reasonably foreseeable; said danger to human life not being the result of inattention,
22 mistaken judgment or misadventure, but the natural and probable result of said aggravated
23 reckless or grossly negligent act or omission, to wit: (1) by directly committing said acts;
24 and/or (2) aiding or abetting each other in the commission of the crime by directly or
25 indirectly counseling, encouraging, hiring, commanding, inducing, or procuring each other,
26 and/or others to utilize a patient care delivery system which directly or indirectly limited the
27 use of medical instruments, and/or supplies, and/or drugs; scheduled and/or treated an
28 unreasonable number of patients per day, and/or rushed patients or patient procedures,

1 Defendants and KEITH MATHAHS acting with the intent to commit said crime in order to
2 fraudulently increase the insurance billing and/or money reimbursement for the medical
3 procedure performed on the said GWENDOLYN MARTIN; specifically, as to
4 DEFENDANT DESAI, that he directly or indirectly both instructed DEFENDANT
5 LAKEMAN, and KEITH MATHAHS and said others to perform said acts and created a
6 work environment where DEFENDANT LAKEMAN, and KEITH MATHAHS and others
7 were pressured to commit the said acts described above; specifically, as to DEFENDANT
8 LAKEMAN, engaging in conduct against universally accepted standards of medical care,
9 that he obtained the medical supplies, and/or drugs utilized in the treatment of KENNETH
10 RUBINO and GWENDOLYN MARTIN which were subsequently contaminated with the
11 Hepatitis C virus and thereafter directly or indirectly shared, exchanged or transferred said
12 contaminated medical supplies, and/or drugs between himself and KEITH MATHAHS
13 and/or between treatment rooms before, during or after the endoscopic procedure performed
14 on KENNETH RUBINO which resulted in the transmission of the Hepatitis C virus into the
15 body of GWENDOLYN MARTIN and others and/or (3) pursuant to a conspiracy to commit
16 this crime, Defendants and KEITH MATHAHS acting in concert throughout.

17 COUNT 25 - INSURANCE FRAUD

18 Defendants and KEITH MATHAHS did on or between September 20, 2007 and
19 September 21, 2007, knowingly and willfully present, or cause to be presented a statement
20 as a part of, or in support of, a claim for payment or other benefits under a policy of
21 insurance issued pursuant to Title 57 of the Nevada Revised Statutes, knowing that the
22 statement concealed or omitted facts, or contained false or misleading information
23 concerning a fact material to said claim; and/or did assist, abet, solicit or conspire to present
24 or cause to be presented a statement to an insurer, a reinsurer, a producer, a broker or any
25 agent thereof, knowing that said statement concealed or omitted facts, or did contain false or
26 misleading information concerning a fact material to a claim for payment or other benefits
27 under such policy issued pursuant to Title 57 of the Nevada Revised Statutes, by falsely
28 representing to PACIFIC CARE that the billed anesthesia time and/or charges for the

1 endoscopic procedure performed on GWENDOLYN MARTIN were more than the actual
2 anesthetic time and/or charges, said false representation resulting in the payment of money to
3 Defendants and KEITH MATHAHS and/or their medical practice and/or the racketeering
4 enterprise which exceeded that which would have normally been allowed for said procedure;
5 Defendants and KEITH MATHAHS being responsible under one or more of the following
6 principles of criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding
7 or abetting each other in the commission of the crime by directly or indirectly counseling,
8 encouraging, hiring, commanding, inducing, or procuring each other, and/or others to
9 commit said acts, Defendants and KEITH MATHAHS acting with the intent to commit said
10 crime, and/or (3) pursuant to a conspiracy to commit this crime.

11 COUNT 26 – THEFT

12 Defendants and KEITH MATHAHS did between July 25, 2007 and December 31,
13 2007, then and there knowingly, feloniously, and without lawful authority, commit theft by
14 obtaining personal property in the amount of \$250.00, or more, lawful money of the United
15 States, from STACY HUTCHINSON, KENNETH RUBINO, PATTY ASPINWALL,
16 SHARRIEFF ZIYAD, MICHAEL WASHINGTON, CAROLE GRUESKIN and RODOLFO
17 MEANA, and/or ANTHEM BLUE CROSS AND BLUE SHIELD, HEALTHCARE
18 PARTNERS OF NEVADA, UNITED HEALTH SERVICES, VETERANS
19 ADMINISTRATION and SECURED HORIZONS, by a material misrepresentation with
20 intent to deprive those persons of the property, in the following manner, to-wit: by falsely
21 representing that the billed anesthesia time and/or charges for the endoscopic procedure
22 performed on STACY HUTCHINSON, KENNETH RUBINO, PATTY ASPINWALL,
23 SHARRIEFF ZIYAD, MICHAEL WASHINGTON, CAROLE GRUESKIN and RODOLFO
24 MEANA, were more than the actual anesthetic time and/or charges, said false representation
25 resulting in the payment of money to Defendants and KEITH MATHAHS and/or their
26 medical practice and/or the racketeering enterprise, which exceeded that which would have
27 normally been allowed for said procedure, thereby obtaining said personal property by a
28 material misrepresentation with intent to deprive them of the property, Defendants and

1 KEITH MATHAHS being responsible under one or more of the following principles of
2 criminal liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting
3 each other in the commission of the crime by directly or indirectly counseling, encouraging,
4 hiring, commanding, inducing, or procuring each other, and/or others to commit said acts,
5 Defendants and KEITH MATHAHS acting with the intent to commit said crime, and/or (3)
6 pursuant to a conspiracy to commit this crime.

7 COUNT 27 - OBTAINING MONEY UNDER FALSE PRETENSES

8 Defendants and KEITH MATHAHS did on or between September 20, 2007, and
9 December 31, 2007, with intent to cheat and defraud, wilfully, unlawfully, feloniously,
10 knowingly, designedly, and by use of false pretenses, obtain \$250.00, or more, lawful money
11 of the United States from GWENDOLYN MARTIN and/or PACIFICARE, within Las
12 Vegas, Clark County, Nevada, in the following manner, to-wit: by falsely representing that
13 the billed anesthesia times and/or charges for the endoscopic procedures performed on
14 GWENDOLYN MARTIN were more than the actual anesthetic times and/or charges, said
15 false representation resulting in the payment of money to Defendants and KEITH
16 MATHAHS and/or the medical practice and/or the racketeering enterprise, which exceeded
17 that which would have normally been allowed for said procedures Defendants and KEITH
18 MATHAHS being responsible under one or more of the following principles of criminal
19 liability, to wit: (1) by directly committing said acts; and/or (2) aiding or abetting each other
20 in the commission of the crime by directly or indirectly counseling, encouraging, hiring,
21 commanding, inducing, or procuring each other, and/or others to commit said acts,
22 Defendants and KEITH MATHAHS acting with the intent to commit said crime, and/or (3)
23 pursuant to a conspiracy to commit this crime.

24 COUNT 28 - OBTAINING MONEY UNDER FALSE PRETENSES

25 Defendants and KEITH MATHAHS did on or between September 21, 2007, and
26 December 31, 2007, with intent to cheat and defraud, wilfully, unlawfully, feloniously,
27 knowingly, designedly, and by use of false pretenses, obtain \$250.00, or more, lawful money
28 of the United States from SONIA ORELLANA-RIVERA and/or CULINARY WORKERS

1 HEALTH FUND, within Las Vegas, Clark County, Nevada, in the following manner, to-wit:
2 by falsely representing that the billed anesthesia times and/or charges for the endoscopic
3 procedures performed on SONIA ORELLANA-RIVERA were more than the actual
4 anesthetic times and/or charges, said false representation resulting in the payment of money
5 to Defendants and KEITH MATHAHS and/or the medical practice and/or the racketeering
6 enterprise, which exceeded that which would have normally been allowed for said
7 procedures Defendants and KEITH MATHAHS being responsible under one or more of the
8 following principles of criminal liability, to wit: (1) by directly committing said acts; and/or
9 (2) aiding or abetting each other in the commission of the crime by directly or indirectly
10 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
11 others to commit said acts, Defendants and KEITH MATHAHS acting with the intent to
12 commit said crime, and/or (3) pursuant to a conspiracy to commit this crime.

13 COUNT 29 – MURDER (SECOND DEGREE)

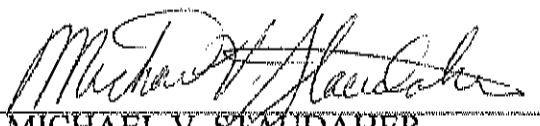
14 Defendants and KEITH MATHAHS did on or between September 21, 2007 and April
15 27, 2012, then and there willfully, feloniously, without authority of law, and with malice
16 aforethought, kill RODOLFO MEANA, a human being, by introducing Hepatitis C virus
17 into the body of RODOLFO MEANA, based upon the following principles of criminal
18 liability, to-wit: (1) by the killing occurring under circumstances showing an abandoned and
19 malignant heart; and/or (2) during the commission of an unlawful act, to-wit: criminal
20 neglect of patients, and/or performance of an unlawful act in reckless disregard of persons or
21 property, which in its consequences, naturally tends to destroy the life of a human being;
22 and/or (3) the killing being committed in the prosecution of a felonious intent, to-wit:
23 criminal neglect of patients, and/or performance of an act in reckless disregard of persons or
24 property, which in its consequences, naturally tends to destroy the life of a human being, by
25 directly or indirectly using and/or introducing contaminated medical instruments, supplies,
26 and/or drugs upon or into the body of RODOLFO MEANA which were contaminated with
27 the Hepatitis C virus; Defendants and KEITH MATHAHS being responsible under one or
28 more of the following principles of criminal liability, to wit: (1) by directly committing said

1 acts; and/or (2) by aiding or abetting each other and/or others including uncharged
2 confederates in the commission of the crime(s) of criminal neglect of patients, and/or
3 performance of an act in reckless disregard of persons or property by directly or indirectly
4 counseling, encouraging, hiring, commanding, inducing, or procuring each other, and/or
5 others to utilize a patient care delivery system which directly or indirectly limited the use of
6 medical instruments, and/or supplies, and/or drugs; scheduled and/or treated an unreasonable
7 number of patients per day, and/or rushed patients or patient procedures all at the expense of
8 patient safety and/or well being, and which resulted in substandard care and/or jeopardized
9 the safety of RODOLFO MEANA, Defendants and KEITH MATHAHS acting with the
10 intent to commit the crime(s) of criminal neglect of patients, and/or performance of an act in
11 reckless disregard of persons or property; and/or (3) pursuant to a conspiracy to commit the
12 crime(s) of criminal neglect of patients, and/or performance of an act in reckless disregard of
13 persons or property, Defendants and KEITH MATHAHS acting in concert throughout.

