



CLERK OF THE COURT

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10 *Attorneys for Defendant*

*Raymond R. Khoury*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 MARGARET G. SEASTRAND,

14 Plaintiff,

15 vs.

16 RAYMOND RIAD KHOURY; DOES 1  
17 through 10; and ROE ENTITIES 11 through  
18 20, inclusive,

19 Defendants.

CASE NO. A-11-636515-C

DEPT NO. XXX

**DEFENDANT'S MOTION IN LIMINE NO. 4:  
TO LIMIT PLAINTIFF'S PRESENTATION  
OF PAST MEDICAL SPECIAL DAMAGES AT  
TRIAL TO AMOUNTS ACTUALLY PAID BY  
OR ON BEHALF OF PLAINTIFF**

20 Defendant, Raymond Riad Khoury, by and through his counsel of record, Hall Jaffe & Clayton,  
21 LLP, hereby moves *in limine* for an Order limiting Plaintiff's presentation of past medical special  
22 damages at trial to those amounts actually paid either by Plaintiff or on her behalf as compensation in  
23 full for the treatment rendered to Plaintiff by her treating medical providers.

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1 This Motion is made and based upon the Memorandum of Points and Authorities attached hereto,  
2 the papers and pleadings on file herein, and any oral argument the Court may entertain at the hearing on  
3 this matter.

4 DATED this 1<sup>st</sup> day of May, 2013.

5 HALL JAFFE & CLAYTON, LLP

6  
7 By 

8 STEVEN T. JAFFE  
9 Nevada Bar No. 007035  
10 JACOB S. SMITH  
11 Nevada Bar No. 010231  
12 JACOB B. LEE  
13 Nevada Bar No. 012428  
14 7425 Peak Drive  
15 Las Vegas, Nevada 89128  
16 *Attorneys for Defendant*  
17 *Raymond R. Khoury*  
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1 NOTICE OF MOTION

2 TO: MARGARET SEASTRAND, Plaintiff; and

3 TO: RICHARD A. HARRIS, ESQ., her attorney of record:

4 PLEASE TAKE NOTICE that undersigned will bring the foregoing **DEFENDANT'S MOTION**  
5 **IN LIMINE NO. 4: TO LIMIT PLAINTIFF'S PRESENTATION OF PAST MEDICAL SPECIAL**  
6 **DAMAGES AT TRIAL TO AMOUNTS ACTUALLY PAID BY OR ON BEHALF OF PLAINTIFF**

7 on for hearing in Department XXX of the Eighth Judicial District Court on the 4th day of  
8 June, 2013, at the hour of 9:00 am, or as soon thereafter as counsel can be heard.

9 DATED this 1<sup>st</sup> day of May, 2013.

10 HALL JAFFE & CLAYTON, LLP

11  
12 By 

13 STEVEN T. JAFFE  
Nevada Bar No. 007035  
14 JACOB S. SMITH  
Nevada Bar No. 010231  
15 JACOB B. LEE  
Nevada Bar No. 012428  
16 7425 Peak Drive  
Las Vegas, Nevada 89128  
17 *Attorneys for Defendant*  
*Raymond R. Khoury*

1                    **AFFIDAVIT OF JACOB S. SMITH, ESQ. IN COMPLIANCE WITH EDCR 2.47**

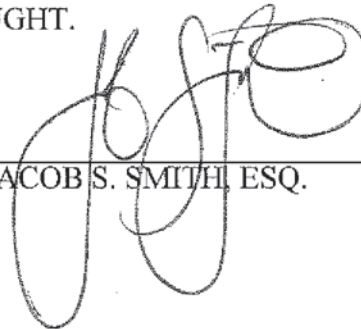
2    STATE OF NEVADA                    )  
3    COUNTY OF CLARK                 ) ss:

4                    JACOB S. SMITH, being first duly sworn, under oath, deposes and says:

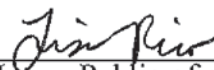
5                    1.        Affiant is an attorney licensed to practice law in the State of Nevada, and is an attorney with  
6    the law firm of HALL JAFFE & CLAYTON, LLP, counsel of record in this matter for Defendant Raymond  
7    Riad Khoury;

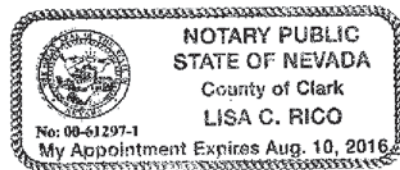
8                    2.        On April 23, 2013, prior to submitting Defendant's instant Motion *in Limine*, I contacted  
9    counsel for Plaintiff Margaret Seastrand to discuss the contents of the motion. Specifically, I spoke with  
10   Alison A. Brasier, Esq. of Richard Harris Law Firm, pursuant to EDCR 2.47, to discuss the content of the  
11   Motion and to make a good faith effort to resolve the issues addressed in the Motion. Ms. Brasier and I were  
12   unable to resolve the issues addressed in the Motion, thereby necessitating its filing.

13                    FURTHER YOUR AFFIANT SAYETH NAUGHT.

14                      
15                    \_\_\_\_\_  
16                    JACOB S. SMITH, ESQ.

17  
18    SUBSCRIBED AND SWORN to before me  
19    this 1 day of May, 2013.

20                      
21    Notary Public of and for said  
22    COUNTY and STATE



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26    ///  
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## I. FACTUAL BACKGROUND

This case arises out of a motor vehicle accident that occurred on March 13, 2009, in Las Vegas, Nevada. Plaintiff, Margaret Seastrand (“Plaintiff”) alleges that, on that date, Mr. Khoury negligently operated a motor vehicle in a manner that caused a collision with Plaintiff’s vehicle. Plaintiff further alleges that she has suffered serious and disabling injuries as a result of the collision.

In her most recent NRCP 16.1 disclosures, Plaintiff alleged that she has incurred \$433,213.02 in past medical special damages. (See Plaintiff's 2nd Supplement to Initial Early Case Conference List of Witnesses and Documents (statement only), attached hereto as **Exhibit "A"**). Prior to that disclosure, Mr. Khoury served written discovery requests on Plaintiff, including Interrogatories and Requests for Production of Documents, seeking information regarding the amounts paid to and/or accepted by each treating medical provider and facility that rendered treatment to Plaintiff for the injuries she allegedly sustained as a result of the subject accident, as well as information regarding any liens held by Plaintiff's treating medical providers. (See Plaintiff's Response to Defendant's Second Requests for Production to Plaintiff Margaret Seastrand, attached hereto as **Exhibit "B"**; Plaintiff's Response to Defendant Raymond Khoury's Second Set of Interrogatories to Plaintiff Margaret Seastrand, attached hereto as **Exhibit "C"**).

Plaintiff responded identically to each request, as follows:

Plaintiff objects to this interrogatory, as it seeks to ascertain if some parts of Plaintiff's expenses (medical bills) were paid by collateral sources. As such, the question is not relevant to the subject matter of this litigation, and not calculated to lead to the discovery of admissible evidence; it is also burdensome, oppressive and harassing to Plaintiff.

(**Exhibits “B” and “C”**). After Plaintiff declined to supplement her responses, Mr. Khoury filed a motion to compel, which this Court ultimately granted in part. In her Report and Recommendations, the Discovery Commissioner addressed only Mr. Khoury’s request for medical liens held by Plaintiff’s treating medical providers, granting Mr. Khoury’s requests for documents and information regarding the liens, and denying Mr. Khoury’s request that Plaintiff provide documents and information regarding the sale of any such liens to third-party purchasers that was not already in Plaintiff’s possession. (*See* Discovery Commissioner’s Report and Recommendations, attached hereto as **Exhibit “D”**). The Report did not address Mr. Khoury’s

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1 request for documents and information regarding the amounts accepted by Plaintiff's treating medical  
2 providers as payment in full for their services. (**Exhibit "D"**).

3 Mr. Khoury believes that Plaintiff is responsible for paying an amount less than the total that was  
4 billed by her treating medical providers. In other words, Mr. Khoury believes that some or all of Plaintiff's  
5 treating medical providers have in reality accepted an amount far below the \$433,213.02 they billed to  
6 Plaintiff for the services collectively rendered to her, and that these providers have, in turn, written off the  
7 remaining sums.

## 8 **II. LEGAL ARGUMENT**

### 9 **A. Standard for Motion in Limine.**

10 NRS. 47.080 provides:

11 In jury cases, hearings on preliminary questions of admissibility, offers of  
12 proof in narrative or question and answer form, and statements of the judges  
13 showing the character of the evidence shall to the extent practicable unless  
14 further restricted by NRS 47.0090, **be conducted out of the hearing of the**  
15 **jury**, to prevent the suggestion of inadmissible evidence. (Emphasis added).

16 See also EDCR 2.47 (allowing for motions *in limine*). The Nevada Supreme Court has tacitly approved the  
17 use of motions *in limine* to be within the purview of the district court's discretionary power concerning  
18 rulings on the admissibility of evidence. *State ex. rel Dept. of Highway v. Nevada Aggregates & Asphalt*  
19 *Co.*, 92 Nev. 370, 551 P.2d 1095 (1976).

20 The advantage of such motions "is to avoid the obviously futile attempt to "unring the bell" in the  
21 event a motion to strike is granted in the proceedings before a jury." *Hyatt v. Sierra Boat Co.*, 79  
22 Cal.App.3d. 325, 337 (1978). Motions *in limine* also allow a more careful consideration of evidentiary  
23 issues than would take place during a trial. Furthermore, by resolving potentially critical issues at the outset,  
24 pre-trial motions enhance the efficiency of trials and possibly promote settlements. "The usual purpose of  
25 motions *in limine*," however, "is to preclude the presentation of evidence deemed inadmissible and  
26 prejudicial to the moving party." *Kelly v. New West Federal Savings*, 49 Cal.App.4th 659, 669-670 (1996).

27 All evidence presented by Plaintiff must meet the threshold requirement of relevance. NRS  
28 48.205(2) provides that "[e]vidence that is not relevant is not admissible." Relevant evidence, as defined by  
NRS 48.015, is:

[e]vidence having a tendency to make the existence of any fact that is of

1 consequence to the determination of the action more or less probable than it  
2 would be without be the evidence.

3 NRS 48.035 further provides:

- 4 1. Although relevant, evidence is not admissible if its probative value is  
5 substantially outweighed by the danger of unfair prejudice, of  
6 confusion of the issues, or of misleading the jury.
- 7 2. Although relevant, evidence may be excluded if its probative value is  
8 substantially outweighed by considerations of undue delay, waste of  
9 time, or needless presentation of cumulative evidence.

10 The determination of whether the prejudicial impact of evidence outweighs its probative value is left  
11 to the sound discretion of the trial court. *Anderson v. State*, 92 Nev. 21, 554 P.2d 1200 (1975). Arguments  
12 which unfairly prejudice a party must be excluded. *Givens v. State*, 99 Nev. 50, 657 P.2d 97 (1983).

13 On April 23, 2013, counsel for Mr. Khoury spoke with Plaintiff's counsel in an attempt to secure an  
14 agreement regarding the need to file this Motion *in Limine* prior to filing the same with the Court. After  
15 much discussion, no such agreement could be reached. (See Affidavit of Jacob S. Smith submitted in  
16 compliance with EDCR 2.47, as set forth above).

17 **B. Plaintiffs' Presentation of Past Medical Damages Should be Limited to Those Amounts  
18 Actually Paid Out, Either by Plaintiff or on Her Behalf.**

- 19 1. **The collateral source rule has no bearing on amounts billed by medical  
20 providers but for which Plaintiffs incurred no actual liability because the  
21 providers agreed to accept a lesser amount as payment in full.**

22 Contrary to Plaintiff's assertions in her responses to Mr. Khoury's written discovery requests  
23 discussed above, the collateral source rule has no bearing on amounts for which Plaintiff was billed, but for  
24 which Plaintiff never incurred liability, because her medical providers accepted lesser amounts as full  
25 payment. *Howell v. Hamilton Meats and Provisions, Inc.*, 52 Cal. 4th 541, 548, 257 P.3d 1130, 1133 (Cal.  
26 2011). In *Howell*, the plaintiff sustained serious injuries when he was struck by the defendant's driver. The  
27 defendant conceded liability at trial, but disputed the amount of past medical damages claimed by the  
28 plaintiff. *Id.* The defendant moved *in limine* to exclude evidence of those portions of his medical bills that  
neither the plaintiff nor his health insurer paid due to pre-existing agreements between the insurer and the  
plaintiff's medical providers to accept reduced amounts as payments in full for the services rendered to the  
plaintiff. *Id.* The trial court denied the motion and allowed the plaintiff to present the full amount billed  
as his past medical damages, but later reduced the jury award by the billed but unpaid amount upon motion



1 by the defendant. *Id.* at 549-50, 257 P.3d at 1133-34. The court of appeals reversed the reduction as a  
2 violation of the collateral source rule. *Id.* at 550-51, 357 P.3d at 1134. The California Supreme Court,  
3 however, held that **a plaintiff can recover as past medical damages no more than the amount accepted**  
4 **by his medical providers as payment in full for their services.** *Id.* (Emphasis added).