14 DATED this 6TH day of February, 2013.

15 STEVEN B. WOLFSON
16 DISTRICT ATTORNEY
Nevada Bar #001565

17
18 BY


19 MICHAEL V. STAUDAHER
20 Chief Deputy District Attorney
21 Nevada Bar #008273
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25
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27
28

1 Names of witnesses testifying before the Grand Jury:
2 ARMOUR, PATRICIA, NV. HEALTH DISTRICT
3 ASPINWALL, PATTY
4 BAGANG, MAYNARD, LVMPD
5 CAMPBELL, LYNETTE, RN - Started Hep Locks
6 CAROL, CLIFFORD
7 CARRERA, HILARIO
8 CERDA, RYAN, HEALTH CARE BUSINESS SOLUTIONS
9 DESAI, SAEHAL
10 DROBENINE, JAN, CDC LAB SUPERVISOR
11 DUENAS, YERENY, INSURANCE CLAIMS
12 GONZALES, PATRICIA, BLUE CROSS DIRECTOR DEPT.
13 GRUESKIN, CAROLE
14 HAWKINS, MELVIN - Started Hep Locks
15 HUTCHINSON, STACY
16 KALKA, KATIE, UNITED HEALTH GROUP INV.
17 KHUDYAKOV, YURY, CDC
18 KRUEGER, JEFFREY ALEN, RN → started Hep Locks
19 LABUS, BRIAN, NV HEALTH DISTRICT
20 LANGLEY, GAYLE, CDC PHYSICIAN - Talked to sample
21 LOBIANBO, ANNAMARIE, CRNA →
22 MARTIN, GWENDOLYN
23 MEANA, RODOLFO
24 MYERS, ELAINE, CLAIMS DIRECTOR
25 NEMEC, FRANK, GASTROENTEROLOGIST
26 OLSON, ALANE, MEDICAL EXAMINER
27 RIVERA, SONIA ORELLONO
28 RUBINO, KENNETH

1 RUSHING, TONYA, OFFICE MGR.
2 SAGENDORF, VINCENT, CRNA
3 SAMPSON, NANCY, LVMPD
4 SAMS, JOANNE, VET ADMIN. CODER
5 SCHAEFER, MELISSA, CDC PHYSICIAN - *talked to on phone*
6 SHARMA, SATISH, ANESTHESIOLOGIST
7 SIMS, DOROTHY, BUREAU OF LICENSING AND CERTIFICATION
8 SPAETH, CORRINE, CLAIMS DIRECTOR
9 VANDRUFF, MARION, MEDICAL ASSISTANT
10 WASHINGTON, MICHAEL
11 YEE, THOMAS, ANESTHESIOLOGIST
12 YOST, ANNE, NURSE
13 ZIYAD, SHARRIEFF *Source for July*

14
15 Additional witnesses known to the District Attorney at time of filing the Indictment:

16 ALFARO-MARTINEZ, SAMUEL
17 ANWAR, JAVAID, 3006 MARYLAND PKWY #400, LVN 89109
18 ARBOREEN, DAVE, LVMPD
19 ARMENI, PAOLA
20 ARNONE, ANTHONY, LVMPD
21 ASHANTE, DR.
22 BAILEY, PAULINE, 3416 MONTE CARLO DR., LVN 89121
23 BARCLAY, DR. ROBERT
24 BIEN, KATHY, 3800 DALECREST DR. #1117, LVN 89129
25 BLEMINGS, RENATE, 2100 PLAIN ST., PAHRUMP, NV 89060
26 BROWN, DAVID
27 BUI, DR.
28 BUNIN, DANIEL

1 BURKIN, JERALD, FBI SA
2 CALVALHO, DANIEL CARRERA
3 CARAWAY, ANTOINETTE, 1407 BAREBACK CT., HNV 89014
4 CARRERA, ELADIO, 612 CANYON GREENS DR., LVN 89144
5 CARROLL, CLIFFORD, 10313 ORKINEY DR., LVN 89144
6 CASTLEMAN, DR. STEPHANIE
7 CAVETT, JOSHUA, 7829 TATTERSALL FLAG ST., LVN 89139
8 CHAFFEE, ROD, 9303 GILCREASE #1080, LVN 89149
9 CLEMMER, DANA MARIE, 4913 FERRELL ST., NLVN 89034
10 COE, DANIEL, LVMPD
11 COHAN, DR. CHARLES, POB 4144, SAYLORSBURG, PA
12 COOK, KATIE, FBI S/A
13 COOPER, DOUG, CHIEF INV., NV. ST. BOARD OF ME
14 CRANE, AUSA
15 CREMEN, FRANK
16 DESAI, DIPAK, 3093 RED ARROW, LVN 89135
17 DESAI, KUSAM, MD
18 DIAZ, ALLEN, LVMPD INTERPRETER
19 DIBUDUO, CHARLES
20 DORAME, JOHN
21 DRURY, JANINE
22 ECKERT, PHYSICIAN ASST.
23 ELLEN, DIANE
24 FALZONE, LISA, 8024 PEACEFUL WOODS STREET, LVN 89143
25 FARIS, FRANK
26 FIGLER, DAYVID
27 FISHCHER, GAYLE, 1600 CLIFTON MAIL STOP #G37, ATLANTA, GA. 30333
28 FORD, MIKE, LVMPD

1 FRANKS, LISA, PHYSICIAN ASST.
2 GASKILL, SARA
3 GENTILE, DOMINIC
4 GLASS-SERAN, BARBARA, CRNA
5 GRAY, WARREN, LVMPD
6 GREER, MARY, 3462 SHAMROCK AVE., LVN 89120
7 GREGORY, MARTHA
8 HAHN, JASON, LVMPD
9 HANCOCK, L., LVMPD #7083
10 HANSEN, IDA
11 HARPER, TIFFANY
12 HARRIS, ORELENA (HOLLEMAN), 2816 DESERT SONG, LVN 89106
13 HERRERO, CARMELO, 1864 WOODHAVEN DR., HNV 89074
14 HIGGINS, HEATHER, INV. NV. ST. BOARD OF ME
15 HIGUERA, LILIA, 3504 FLOWER, NLVN 89030
16 HITTI, DR. MIRANDA
17 HOWARD, NADINE, HEALTH FACILITIES SURVEYOR
18 HUBBARD, LINDA, 515 PARK ROYAL DR., NLVN 89031
19 HUGHES, LAURA, AG INV.
20 HUYNH, NGUYEN, 3004 HAZY MEADOW LN., LVN 89108
21 IRVIN, JOHNNA
22 JOHNSON, SHONNA S., 22 VIA DE LUCCIA, HNV 89074
23 JONES, LISA, CHIEF NSB OF LICENSURE AND CERTIFICATION (BLC)
24 JURANI, DR.
25 KIRCH, MARLENE
26 KAUL, DR.
27 KAUSHAL, DR. DHAN
28 KELLEY, J., LVMPD #3716

1 KHAN, IKRAM, 3006 S. MARYLAND PKWY, #465 LVN 89109
2 KNOWLES, DR.
3 KOSLOY, LESLEE, RN, HEALTH FACILITIES SURVEYOR
4 LAKEMAN, RONALD, 700 SHADOW LN #165B, LVN 89106
5 LATHROP, CAROL, 1741 AUGUSTA ST., PAHRUMP, NV 89048
6 LATHROP, WILLIAM
7 LEWIS, DR. DANIEL
8 LOBIONDA, CRNA
9 LOPEZ, J. JULIAN, 7106 SMOKE RANCH RD. #120 LVN 89128
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16 MARTIN, LOVEY
17 MASON, ALBERT
18 MATHAHS, KEITH, 10220 BUTTON WILLOW DR., LVN 89134
19 MCDOWELL, RALPH, 388 SANTA CANDIDA ST., LVN 89138
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21 MCILROY, ROBIN, FBI
22 MILLER, JAMES
23 MIONE, VINCENT, 2408 W. EL CAMPO GRANDE AVE., NLVN 89031
24 MOORE, DAVID
25 MUKHERJEE, RANADER, MD
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27 NAYYAR, SANJAY, MD
28 NAZAR, WILLIAM

1 NAZARIO, DR. BRUNILDA
2 OM, HARI, LLC MGR
3 O'REILLY, JOHN
4 O'REILLY, TIM
5 PAGE-TAYLOR, LESLIE, CDC
6 PATEL, DR.
7 PENSAKOVIC, JOAN
8 PETERSON, KAREN, 2138 FT. SANDERS ST., HNV
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11 PRESTON, LAWRENCE, 801 S. RANCHO DR., STE C-1, LVN
12 QUANNAH, LAKOTA
13 REXFORD, KEVIN
14 RICHVALSKY, KAREN, 3325 NIGUL WAY, LVN 89117
15 ROSEL, LINDA, FBI SA
16 RUSSOM, RUTA, 4854 MONTERREY AVE., LVN 89121
17 SAGENDORF, VINCENT
18 SAMEER, DR. SHEIKH
19 SAPP, BETSY, PHLEBOTOMIST
20 SCAMBIO, JEAN, 2920 YUKON FLATS CT., NLVN 89031
21 SCHULL, JERRY, 5413 SWEET SHADE ST., LVN
22 SENI, DR.
23 SHARMA, DR. SATISH
24 SHARMA, VISHVINDER, DR. 3212 CEDARDALE PL., LVN 89134
25 SHEFNOFF, NEIL, 755 E. MCDOWELL RD., PHOENIX, AZ 85006
26 SMITH, CHARNESSA
27 SOOD, RAJAT
28 STURMAN, GLORIA

1 SUKHDEO, DANIEL, 3925 LEGEND HILLS ST. #203, LVN 89129
2 TAGLE, PEGGY, RN
3 TERRY, JENNIFER, LVMPD INTERPRETER
4 TONY, DR.
5 VAZIRI, DR.
6 WAHID, SHAHID, MD
7 WEBB, KAREN, 1459 S. 14TH ST., OMAHA, NE
8 WHITAKER, GERALDINE, 701 CARPICE DR. #17B, BOULDER CITY, NV 89005
9 WHITELEY, R. LVMPD
10 WILLIAMS, SKLAR, RESIDENT AGENT, 8363 W. SUNSET RD. #300, LVN 89113
11 WISE, PATTY
12 YAMPOLSKY, MACE
13 ZIMMERMAN, MARILYN, 550 SEASONS PKWY, BELVIDERE, IL 89040

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09BGJ049A-C/10F03793A-C/09BGJ119A-C /sam-MVU
LVMPD EV #0802292576
(TK11)

EXHIBIT “2”

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

ORIGINAL

THE STATE OF NEVADA,

Plaintiff,

vs.

DIPAK KANTILAL DESAI, RONALD
ERNEST LAKEMAN, KEITH M. NATRANS,
Defendants.

No. 098GJ119A-C

C283381
XXIII

Taken at Las Vegas, Nevada
Thursday, August 10, 2012
9:14 a.m.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Reported by: Danetta L. Antonacchi, C.C.R. No. 222

GRAND JURORS PRESENT ON AUGUST 10, 2012

PAMELA YOUNG BIANCA, Foreperson
JOSEPH WILLOUGHBY, Deputy Foreperson
SHELLY SALAMANPOPOULOS, Secretary
CONSTANCE CABILES, Assistant Secretary
SVEN BRADLEY
MICHAEL CONNELL
AGNES PARKER
YOLANDA PARKER
BIANCA ROBERSON
ALICE SZURAN
MICHAEL THOMPSON
THOMAS UHRMAN
ANNE ZARATE

2012 AUG 21 A 10:18

CLERK OF THE COURT

Also present at the request of the Grand Jury:

Michael Staudacher & Pamela Neckerly,
Chief Deputy District Attorneys

INDEX OF WITNESSES

Examined

HAYWARD BAGANG 12
ALANE OLSON 22

C-12-283381-1
TRAN
Reporters Transcript
1938524



INDEX OF EXHIBITS

Grand Jury Exhibits

Identified

1 - PROPOSED INDICTMENT 5
2 - INSTRUCTIONS 5
3 - DISK CONTAINING TRANSCRIPTS AND EXHIBITS 58
4 - COPY OF DRIVER'S LICENSE OF RODOLFO NEANA 15
5 - DEATH CERTIFICATE 32

CLERK OF THE COURT

AUG 21 2012

RECEIVED

17

5
1 LAS VEGAS, NEVADA, AUGUST 10, 2012

2
3
4 DANETTE L. ANTONACCI

5 having been first duly sworn to faithfully
6 and accurately transcribe the following
7 proceedings to the best of her ability.
8

9 MR. STAUDAHER: Ladies and gentlemen of the
10 Grand Jury, my name is Michael Staudaher. I'm here
11 today with Pamela Weckerly. We are the deputy district
12 attorneys assigned to prosecute the case of State of
13 Nevada versus Dipak Kantilal Desai, Ronald Ernest
14 Lakeman and Keith H. Mathias in Grand Jury Case Number
15 098GJ119A-C.

16 Ladies and gentlemen of the Grand Jury,
17 before we get started there's a couple things we need to
18 do. First of all you have before you an indictment
19 which is going to be marked and it has been marked
20 rather as Exhibit Number 1.

21 Exhibit Number 2 will be the law pertaining
22 to the charge in this particular case which is second
23 degree murder. We are going to be following a couple of
24 different theories of murder. I'm going to go through
25 the law with you pertaining to that particular charge in

6
1 just a moment. At the end of that, if you have any
2 questions about that I ask that you let me know so we
3 can clarify it or make sure that you're all on board
4 with every issue in the case. Okay?

5 Also I know that the Grand Jury judge has
6 previously just sworn you a moment ago, that you have
7 all acknowledged on the record that you have reviewed
8 the materials from the prior presentation in a separate
9 case. This is a separate case at this point. The prior
10 presentation materials included all the transcripts of
11 the prior presentation involving these three defendants,
12 as well as all of the Grand Jury exhibits that were
13 presented during that presentation. Again just before
14 we get started, general acknowledgment or lack thereof
15 that you have reviewed those materials.

16 A JUROR: We have reviewed.

17 MR. STAUDAHER: And a general
18 acknowledgment among the Grand Jury members.

19 As we start out I'm going to go over the
20 law which is Exhibit 2. You have the entirety of the
21 statutes contained in Exhibit 2 pertaining to each of
22 the statutes in this case which is what you will
23 deliberate on in this case after you hear the evidence
24 and take into consideration the prior evidence that you
25 reviewed as well.

7
1 The first is under NRS 200.010. It's
2 murder. Murder is defined as the unlawful killing of a
3 human being with malice aforethought.

4 Under NRS 200.020. Malice is further
5 defined as either express or implied malice.

6 Now it's important to know that under the
7 theory of murder that the State is proceeding under, it
8 is not a first degree murder. It is not a
9 premeditation, deliberation, express malice murder that
10 we're going forward on. It is second degree murder. So
11 second degree murder has implied malice. There does not
12 have to be an intent to kill. We're going to get into
13 some of that in just a moment.

14 But under NRS 200.020, malice. Under
15 subsection 2 related to implied malice. It says malice
16 shall be implied when all of the circumstances of the
17 killing show an abandoned or malignant heart.

18 NRS 200.030 delineates the various forms of
19 murder. Again we're not proceeding under a first degree
20 murder theory. Anything that does not carry with it the
21 intent to kill a human being that is defined as murder
22 is all other forms of murder which is second degree.

23 Under NRS 200.070, that is actually the
24 involuntary murder, or, excuse me, involuntary
25 manslaughter statute. The important portion there that

8
1 relates to the charge of second degree murder in this
2 case is that: Even though an involuntary killing occurs
3 in the commission of an unlawful act -- and here the
4 unlawful acts specifically are the criminal neglect of
5 patients charge and the performance of an act in
6 reckless disregard of persons or property. That in the
7 commission of that, or one or more of those acts, a
8 killing occurs, and that in its consequences those acts
9 naturally tend to destroy the life of a human being or
10 is committed in the prosecution of a felonious intent,
11 the offense is murder.

12 Under NRS 200.060, it defines substantial
13 bodily harm which you had previously heard testimony
14 about in the other case. But substantial bodily harm
15 also includes the possibility of death. Under
16 subsection 1, it's bodily injury which creates a
17 substantial risk of death.

18 Under the two particular felonies that we
19 are providing you today information on, what we believe
20 will show that there was, essentially provides the
21 malice for the murder. The two felonies that we're
22 centering on today are the performance of an act in
23 reckless disregard of persons or property. That is NRS
24 202.595. A person who performs any act or neglects any
25 duty imposed by law in willful or wanton disregard of

1 the safety of persons or property, and if the neglect
2 results in substantial bodily harm or death, that is a
3 felony.

4 Under NRS 200.495, that is the criminal
5 neglect of patient statute. Now I know you've had these
6 before but I need to go over these, and specifically
7 this one with you in detail, because as I go through
8 this the things that I'm going to be telling you are
9 conjunctive, which means they are all required for the
10 finding. And I know that you have previously made a
11 finding as related to the patient involved in the charge
12 here and these defendants, but I still need to make sure
13 that you understand that this is the theory that we're
14 proceeding on for this charge and the previous one, the
15 performance of an act that I told you a moment ago.

16 Under NRS 200.495, a professional caretaker
17 who fails to provide such service, care or supervision
18 as is reasonable and necessary to maintain the health or
19 safety of a patient -- these are the four parts that you
20 need to consider -- the act or omission must be
21 aggravated, reckless or gross; (b) The act or omission
22 is such a departure from what would be the conduct of an
23 ordinarily prudent, careful person under the same
24 circumstances that it is contrary to a proper regard for
25 danger to human life or constitutes indifference to the

1 resulting consequences; (c) The consequences of the
2 negligent act or omission could have reasonably been
3 foreseen; and (d) The danger to human life was not the
4 result of inattention, mistake, judgment or
5 misadventure, but the natural and probable result of an
6 aggravated, reckless or grossly negligent act or
7 omission.

8 Now again, ladies and gentlemen, you have
9 the entirety of these statutes. Is there any questions
10 thus far about the law as it's been provided to you?

11 Now one section I want to cover again so
12 we're clear on this. The Indictment that you have
13 before you lists certain theories of principles of
14 theories of criminal liability that we are proceeding
15 under. The first is essentially a reckless theory. The
16 acts involved were so reckless that they constituted,
17 essentially as it says there, an abandoned or malignant
18 heart. That is second degree murder. If a killing or
19 death results from that type of conduct, it's murder.
20 However there's a second portion of that. If in fact,
21 under the second section, the commission of the unlawful
22 act -- and the unlawful act again here is either the
23 criminal neglect of patients or the performance of an
24 act in reckless disregard -- if those acts, those
25 consequences of those two acts, naturally tend to

1 destroy the life of a human being, or they were
2 committed in the performance of felonious intent --
3 meaning criminal neglect of patients or performance of
4 an act in reckless disregard -- and those acts naturally
5 tend to destroy the life of a human being, that is also
6 murder.

7 So we're talking about dangerous felonies
8 in one standpoint and reckless conduct in the other. Is
9 there any question about that?

10 With that we will go ahead and start our
11 presentation of the evidence. Again if you develop any
12 questions as we go through this about the law or about
13 the evidence before that you need to have addressed, I
14 know you've all reviewed it, let us know.

15 THE FOREPERSON: Sir, could you please
16 remain standing. Raise your right hand.

17 You do solemnly swear the testimony you are
18 about to give upon the investigation now pending before
19 this Grand Jury shall be the truth, the whole truth, and
20 nothing but the truth, so help you God?

21 THE WITNESS: I do.

22 THE FOREPERSON: You may be seated.

23 You are advised that you are here today to
24 give testimony in the investigation pertaining to the
25 offense of murder in the second degree, category A

1 felony.

2 Do you understand this advisement?

3 THE WITNESS: Yes, ma'am, I do.

4 THE FOREPERSON: Thank you. Could you
5 state both your first and last names please and then
6 spell them both for the record.

7 THE WITNESS: My name is Maynard Bagang.
8 First name M-A-Y-N-A-R-D, last name B-A-G-A-N-G.

9 THE FOREPERSON: Thank you.

10 MAYNARD BAGANG,

11 having been first duly sworn by the Foreperson of the
12 Grand Jury to testify to the truth, the whole truth,
13 and nothing but the truth, testified as follows:

14 EXAMINATION

15 BY MR. STAUDAHER:

16 Q. Detective, what do you do for a living?

17 A. I'm a police officer and been working for
18 the Las Vegas Metropolitan Police Department for
19 approximately eight years now.