5 Limiting Plaintiff's presentation of medical special damages to the amounts actually paid to her  
6 treating medical providers, whether by Plaintiff, on her behalf, or by a third-party medical lien purchaser,  
7 as payment in full for their services does not violate the collateral source rule, because such a limitation does  
8 not amount to an after-the-fact reduction of the amount Plaintiff would otherwise recover as damages.  
9 "Because they do not represent an economic loss for [Plaintiff], they are not recoverable in the first  
10 instance." *Howell*, 52 Cal. 4th at 548, 357 P.3d at 1133. Mr. Khoury, therefore, respectfully requests that  
11 this Court preclude Plaintiff from introducing evidence at trial of the full amount billed by her healthcare  
12 providers for treatment of her alleged injuries and restrict her to introducing only those amounts actually  
13 paid, whether by Plaintiff, on her behalf, or by a third-party medical lien purchaser, as payment for those  
14 services.

15 **2. Only the "reasonable value" of medical care "necessarily incurred" is**  
16 **recoverable by Plaintiff.**

17 Plaintiff may recover only "[t]he reasonable medical expenses [she] has *necessarily incurred* as a  
18 result of the accident." *Nev. J.I. 5PID.1(1)* (emphasis added). If, as alleged herein, Plaintiff's medical  
19 providers have agreed to accept reduced amounts as payment in full for services provided, Plaintiff cannot  
20 be said to have incurred medical expenses in the amount of the difference between what was billed and what  
21 was paid because no one, including Plaintiff, was or ever will be liable for that amount. *Howell*, 52 Cal. 4th  
22 at 556, 257 P.3d at 1138; *see also Moorhead v. Crozer Chester Medical Center*, 765 A.2d 786, 789 (Pa.  
23 2001) (holding that "where, as here, the exact amount of expenses has been established by contract and those  
24 expenses have been satisfied, there is no longer any issue as to the amount of expenses for which the plaintiff  
25 will be liable. In the latter case, the injured party should be limited to recovering the amount paid for the  
26 medical services."). The amount recoverable by Plaintiff, therefore, should only include those amounts paid  
27 by Plaintiff or paid on her behalf, because "to award more [would be] to place [her] in a better financial  
28 position than before the tort was committed." *Howell*, 52 Cal. 4th at 553, 257 P.3d at 1136, *citing Hanif*

1 v. *Housing Authority*, 200 Cal.App.3d 635, 640-641, 246 Cal.Rptr. 192 (1988); see also Restatement  
2 (Second) of Torts, § 911, comment h, pp. 476-477 (although the measure of recovery for services rendered  
3 is usually their reasonable value, “[i]f the person paid less than the exchange rate, he can recover no more  
4 than the amount paid, except when the low rate was intended as a gift to him.”).

5 To allow Plaintiff to present evidence to the jury that her past medical expenses total the full amount  
6 billed (but not paid) would violate Nevada law, which requires not only that past medical expenses be  
7 reasonable, but that they actually be *incurred*. Nev. J.I. 5PID.1(1), *supra*. Should Plaintiff recover the  
8 higher claimed amount as damages, she will have been placed in a **better** financial position than she was  
9 in before the alleged tort was committed. Such a result would amount to a denial of justice by unfairly  
10 penalizing Mr. Khoury and making him liable for costs for which Plaintiff, herself, never was and never will  
11 be liable. Even if the question of liability is ultimately decided against Mr. Khoury, he should not be  
12 required to overcompensate Plaintiff (with respect to Plaintiff’s claimed past medical expenses) by paying  
13 her more than is necessary to put her in the same financial position she occupied prior to the alleged injury.

14 **3. Restricting Plaintiff’s damages in this way will not result in a windfall to Mr.**  
15 **Khoury.**

16 Limiting Plaintiff to presenting evidence of the amounts actually paid as past medical expenses  
17 would not result in a windfall to Mr. Khoury because, in the event Plaintiff were to prevail at trial, Mr.  
18 Khoury would still be required to pay Plaintiff the full amount of the actual loss incurred as a result of her  
19 injuries, as described above. Plaintiff could only plausibly argue that limiting her potential recovery to the  
20 amounts actually paid would be an injustice to her **if** she could prove that the amount paid is in reality far  
21 below the reasonable value of the treatment she received. *Howell*, 52 Cal. 4th at 561-62, 257 P.3d at 1142.

22 The truth of the matter is that medical charges are determined in consideration of a wide range of  
23 factors and competing interests. *Howell*, 52 Cal. 4th at 560, 257 P.3d at 1141 (*citing* Dobson et al., *A Study*  
24 *of Hospital Charge Setting Practices* p. v (2005) [http://www.medpac.gov/documents/Dec05\\_Charge\\_](http://www.medpac.gov/documents/Dec05_Charge_setting.pdf)  
25 [setting.pdf](http://www.medpac.gov/documents/Dec05_Charge_setting.pdf) (as of Aug. 18, 2011)). Health insurers typically negotiate significant discounts off of the  
26 standard charges. *Id.* (*citing* Hall & Schneider, *Patients as Consumers: Courts, Contracts, and the New*  
27 *Medical Marketplace*, 106 Mich. L.Rev. 643, 663 (2008) (footnotes omitted)). Even uninsured patients  
28 typically receive a discount on the services provided to them, often bringing their bills down to the level of

1 insured patients, leading to a characterization of hospital bills as “insincere, in the sense that they would  
2 yield truly enormous profits if those prices were actually paid.” *Id.* (citing Reinhardt, *The Pricing of U.S.*  
3 *Hospital Services: Chaos Behind a Veil of Secrecy*, 25 Health Affairs 57, 62-63 (2006)). Furthermore, the  
4 amount billed, itself, can vary significantly from one provider to the next. *Id.* at 561-62, 257 P.3d at 1142  
5 (citing Reinhardt, *The Pricing of U.S. Hospital Services* at 58). Thus, “it is not possible to say generally that  
6 providers’ full bills represent the real value of their services, nor that the discounted payments they accept  
7 from private insurers are mere arbitrary reductions.” *Id.*

8         Given the realities of medical billing and payment, then, it makes more sense to make the price  
9 negotiated, paid, and accepted between medical providers the barometer of Plaintiff’s recovery, rather than  
10 relying on potentially inaccurate and misleading billing statements issued by the medical providers when  
11 such bills were not and never will be paid by Plaintiff or anyone else. *Howell*, 52 Cal. 4th at 562, 257 P.3d  
12 at 1142. By limiting Plaintiff’s presentation of damages to those costs actually paid, whether by her, on her  
13 behalf, *i.e.* those losses actually incurred by her, Plaintiff is able to recover the loss incurred as a result of  
14 her injuries without giving Mr. Khoury a windfall. In doing so, it is not necessary to disclose the source of  
15 either the payments or the write-downs, as the evidence can be presented simply in terms of what amounts  
16 Plaintiff’s medical providers accepted as payment for their services. In this manner, conflict with the  
17 collateral source rule can be avoided.

18         **C. Evidence Of Amounts Billed To Plaintiffs But Not Paid (Or Incurred) Is Not Relevant,**  
19         **And Failure To Limit Plaintiff’s Presentation Of Damages To Amounts Actually Paid**  
20         **Would Mislead and Confuse The Jury And Result In Unfair Prejudice To Mr.**  
21         **Khoury.**

22         Evidence of amounts billed by Plaintiff’s medical providers, but not paid, are not relevant to the  
23 issue of damages, or to any other issue in this case. *See* NRS 48.015 (stating that relevant evidence is any  
24 evidence that makes the existence of a material fact more or less probable). Such amounts are not losses  
25 incurred by Plaintiff, as discussed above; they are not damages she would otherwise have collected from  
26 Mr. Khoury because they are not amounts expended by Plaintiff or on her behalf. *Howell*, 52 Cal. 4th at  
27 548, 257 P.3d at 1133. Thus, any amounts above those actually paid are not admissible and must be  
28 excluded from trial. NRS 48.025(2) (stating that irrelevant evidence is not admissible).

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1 In the unlikely event that this Court should consider those amounts relevant, they should still be  
2 excluded because their probative value is substantially outweighed by the danger of unfair prejudice and  
3 potential to mislead the jury, making them subject to mandatory exclusion. NRS 48.035 (stating that  
4 evidence whose probative value is substantially outweighed by the danger of unfair prejudice, confusion of  
5 the issues, or misleading the jury is not admissible). Presenting the jury with inflated figures that do not  
6 accurately represent Plaintiff's actual losses would not only result in a trumped-up award for past medical  
7 special damages, but would invariably affect the jury's deliberations over other damages, such as pain and  
8 suffering. The higher Plaintiff's claimed medical expenses climb, the more serious her injuries will appear  
9 to the jury, and the more the jury will presume that Plaintiff has suffered. Although pain and suffering  
10 damages may potentially be appropriate in the event the jury were to find for Plaintiff, this does not mean  
11 Plaintiff should be permitted to mislead the jury by presenting over-inflated, inaccurate, and misleading  
12 figures. Such a result would unfairly prejudice Mr. Khoury. Mr. Khoury, therefore, respectfully requests  
13 that this Court exclude evidence of the amounts of Plaintiff's claimed medical expenses that were billed but  
14 never paid, either by Plaintiff or on her behalf.

15 **III. CONCLUSION**

16 Based upon the foregoing, Mr. Khoury respectfully requests that this Court issue an Order limiting  
17 Plaintiff's presentation of her past medical special damages to those amounts that were actually paid, either  
18 by her or on her behalf, to her treating medical providers as payment in full for their services, rather than the  
19 amounts billed by those providers.

20 DATED this 1<sup>st</sup> day of May, 2013.

21 HALL JAFFE & CLAYTON, LLP

22  
23 By

24 STEVEN T. JAFFE  
25 Nevada Bar No. 007035  
26 JACOB S. SMITH  
27 Nevada Bar No. 010231  
28 JACOB B. LEE  
Nevada Bar No. 012428  
7425 Peak Drive  
Las Vegas, Nevada 89128  
*Attorneys for Defendant  
Raymond R. Khoury*

# **EXHIBIT “A”**

1 **SUPP**

2 RICHARD A. HARRIS, ESQ.

3 Nevada Bar No. 505

4 ALISON M. BRASIER, ESQ.

5 Nevada Bar No. 10522

6 RICHARD HARRIS LAW FIRM

7 801 South Fourth Street

8 Las Vegas, Nevada 89101

9 Phone (702) 444-4444

10 Fax (702) 444-4455

11 Attorneys for Plaintiff

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 MARGARET G. SEASTRAND,

15 Plaintiff,

16 vs.

17 RAYMOND RIAD KHOURY; DOES I-X, and  
18 ROE CORPORATIONS I-X, inclusive,

19 Defendants.

CASE NO.: A-11-636515-C

DEPT. NO.: XXX

**PLAINTIFF'S 2<sup>nd</sup> SUPPLEMENT TO  
INITIAL EARLY CASE  
CONFERENCE LIST OF  
WITNESSES AND DOCUMENTS**

20 Plaintiff, by and through her attorneys of record, the RICHARD HARRIS LAW FIRM,  
21 hereby produces the following supplement to list of witnesses and documents pursuant to  
22 N.R.C.P. Section 16.1.

23 (Supplements are in bold)

24 **DOCUMENTS**

- 25
- 26 1. Las Vegas Metropolitan Police Department, State of Nevada Traffic
  - 27 Accident Report.
  - 28 2. 6 color photographs depicting damages to Plaintiff's vehicle as a result of the  
subject crash.

3. Property damage estimate prepared by Classic Body & Pain Inc. B East.
4. Medical records and bills from Las Vegas Fire & Rescue.
5. Medical records and bills from Mountain View Hospital.
6. Medical records and bills from Radiology Specialist, Ltd.
7. Medical records and bills from Fremont Emergency Services.
8. Medical records and bills from Primary Care Consultants.
9. Medical records and bills from Neck & Back Clinic.
10. Medical records and bills from Nevada Imaging Company.
11. **Medical records and bills from Marjorie E. Belsky, M.D. (Updated billing)**
12. Medical records and bills from Surgery Center of Southern Nevada.
13. Medical records and bills from Mario Tarquino, M.D.
14. Medical records and bills from William S. Muir, M.D.
15. Medical records and bills from Las Vegas Radiology/Sierra Meds Services.
16. Medical records and bills from Summerlin Hospital Medical Center.
17. Medical records and bills from Russell Shah, M.D.
18. Medical records and bills from Leo Langlois, M.D..
19. Medical records and bills from Nevada Spine Clinic.
20. Medical records and bills from St. Rose Dominican Hospital.
21. Medical records and bills from Eddy Luh, M.D.
22. **Medical records and bills from Matt Smith Physical Therapy.**
22. All radiology films, floral images of selective nerve root blocks, x-rays, MRI, CT scans, videos, and diagnostic testing/documentation taken in connection with the care and treatment rendered to Plaintiff as a result of the subject incident.

- 1 23. Plaintiff expects to utilize any and all writings, published works, journals,  
2 treatises, medical texts, affidavits, films, drawings, graphs, charts, photographs,  
3 reports, computer tapes, computer discs, and other data compilations, and other  
4 medical reference materials which Plaintiff and/or Plaintiff's expert use in  
5 support of Plaintiff's allegations.
- 6 24. Plaintiff may offer at trial certain exhibits for demonstrative purposes, including  
7 but not limited to the following:
- 8 a. Video, storyboards, and/or power point images, blow ups and/or  
9 transparencies of exhibits;
  - 10 b. Diagrams and/or models of the human body, specifically related  
11 to Plaintiff's injuries;
  - 12 c. Samples of hardware used for and during surgery;
  - 13 d. Photographs and videos of surgical procedures and other  
14 diagnostic tests;
  - 15 e. Actual diagnostic studies;
  - 16 f. Samples of tools used in surgical procedures;
  - 17 g. Diagrams, drawings, pictures, photos, film, video, DVD and  
18 CD ROM of various parts of the human body, diagnostic tests and  
19 surgical procedures; and,
  - 20 h. Power point images, drawings, diagrams, animations, storyboards,  
21 of the vehicles involved, the parties involved, the location of the  
22 motor vehicle accident, and/or re-enactments of the motor vehicle  
23 accident at issue.

24 WITNESSES

- 25 1. Margaret Seastrand  
26 c/o Richard Harris Law Firm  
27 801 S. Fourth Street  
28 Las Vegas, NV 89101

Plaintiff is expected to testify regarding the facts and circumstances surrounding the  
incident at issue herein.

- 2 2. Raymond Khoury  
3 c/o Steven T. Jaffe, Esq.  
4 Jacob S. Smith, Esq.  
5 HALL JAFFE & CLAYTON, LLP.  
6 7455 West Washington Avenue, Suite 460  
7 Las Vegas, NV 89128

Defendant is expected to testify regarding the facts and circumstances surrounding the  
incident at issue herein.



- 1           3.     Investigating Officer, T. Conn (I.D. No. 8101)  
2                 Investigating Officer, John Hines (I.D. No. 4350)  
3                 Las Vegas Metropolitan Police Department  
4                 400 E. Stewart  
5                 Las Vegas, Nevada 89101

6           Officer T. Conn and/or Officer John Hines are expected to testify regarding his/her  
7 investigation of the subject crash, and their report regarding same.

- 8           4.     Gary Forsberg and/or  
9                 Person(s) Most Knowledgeable  
10                c/o Classic Body & Pain Inc.  
11                2540 North Nellis Blvd.  
12                Las Vegas, Nevada 89156

13          Gary Forsberg and/or PMK are expected to testify regarding his/her evaluation of  
14 damages to the vehicles involved in the subject crash, and their report regarding same.

- 15          5.     Jerry and Karly Busby  
16                 6445 Spanish Garden Court  
17                 Las Vegas, Nevada 89110

18          This witness is expected to testify regarding his/her knowledge of the facts and  
19 circumstances surrounding the subject crash, and how Plaintiff's injuries affected her quality of  
20 life.

- 21          6.     Cari Jepson  
22                 523 Moon Chase Street  
23                 Las Vegas, Nevada

24          This witness is expected to testify regarding his/her knowledge of the facts and  
25 circumstances surrounding the subject crash, and how Plaintiff's injuries affected her quality of  
26 life.

- 27          7.     Sharla Isle  
28                 1663 English Road Drive  
               Las Vegas, Nevada 89142

            This witness is expected to testify regarding his/her knowledge of the facts and  
circumstances surrounding the subject crash, and how Plaintiff's injuries affected her quality of  
life.

8.     Larry and Jackie Snowden  
                   518 Benedict Drive  
                   Las Vegas, Nevada 89110



1  
2 These witness is expected to testify regarding his/her knowledge of the facts and  
3 circumstances surrounding the subject crash, and how Plaintiff's injuries affected her quality of  
4 life.

5 9. Chalice Lundquist  
6 4924 Vega Lane  
7 Las Vegas, Nevada 89130

8 This witness is expected to testify regarding his/her knowledge of the facts and  
9 circumstances surrounding the subject crash, and how Plaintiff's injuries affected her quality of  
10 life.

11 10. Doug Seastrand  
12 6440 Spanish Garden Court  
13 Las Vegas, Nevada 89110

14 This witness is expected to testify regarding his/her knowledge of the facts and  
15 circumstances surrounding the subject crash, and how Plaintiff's injuries affected her quality of  
16 life.

17 11. Beth Seastrand  
18 6441 Spanish Garden Court  
19 Las Vegas, Nevada 89110

20 This witness is expected to testify regarding his/her knowledge of the facts and  
21 circumstances surrounding the subject crash, and how Plaintiff's injuries affected her quality of  
22 life.

23 12. Shirley Seastrand  
24 6450 Spanish Garden Court  
25 Las Vegas, Nevada 89110

26 This witness is expected to testify regarding his/her knowledge of the facts and  
27 circumstances surrounding the subject crash, and how Plaintiff's injuries affected her quality of  
28 life.

13. Scott Seastrand  
6465 Spanish Garden Court  
Las Vegas, Nevada 89110

This witness is expected to testify regarding his/her knowledge of the facts and  
circumstances surrounding the subject crash, and how Plaintiff's injuries affected her quality of  
life.

1 Plaintiff hereby reserves the right to call any and all witnesses identified by Defendant  
2 or any other parties to this action at the time of trial of this matter.

3 Plaintiff further reserves the right to supplement and/or amend the above listed  
4 witnesses, as discovery is continuing.  
5

6  
7 MARGARET SEASTRAND'S HEALTHCARE PROVIDERS

- 8 14. Paramedic and/or Person(s) Most Knowledgeable  
9 City of Las Vegas C EMS  
10 400 East Stewart Avenue  
11 Las Vegas, NV 89101
- 12 15. Mark Ferdowsian, D.O.; Linda Sarson, R.N.  
13 David P. Gorczya, M.D. / Lindsey C. Blake, M.D.  
14 Mountainview Hospital  
15 3100 North Tenaya Way  
16 Las Vegas, Nevada 89128
- 17 16. David P. Gorczya, M.D. / Lindsey C. Blake, M.D.  
18 Radiology Specialists, Ltd.  
19 P.O. Box 50709  
20 Henderson, Nevada 89016
- 21 17. Dr. Mark Ferdowsian, D.O.  
22 And/or Person(s) Most Knowledgeable  
23 Fremont Emergency Services  
24 P.O. Box 1569  
25 Las Vegas, NV 89125
- 26 18. Timothy Knauff, PA-C  
27 and/or Person(s) Most Knowledgeable  
28 Primary Care Consultants  
9975 South Eastern Avenue, Suite 110B  
Las Vegas, NV 89183
19. Matthew C. Olmstead, D.C. / Dr. Benjamine S. Lurie and/or  
Person(s) Most Knowledgeable  
Neck & Back Clinic  
2425 North Lamb Blvd., Suite 100  
Las Vegas, NV 89115

- 1           20.   William Orrison, M.D.  
2           And/or Person(s) Most Knowledgeable  
3           Nevada Imaging  
4           5495 South Rainbow Blvd., Suite 101  
5           Las Vegas, Nevada 89118
- 6           21.   Majorie Belsky, M.D.  
7           Mario F. Tarquino, M.D.  
8           And/or Person(s) Most Knowledgeable  
9           3111 South Maryland Parkway, Suite 200  
10          Las Vegas, NV 89109
- 11          22.   Marjorie Belsky, M.D. / Mario F. Tarquino, M.D.  
12          And/or Person(s) Most Knowledgeable  
13          Surgery Center of Southern Nevada  
14          2250 Flamingo, Suite 100  
15          Las Vegas, Nevada 89119
- 16          23.   Mario Tarquino, M.D. (Anesthesia)  
17          And/or Person(s) Most Knowledgeable  
18          3111 South Maryland Parkway, Suite 200  
19          Las Vegas, Nevada 89109
- 20          24.   William S. Muir, MD  
21          And/or Person(s) Most Knowledgeable  
22          653 N. Town Center Drive #210  
23          Las Vegas, NV 89144
- 24          25.   Sonny Patidar, M.D.  
25          And/or Person(s) Most Knowledgeable  
26          Las Vegas Radiology  
27          7500 Smoke Ranch Road, Suite 100  
28          Las Vegas, Nevada 89128
26.   Treating Physicians  
          And/or Person(s) Most Knowledgeable  
          Summerlin Medical Center  
          657 Town Center Drive  
          Las Vegas, Nevada
27.   Russell J. Shah, M.D.  
          10624 South Eastern Avenue, Suite A425  
          Henderson, Nevada 89052

- 1 28. Leo P. Langlois, M.D.  
2 And/or Person(s) Most Knowledgeable  
3 Kern Island Pain Medicine  
4 2920 H Street  
5 Bakersfield, CA 93301
- 6 29. Yevgeniy A. Khavkin, M.D.  
7 Jaswinder S. Grover, M.D.  
8 And/or Person(s) Most Knowledgeable  
9 Nevada Spine Clinic  
10 7140 Smoke Ranch Road, Suite 150  
11 Las Vegas, NV 89128
- 12 30. Yevgeniy Khavkin, M.D.; Eddy Luh, M.D.  
13 Jaswinder Grover, M.D.; Mario Fojtik, NCST  
14 Dr. Matthew Treinen (Radiologist)  
15 And/or Person(s) Most Knowledgeable  
16 St. Rose Dominican Hospital  
17 8280 W. Warm Springs  
18 Las Vegas, NV 89113
- 19 31. Matt Smith Physical Therapy  
20 727 N. Nellis Blvd.  
21 Las Vegas, Nevada 89110
- 22 32. Custodian of Records  
23 ALL ABOVE FACILITIES

24 These individuals will testify as to the completeness and accuracy of records, and the  
25 medical records and bills generated in the normal course of business.

26 The above medical providers are expected to testify to Plaintiff's injuries, diagnosis,  
27 treatment and prognosis, as well as the authenticity of their medical records and bills.

28 Plaintiffs treating physicians are expected to offer testimony regarding the Plaintiffs  
diagnosis, treatment and prognosis for any and all services rendered as a result of the injuries  
sustained in the accident. Plaintiffs treating physicians will not prepare expert reports, but will  
rely upon medical records generated as a result of the treatment for Plaintiffs injuries. The

doctor will opine, to a reasonable degree of medic probability, that the medical treatment was reasonable and necessary.

Plaintiff hereby reserves the right to call any and all medical providers identified by Defendant or any other parties to this action at the time of trial of this matter.

Plaintiff further reserves the right to supplement and/or amend the above listed medical providers, as discovery is continuing.

**COMPUTATION OF DAMAGES PURSUANT TO NRCP 16.1(a)(1)(C)**

PROVIDER	DATE OF SERVICE	AMOUNT INCURRED
Las Vegas Fire & Rescue	03/13/09	\$ 772.00
Mountain View Hospital	03/13/09	\$ 4,468.45
Radiology Specialist, Ltd.	03/13/09	\$ 215.00
Fremont Emergency Services	03/13/09	\$ 275.00
Primary Care Consultants	03/30/09	\$ 300.00
Neck & Back Clinic	03/20/09 - 07/22/09	\$ 3,500.00
Nevada Imaging Company	04/03/09	\$ 2,743.00
<b>Marjorie E. Belsky, M.D.</b>	<b>05/05/09 - 12/15/09</b>	<b>\$ 27,570.00</b>
Mario Tarquino, M.D.	05/20/09 - 12/09/09	\$ 3,600.00
Surgery Center of Southern NV	09/16/09 - 12/09/09	\$ 52,923.07
William S. Muir, M.D.	08/24/09 - 01/25/09	\$ 49,714.00
Sierra Meds Services	10/13/09	\$ 1,650.00
Summerlin Hospital	01/22/10 - 01/27/10	\$ 58,495.00
Russell Shah, M.D.	12/10/09 - 01/07/10	\$ 7,995.00
<b>Leo Langlois, M.D.</b>	<b>04/02/10 - 04/14/10</b>	<b>\$ 1,631.00</b>
<b>Nevada Spine Clinic</b>	<b>04/29/10 - 12/14/10</b>	<b>\$ 39,617.50</b>
St. Rose Dominican Hospital	05/12/10 - 05/16/10	\$ 168,074.00
Eddy Luh, M.D.	05/17/10 - 06/08/10	\$ 7,790.00
Matt Smith Physical Therapy		\$ 1,880.00
<b>TOTAL</b>		<b>*\$ 433,213.02</b>

\*This total amount does not include Plaintiff's lost wages, future and/or residual damages, and medical bills not yet received. However, as previously stated above, Plaintiff reserves



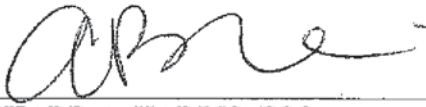
1 the right to supplement and/or amend this Computation of Damages as discovery is  
2 continuing.