20 Q. Are you an officer or detective?

21 A. I've been recently assigned to the airport
22 so I'm an officer.

23 Q. With regard to your testimony today, I'm

1 going to direct you to a specific time period.
2 specifically April 27th of this year. Were you involved
3 in any kind of an investigation pertaining to Rodolfo, a
4 person by the name of Rodolfo Meana?

5 A. Yes, sir.

6 Q. Can you tell us -- first of all, before
7 that date, were you even aware that this was a situation
8 you might become involved in?

9 A. Yes, sir.

10 Q. Can you explain to us how that happened and
11 then what occurred on that day and thereafter?

12 A. In the beginning week of April 2012 I was
13 informed by Detective Bob Whiteley --

14 Q. And again, ladies and gentlemen, if he
15 discusses any -- I'm going to ask you to not, as much as
16 possible, tell us what other people said. But I'm going
17 to caution the Grand Jury that this is simply to give
18 context and foundation for what he did or why he was
19 involved in this particular case. It's not offered for
20 the truth of the matter asserted, nor is it intended to
21 be used by you for that purpose.

22 A. In the beginning week of April I was
23 informed by Detective Bob Whiteley that his case, one of
24 the patients of his case is unfortunately probably going
25 to pass away and he asked me if I speak the native

1 language of the Philippines which is Tagalog and asked
2 me if that happens if I can go to the Philippines and
3 facilitate an autopsy for the victim which is Rodolfo
4 Meana. And I told him yes.

5 Q. So move forward then. So you were aware of
6 it at least at the early part of April and agreed that
7 you would do that for Detective Whiteley if the time
8 came?

9 A. Yes, sir.

10 Q. Did that time come?

11 A. Yes, sir. Last April 27th at about
12 11 o'clock in the morning, I was in California, I was
13 performing my military duties because I'm in the Navy
14 Reserve, and I was called by Sergeant Misty Pence and
15 informed me that the victim Rodolfo Meana passed away
16 and she asked me if I can fly out that night from Las
17 Vegas to the Philippines. And I was able to check out
18 from the Naval installation in Coronado, California and
19 drove back to Las Vegas, and I flew out that night 11:00
20 p.m. from Las Vegas to Manila.

21 Q. So did you accompany anybody or were you
22 alone?

23 A. I accompanied the Nevada examiner, Dr.
24 Alane Olson.

25 Q. What was the purpose of you going to the

1 Philippines?

2 A. My main purpose is to facilitate the
3 autopsy, identify the body and witness the autopsy.

4 Q. Did you do those things?

5 A. Yes, sir.

6 Q. I'm showing you what has been previously
7 marked as Grand Jury Exhibit Number 4 and ask you if you
8 recognize that.

9 A. Yes, sir, I do.

10 Q. What is that, sir?

11 A. This is the copy of the driver's license of
12 Rodolfo Meana.

13 Q. A Nevada issued driver's license: is that
14 correct?

15 A. Correct, sir.

16 Q. Now you said that part of what you were to
17 do was to identify the body as well as make sure that
18 you basically were there for the autopsy: is that
19 correct?

20 A. Yes, sir.

21 Q. I assume that means that you didn't want to
22 do an autopsy on somebody who was not Rodolfo Meana?

23 A. Correct.

24 Q. So did you look at the person and identify
25 them as being the person that you believed was Rodolfo

1 Meana?

2 A. Yes, sir.

3 Q. Is that the same person as depicted in this
4 driver's license?

5 A. Yes, sir.

6 Q. At that point what else did you do? I know
7 you've identified the body as Mr. Meana. What else did
8 you do as far as your involvement in the autopsy?

9 A. After the body's been identified -- first
10 off, before the autopsy was conducted, at about
11 11:00 a.m. April 30th, Dr. Olson and myself went to
12 Funeraria Paz, it's F-U-N-E-R-A-R-I-A, and then P-A-Z,
13 in Manila where the body was stored.

14 Q. And what is that facility?

15 A. That facility is a funeral home and a
16 morgue.

17 Q. So you go to that location. What happens?

18 A. I went to that location and I met with the
19 Funeraria Paz staff and also one of the daughters of
20 Mr. Meana which is Marissa Meana and she advised me
21 that --

22 MR. STAUBAHER: Again, ladies and
23 gentlemen, not offered for the truth of the matter
24 asserted at this point.

25 THE WITNESS: She advised me that they had

1 given consent for the autopsy to be performed.
 2 BY MR. STAUDAHER:
 3 Q. So further at least information that you
 4 had that this in fact was Mr. Meana; correct?
 5 A. Yes, sir.
 6 Q. So what happens thereafter?
 7 A. After that we started the autopsy
 8 approximately 12:30 p.m.
 9 Q. When you say we started the autopsy, were
 10 you actually performing it?
 11 A. No, sir, I was a witness. It was the
 12 Philippine coroner that was provided by the Philippine
 13 law enforcement agency which is the National Bureau of
 14 Investigation, and the Interpol chief based in Manila,
 15 and inside the room was Dr. Olson, myself, the
 16 Philippine coroner and her assistant.
 17 Q. So you were present during the entirety of
 18 the autopsy?
 19 A. Yes, sir.
 20 Q. Now Dr. Olson, did she participate in the
 21 autopsy itself?
 22 A. No, sir.
 23 Q. What was the purpose of her being there?
 24 A. Dr. Olson's purpose is to witness the
 25 autopsy and collect the tissue and blood samples.

1 Q. Were you present when those samples were
 2 collected and given to Dr. Olson?
 3 A. Yes, sir.
 4 Q. So you saw that actually taking place?
 5 A. Yes, sir.
 6 Q. What else, if anything, did you do in this
 7 particular investigation?
 8 A. After the samples were collected, they were
 9 sealed on an approved specified medical containers and
 10 they were secured by Dr. Olson and we maintained the
 11 chain of custody of the evidence until we got back here
 12 in the United States.
 13 Q. So then you left I assume after the autopsy
 14 and came back to the United States?
 15 A. No, sir, we stayed there a few days and we
 16 have the evidence locked in our safe, in Dr. Olson's
 17 safe inside her hotel room.
 18 Q. Okay. So it wasn't just sitting on a table
 19 where anybody could come in and access it; is that
 20 correct?
 21 A. Yes, sir. The hotel room was provided with
 22 a combination lock safe and Dr. Olson was the only one
 23 who had access to that safe.
 24 Q. So after the time passes for you to then
 25 return back to the United States do you do so?

1 A. Say that again, sir.
 2 Q. Do you come back to the United States at
 3 some point?
 4 A. Yes, sir.
 5 Q. So when you get back to the United States
 6 did you continue on in this investigation at all or were
 7 you done?
 8 A. My mission was done, sir.
 9 Q. Now beside the things that you described
 10 when you were there physically, the things that you were
 11 involved with, did you facilitate those, that process
 12 because you know the language of Tagalog?
 13 A. Yes, sir. When I got to the Philippines I
 14 met with one of the agents of National Bureau of
 15 Investigation because there was no coroner in place. So
 16 what I did was I briefed the Interpol chief in Manila
 17 and also the head doctor of the National Bureau of
 18 Investigation about the mission, why we're there in
 19 Manila, and we informed them that we need to do this as
 20 soon as possible because the body was frozen inside the
 21 morgue which is Poneraria Paz. And they were able to
 22 obtain the permission from the family to perform the
 23 autopsy and provided the pathologist which is Dr.
 24 Oropilla, O-R-O-P-I-L-L-A, and Dr. Oropilla performed
 25 the autopsy.

1 MR. STAUDAHER: Okay. Thank you.
 2 I have nothing further for this witness,
 3 ladies and gentlemen.
 4 THE FOREPERSON: Are there any questions
 5 from the jury? There are none?
 6 BY A JUROR:
 7 Q. I have one.
 8 You mean frozen, you don't mean like hard
 9 frozen, you mean like cold, right?
 10 A. Yes, ma'am.
 11 Q. Okay.
 12 THE FOREPERSON: Okay. By law, these
 13 proceedings are secret and you are prohibited from
 14 disclosing to anyone anything that has transpired before
 15 us, including evidence and statements presented to the
 16 Grand Jury, any event occurring or statement made in the
 17 presence of the Grand Jury, and information obtained by
 18 the Grand Jury.
 19 Failure to comply with this admonition is a
 20 gross misdemeanor punishable by a year in the Clark
 21 County Detention Center and a \$2,000 fine. In addition,
 22 you may be held in contempt of court punishable by an
 23 additional \$500 fine and 25 days in the Clark County
 24 Detention Center.
 25 Do you understand this admonition?

THE WITNESS: Yes, I do.

THE FOREPERSON: Thank you. You can be excused now.

THE WITNESS: Thank you.

THE FOREPERSON: You do solemnly swear the testimony you are about to give upon the investigation now pending before this Grand Jury shall be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE FOREPERSON: You may be seated.

You are advised that you are here today to give testimony in the investigation pertaining to the offense of murder in the second degree, involving the defendants Dipak Kantilal Desai, Ronald Ernest Lakeman and Keith H. Mathahs.

Do you understand this advisement?

THE WITNESS: Yes, ma'am.

THE FOREPERSON: Thank you.

Could you please state both your first and last names and spell them both please.

THE WITNESS: My name is Alane Olson. My first name is spelled A-L-A-N-E, my last name is spelled O-L-S-O-N.

THE FOREPERSON: Thank you.

ALANE OLSON,

having been first duly sworn by the Foreperson of the Grand Jury to testify to the truth, the whole truth, and nothing but the truth, testified as follows:

EXAMINATION

BY MR. STAUBAHER:

Q. Dr. Olson, what do you do for a living?

A. I'm employed at the Clark County Coroner's Office and I'm a medical examiner.

Q. And what do you do primarily at the coroner's office then?

A. I perform autopsies and other types of examinations with the goal of determining cause and manner of death.

Q. So you're familiar with how autopsies are done obviously?

A. Yes.

Q. How long have you been doing that work at the coroner's office?

A. I've been working at the coroner's office in Las Vegas since September of 2005 and prior to that I worked at the coroner's office in Reno from 2000 to 2005.