3	LOSS OF HOUSEHOLD SERVICES	\$221,129.00
5	LOSS OF EARNINGS /	
6	LOSS OF EARNING CAPACITY	\$413,634.00
7	FUTURE MEDICAL EXPENSES	\$602,558.00
8	PAIN AND SUFFERING	To be determined by trier
9		of fact

10 Plaintiff will make a claim for general pain and suffering, in an amount to be determined  
11 at trial.

12 DATED this 24<sup>th</sup> day of January, 2013.

13 RICHARD HARRIS LAW FIRM

14 By:   
15 RICHARD A. HARRIS, ESQ.  
16 Nevada Bar No. 505  
17 ALISON M. BRASIER, ESQ.  
18 Nevada Bar No. 10522  
19 801 South Fourth Street  
20 Las Vegas, Nevada 89101  
21 Phone (702) 444-4444  
22 Fax (702) 444-4455  
23 Attorneys for Plaintiff  
24  
25  
26  
27  
28



**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I hereby certify that I am an employee of RICHARD HARRIS  
LAW FIRM and that on the 08 day of January, 2013, I caused the foregoing PLAINTIFF'S  
2<sup>nd</sup> SUPPLEMENT TO INITIAL EARLY CASE CONFERENCE LIST OF WITNESSES  
AND DOCUMENTS to be served as follows:

- ☒ [X] by placing a true and correct copy of the same to be deposited for mailing in the  
U.S. Mail at Las Vegas, Nevada, enclosed in a sealed envelope upon which first  
class postage was fully prepaid; and/or
- ☐ [ ] pursuant to EDCR 7.26, by sending it via facsimile; and/or
- ☐ [ ] by hand delivery

to the attorneys listed below:

Steven T. Jaffe, Esq.  
Jacob S. Smith, Esq.  
HALL JAFFE & CLAYTON, LLP.  
7455 West Washington Avenue, Suite 460  
Las Vegas, Nevada 89128  
*Attorneys for Defendants*

  
An employee of the RICHARD HARRIS LAW FIRM

# **EXHIBIT “B”**

1 **RESP**  
2 RICHARD A. HARRIS, ESQ.  
3 Nevada Bar No. 505  
4 JOSHUA R. HARRIS, ESQ.  
5 Nevada Bar No. 9580  
6 ALISON M. BRASIER, ESQ.  
7 Nevada Bar No. 10522  
8 **RICHARD HARRIS LAW FIRM**  
9 801 South Fourth Street  
10 Las Vegas, Nevada 89101  
11 Phone (702) 444-4444  
12 Fax (702) 444-4455  
13 *Attorneys for Plaintiff*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 MARGARET G. SEASTRAND, )  
14 )  
15 Plaintiff, )

Case No. : A-11-636515-C  
Dept. No.: XXX

16 vs. )

17 RAYMOND RIAD KHOURY; DOES )  
18 I through 10, and ROE ENTITIES 11 )  
19 through 20, inclusive, )  
20 Defendants. )

21 **PLAINTIFF'S RESPONSE TO DEFENDANT'S SECOND**

22 **REQUESTS FOR PRODUCTION TO PLAINTIFF MARGARET SEASTRAND**

23  
24 TO: Defendant RAYMOND RIAD KHOURY; and

25 TO: Jacob S. Smith, Esq. of HALL JAFFE & CLAYTON, LLP, his counsel of record.

26 COMES NOW, Plaintiff MARGARET G. SEASTRAND, by and through her counsel of  
27 record, Richard A. Harris, Joshua R. Harris and Alison M. Brasier, of the RICHARD HARRIS  
28 LAW FIRM, pursuant to Rule 34 of the Nevada Rules of Civil Procedure, and hereby provides  
the following Responses to Defendant's Second Requests for Production to Plaintiff.

REQUEST TO PRODUCE NO. 16:

**RESPOND TO REQUEST TO PRODUCE NO. 16:**

**REQUEST TO PRODUCE NO. 17:**

**RESPOND TO REQUEST TO PRODUCE NO. 17:**

JA 0571

**REQUEST TO PRODUCE NO. 18:**

All documents demonstrating the amounts of payments accepted by the medical providers and/or facilities for the treatment rendered in this matter.

**RESPOND TO REQUEST TO PRODUCE NO. 18:**

Plaintiff objects to this interrogatory, as it seeks to ascertain if some parts of Plaintiff's expenses (medical bills) were paid by collateral sources. As such, the question is not relevant to the subject matter of this litigation, and not calculated to lead to the discovery of admissible evidence; it is also burdensome, oppressive and harassing to Plaintiff.

**REQUEST TO PRODUCE NO. 19:**

All documents demonstrating the amounts accepted by each medical provider and/or facility which sold its liens to any other person or entity for the treatment rendered in this case.

**RESPOND TO REQUEST TO PRODUCE NO. 19:**

Plaintiff objects to this interrogatory, as it seeks to ascertain if some parts of Plaintiff's expenses (medical bills) were paid by collateral sources. As such, the question is not relevant to the subject matter of this litigation, and not calculated to lead to the discovery of admissible evidence; it is also burdensome, oppressive and harassing to Plaintiff.

DATED this 23<sup>rd</sup> day of April, 2012.

**RICHARD HARRIS LAW FIRM**

 11451

JOSHUA R. HARRIS, ESQ.

Nevada Bar No. 9580

ALISON M. BRASIER, ESQ.

Nevada Bar No. 10522

801 South Fourth Street

Las Vegas, Nevada 89101

*Attorneys for Plaintiff*

1 CERTIFICATE OF SERVICE

2 Pursuant to NRCp 5(b), I hereby certify that I am an employee of RICHARD HARRIS  
3 LAW FIRM and that on the 03 day of April, 2012, I caused the foregoing PLAINTIFF'S  
5 RESPONSE TO DEFENDANT'S SECOND REQUESTS FOR PRODUCTION TO  
6 PLAINTIFF MARGARET SEASTRAND to be served as follows:  
7

- 8 [ X] by placing a true and correct copy of the same to be deposited for mailing in the  
9 U.S. Mail at Las Vegas, Nevada, enclosed in a sealed envelope upon which first  
10 class postage was fully prepaid; and/or  
11 [ ] pursuant to EDCR 7.26, by sending it via facsimile; and/or  
12 [ ] by receipt of copy

13 to the attorneys listed below:

14 Steven T. Jaffe, Esq.  
15 Jacob S. Smith, Esq.  
16 HALL JAFFE & CLAYTON, LLP  
17 7455 West Washington Avenue, Suite 460  
18 Las Vegas, Nevada 89128  
19 Attorneys for Defendant

20  
21   
22 An employee of the RICHARD HARRIS LAW FIRM  
23  
24  
25  
26  
27  
28

RICHARD HARRIS  
LAW FIRM



# **EXHIBIT “C”**

1 **RESP**  
2 RICHARD A. HARRIS, ESQ.  
3 Nevada Bar No. 505  
4 JOSHUA R. HARRIS, ESQ.  
5 Nevada Bar No. 9580  
6 ALISON M. BRASIER, ESQ.  
7 Nevada Bar No. 10522  
8 **RICHARD HARRIS LAW FIRM**  
9 801 South Fourth Street  
10 Las Vegas, Nevada 89101  
11 Phone (702) 444-4444  
12 Fax (702) 444-4455  
13 *Attorneys for Plaintiff*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 MARGARET G. SEASTRAND, )

14 Plaintiff, )

15 vs. )

16 RAYMOND RIAD KHOURY; DOES )  
17 I through 10, and ROE ENTITIES 11 )  
18 through 20, inclusive, )

19 Defendants. )  
20 )

Case No. : A-11-636515-C

Dept. No.: XXX

21  
22 **PLAINTIFF'S RESPONSE TO DEFENDANT RAYMOND KHOURY'S**  
23 **SECOND SET OF INTERROGATORIES TO PLAINTIFF MARGARET SEASTRAND**

24 TO: Defendant RAYMOND RIAD KHOURY; and

25 TO: Jacob S. Smith, Esq. of HALL JAFFE & CLAYTON, LLP, his counsel of record.

26 COMES NOW, Plaintiff MARGARET G. SEASTRAND, by and through her counsel of  
27 record, Richard A. Harris, Joshua R. Harris and Alison M. Brasier, of the RICHARD HARRIS  
28

1 LAW FIRM, pursuant to Rule 33 of the Nevada Rules of Civil Procedure, and hereby provides  
2 the following Responses to Defendant's Second Set of Interrogatories to Plaintiff:  
3

4  
5 PRELIMINARY STATEMENT

6 Plaintiff, MARGARET G. SEASTRAND has not yet completed her discovery and  
7 investigation for the preparation of this case for trial. Accordingly, the answers set forth herein  
8 are provided without prejudice to the responding party's right to produce any subsequent  
9 discovered facts or interpretations thereof and/or to add, modify or otherwise change or amend  
10 the answers herein. The information hereinafter set forth is true and correct to the best of the  
11 responding party's knowledge at this particular time, but it is subject to correction for  
12 inadvertent errors or omission, if any such error or omissions are found to exist  
13  
14

15 INTERROGATORY NO. 32:

16 Set forth the amounts paid by any source which each and every medical provider or  
17 facility accepted as payment for the services which they rendered.

18 ///

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1        RESPOND TO INTERROGATORY NO. 32:

2                Plaintiff objects to this interrogatory it seeks to ascertain if some parts of  
3        Plaintiff's expenses (medical bills) were paid by collateral source. As such, the  
4        question is not relevant to the subject matter of this litigation, and not calculated to  
5        lead to the discovery of admissible evidence; it is also burdensome, oppressive  
6        and harassing to Plaintiff.  
7

8        DATED this 23<sup>rd</sup> day of April, 2012.

9                                RICHARD HARRIS LAW FIRM

10                                

11                                RICHARD A. HARRIS, ESQ.

12                                Nevada Bar No. 505

13                                JOSHUA R. HARRIS, ESQ.

14                                Nevada Bar No. 9580

15                                ALISON M. BRASIER, ESQ.

16                                Nevada Bar No. 10522

17                                801 South Fourth Street

18                                Las Vegas, Nevada 89101

19                                *Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I hereby certify that I am an employee of RICHARD HARRIS LAW FIRM and that on the 23 day of April, 2012, I caused the foregoing PLAINTIFF'S RESPONSE TO DEFENDANT RAYMOND KHOURY'S SECOND SET OF INTERROGATORIES TO PLAINTIFF MARGARET SEASTRAND to be served as follows:

- ☒ [ X] by placing a true and correct copy of the same to be deposited for mailing in the U.S. Mail at Las Vegas, Nevada, enclosed in a sealed envelope upon which first class postage was fully prepaid; and/or
- ☐ [ ] pursuant to EDCR 7.26, by sending it via facsimile; and/or
- ☐ [ ] by receipt of copy

to the attorneys listed below:

Steven T. Jaffe, Esq.  
Jacob S. Smith, Esq.  
HALL JAFFE & CLAYTON, LLP  
7455 West Washington Avenue, Suite 460  
Las Vegas, Nevada 89128  
Attorneys for Defendant

  
An employee of the RICHARD HARRIS LAW FIRM



# **EXHIBIT “D”**



CLERK OF THE COURT

1 **NEO**  
2 STEVEN T. JAFFE, ESQ.  
3 [sjaffe@lawhjc.com](mailto:sjaffe@lawhjc.com)  
4 Nevada Bar No. 007035  
5 JACOB S. SMITH, ESQ.  
6 [jsmith@lawhjc.com](mailto:jsmith@lawhjc.com)  
7 Nevada Bar No. 010231

8 **HALL JAFFE & CLAYTON, LLP**  
9 7425 PEAK DRIVE  
10 LAS VEGAS, NEVADA 89128  
11 (702) 316-4111  
12 FAX (702) 316-4114

13 *Attorneys for Defendant*  
14 *Raymond R. Khoury*

15 **DISTRICT COURT**  
16 **CLARK COUNTY, NEVADA**

17 MARGARET G. SEASTRAND,  
18 Plaintiff,

19 vs.

20 RAYMOND RIAD KHOURY; DOES 1  
21 through 10; and ROE ENTITIES 11 through  
22 20, inclusive,

23 Defendants.

CASE NO. A-11-636515-C  
DEPT NO. XXX

**NOTICE OF ENTRY OF DISCOVERY  
COMMISSIONER'S REPORT and  
RECOMMENDATIONS**


Hearing Date: December 5, 2012  
Hearing Time: 9:00 a.m.

24 PLEASE TAKE NOTICE that a Discovery Commissioner's Report and Recommendations was  
25 entered by this Court on the 14<sup>th</sup> day of March, 2013. A copy of which is attached hereto.

26 DATED this 4 day of April, 2013.

27 HALL JAFFE & CLAYTON, LLP

28 By



STEVEN T. JAFFE, ESQ.  
Nevada Bar No. 007035  
JACOB S. SMITH, ESQ.  
Nevada Bar No. 010231  
7425 Peak Drive  
Las Vegas, Nevada 89128  
*Attorneys for Defendant*  
*Raymond R. Khoury*

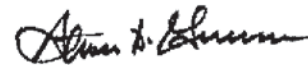
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An Employee of  
HALL JAFFE & CLAYTON, LLP

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CLERK OF THE COURT

DCRR  
STEVEN T. JAFFE  
sjaffe@lawhjc.com  
Nevada Bar No. 007035  
JACOB S. SMITH  
jsmith@lawhjc.com  
Nevada Bar No. 010231

HALL JAFFE & CLAYTON, LLP  
7425 PEAK DRIVE  
LAS VEGAS, NEVADA 89128  
(702) 316-4111  
FAX (702) 316-4114

*Attorneys for Defendant  
Raymond R. Khoury*

DISTRICT COURT  
CLARK COUNTY, NEVADA

MARGARET G. SEASTRAND,  
Plaintiff,

vs.

RAYMOND RIAD KHOURY; DOES 1  
through 10; and ROE ENTITIES 11 through  
20, inclusive,

Defendants.

CASE NO. A-11-636515-C  
DEPT NO. XXX

DISCOVERY COMMISSIONER'S  
REPORT and RECOMMENDATIONS

[BEFORE THE DISCOVERY COMMISSIONER]

Hearing Date: December 5, 2012  
Hearing Time: 9:00 a.m.

APPEARANCES:

For Plaintiff:  
MARGARET SEASTRAND

RICHARD HARRIS LAW FIRM  
Alison Brasier, Esq.

For Defendant:  
RAYMOND RIAD KHOURY

HALL JAFFE & CLAYTON, LLP.  
Jacob S. Smith, Esq.

///

///

///



CASE NAME: *Seastrand v. Khoury*  
CASE NUMBER: A-11-636515-C

I.

FINDINGS

This matter came on for hearing before the HONORABLE BONNIE BULLA, Discovery Commissioner, on the 5<sup>th</sup> day of December, 2012 at 9:00 a.m., on Defendant's Motion to Compel Discovery Responses and Production of Documents re: Plaintiff's Medical Liens. Defendant filed its Motion to Compel on November 1, 2012, seeking to compel responses to various requests for production and interrogatories pertaining to the Plaintiff's medical liens and treatment on liens. Plaintiff filed her opposition on November 20, 2012, asserting that the requested documents and information were protected under the collateral source rule and were not discoverable. On November 30, 2012, Defendant filed his Reply asserting that the documents and information was arguably both discoverable and admissible, but was certainly discoverable even under the most stringent interpretations of Nevada law.

At the hearing on the matter on December 5, 2012, Jacob S. Smith, Esq. appeared on behalf of Defendant and Alison Brasier, Esq. appeared on behalf of Plaintiff.

The Court, having reviewed the papers and pleadings on file, and having considered the oral argument made by counsel at the hearing on this matter, and having considered the case law and other authority presented in the parties' briefings on this issue, hereby makes the following recommendations:

II.

RECOMMENDATIONS

IT IS HEREBY RECOMMENDED that Plaintiff's Motion for Protection from Defendant's Notice of Plaintiff's Deposition is GRANTED in part and DENIED in part;

IT IS FURTHER RECOMMENDED that Plaintiff must supplement her responses to Defendant's Interrogatories with any and all information in her possession pertaining to the liens and/or lien amounts which correspond with any injuries and/or treatment allegedly arising as a result of the subject accident.

///

///

///

CASE NAME: *Seastrand v. Khoury*  
CASE NUMBER: A-11-636515-C

IT IS FURTHER RECOMMENDED that Plaintiff must supplement her responses to Defendant's Requests for Production by producing all documentation in her possession pertaining to the liens and/or lien amounts which correspond with any injuries and/or treatment allegedly arising as a result of the subject accident; and

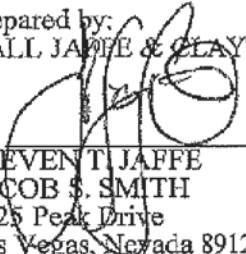
IT IS FURTHER RECOMMENDED that Plaintiff is not obligated to procure any documentation from third-party purchasers of the liens which is not already in her possession.

The Discovery Commissioner, having met with counsel for the parties, having discussed the issues noted above and having reviewed any materials proposed in support thereof, hereby submits the above recommendations.

DATED this 11 day of January, 2013.

  
DISCOVERY COMMISSIONER

Prepared by:  
HALL JAFFE & CLAYTON, LLP

By   
STEVEN T. JAFFE  
JACOB S. SMITH  
7425 Peak Drive  
Las Vegas, Nevada 89128  
*Attorneys for Defendant  
Raymond R. Khoury*

Approved as to Form and Content:  
RICHARD HARRIS LAW FIRM

By \_\_\_\_\_  
RICHARD A. HARRIS  
ALISON BRASIER  
801 S. Fourth Street  
Las Vegas, Nevada 89101  
*Attorneys for Plaintiff*

CASE NAME: *Seastrand v. Khoury*

CASE NUMBER: A-11-636515-C

IT IS FURTHER RECOMMENDED that Plaintiff must supplement her responses to Defendant's Requests for Production by producing all documentation in her possession pertaining to the liens and/or lien amounts which correspond with any injuries and/or treatment allegedly arising as a result of the subject accident; and

IT IS FURTHER RECOMMENDED that Plaintiff is not obligated to procure any documentation from third-party purchasers of the liens which is not already in her possession.

The Discovery Commissioner, having met with counsel for the parties, having discussed the issues noted above and having reviewed any materials proposed in support thereof, hereby submits the above recommendations.

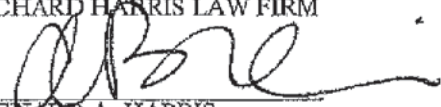
DATED this \_\_\_\_\_ day of January, 2013.

DISCOVERY COMMISSIONER

Prepared by:  
HALL JAFFE & CLAYTON, LLP

By \_\_\_\_\_  
STEVEN T. JAFFE  
JACOB S. SMITH  
7425 Peak Drive  
Las Vegas, Nevada 89128  
*Attorneys for Defendant*  
*Raymond R. Khoury*

Approved as to Form and Content:  
RICHARD HARRIS LAW FIRM

By   
RICHARD A. HARRIS  
ALISON BRASIER  
801 S. Fourth Street  
Las Vegas, Nevada 89101  
*Attorneys for Plaintiff*

CASE NAME: *Seastrand v. Khoury*  
CASE NUMBER: A-11-636515-C

**NOTICE**

Pursuant to NRCPP 16.1(d)(2), you are hereby notified you have five (5) days from the date you receive this document within which to file written objections.

Pursuant to E.D.C.R. 2.34(f) an objection must be filed and served no more than five (5) days after receipt of the Discovery Commissioner's Report. The Commissioner's Report is deemed received when signed and dated by a party, his attorney or his attorney's employee, or three (3) days after mailing to a party or his attorney, or three (3) days after the clerk of the court deposits a copy of the Report in a folder of a party's lawyer in the Clerk's office. See E.D.C.R. 2.34(F)

A copy of the foregoing Discovery Commissioner's Report was:

\_\_\_\_\_ Mailed to Plaintiffs/Defendants at the following address on the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

X Placed in the folder of Plaintiffs'/Defendants' counsel in the Clerk's office on the 17 day of Jan, 2012.<sup>13</sup>

STEVEN D. GRIERSON, CLERK OF COURT

By  \_\_\_\_\_  
DEPUTY CLERK

CASE NAME: *Seastrand v. Khoury*  
CASE NUMBER: A-11-636515-C

**ORDER**

The Court, having reviewed the above report and recommendatio

ns prepared by the Discovery Commissioner and,

\_\_\_\_\_ The parties having waived the right to object thereto,

☒ <sup>mm</sup> No timely objection having been received in the office of the Discovery Commissioner pursuant to E.D.C.R. 2.34(f),

\_\_\_\_\_ Having received the objections thereto and the written arguments in support of said objections, and good cause appearing,

\* \* \*

AND

☒ IT IS HEREBY ORDERED the Discovery Commissioner's Report and Recommendations are affirmed and adopted.

\_\_\_\_\_ IT IS HEREBY ORDERED the Discovery Commissioner's Report and Recommendations are affirmed and adopted as modified in the following manner. (attached hereto)

\_\_\_\_\_ IT IS HEREBY ORDERED that a hearing on the Discovery Commissioner's Report is set for \_\_\_\_\_, 201\_\_, at \_\_\_\_:\_\_\_\_ a.m.

DATED this 13<sup>th</sup> day of March, 2012.

  
\_\_\_\_\_  
DISTRICT JUDGE

AB



## **New England Medical Legal Liaison LLC**

286 Stepstone Hill Road  
Guilford, CT 06437-2041  
(203) 675-3032

January 6, 2010

Richard Harris Law Firm  
801 South Fourth Street  
Las Vegas, NV 89101

Re: Margaret Seastrand - Assignment Agreement between Surgery Center  
of Southern Nevada and New England Medical Legal Liaison LLC

Dear Sirs:

I am writing with respect to the above-referenced agreement (the "Agreement") which New England Medical Legal Liaison LLC ("NEMLL"), entered into with Surgery Center of Southern Nevada as of April 1, 2009.

I am writing to inform you that, pursuant to the Agreement, Surgery Center of Southern Nevada has assigned to NEMLL (i) all of Surgery Center of Southern Nevada's right, title and interest in, to and under the Letters issued by your client and/or firm, and with respect to patient Margaret Seastrand, and (ii) all of Surgery Center of Southern Nevada's rights to any benefits accruing or paid under any of such Letters with respect to such patients.

Please direct to NEMLL (at the address below) all communications concerning, and all payments with respect to your client's outstanding balance.

**NEMLL**  
286 Stepstone Hill Road  
Guilford, CT 06437  
Phone (203) 675-3032  
Fax (203) 458-2027  
deanc@nemll.com

This notice is provided with the approval of Surgery Center of Southern Nevada's pursuant to the Agreement. I am available if you have any questions. Thank you.

**Dean Clayton**  
**NEMLL LLC**

Nov 29 10 12:51p

**New England Medical Legal Liaison LLC**286 Stepstone Hill Road  
Guilford, CT 06437-2041  
(203) 675-3032

November 17, 2010

Re: Outstanding Surgery Center of Southern Nevada bill for Margaret  
SeastrandFacility: Surgery Center of Southern Nevada  
Date of Procedure: 9/16/2009  
Outstanding Bill Amount: \$31,763.52  
Firm Representing Patient: Richard Harris Law Firm

Dear Sirs:

New England Medical Legal Liaisons is in the process of reviewing outstanding bills from the Surgery Center of Southern Nevada for patients involved in litigation to determine which accounts are still being represented by their attorneys and are pending and which accounts need to be sent to collections.

Currently, our records indicate that the bill for Margaret Seastrand is still open and pending and that your firm is still representing the patient. If that is still the case, we will keep this account open and not send through for collections. Can you please take a moment and confirm this information on the bottom of this letter and fax back to the number indicated.

If for some reasons our records are incorrect, please indicate any incorrect information on this bottom of this form as well. Thank you for your time and attention.

☒ This firm still represents Margaret Seastrand and this case is still pending.  
Please keep this account open until further communications from this firm.

☐ Other - Please indicate incorrect information.

Please fax back this page to NEMLL at (203) 458-2027





**MEDICAL LIEN CONTRACT**

Solutions for Doctors, Attorneys and Patients

Date 10-13-09

Patient Acct.# \_\_\_\_\_

To \_\_\_\_\_

Patient's Birth Date 12-27-09

Payment to Provider: I, Margaret G. Seashand ("Patient"), hereby authorize and direct you Richard Harris ("Attorney"), my attorney to pay directly to Las Vegas Radiology ("Provider") such amounts as may be due and owing to Provider for all Treatment - which includes, but is not limited to, all services rendered by medical personnel, facility charges, and any supplies (including implants) associated with my medical care, regardless of whether such supplies are provided by the facility, the physician and/or any third-party vendor (the "Treatment") - I received as a result of the personal injuries I suffered on March 13, 2009 (the "Incident").

**Withholding of Funds for Benefit of Provider:** Patient further instructs Attorney to withhold such sums from any settlement, judgment, court ruling, or verdict relating to the Incident to compensate Provider and shall tender payment in full to Provider before disbursing any payment to Patient.