Q. Can you give us a brief background as to your training and experience which led you to those positions?

A. Yes. I have a Bachelor's Degree in Microbiology from the University of Idaho. I went to medical school at the University of Nevada School of Medicine which is based in Reno. Once I got my MD Degree I moved to Portland, Oregon and spent five years at Oregon Health Sciences University in training for a residency in anatomic and clinical pathology which is where I learned how to do autopsies. During that time I also learned how to look at specimens, tissues and organs that were removed at surgery for diagnosis of cancer and other diseases. I also learned how clinical laboratories are run. Those are the labs that analyze blood, urine and other specimens to allow doctors to diagnosis and treat disease. Once I completed my residency I moved to Milwaukee, Wisconsin and worked at the medical examiner's office in Wisconsin, in Milwaukee, for one year, in a forensic pathology fellowship program. So that was further training in performing autopsies. That completed by formal training and I've been working in the State of Nevada since.

Q. Thank you.

So some of the things that you did mention

that I wanted to ask you a couple quick questions about is that you had both pathologic, meaning in the sense of live patient interaction where maybe an organ at the time of surgery was sent to you for analysis where you remove sections of that tissue and then analyze them, stain them, things like that?

A. Yes.

Q. So you've dealt with sort of the living patient portion of pathology and now you're dealing as a medical examiner with deceased patients; is that right?

A. That's correct.

Q. Same kinds of things, do you look at the same kinds of tissues and stain them and things along those lines?

A. Yes.

Q. In doing that are you able to determine on deceased patients as well whether or not there was disease process involved in the cause of their death?

A. Oftentimes, yes.

Q. I'm going to direct your attention back to why you're here today now. Were you involved in either the autopsy or observance or some way the autopsy of an individual by the name of Rodolfo Meana?

A. Yes, I was.

Q. Can you explain to us how that took place,

1 what your role was and what you observed or did?

2 A. My involvement with Mr. Meana came about
3 through a request from the Las Vegas Metropolitan Police
4 Department. Basically Metro got in touch with the
5 coroner who is my boss and informed him that there were
6 patients who had been infected by hepatitis C from --

7 MR. STAUDAHER: And again, ladies and
8 gentlemen, I'm cautioning the Grand Jury, it's not
9 offered for the truth of the matter asserted, just how
10 she gets involved in this case. I would ask you not to
11 use it for that purpose.

12 THE WITNESS: Who had been infected with
13 hepatitis C during procedures at the Endoscopy Clinic of
14 Southern Nevada. They were concerned that one of those
15 patients was in rapidly declining health and might in
16 fact die relatively soon as a consequence of his
17 infection. They wanted to essentially give the
18 coroner's office a heads up this case may be coming our
19 way and so we were provided with information about
20 Mr. Meana's medical history and they basically kept us
21 informed of what was happening. I was aware that
22 Mr. Meana had requested or had intended to go back to
23 the Philippines and his intent was to go home to die.
24 So I was aware that he had in fact gone back to the
25 Philippines. And on I believe it was April 27, 2012,

1 our office got a call from Metro saying that Mr. Meana
2 had died in the Philippines and they requested that
3 someone from our office go to the Philippines to observe
4 the autopsy and if possible bring specimens back so they
5 could be examined. I'm the one who ended up going to
6 the Philippines at the request of Metro. And with the
7 assistance of Detective Bagang we managed to observe the
8 autopsy and get specimens and bring them back so that I
9 could look at them under the microscope. My presence at
10 his autopsy was strictly that of an observer since I am
11 not licensed to practice medicine in the Philippines and
12 performing an autopsy is in fact the practice of
13 medicine. So my presence was strictly that of an
14 observer at the examination.

15 BY MR. STAUDAHER:

16 Q. So let me go back just a little bit.

17 You said before you actually make the trip
18 to the Philippines though that you were provided with
19 information regarding Mr. Meana's medical history, his
20 records and so forth; is that correct?

21 A. Yes.

22 Q. Had you had a chance to review those before
23 going to the Philippines?

24 A. Yes.

25 Q. And did that include all of the available

1 information at least that you were given related to
2 previous treatments he had received, hospitalizations,
3 his medical condition and so forth?

4 A. Yes, as far as I'm aware of.

5 Q. Did that information predate the particular
6 date where the infection allegedly took place?

7 A. Yes.

8 Q. So we've got information before the
9 infection takes place up to the present time, meaning
10 present time being the 27th essentially that you went to
11 the Philippines?

12 A. Yes, with the exception that I didn't have
13 records from his hospitalization while he was in the
14 Philippines.

15 Q. And he was there for a very short time,
16 just a couple weeks; is that correct?

17 A. That's correct, yes.

18 Q. So you got that information, you've
19 actually reviewed it?

20 A. Yes.

21 Q. Did that go into or make its way into your
22 findings or your report that you did in this particular
23 case?

24 A. It essentially served as a background
25 though it's not directly referenced in the report.

1 Q. So it's something you considered, is that
2 fair to say, and analyzed and used, but didn't, it just
3 doesn't, the actual text of his medical history doesn't
4 appear in your report; is that right?

5 A. That's correct, it does not.

6 Q. Now let's go to the 27th. You get notified
7 of this information or of the death. You said that you
8 had gone to the Philippines with another individual.
9 Who was that?

10 A. Detective Bagang from the Las Vegas
11 Metropolitan Police Department.

12 Q. Did you pass by him, sort of ships passing
13 in the night, as you came in here to testify today?

14 A. Yes, I did.

15 Q. Was that the same person that you went to
16 the Philippines with?

17 A. Yes, it was.

18 Q. Tell us what happens when you get to the
19 Philippines.

20 A. When we arrived in the Philippines we got
21 in contact with a agent, FBI agent who was resident in
22 the embassy, U.S. Embassy in Manila, and he had been
23 able to get information for us, essentially to help us
24 figure out how to get an autopsy done since Detective
25 Bagang didn't have any experience with that aspect of

1 life in the Philippines and I had no clue. So the agent
2 was very helpful in figuring out who we needed to
3 contact and how to go about directing the family so that
4 an autopsy could be performed.

5 Q. So when is all this taking place?

6 A. The majority of the consultations and paper
7 signing took place on Sunday the 29th and the autopsy
8 itself occurred on the 30th.

9 Q. Okay. And when did you actually arrive,
10 the calendar day, in the Philippines?

11 A. It would have been the 29th of April.

12 Q. So did you leave the 29th or did you leave
13 earlier than that?

14 A. We left about 11:00 p.m. on Friday the
15 27th.

16 Q. So it took physically, with the time
17 changes and International Date Line and all of that, it
18 took you a time to get there obviously, but when you
19 leave here you leave on the 27th?

20 A. Correct, yes.

21 Q. And that was the day that you were informed
22 at least that the time the death occurred?

23 A. Yes.

24 Q. And as fast as travel could get you there
25 you're in the Philippines, but the calendar day then is

1 on the 29th?

2 A. Correct.

3 Q. Autopsy takes place the following day.

4 What role did you play in this?

5 A. As I said, my role was strictly that of an
6 observer since I'm not medically licensed in the
7 Philippines and so I essentially stood in the room while
8 the doctor performed the autopsy. I observed what she
9 was doing and she was very helpful in obtaining tissue
10 samples and some blood for me at my request. I had
11 prior to that gotten a consent signed by Mr. Weana's
12 next of kin to legally allow me to take those samples.

13 Q. So what is the purpose of you obtaining
14 samples?

15 A. The purpose of obtaining the samples is
16 essentially to confirm that he did in fact have
17 cirrhosis which is scarring in the liver and that he did
18 in fact ultimately die as a result of that cirrhosis or
19 scarring in his liver.

20 Q. Was there any indication that there was an
21 infectious component in this, in your analysis?

22 A. I was not able to do special stains to
23 actually identify hepatitis C virus in his liver. We
24 attempted to have that testing done through the
25 laboratory that does our histology which is what it

1 means when you prepare tissues to look at them under the
2 microscope. They themselves did not have a stain
3 available for hepatitis C and they checked with other
4 labs and were not able to find apparently any labs that
5 would do testing on tissue to verify the presence of
6 hepatitis C.

7 Q. So you weren't able to do that particular
8 portion of the testing yourself, but the samples that
9 you obtained were for then to try and determine the
10 cause of death essentially?

11 A. Essentially, yes.

12 Q. So let's go back just a little bit. You're
13 at the location where the autopsy takes place. Do you
14 watch the entirety of the autopsy?

15 A. Yes.

16 Q. So you're there for the whole time. And
17 during the autopsy, is that when you get the samples or
18 do you get them at the end? I mean how did that work?

19 A. I got the samples essentially at the end of
20 the autopsy once all the organs had been removed and the
21 Filipino doctor had the opportunity to look at them,
22 then she motioned me over and asked what I wanted.

23 Q. Were you involved in, for example, doing
24 anything that would go to the cause of death or that
25 would make it into a death certificate in the

1 Philippines, anything like that?

2 A. No, I was not involved in the preparation
3 of the death certificate.

4 Q. Did you in any way involve yourself in the
5 actual report that was -- first of all, was there a
6 report done, an autopsy report done by the Filipino
7 physician?

8 A. Yes.

9 Q. Were you involved in the preparation, the
10 authoring, anything related to that report?

11 A. No, I was not.

12 Q. Have you seen that report?

13 A. Yes, I have.

14 Q. Have you looked at that in conjunction with
15 all of the other things that you mentioned that you
16 reviewed?

17 A. Yes.

18 Q. Have you looked at the death certificate in
19 this particular case?

20 A. Yes.

21 Q. I'm showing you what has been marked as
22 State's Exhibit 5 and ask you if you recognize that?

23 A. Yes, I do.

24 Q. Can you tell us what that is?

25 A. State's Exhibit Number 5 is a certificate

1 of death for Rodolfo Torrillo Meana.

2 Q. I believe it's a copy of a certified death
3 certificate; is that correct?

4 A. Yes. Was issued by the Republic of the
5 Philippines and it is as noted a certified copy.

6 Q. And on that document what are listed as the
7 causes or contributing factors related to the death?

8 A. The cause of death statement is hepatic and
9 uremic encephalopathy, grade four. An antecedent cause
10 is listed sepsis and an underlying cause is hepatitis C
11 and chronic kidney disease.

12 Q. Does that indicate some form of infection?

13 A. Yes.

14 Q. Based on your analysis, and we're going to
15 get into your analysis in just a minute, but based on
16 your analysis of what you did with the tissue samples
17 yourself, the observance of the autopsy, your review of
18 the medical records predating your even going to the
19 Philippines related to Mr. Meana, do you have any issue
20 with what is listed there on the cause of death?

21 A. No, I do not.

22 Q. Do you agree with it?

23 A. Yes.

24 Q. Okay. Now before we get to your actual
25 report, again I want to talk about the fact that there

1 was a separate autopsy report done by this Filipino
2 medical examiner. Correct?