**Retention of New Attorney:** Patient acknowledges that he or she is responsible for notifying Provider in the event Patient retains a new lawyer to represent Patient in connection with the Incident. If Patient retains a new lawyer, the new lawyer shall notify Provider in writing within forty-eight (48) hours of the retention that the new lawyer agrees to be bound by the terms of this Medical Lien Contract.

**Assignment by Provider to Assignee:** Patient and Attorney acknowledge that Provider reserves the right, in its sole and absolute discretion, to assign its rights under this Medical Lien Contract and the underlying Accounts Receivable to a third-party (the "Assignee") for any consideration that Provider deems sufficient. Patient and Attorney further acknowledge that they will be bound by this Medical Lien Contract to the Assignee as if Assignee is the Provider. The amount Assignee pays Provider for Patient's Treatment will not necessarily be the total amount of the billed charges. The negotiated payment between an Assignee and Provider shall not change Patient's financial obligations to Assignee under the terms of this Medical Lien Contract, which are the billed charges for the Treatment.

Patient Initials: MAS

**Authorization for Release of Medical Records:** Patients authorizes Attorney to disclose information regarding the status of Patient's case to Provider or Assignee, if an assignment has been made, and agrees to execute an authorization/release to accomplish this disclosure. In the event of an assignment by the Provider, Patient hereby authorizes Provider to release any and all of Patient's medical records to the Assignee. Patient acknowledges and consents that the released information may contain alcohol, drug abuse, psychiatric, STDs, Genetic testing, AIDS information, or other abuse related information. This authorization for release of medical records will expire upon payment in full to Provider or Assignee. Patient may revoke the authorization for release of medical records at any time upon request. However, in the event Patient revokes the authorization,

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SMSL-00011





Solutions for Doctors, Attorneys and Patients

Patient shall be responsible for immediate payment in full of all amounts due and owing to Provider or Assignee. Further, the revocation of this authorization will not have any affect on any actions taken prior to receiving the revocation. Patient acknowledges that he or she may refuse to sign this authorization and that it is strictly voluntary. Patient further directs Attorney to do everything necessary to ensure compliance with the Health Insurance Portability and Accountability Act (HIPAA).

Patient Initials: MAS

**Granting of Lien Rights:** Patient hereby grants Provider a lien, pursuant to Nevada law, inclusive, upon any sums awarded to Patient or his/her personal representative, by judgment or pursuant to a settlement or compromise in the amount and to the extent of Provider's billed charges. This lien includes, but is not limited to, the charges for services rendered by medical personnel, facility charges, and any supplies (including implants) associated with the medical care of Patient, regardless of whether such supplies are provided by the facility, the physician and/or any third-party vendor which, in some cases, may be invoiced to the Assignee separately. Patient authorizes Provider or Assignee to disclose whatever information is necessary in order to protect and/or perfect the lien rights granted hereunder.

Patient Initials: MAS

**Provider Assumes Full Responsibility for Treatment:** Patient expressly acknowledges that no Assignee (actual or potential) has directed, counseled or otherwise given advice to Patient or Provider as to the medical services, treatment and/or supplies to be provided to Patient. All decisions regarding the care and treatment of Patient have been and are being made solely by Patient and Provider. Patient further acknowledges and agrees that Assignee neither assumes nor bears any liability for any professional negligence by any health-care provider participating in the medical services and related medical treatments nor has any Assignee counseled or given advice to Patient with respect to any medical services to be provided.

Patient Initials: MAS

**Representation Concerning Medical Insurance:** It is expressly understood by Patient that a potential or actual Assignee relies upon Patient's representation that no health insurance coverage exists when determining whether to obtain an assignment from the Provider.

Patient Initials: MAS

**Representation Regarding Insurance:** Patient hereby understands that if health insurance information is not presented at the time of service and the Patient's account/accounts receivable is assigned at some time in the future to an assignee who pays consideration to acquire the account/accounts receivable inquire and assume financial cost and risks, Patient will not later claim that health insurance should have covered the service provided, nor shall Patient seek a discount from the assignee so as to pay an amount that an insurance payor would have purportedly paid if health insurance information had been initially furnished to Provider and Assignee shall have the right to collect the full amount of the billed charges.

Patient Initials: MAS

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SMSL-00012





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**Representation Regarding Insurance:** Patient further affirmatively represents that no person has stated, recommended, counseled, advised or otherwise suggested that Patient should not utilize any health insurance for treatment to be rendered to Patient.

Patient Initials: WAS

**Direct Payment to Provider or Assignee:** Patient acknowledges that Assignee has the right to endorse and deposit checks made payable to Provider or Patient for Treatment rendered by Provider to Patient on dates of service for which Assignee has purchased from Provider the right to payment for those services. Patient further authorizes Provider and Assignee to bill directly any applicable insurance company for any medical payment or other benefits to which Patient may be entitled under Patient's motor vehicle insurance.

**Waiver of Time Bar Defenses:** Patient expressly waives any applicable time limitation defense, including any statute of limitations, statute of repose, or the equitable defense of laches regarding Provider or Assignee's right to recover payment for the Treatment rendered by Provider to Patient.

**Entire Agreement:** This Medical Lien Contract constitutes the final, complete and exclusive statement of the terms of the agreement between the parties. No party has been induced to enter into this Medical Lien Contract by, nor is any party relying on, any representation or warranty outside those expressly set forth in this Medical Lien Contract. Further, this Medical Lien Contract may not be changed orally, but only by a written instrument executed by all parties to this Medical Lien Contract.

**Construction:** The terms and conditions of this Medical Lien Contract shall be construed as a whole according to its fair meaning and not strictly for or against any party. Patient, Attorney, and Provider acknowledge that each of them has reviewed this Agreement and has had the opportunity to have it reviewed by their attorneys and that any rule or construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Subrogation Contract, including any amendments.

**Attorney's Fees:** In any proceeding to enforce the terms of this Medical Lien Contract or to redress any violation of this Medical Lien Contract, the prevailing party shall be entitled to recover as damages its attorney's fees and costs incurred, whether or not the action is reduced to a final award or to judgment. For the purposes of this provision, the "prevailing party" shall be that party who has been successful with regard to the main issue, even if that party did not prevail on all the issues.

**Binding Effect:** This Medical Lien Contract shall inure to the benefit of and be binding upon Patient, Attorney, Provider and their respective heirs, successors, and assigns. Except as specifically provided herein, this Medical Lien Contract is not intended to create, and shall not create, any rights in any person who is not a party to this Medical Lien Contract.

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SMSL-00013



OCT-13-2009 09:32 From: Las Vegas Radiology 722759974

To: 6562798

Page: 5/5



Solutions for Doctors, Attorneys and Patients

**Governing Law and Forum:** The laws of the State of Nevada applicable to contracts made or to be wholly performed there (without giving effect to choice of law or conflict of law principles) shall govern the validity, construction, performance and effect of this Agreement.

**Partial Invalidity:** If any term of this Medical Lien Contract or the application of any term of this Medical Lien Contract should be held to be invalid, void or unenforceable, all provisions, covenants and conditions of this Agreement, and all of its applications, not held invalid, void or unenforceable, shall continue in full force and effect and shall not be affected, impaired or invalidated in any way.

**Necessary Action:** Patient, Attorney, and Provider shall do any act or thing and execute any or all documents or instruments necessary or proper to effectuate the provisions and intent of this Medical Lien Contract.

**Arbitration:** In the event of any controversy or claim arising under the terms of this Subrogation Contract, Provider, Attorney, and Patient agree to resolve the dispute through binding arbitration in Clark County, Nevada, pursuant to the Commercial Rules of the American Arbitration Association.

PATIENT REPRESENTS TO PROVIDER AND ASSIGNEE THAT PATIENT HAS BEEN GIVEN THE OPPORTUNITY TO HAVE HIS OR HER LEGAL COUNSEL REVIEW THIS MEDICAL LIEN CONTRACT AND HAS EITHER DONE SO OR HEREBY WAIVES THE RIGHT TO DO SO AND EXECUTES THIS SUBROGATION CONTRACT WITH FULL KNOWLEDGE AND UNDERSTANDING OF ITS TERMS AND CONDITIONS, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

Margaret G. Seastand 10-13-2009  
 Patient's Signature Date  
 Patient's Name (please print)  
 4440 Spanish Garden Ct.  
 Patient's Address  
 702-452-4464 C 283-1083  
 Patient's Telephone Number

The undersigned, being attorney of record for the above Patient, does hereby agree to withhold from any settlement, judgment, court ruling, or verdict issued, rendered, or agreed to relating to the incident sufficient funds to compensate Provider or Assignee and shall tender payment in full to Provider or Assignee before disbursing any payment to Patient. Attorney agrees that if there is a dispute between parties, such dispute shall be governed by Nevada law. Attorney acknowledges that Assignee has not counseled nor given advice to Attorney with respect to the provision of any legal services. If Attorney is discharged from representation of Patient, withdraws from the representation of Patient, or closes Patient's file without receiving any payments, then Attorney agrees to notify Provider or Assignee within forty-eight (48) hours of such discharge, withdrawal, or closing.

Attorney's Signature  
Case Manager

Date

10/20/09

Phone: 702.382.3272 Fax: 702.382.4280

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Solutions for Doctors, Attorneys and Patients

## Individual Assignment of Account Receivable

This Individual Assignment of Account Receivable ("Individual Assignment") is subject to the terms and definitions of the Master Assignment Agreement executed by **LAS VEGAS RADIOLOGY** ("Provider") and Sierra Medical Services, LLC, on \_\_\_\_\_. Provider declares that the information contained in this Individual Assignment is true and correct and that this Qualifying Patient's Account Receivable is not delinquent or in default as of the date of this instrument. Provider further declares that this Qualifying Patient's Account Receivable is presently held as follows:

Margaret Seastrand

Qualifying Patient's Name

21156

Qualifying Patient's Account Number

10/13/2009

Date(s) of Treatment

530-80-5229

Qualifying Patient's Social Security #

\$ 1,650.00

Non-Discounted Value of Account Receivable

Description of Treatment Rendered: MRI L. SPINE

THEREFORE, FOR VALUABLE CONSIDERATION RECEIVED, Provider hereby assigns, grants, transfers, and conveys the Account Receivable listed above, including any and all rights Provider has under a Medical Lien Contract and/or under law, to Sierra Medical Services, LLC, pursuant to the terms and definitions of the Master Assignment Agreement.

Dated \_\_\_\_\_

Sierra Medical Services, LLC

By \_\_\_\_\_

Its \_\_\_\_\_

Dated October 16, 2009

By Tracey Villalobos

Its \_\_\_\_\_

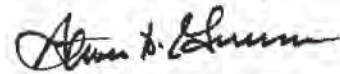
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SMSL-00008



# **EXHIBIT “I”**



CLERK OF THE COURT

TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

MELISSA CORDARO,

Plaintiff,

vs.

JUAN HERNANDEZ,

Defendant.

CASE NO. A608180  
DEPT NO. VI

**TRANSCRIPT OF  
PROCEEDINGS**

BEFORE THE HONORABLE ELISSA F. CADISH, DISTRICT COURT JUDGE

**MOTIONS**

THURSDAY, JANUARY 10, 2013

**APPEARANCES:**

For the Plaintiff:

DAVID MARTIN, ESQ.

For the Defendant:

STEVEN T. JAFFE, ESQ.  
KRISTEN HENRICHS, ESQ.

RECORDED BY JESSICA KIRKPATRICK, COURT RECORDER  
TRANSCRIBED BY: KARR Reporting, Inc.

KARR REPORTING, INC.

1 LAS VEGAS, NEVADA, THURSDAY, JANUARY 10, 2013, 8:39 A.M.

2 \* \* \* \* \*

3 THE COURT: Okay. Cordaro versus Hernandez.

4 MR. MARTIN: Good morning, Your Honor.

5 THE COURT: Good morning. Go ahead and state  
6 appearances.

7 MR. MARTIN: Good morning, Your Honor. David Martin  
8 for the Plaintiff, which is Melissa Cordaro.

9 MR. JAFFE: Good morning, Your Honor. Steven Jaffe.  
10 Hall, Jaffe and Clayton for defendants, Juan Reinoso Hernandez  
11 and Commercial Roofers.

12 MS. HENRICHS: Kristen Henrichs for defendants, also.

13 THE COURT: Okay. So we've got a bunch of motions in  
14 limine to resolve today.

15 MR. MARTIN: Just a couple, Your Honor.

16 THE COURT: Yeah, like, 18. Okay. All right.

17 MR. JAFFE: I think some of these we should be able  
18 to fly through.

19 THE COURT: I think that's probably right. So, let's  
20 see, start with plaintiff's motions. Okay.

21 MR. JAFFE: Your Honor, may I just ask one  
22 clarification before we start. There's a couple of the  
23 motions between plaintiff and defense that I think sort of  
24 piggyback each other, and I want — I'm not sure if you're  
25 going to want to handle them both together because it's — the



1 arguments sort of blend in with each other.

2 THE COURT: Well, they do, but -- I don't, I mean --

3 MR. JAFFE: Okay.

4 THE COURT: I mean, if we just -- if we go in  
5 order -- I mean, I just need to take them each up, but,  
6 obviously, you know, to the extent they're inner-related, it  
7 wouldn't take very long to do it the second time.

8 MR. JAFFE: Sure.

9 MR. MARTIN: And with the need for individual rulings  
10 on each of the motions, I believe that, though, when we come  
11 to something that overlaps a little bit, we'll be able to get  
12 through it rather quickly, Your Honor.

13 THE COURT: Right, I think so. Okay. So Plaintiff's  
14 No. 1 is to preclude any argument or suggestion that plaintiff  
15 was injured by any alleged negligence of Dr. Forage. Now let  
16 me just clarify. I don't think you're trying to preclude them  
17 from -- I mean, obviously, the fact that the sacrum was  
18 fractured, apparently, in the course of that surgery you're  
19 not trying to preclude, are you?

20 MR. MARTIN: No, it was -- it was --

21 THE COURT: It happened and then there's subsequent  
22 surgeries dealing with that.

23 MR. MARTIN: Yes, Your Honor.

24 THE COURT: The issue you're addressing is pointing  
25 the finger at him, at that doctor, and saying he was

1 negligent?

2 MR. MARTIN: Correct, Your Honor.

3 THE COURT: Okay.

4 MR. MARTIN: And may I proceed on that, Your Honor?

5 THE COURT: Briefly.

6 MR. MARTIN: Thank you. As we stated in our  
7 opposition, which I know the Court's read everything so we'll  
8 be brief on this.

9 THE COURT: This is your motion, so I don't think you  
10 filed an opposition.

11 MR. MARTIN: I mean -- I've been reading back and  
12 forth on things, so. On our motion I know the Court's read  
13 all the pleadings on this case. It's well accepted that  
14 subsequent treatment to an accident, to an incident, whether  
15 it causes aggravation of the condition or whether medical  
16 malpractice occurs is, in fact, foreseeable and it does relate  
17 back to that initial negligence.

18 And the Nevada case on that, it kind of touches on  
19 it, is the Hanson Collette decision, and further, as we stated  
20 in our reply and our moving papers, that there's a long list  
21 of authority out there from several jurisdictions. It even  
22 dates back to the restatement which holds forth that  
23 aggravation or medical malpractice done by a treating  
24 physician treating that initial injury, is foreseeable, and it  
25 all goes back to that initial defendant.



1 THE COURT: Okay. Mr. Jaffe. Because a lot of  
2 your — and I clarified with him because a lot of your  
3 oppositions seem to be focused on, well, obviously, there's  
4 this, you know, fracture, and it's going to come out.

5 MR. JAFFE: Of course.

6 THE COURT: And the issue is that that he's trying to  
7 preclude is the argument or development of evidence that the  
8 doctor was negligent in doing it.

9 MR. JAFFE: Your Honor, I don't think we've even  
10 suggested in any of our moving papers that there is factual or  
11 expert evidence against Dr. Forage at this point as being  
12 negligent. The point — there's two points I need to raise.  
13 Number one, again, we can't just treat this in a vacuum and  
14 suggest that, you know, we're going to turn a blind eye to the  
15 fact that Dr Forage did this. I mean, Dr. Grover made it very  
16 clear, but for that, the other five surgeries never would have  
17 taken place.

18 THE COURT: Right.

19 MR. JAFFE: The problem that I've got, though, is  
20 this. My — depending upon what the jury rules in this case,  
21 my client has contribution rights that they're entitled to  
22 perfect within one year after the conclusion of the case.

23 THE COURT: Right.

24 MR. JAFFE: And, so, I need to, at least, be able to  
25 bring this out during the course of the trial so that —

1 THE COURT: Bring what out?

2 MR. JAFFE: The fact that the — the fracture  
3 occurred, that it was at Dr. Forage's hands, and that Dr.  
4 Grover's surgeries would not have occurred but for that, so  
5 that I can, at least, later, if necessary, proceed with  
6 contribution action against Dr. Forage. That's — I've made  
7 that very clear to Mr. Henness all along and I've told him  
8 that's why I needed to oppose this motion.

9 But, at this point, Your Honor, I certainly have no  
10 evidence and I do not intend to stand in front of the jury and  
11 say, ladies and gentlemen, Dr. Forage is the man that should  
12 have been at this table, not Commercial Roofers or Juan  
13 Reinoso Hernandez. And I'm not going to make those types of  
14 arguments, but I do need to bring out those facts. It is —

15 THE COURT: Right. And, I mean, if — if that first  
16 surgery that Dr. Forage did —

17 MR. JAFFE: Uh-huh.

18 THE COURT: — was your client's fault, and,  
19 obviously, that's disputed — if that first surgery was your  
20 client's fault —

21 MR. JAFFE: Right.

22 THE COURT: — then the other surgeries as a result  
23 of whatever happened in that first one would still be  
24 recoverable damages, if all that were true.

25 MR. JAFFE: Well, listen, I mean, that's Nevada law.



1 THE COURT: Right. Okay. Good.

2 MR. JAFFE: And I'm certainly not at this point  
3 suggesting that I'm going to deviate from what is longstanding  
4 law. Like I said, I just need to preserve my rights so that  
5 if a contribution action against Dr. Forage becomes necessary  
6 down the line, that my right is preserved.

7 THE COURT: Okay. Anything further?

8 MR. MARTIN: Yes, Your Honor. Thank you. One of the  
9 concerns here is that by Mr. Jaffe preserving the record for  
10 the future contribution action, which he may or may not bring,  
11 and has the ability to, it's going to skirt away and have the  
12 jury thinking, wow, if it wasn't for Dr. Forage, the medical  
13 specials in this case would be much, much lower, and that she  
14 wouldn't need these subsequent surgeries. Because the medical  
15 specials in this case are very, very high because of those  
16 additional surgeries.

17 THE COURT: Right.

18 MR. MARTIN: And the law is very, very clear on that  
19 that if the jury finds that they're negligent and that the —  
20 the injuries —

21 THE COURT: Right. We all agree.

22 MR. MARTIN: I'm just not sure how Mr. Jaffe believes  
23 that he can bring that out without skirting and saying, yes,  
24 even though all this happened under the law, they're still  
25 responsible. And I just see him making a switch on that and



1 I'm very — and that's what Mr. Henness was also cautious  
2 about is that now the -- now the focus is going away from what  
3 happened in this case and it's going towards subsequent  
4 surgeries. And why were these additional five surgeries  
5 needed? Well, it's because during surgery number one the  
6 sacrum was fractured.

7 THE COURT: Right. So you're saying — I mean, that  
8 — any doctor who did those subsequent surgeries, aren't they  
9 going to say it's because she had a fractured sacrum?

10 MR. MARTIN: Yes.

11 THE COURT: So how is that not going to come out?

12 MR. MARTIN: I just want to make sure that that  
13 defendants aren't able to — to state and say, you know, look,  
14 this doctor caused all the problems; Dr. Forage is the one  
15 that caused all these problems.

16 THE COURT: But clearly not.

17 MR. JAFFE: I think I just said, Your Honor, I have  
18 no intention of saying that.

19 MR. MARTIN: I just want to make sure that's clear,  
20 Your Honor.

21 THE COURT: Okay. So to the extent the motion in  
22 limine, and as stated, was to preclude any argument that these  
23 subsequent injuries were caused by the negligence of Dr.  
24 Forage, I'm granting that. There's not going to be an  
25 argument or evidence presented going to whether Dr. Forage was

1 negligent.

2           However, they can present evidence that there was a  
3 fractured sacrum during the course of that doctor's surgery,  
4 that that resulted in the need for additional surgeries. But,  
5 yeah, there's not going to -- you can't argue that's -- that  
6 cuts off liability somehow or anything like that. Okay.

7           No. 2, there are several similar on this. So No. 2  
8 by plaintiff addresses trying to preclude argument or  
9 discussion about plaintiff being sexually assaulted at the age  
10 of 17. Now I can't imagine any attorney arguing and any jury  
11 thinking that she would somehow be at fault or of bad  
12 character because she was sexually assaulted at 17. So what's  
13 the unfair prejudice that you're concerned about here?

14           MR. MARTIN: Thank you, Your Honor. I believe that  
15 they're not necessarily bringing it forth as character  
16 evidence under prior bad acts. I think the focus of this is  
17 going towards -- towards two factors. The first is her  
18 truthfulness and veracity because after the rape --

19           THE COURT: Well, I know why they're trying to bring  
20 it in. Why are you trying to preclude it?

21           MR. MARTIN: I'm trying to preclude it because it has  
22 absolutely nothing to do with this case. It -- it is now  
23 skirting the issue. It is now looking to see, well, back 21  
24 years ago you were raped and attempted suicide, but then when  
25 you were in deposition you didn't give enough information that



1 says, oh, yeah, on two other occasions you also tried to  
2 commit suicide. So they're looking at it for truthful and  
3 veracity, and there are other ways to do that and it's not  
4 essential to this case.

5 THE COURT: Okay. She's coming to trial claiming  
6 that she's got emotional distress damages as a result of the  
7 events of this accident and subsequent medical issues, right?

8 MR. MARTIN: Correct.

9 THE COURT: Okay. So other stressors, other signs of  
10 depression and emotional distress, how is that not relevant?

11 MR. MARTIN: It is relevant, but the — even though  
12 evidence is relevant, it is unduly prejudicial because —

13 THE COURT: What's the unfair prejudice?

14 MR. MARTIN: The unfair prejudice is now she's being  
15 put on trial for her depression, her attempts at suicide, and,  
16 in fact, Your Honor, the person who could best talk about this  
17 is defendant's Doctor Mortillaro who is no longer testifying  
18 in this case. If anybody was qualified to talk about how her  
19 prior psychological condition, depression, was, it's a doctor  
20 who's no longer testifying here.

21 So now she's being put up on the stand and asked  
22 about whether or not she committed — she attempted to commit  
23 suicide on two subsequent occasions when the medical records  
24 say so. What it is, it's just nothing but character  
25 assassination on the end of the defendants to try to skirt the

1 issue away from what's essential in this case. And they're  
2 saying, well, you know, you were depressed and you committed  
3 — and you were attempting suicide before and life was not as  
4 rosy as we expected it.

5 THE COURT: Is she claiming she was depressed after  
6 this accident because of this accident?

7 MR. MARTIN: She is claiming damages to that.

8 THE COURT: Okay. Mr. Jaffe.

9 MR. MARTIN: Thank you, Your Honor.

10 MR. JAFFE: Your Honor, and I guess part of this  
11 argument has bled into Plaintiff's Motion in Limine No. 6.

12 THE COURT: Yeah, there is several related.

13 MR. JAFFE: Talking about the suicide.

14 THE COURT: Right.

15 MR. JAFFE: The suicide attempts, rather. Again,  
16 Your Honor, this is germane for two reasons. Counsel has  
17 already admitted that this is relevant evidence, so, I mean,  
18 relevance, obviously, I'm not even going to bother dealing  
19 with if they're going to concede and stipulate that point.

20 The point is that she is raising depression as an  
21 issue in this case. She is claiming that she's very severely  
22 depressed and at one of her depositions, I mean, she certainly  
23 seemed very much that way, just in her very flat affect.

24 THE COURT: Right.

25 MR. JAFFE: Clearly, we're entitled to bring up the



1 fact that she has had other psychological stressors causing  
2 depression in her life if she's going to be seeking damages  
3 for that in this, that's relevance. On top of that, Your  
4 Honor, she was not truthful about it in her deposition. Now  
5 I'm not putting her on trial for a rape.

6 THE COURT: You're not going to claim she invited a  
7 rape, I mean.

8 MR. JAFFE: Of course not. Your Honor, I've tried  
9 cases in front of you before.

10 THE COURT: Right.

11 MR. JAFFE: I think you've got an understanding and  
12 feel for what I do in a courtroom, and I'm certainly not going  
13 to assault this woman for having been the unfortunate  
14 victim —

15 THE COURT: It's an awful thing that happened to her  
16 and understandably she had problems as a result.

17 MR. JAFFE: Of course. And all I want to do is bring  
18 out to the jury the fact that she has had these problems. It  
19 does go to her psychological condition and her depression, but  
20 it also does go to the fact that she hid that from us in a  
21 deposition despite the fact that there were medical records to  
22 that point.

23 THE COURT: And, I'm sorry, this is sort of off  
24 point, but since you mentioned about trying — are you trying  
25 this case?