3 A. Yes.

4 Q. Have you reviewed that report?

5 A. Yes, I have.

6 Q. In detail?

7 A. Yes.

8 Q. And again in conjunction with your
9 observance of what took place at the autopsy, is there
10 any issue that you have with what took place at the
11 autopsy, meaning how the autopsy was performed by that
12 doctor?

13 A. No.

14 Q. Did it appear to follow the normal standard
15 practice in not only medicine but in your specific
16 profession as to how to conduct such an autopsy?

17 A. Yes, it appeared to follow those forms.

18 Q. So is there anything there that was, you
19 know, completely out of the ordinary or even out of the
20 ordinary that you would not do here that you saw being
21 done there with regard to her performance of the autopsy
22 itself?

23 A. The only difference that I noted, when we
24 do autopsies here we generally collect blood samples at
25 the beginning of the examination, and she collected

1 blood samples at the end of the examination. It's
2 basically a stylistic difference.

3 Q. So there's no significance to that other
4 than the way that you do it versus the way that somebody
5 else would do it?

6 A. Correct.

7 Q. Are there people even in your own
8 profession here in this country that might do it that
9 particular way?

10 A. If a person is, if a doctor is performing
11 an autopsy in a coroner's office or a medical examiner's
12 office, oftentimes the emphasis in those cases is on
13 toxicology testing, meaning we look at the blood to see
14 if there are drugs or alcohol or any toxic substance
15 that may have led this person to die. So we are very
16 concerned with getting good quantities of good quality
17 blood for our testing. On the other hand, someone who
18 dies in the hospital or who has an autopsy essentially
19 for medical purposes, the emphasis may not in fact be on
20 the toxicology testing and results and so the blood
21 collected is not as much of a priority for those types
22 of cases as it typically is for the types of cases that
23 I do and that other medical examiners do.

24 Q. So just to make sure I get that question
25 answered. Is it anything that would impair, impede or

1 otherwise make that process that you saw, observed and
2 saw the report of, invalid or called into question in
3 some way?

4 A. No.

5 Q. And you reviewed the findings of that
6 autopsy report as well?

7 A. Yes.

8 Q. And I'm not going to get into the actual
9 findings of that, but were they consistent with what you
10 determined later on?

11 A. Yes.

12 Q. And consistent with the death certificate
13 itself?

14 A. Yes.

15 Q. Anything about the information contained in
16 that autopsy report from the doctor in the Philippines
17 that gave you pause or question or made you change or
18 alter in any way your opinions in this case?

19 A. No.

20 Q. So let's move forward. You've observed the
21 autopsy, you've gotten your samples. What happens next?

22 A. Once I had the samples they were placed
23 into a fixative called formalin and I brought them back
24 to the United States with me and took them to the office
25 immediately after I got out of the airport and put them

1 in storage at the coroner's office until I could prepare
2 them.

3 Q. Did you somehow take care of those
4 specimens along the way or did you just leave them
5 sitting somewhere where anybody could get ahold of them?

6 A. In Manila, after I got the specimens, we
7 went back to our hotel which is when I put them in the
8 fixative. I brought fixative with me. Once they were
9 in fixative I placed them in the safe in my hotel room
10 where they stayed until I took them out as I was packing
11 to leave. I put them in my carry-on luggage and they
12 never left my control during the time of our transit
13 from the Philippines back to Las Vegas.

14 Q. Did you then take them to your office at
15 some point?

16 A. Yes, as soon as I got out of the airport
17 after arriving in Las Vegas I took them to the office
18 and placed them in storage there.

19 Q. So is that where they currently are in
20 the coroner's office?

21 A. Yes.

22 Q. Now we know the chain there.

23 You mentioned fixative, that you brought
24 some with you. Is there a reason why you did that?

25 A. Yes, there is a reason. Prior to going to

1 the Philippines I had no knowledge of exactly what
2 would, what materials would be available to me there.
3 And better to be safe than sorry I brought materials
4 with me in case none were available. So I had the
5 fixative, I had sealable containers, I had a heat sealer
6 so that nothing could leak out. I took what materials I
7 thought I would need in order to transport the type of
8 specimens that I anticipated collecting.

9 Q. So all of the things that you collected the
10 samples with, the samples being put in the formalin or
11 the fixative, all of that was brought by you to the
12 Philippines?

13 A. Yes.

14 Q. So you did not rely on them for any
15 materials like that during this process?

16 A. That's correct, I did not.

17 Q. What was the purpose or what was the need
18 to put a specimen in this fixative that you mentioned?

19 A. Tissue is put in fixative so that it
20 essentially doesn't rot, so that it is well preserved so
21 that I can look at it under the microscope and see good
22 detail.

23 Q. Now again, I know I'm jumping forward and
24 back, but I want to go back to the autopsy for a minute.
25 You said that you were present there, observed the

1 entirety of the autopsy.

2 A. Yes.

3 Q. Did that include the standard things that
4 are done, like an external, internal examination, things
5 like that?

6 A. Yes.

7 Q. And specific examinations of the internal
8 organs themselves?

9 A. Yes.

10 Q. And just for an aside and for the Grand
11 Jury, what is the purpose, why do you have to look at
12 the individual organs when you're doing an autopsy?

13 A. The goal of looking, the goal of doing an
14 autopsy in general is to document the presence of injury
15 as well as natural disease and so you do that by looking
16 at the body as a whole and then you look at each of the
17 organs with those goals in mind.

18 Q. While you're there at the autopsy was there
19 any evidence of any injury to Mr. Meana?

20 A. Not really traumatic injury per se, but he
21 did have some areas of bleeding on the skin of his arms
22 which typically go along with people who are in liver
23 failure because the liver is important for making
24 clotting factors and if the liver is failing it's not
25 doing its job in a variety of respects. So it's pretty

1 common for people who have liver failure not to be able
2 to clot their blood adequately and so they may have
3 bleeding, what looks like bruises on their skin.

4 Q. So there was some at least even external
5 signs that maybe there was a problem with the liver at
6 the time?

7 A. Yes.

8 Q. Beyond that, did you, and we're going to
9 stay away from the liver for just a moment. Okay?

10 But as far as the heart, the lungs, things
11 like that that were taken out, were they dissected
12 outside the body or looked upon and samples taken of
13 those outside the body or how does that work in the
14 Philippines?

15 A. They essentially do the same order that we
16 do in that you look at the external body, you open the
17 body cavities up, you take each organ out and examine it
18 individually.

19 Q. So as far as this individual, you knew that
20 this person had been hospitalized; correct?

21 A. Yes.

22 Q. You also knew of the prior hospitalizations
23 and medical treatment that this person had -- and I'm
24 talking about Rodolfo Meana -- had undergone; is that
25 correct?

A. Yes.

Q. Was there anything about the organ examination, excluding the liver for the moment, that was of significance to you during the process of the autopsy?

A. It appeared that he had pneumonia based upon the gross appearance, the naked eye appearance of his lungs and the fact that they appeared to be heavier than normal.

Q. Now can you tell us about that, pneumonia, the pneumonia itself, was that a contributing factor to the cause of his death?

A. Basically someone who is in poor, extremely poor health as Mr. Meana was because of his liver failure, they're susceptible to a number of different medical problems and pneumonia certainly would be one of those. So it's one of the things that was present at the time of his death and is essentially attributable to his liver failure.

Q. So a secondary cause from the primary liver failure itself?

A. Correct.

Q. What about the heart, was there evidence of obstruction in any of the coronary arteries or anything along those lines?

A. I did not see that personally but in her autopsy report Dr. Oropilla describes one area of severe narrowing in one of his coronary arteries.

Q. Any indication that he had suffered a coronary artery infarction or anything like that?

A. No.

Q. Any issues with the heart itself other than some narrowing of some of the vessels?

A. No.

Q. Any other organ that was a problem, excluding the liver and -- well, any other organ beside the liver at this point?

A. No.

Q. Now let's move to the liver. What was the -- and I'm not talking about your samples that you took, I'm talking about you still being at the autopsy, your visualization as this is taking place -- what did you see?

A. I saw a small, scarred liver.

Q. What is that indicative of?

A. Well, the scarring can occur for a variety of reasons. People who chronically abuse alcohol can develop a similar appearance of scarring. In Mr. Meana's case, because I knew that he had hepatitis C infection that was ongoing, it's consistent with a

chronic hepatitis C infection producing the scarring.

Q. And in fact were some of the findings about the thing that you mentioned regarding the hepatitis C infection, did the autopsy that was done in the Philippines, did they take blood and test it for hepatitis C at the time?

A. Yes, they did.

Q. And the results of that, were they consistent with your findings that he had an active infection of hepatitis C at the time of his death?

A. Yes.

Q. Now the liver sits where in the body?

A. It sits basically at the bottom of your rib cage on the right side, that tends to lie over the majority of the liver. So it's in your upper abdomen below the ribs.

Q. And is it sitting in a particular cavity of the body?

A. Yes, it is, it sits in the abdominal cavity.

Q. Now normally on a patient who has liver failure, what is -- before I get to that. What is the purpose of the liver; what does it do?

A. The liver does actually a lot of things. It produces proteins including clotting factors. It

breaks down toxins and it helps your body to maintain a steady blood glucose level because it stores glucose.

Q. Does it also act as somewhat of a filtering mechanism for the body as well?

A. Absolutely, yes.

Q. The blood that returns to the heart, does it primarily go through the liver?

A. Yes, it does.

Q. In order to get back to the heart it has to filter through the liver itself?

A. Yes.

Q. If the liver is scarred and sclerotic and diseased from hepatitis C or anything else that would cause cirrhosis, does that impair the flow of the blood through the liver?

A. Absolutely, yes.

Q. Is there a secondary sort of thing that happens as a result of that impaired blood flow?

A. There are actually a number of things that occur as a result of the impaired blood flow. One of them is something called portal hypertension and that is since the blood can't get through the liver as it normally would it has to find other ways to get back to the heart and those other ways, when they experience that increase in blood flow, the veins get bigger and

1 you can see things like, they're called esophageal
2 varices, meaning that they're large veins around the
3 esophagus, and those can rupture causing bleeding. You
4 can also see enlarged veins around the stomach which
5 again can rupture causing bleeding. The spleen may
6 become enlarged because the blood is backing up into the
7 spleen. So there are a variety of problems that can
8 occur when someone has cirrhosis and the blood cannot
9 flow normally through the liver.

10 Q. Now does that essentially pressurize the
11 venous system abnormally then?

12 A. Yes.

13 Q. And in doing so is there typically
14 something like a leaking of fluid out of the venous
15 system into the perineal cavity?

16 A. Yes, people who have portal hypertension
17 often have the accumulation of fluid in their bellies.

18 Q. What is that fluid called?

19 A. It's called ascites.

20 Q. Was there any evidence of ascites or
21 ascites fluid during the autopsy?

22 A. Yes.

23 Q. A significant amount?

24 A. Yes, there was quite a lot.

25 Q. Is that typical of people with liver

1 failure or cirrhosis?

2 A. Very frequently.

3 Q. So this is a finding also that you saw
4 during the autopsy itself?

5 A. Yes.

6 Q. Now any other findings beside the liver
7 issue? I know that you mentioned the lungs and the
8 pneumonia or whatever was going on there. But was there
9 any other abnormal thing that you saw within his body
10 other than that associated with his liver?

11 A. His kidneys were a little bit scarred.

12 Q. Anything there that was significant?

13 A. Not over and above his liver disease, no.

14 Q. So now you've moved from, let's move you
15 rather from the Philippines to the United States.
16 You've got your samples. What do you do with them after
17 they're physically back at the coroner's office and
18 you're going to do your studies?

19 A. Once I got back to the United States I had
20 the opportunity to transfer the pieces of tissue into
21 fresh formalin just to make sure it was well fixed and I
22 cut the pieces of tissue into smaller pieces and put
23 them in specialized little containers called cassettes
24 and those cassettes were sent to the laboratory that
25 prepares our tissues to be looked at under the

1 microscope.

2 Q. Do you eventually get those back?

3 A. Yes.

4 Q. Tell us what you found when you looked at
5 them.

6 A. When I looked at the tissues under the
7 microscope, the most obvious tissue of interest was the
8 liver, and he did in fact have cirrhosis which is
9 extensive scarring, he had inflammation in the tissue in
10 his liver indicating that he had ongoing damage from the
11 hepatitis C. As far as the other tissues go, he had
12 evidence of pneumonia in his lungs. Basically all of
13 the tissue samples from his lungs that I looked at had
14 evidence of pneumonia. Some of it was recent, some of
15 it was a little bit older. He did have scarring in his
16 kidneys, most likely the result of high blood pressure,
17 and his spleen had some extra scar tissue in it and
18 again that would have been the result of the portal
19 hypertension which was due to his liver failure and
20 cirrhosis.

21 Q. Okay. Now just as we -- again I'm going to
22 take you back just a little bit.

23 You reviewed the medical records of
24 Mr. Meane before you went even to the Philippines?

25 A. Yes.

1 Q. Were you aware of whether or not he had an
2 active hepatitis C infection before he went to the
3 Endoscopy Center of Southern Nevada on the 21st of I
4 believe it was September of 2007?

5 A. I found no indication in his medical
6 records that he had hepatitis C prior to his visit to
7 the Endoscopy Clinic.

8 Q. Was there evidence that he had hepatitis C
9 after he went to the clinic on that day?

10 A. Yes.

11 Q. Was there any evidence of him having any
12 liver disease, cirrhosis, failure, anything along those
13 lines, prior to that visit to the clinic?

14 A. No.

15 Q. Was there any evidence in the medical
16 records that he was suffering from, either some other
17 disease process or external source like drinking too
18 much, anything like that that could have contributed to
19 or caused his cirrhosis other than the hepatitis C?

20 A. No.

21 Q. Do you have an opinion as to what was the
22 cause of death in this particular case?

23 A. Yes.

24 Q. What was that opinion?

25 A. My opinion is that he ultimately died as a

1 result of chronic active hepatitis associated with
 2 hepatitis C infection.

3 Q. Now you were not necessarily given
 4 information about a criminal investigation or anything
 5 in this particular case; is that correct?

6 A. That's correct.

7 Q. So you're basically using, your opinion
 8 here is related to the findings of his medical records,
 9 the autopsy that was done, as well as your actual
 10 analysis yourself of the tissue samples that you
 11 obtained?

12 A. Yes.

13 Q. Related to that, are you aware that in this
 14 country or even any place in the world that sometimes
 15 people engage in unsafe medical practices?

16 A. Yes, I'm aware.

17 Q. And sometimes those unsafe medical
 18 practices can be the reuse of single use only materials,
 19 things like that?

20 A. Yes.

21 Q. First of all, are you aware of what
 22 Universal safety Precautions are?

23 A. Yes.

24 Q. Do you know what they are first of all and
 25 can you explain that to the jury?

1 A. Universal Precautions, essentially what it
 2 boils down to is good hygiene practices. So the goal is
 3 to minimize the spread of potentially infectious
 4 materials and you do that by means of using gloves and
 5 gowns and masks and eye protection and any other barrier
 6 that is appropriate depending on what you may be dealing
 7 with as an infectious disease. So you're trying to
 8 contain potentially infectious material.

9 Q. And you worked in the clinical setting as
 10 well as the current setting you're in; correct?

11 A. Yes.

12 Q. So in dealing in a clinical setting, as far
 13 as the use of Universal safety Precautions along those
 14 lines, does one typically employ those to protect
 15 themselves from potential infection?

16 A. Yes.

17 Q. Does one also employ those to protect the
 18 person that they're administering to for potential
 19 infection that they may have?

20 A. Yes.

21 Q. Are those precautions also used to prevent
 22 the cross contamination from one person or patient to
 23 another patient?

24 A. Yes.

25 Q. Are there breaches that naturally occur

1 normally in the process of getting and receiving medical
 2 care?

3 A. Absolutely.

4 Q. If a situation is occurring, and this is a
 5 hypothetical for you now, a situation where those
 6 medical practices were actively not being followed,
 7 meaning the Universal safety Precautions, and a
 8 transmission of an infectious agent occurred to another
 9 person, as in this particular case where we have
 10 Mr. Means going to the clinic at the Endoscopy Center,
 11 beforehand he's not hepatitis C positive; correct?

12 A. Correct.

13 Q. And afterward he is?

14 A. Yes.

15 Q. And if in fact at the clinic at that time
 16 it was found that there were unsafe injection practices
 17 for example, or something along those lines that were
 18 taking place, could that have been a mechanism by which
 19 infection was transferred to Mr. Means?

20 A. Yes.

21 Q. If in fact the mechanism, that had occurred
 22 and that is how he got the infection, and I'm not asking
 23 you to make the determination that he did in that
 24 manner, would that be consistent with what you saw which
 25 led up to his death?

1 A. Yes.

2 Q. And again if I understand you correctly,
 3 the cause of his death from your standpoint or from what
 4 you have determined was the hepatitis C virus infection
 5 and the secondary effects of that infection throughout
 6 the course of his life thereafter?

7 A. Yes.

8 MR. STAUDAHER: Ladies and gentlemen, I
 9 have no further questions for this witness. Do you have
 10 any for this particular individual?

11 THE FOREPERSON: Yes, go ahead.

12 BY A JUROR:

13 Q. Further back you were talking about testing
 14 to see if a person has hepatitis C and you said no
 15 facilities would do that, you couldn't find any. Why is
 16 that?

17 A. The reason that I couldn't find a lab that
 18 would do that type of testing on his liver tissue I
 19 believe is because we are so geared medically now to do
 20 testing on blood or serum that it's simply not a test
 21 that's in demand because we have other better ways of
 22 looking for that infection.

23 MR. STAUDAHER: And let me follow-up if I
 24 may on that.

25 Q. The testing that you're talking about that

1 you were not able to conduct was on tissue samples
2 themselves looking for the virus within those samples;
3 correct?

4 A. Yes, that's correct.

5 Q. That is not the same thing as the blood
6 sample that was taken at the time and tested and was
7 made part of the autopsy findings from the Philippines?

8 A. That is correct, those are completely
9 different samples and modes of testing.

10 Q. So his medical records and even the results
11 of the medical findings from the autopsy itself show
12 that there was an active hepatitis infection at the
13 time?

14 A. Yes.

15 Q. You just weren't able to actually do the
16 stains to see the virus within the tissues themselves?

17 A. That's correct.

18 THE FOREPERSON: Over here and then I'll
19 come back to you.

20 BY A JUROR:

21 Q. On the tissue, what was it that you added
22 to preserve it, what's the name of it?

23 A. It's called formalin, F-O-R-M-A-L-I-N.

24 Q. What was the other word? I thought there
25 was another word.

1 MR. STAUDAHNER: Fixative.

2 A JUROR: Fixative.

3 THE WITNESS: Okay. Fixative is a
4 description of what formalin does. So it preserves
5 tissue.

6 BY A JUROR:

7 Q. So when you do that, does it have to be,
8 for example when you do a heart, I understand that you
9 have to refrigerate it and there's a certain time period
10 that you can still keep it. Is there anything with that
11 additive that you put in there when you put it to the
12 tissue, by the time you take it from the Philippines to
13 the United States, is it still going to be preserved for
14 24 hours, 48 hours, six months, a year? How long is
15 that tissue still going to be a valid tissue when you
16 examine it is where I'm going.

17 A. You can keep tissue in formalin for years
18 and if there is enough formalin around that tissue to
19 adequately preserve it then you can take that tissue out
20 of the formalin years later and prepare it and look at
21 it under the microscope and it will be well preserved,
22 if it was well preserved when it went into the formalin.
23 So that's a long way of saying the formalin that I put
24 the tissue in was adequate to preserve it for as long as
25 I wanted to keep it in there.

1 Q. And does it have to be climatized or
2 anything like that? There was testimony it was put in a
3 safe. So it doesn't have to be put in any special
4 environment?

5 A. No, it doesn't have to be refrigerated or
6 treated in any way but kept at room temperature.

7 Q. Thank you.

8 MR. STAUDAHNER: And just to follow-up on
9 that.

10 Q. If I understand you correctly, you received
11 those samples directly from the autopsy itself?

12 A. Yes, I did.

13 Q. And thereafter immediately put them into
14 the formalin that you brought with you to fix the
15 samples so that they remained preserved for as long as
16 you needed them?

17 A. Yes.

18 BY A JUROR:

19 Q. You testified that you carried on these
20 when you came back to the States.

21 A. Yes.

22 Q. You carried the samples. To your knowledge
23 is there anything in the security process or anything
24 that you're aware of that might change it or --

25 A. No, there was nothing that those tissues

1 went through on their way back to the United States with
2 me that would have changed their appearance in any way.

3 Q. And it's not out of your sight that long or
4 anything like that?

5 A. No, it was in my hand carry luggage so it
6 was basically sitting on the plane with me.

7 Q. Thank you.

8 MR. STAUDAHNER: Let me follow-up with that
9 for just a moment.

10 Q. Were you aware that at least the
11 Transportation Safety Administration, the TSA, was aware
12 of the fact that you were bringing samples in that
13 capacity through security and onto the airline and so
14 forth?

15 A. Yes. In fact when we went to the airport
16 in Manila to leave we were met by I believe the chief of
17 the airport police who escorted us through the whole
18 process of checking in and getting through security.
19 And once we touched down in the United States, which
20 happened to be in Detroit, we were met by a member of
21 the airport police who escorted us through the whole
22 process so we could board our domestic flight.

23 Q. And those were preparations obviously made
24 before you even went; correct?

25 A. I believe some of it was going on during

1 the time we were in the Philippines.

2 Q. Regardless of the timing then, is it safe
3 to say that the process of going through, of
4 communicating with the Transportation Safety
5 Administration and dealing with that was to get those
6 samples through so they just didn't end up in the belly
7 of the plane somewhere or could be damaged?

8 A. Yes.

9 THE FOREPERSON: Are there any further
10 questions? There are none?

11 By law, these proceedings are secret and
12 you are prohibited from disclosing to anyone anything
13 that has transpired before us, including evidence and
14 statements presented to the Grand Jury, any event
15 occurring or statement made in the presence of the Grand
16 Jury, and information obtained by the Grand Jury.

17 Failure to comply with this admonition is a
18 gross misdemeanor punishable by a year in the Clark
19 County Detention Center and a \$2,000 fine. In addition,
20 you may be held in contempt of court punishable by an
21 additional \$500 fine and 25 days in the Clark County
22 Detention Center.

23 Do you understand this admonition?

24 THE WITNESS: Yes, ma'am, I do.

25 THE FOREPERSON: Thank you. You can be

1 excused now.

2 THE WITNESS: Thank you.

3 THE FOREPERSON: You're welcome.

4 We'd like to call for a break now.

5 MR. STAUDAHMER: That's fine. That's okay
6 if you want a break. Sure.

7 THE FOREPERSON: Ten minutes.

8 MR. STAUDAHMER: We're not going to have
9 anymore witnesses just so you know.

10 THE FOREPERSON: Okay. Ten minute break.
11 (Recess.)

12 MR. STAUDAHMER: Ladies and gentlemen of the
13 Grand Jury, that concludes the presentation of the
14 witness testimony.

15 Again, Exhibit 1 is the disk that you
16 received or the information thereon related to all the
17 transcripts of the prior presentations as well as all
18 the exhibits. I know you've individually been canvassed
19 on this but I just want to make sure there's no
20 questions related to that evidence that you're using in
21 this particular case or any question regarding the law
22 so far that has been provided to you with regard to this
23 charge, the murder charge. Any questions?

24 THE FOREPERSON: No.

25 MR. STAUDAHMER: General lack of questions

1 by the Grand Jury. We'll submit it to you for
2 deliberation.

3 (At this time, all persons, other than
4 members of the Grand Jury, exit the room at 10:31 a.m.
5 and return at 10:36 a.m.)

6 A JUROR: Can I start?

7 MR. STAUDAHMER: Certainly.

8 A JUROR: My question is, I just wanted
9 clarification, if we're not supposed to tie in what we
10 know from previous testimony and exhibits and --

11 MR. STAUDAHMER: Go ahead, finish your
12 question.

13 A JUROR: To use that information that we
14 previously heard into tying it into --

15 A JUROR: Charges.

16 A JUROR: -- charge of second degree
17 murder. Do we use that information or we do not?

18 MR. STAUDAHMER: Let me make sure we're
19 clear on this. The reason that those exhibits and that
20 prior testimony were provided to you and that you had to
21 go through then was so you -- for example, the deceased
22 in this case you heard testimony from. He's not coming
23 in to give you testimony, nor could he because he's no
24 longer with us. So yes, you do take into account the
25 evidence that was presented, the exhibits, the testimony

1 from that prior case. Because the reason that you are
2 all constituted here as the original Grand Jury and had
3 previously received all that information is to avoid
4 having to re-present the entirety of all of that matter
5 to a new Grand Jury. So yes, you are to take into
6 consideration everything that was on that disk which
7 includes all of the prior transcripts, all of the prior
8 exhibits, everything that went into your decisions in
9 the prior case. But this is a separate charge.

10 A JUROR: Yeah, I understood it's separate.
11 Okay.

12 THE FOREPERSON: Anne, do you want to
13 restate your question that brought up the discussion?

14 A JUROR: I guess if we want to get to the
15 bottom line of it is to review some of the elements of
16 second degree murder now. We can't do that now?

17 MR. STAUDAHMER: Well no. You're here to
18 determine whether or not second degree murder, because
19 that's what we're proceeding on, not a first degree
20 murder, but a second degree murder, and the different
21 theories under that that we brought forth to you,
22 whether or not they apply in this particular case. Now
23 you have previously found related to this victim,
24 because you returned a true bill as to both the criminal
25 neglect of patient charge as well as performance of an

1 act in reckless disregard, you have to make a
2 determination under one scenario whether or not those
3 are dangerous felonies. Did they result in harm or
4 death to someone? The other aspect of it is based on
5 all of the information you have, were the actions of
6 these individuals either directly, or by aiding and
7 abetting each other, or by conspiring, reckless to the
8 point that they caused someone to have a depraved heart
9 or reckless indifference to human life, that kind of
10 thing, and that's what you're here to determine.

11 A JUROR: So I have a question just to
12 follow-up on that.

13 MR. STAUDAHMER: Sure.

14 A JUROR: That would mean those three
15 people, even if one of those persons wasn't involved --
16 how can I say it? Because this is the question Anne
17 had. One of those people weren't involved in the
18 procedure on that day on Mr. Rodolfo -- sorry, excuse
19 me. Go ahead, do you think --

20 MR. STAUDAHMER: In order for you to --
21 remember there's three theories of criminal liability
22 that are involved here: Directly committing the act,
23 aiding or abetting others in the commission of those
24 acts, conspiring with others to commit the acts. If you
25 find -- you don't have to find all three. You don't

1 have to find a particular one. But if you find that all
2 three individuals are involved or liable under one of
3 those three theories of criminal liability, some may be
4 more than one, but you have to find that at least they
5 are involved under one of those three theories of
6 criminal liability in order for you to come back with a
7 finding with regard to murder as to each individual.

8 A JUROR: Okay.

9 MR. STAUDAHMER: Does that make sense?

10 A JUROR: Yes.

11 A JUROR: Absolutely.

12 A JUROR: Okay.

13 A JUROR: Thank you.

14 THE FOREPERSON: Thank you.

15 A JUROR: Thank you.

16 (At this time, all persons, other than
17 members of the Grand Jury, exit the room at 10:40 a.m.
18 and return at 10:44 a.m.)

19 THE FOREPERSON: Mr. District Attorney, by
20 a vote of 12 or more grand jurors a true bill has been
21 returned against the defendants Dipak Kantilal Desai,
22 Ronald Ernest Lakeman and Keith H. Mathaha charging the
23 crime of murder in the second degree, in Grand Jury Case
24 Number 09BGJ119A-C. We instruct you to prepare an
25 indictment in conformance with the proposed indictment

1 previously submitted to us.

2 MR. STAUDAHMER: Thank you ladies and
3 gentlemen.

4 THE FOREPERSON: You're welcome.

5 MS. NECKERLY: Thank you.

6 MR. STAUDAHMER: Were there any changes to
7 the indictment?

8 THE FOREPERSON: No.

9 (Proceedings concluded.)

10 --00000--

1 REPORTER'S CERTIFICATE

2
3 STATE OF NEVADA }
4 COUNTY OF CLARK } ss

5
6 I, Danette L. Antonacci, C.C.R. 222, do
7 hereby certify that I took down in Shorthand (Stenotype)
8 all of the proceedings had in the before-entitled matter
9 at the time and place indicated and thereafter said
10 shorthand notes were transcribed at and under my
11 direction and supervision and that the foregoing
12 transcript constitutes a full, true, and accurate record
13 of the proceedings had.

14 Dated at Las Vegas, Nevada
15 August 20, 2012. *Danette L. Antonacci*

16
17
18 DANETTE L. ANTONACCI, C.C.R. 222
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25

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the
preceding TRANSCRIPT filed in GRAND JURY CASE NUMBER
09BGJ119A-C:

☒ Does not contain the social security number of any
person,

-OR-

Contains the social security number of a person as
required by:

A. A specific state or federal law, to-
wit: NRS 656.250.

-OR-

B. For the administration of a public program
or for an application for a federal or
state grant.

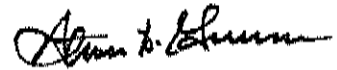
Signature

8-20-12
Date

Danette L. Antonacci
Print Name

Official Court Reporter
Title

EXHIBIT “3”


CLERK OF THE COURT

1 **ORDR**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL V. STAUDAHER
6 Chief Deputy District Attorney
7 Nevada Bar #008273
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,

11 Plaintiff,

12 -vs-

13 RONALD ERNEST LAKEMAN,
14 #2753504

15 Defendant.

CASE NO: 10C265107-2 /
C-12-283381-2

DEPT NO: XXI

16 **ORDER DENYING DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS**

17 DATE OF HEARING: 12/11/2012

18 TIME OF HEARING: 9:30 A.M.

19 THIS MATTER having come on for hearing before the above entitled Court on the
20 11th day of December, 2012, the Defendant not being present, represented by FREDERICK
21 SANTACROCE, ESQ., the Plaintiff being represented by STEVEN B. WOLFSON, District
22 Attorney, through MICHAEL V. STAUDAHER, Chief Deputy District Attorney, and the
23 Court having previously heard the arguments of counsel and good cause appearing therefor,

24 ///

25 ///

26 ///

27 ///

28 ///

1 IT IS HEREBY ORDERED that the Defendant's Petition for Writ of Habeas Corpus,
2 shall be, and it is DENIED.

3 DATED this 14th day of February, 2013.

4
5 Valerie Adams
6 DISTRICT JUDGE 88

7
8 STEVEN B. WOLFSON
9 Clark County District Attorney
Nevada Bar #001565

10 Michael V. Stauda
11 MICHAEL V. STAUDAHER
12 Chief Deputy District Attorney
13 Nevada Bar #008273

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28 09BGJ049B/10F03793B/sam-MVU