1 MR. JAFFE: Yes.

2 THE COURT: Okay. Because I wasn't necessarily clear  
3 about who was trying it when new counsel came in.

4 MR. JAFFE: No, no, no.

5 THE COURT: Just curious.

6 MR. JAFFE: Your Honor, just so that the Court —

7 THE COURT: And I have no problem with them, either.  
8 For the record, they've tried cases here, too.

9 MR. JAFFE: Right. So just so Your Honor  
10 understands, there's two insurance companies involved here.

11 THE COURT: Okay.

12 MR. JAFFE: There's the primary policy and excess  
13 policy.

14 THE COURT: Got it.

15 MR. JAFFE: I've been retained by the primary. The  
16 excess policy has asked them to oversee because of the  
17 potential exposure in this case.

18 THE COURT: Okay.

19 MR. JAFFE: Because we think plaintiff may even be  
20 asking for more than a million in this one, so.

21 THE COURT: Okay. Right.

22 MS. HENRICHS: Yeah. My understanding is we're  
23 taking more of a monetary role in this case.

24 THE COURT: Okay. All right. Sorry. It was sort of  
25 off the point, but since you mentioned about trying the case,

1 I was curious.

2 MR. MARTIN: And, Your Honor, I'm Mr. Henness'  
3 associate and Mr. Henness came down with a bad flu and did not  
4 want to contaminate the courtroom so that's why --

5 THE COURT: I appreciate that.

6 MR. MARTIN: -- that's why I'm here today.

7 THE COURT: And I have no problem with you being  
8 here, either. I understand. Okay. So, look, I mean, I don't  
9 expect anyone in the course of this trial to be going through  
10 the details of a sexual assault that happened to this woman,  
11 okay? And no one is going -- I don't expect anyone to be  
12 trying to do that.

13 But, having said that, the fact that she was sexually  
14 assaulted, had resultant psychological issues, including a  
15 suicide attempt, I think, is relevant given her claim of  
16 depression and emotional distress damages in this case and,  
17 more over, I don't see that it is -- evidence can be precluded  
18 even if relevant if it is the danger of unfair prejudice  
19 substantially outweighs the relevance and -- I don't see any  
20 unfair prejudice from this evidence.

21 I mean, it may affect what the jury thinks about  
22 damages, but that arises out of the actual relevance, that's  
23 not an unfair prejudice, and I certainly don't expect the jury  
24 to, I don't know, to think she's an unworthy person or, in  
25 some way, or a bad person because she has had psychological



1 issues or suicide attempts. But I do think it is relevant  
2 given the emotional distress damages being sought, so I'm  
3 denying Motion in Limine No. 2.

4 No. 3, collateral sources of payment. Okay. Go  
5 ahead.

6 MR. MARTIN: Thank you, Your Honor. There are  
7 essentially three sub issues in this motion. Plaintiff's  
8 private insurance paid for some of the treatment. Some  
9 treatments held on doctors' liens which the doctors still hold  
10 and some treatment was purchased by medical — medical finance  
11 companies.

12 THE COURT: Okay. Sorry. Hold on just a minute.  
13 Because I thought — maybe I misunderstood the papers, I  
14 thought the papers said the — they weren't any still held by  
15 the doctors? Did I —

16 MR. MARTIN: Yeah, there are some that are still held  
17 by doctors.

18 THE COURT: Okay. Go on.

19 MR. MARTIN: And to the extent of the private  
20 insurance, the issue is whether it's the actual medical bill  
21 or the write-off amount and —

22 THE COURT: Okay. So we'll cover a couple motions in  
23 limine. Go ahead.

24 MR. MARTIN: It's because I think it —

25 THE COURT: That's fine. It — we're going to have

1 to talk about it, so go ahead and discuss it while you're  
2 thinking about it. Go ahead.

3 MR. MARTIN: Okay. It's one of these ones where it  
4 just kept -- kept overlapping.

5 THE COURT: Yeah.

6 MR. JAFFE: This is one of the ones that bleeds into  
7 our motion.

8 THE COURT: Okay. Fine. We can talk about them all,  
9 about all those issues.

10 MR. MARTIN: Private insurance clearly falls within  
11 the collateral source rule. It's clearly under Proctor  
12 Casinelli [phonetic] and it should be excluded.

13 THE COURT: Right.

14 MR. MARTIN: Now the sub issue to that is whether the  
15 write-off amount is presented to the jury or the total amount.  
16 Now the Supreme Court recently came down with the Tri County  
17 case, and they just addressed the write-down amount in  
18 focusing on how it works with the Workers' Compensation  
19 statute, and they declined to extend it any further.

20 So there's no Nevada law on that. I did point to, in  
21 my papers, Justice Gibbons' concurring opinion where he seemed  
22 to address the issues that come forward in cases like this, in  
23 which he said write-downs create the same risk of prejudice  
24 that the collateral source is meant to combat.

25 And if there's going to be a benefit or a windfall to



1 any party, as it goes with the general overall theme of -- in  
2 the public policy considerations of the collateral source  
3 rule, if one party's benefiting, it should be the injured  
4 victim and not the tort feisor.

5 As such, any private insurance is a collateral source  
6 and even though it's not specifically addressed in Tri County,  
7 it appears that since Nevada follows the majority rule in that  
8 aspect, that the write-down amount would not be presented to  
9 the jury, but the full amount of the medical treatment covered  
10 under insurance.

11 On the second sub issue, in this case a medical  
12 finance company has bought several of the liens from the  
13 doctors, commercial paper. It happens all the time. So the  
14 issue is, is whether it's the amount that is being billed  
15 initially or the amount which the medical finance company  
16 paid.

17 So even though in this case, and I pointed it out in  
18 the -- in the -- in our pleadings, that even though there is  
19 that amount that was paid, Ms. Cordaro is still responsible  
20 for the entire amount there. So it is akin to the collateral  
21 source rule and because a finance company, an arrangement  
22 between a doctor and a finance company, they decided to sell  
23 it at whatever the going rate is, she is still ultimately  
24 responsible for that amount.

25 And to bring it out that -- during trial that a

1 medical finance company bought a doctor's lien for, let's say,  
2 thirty cents on the dollar, now that's getting into insurance.  
3 Now it's getting into, well, why did this doctor buy it? Why  
4 are they buying it at thirty cents on the dollar? What's the  
5 purpose of that?

6 And it creates a whole murky swamp, shall we say, of  
7 issues dealing with this intricate things on liens, health  
8 insurance, doctors' liens, which should be kept out because of  
9 the confusion that it causes and it puts the emphasis not on  
10 the collateral source, but the defendants attempting to  
11 benefit from that.

12 The third sub issue is that there are some physicians  
13 in this case who still hold -- still hold their liens and they  
14 haven't sold them, okay? And in the opposition, Mr. Jaffe  
15 seems to refer to them as contingent witnesses, meaning that  
16 they have an outcome in this case based upon whether the  
17 plaintiff recovers or not.

18 THE COURT: Yes.

19 MR. MARTIN: The defendant points out something very  
20 interesting in page 3 of their opposition. That if plaintiff  
21 prevails, they'll receive more money than they would have  
22 under insurance. This is, once again, clearly opening up the  
23 door to say, there is this difference out there between what  
24 Medicare pays, what insurance pays, what good insurance pays,  
25 what bad insurance pays.



1           So what's the amount? What is the reasonable amount?  
2   Well, it's the amount that the doctor billed. And to get into  
3   that and say — and to get into that area of contingent  
4   witnesses and saying, well, doctor, you know, if you — if Ms.  
5   Cordaro prevails on this, you're going to receive this amount.  
6   But, really, you know, if you would have done it under any  
7   other kind of way, you're making three times more on this.

8           And then it gets into the fact that some people  
9   cannot — have to treat under these doctors' liens. It's a  
10   necessity, especially in today's complex healthcare world when  
11   some medical health insurance do not even allow their coverage  
12   to go under a personal injury and they have to take these  
13   alternate routes.

14           And all three of these aspects, the insurance, the  
15   amount held by medical finance companies, and then, finally,  
16   the amount that's still held by the doctors, it's all under  
17   the guise, it's all under that umbrella of collateral source  
18   that somebody else is paying, somebody else holds these.

19           And, in fact, there's been no kind of evidence, no  
20   kind of testimony brought forward that any of the doctors who  
21   still hold their treatment on a lien that they haven't sold  
22   are somehow going to change their testimony or bolster their  
23   testimony because now, according to defense, that now — now  
24   they have a stake in the game because if there's no recovery,  
25   there's no payment. And I'll submit on that, Your Honor.

1 THE COURT: All right. Mr. Jaffe.

2 MR. JAFFE: You know, Your Honor, I love the phrase  
3 that counsel just used. I absolutely loved it and I'm going  
4 to have to steal it from him in so many other arguments  
5 because it's so legitimate. He called this a murky swamp and  
6 that is exactly true. But it's not the defense creating the  
7 murky swamp.

8 The murky swamp is the existence of the entire way  
9 that this whole thing is being handled. It's by the — by the  
10 doctors charging a rate that they know that nobody's going to  
11 pay privately, that they know that they cannot possibly  
12 contract with any third-party payer, that they know that  
13 they're selling to another company for pennies on the dollar,  
14 that they know that they're going to compromise if there's a  
15 settlement in a case because they do it every time, but it's  
16 simply to jack up costs in an attempt to tell this jury that  
17 something is what it is not.

18 And, Your Honor, what they're now asking you to do is  
19 focus on this murky swamp and turn a blind eye to reality,  
20 whether or not there's collateral sources involved, whether or  
21 not there's third party payers, whether or not there's another  
22 company writing the checks or not because the money that is  
23 being put up there has no reality to it.

24 It has no foundation to it. It has no basis to it.  
25 The doctors are not getting paid that amount of money



1 privately. So, Your Honor, there is a legitimacy to the whole  
2 concept of putting in front of the jury the amounts paid  
3 versus the amount charged when there's no foundation behind  
4 it.

5 Half the time — and Dr. Grover, I'm sorry, is  
6 without a doubt, the worst in this community when it comes to  
7 that. And, I mean, he's testifying more and more. You're  
8 seeing him constantly in these cases with the exact same  
9 issues. I mean, he -- I even brought in a doctor in  
10 another —

11 THE COURT: Bring in an expert who says it's not a  
12 reasonable and necessary fee for that service.

13 MR. JAFFE: You know what, that is another  
14 contribution action that we're looking at. There's a  
15 contribution claim against him for those exact points and  
16 issues, but --

17 THE COURT: But, I mean, they have to show it's  
18 reasonable and necessary to recover it here.

19 MR. JAFFE: No, and I understand that. But the point  
20 is this, Your Honor, that a third-party payer is paying them  
21 and they're accepting less on the dollar. That they've  
22 charged the plaintiff is a pertinent point because when the  
23 plaintiff is sitting there signing a lien agreement with them  
24 saying I'm going to pay you the amounts received at the end,  
25 and the doctor is now selling off that lien to somebody else

1 who's now going to say, I want that, who's not coming into  
2 this courtroom to testify, that now is germane.

3 That is pertinent. That does go to what the actual  
4 damages are in the case, and that's why, Your Honor, I believe  
5 that, and again, this is bleeding over into our motion, that  
6 the amounts paid as opposed to the amounts billed is a very  
7 important aspect of this. And I agree, Tri County did not go  
8 into that issue.

9 The Supreme Court has not yet touched on what  
10 California has touched on. But that, Your Honor, is a very  
11 significant piece of this and, again, it's the doctors who've  
12 created this murky swamp by almost encouraging it through  
13 saying we're going to help you put on massive numbers so that  
14 you can alarm a jury --

15 THE COURT: I don't know about that. I mean, I have  
16 no personal injury case pending and every doctor I ever go to  
17 charges far more than my insurance company ends up paying  
18 them, and it's not because of any case, so, that's just the  
19 medical field at the moment.

20 MR. JAFFE: But -- but the point is when they're --  
21 when they're contracting for, you know, maybe thirty cents on  
22 what they're telling in court that they're going to charge,  
23 I'm not going to presume to know what you're getting billed on  
24 your excess charges, but I highly doubt that it's seventy  
25 percent of what the bills would have been.



1           They're contracting that away and they're reducing it  
2 so that even what's left over on private insurance is still  
3 not the same as what they're telling people in court. Your  
4 Honor, liens are certainly important for this. If a doctor  
5 does have a stake in a litigation by a lien that could  
6 potentially go to their credibility, we're entitled to explore  
7 that. We're entitled to argue that point.

8           THE COURT: All right. So, but — so you're saying  
9 if they come in and they're treating on a lien, then you can  
10 bring it up because it goes to bias or prejudice, right?

11          MR. JAFFE: Absolutely.

12          THE COURT: Okay. And then, if they're no longer  
13 treating on a lien because they sold off the paper to someone  
14 else, then they don't have a stake in it anymore.

15          MR. JAFFE: No, but if that's the case, then I think  
16 what we should be able to bring in is the fact that they sold  
17 it off, number one; and, number two, what they accepted. So  
18 that if Dr. Grover is going to sit here and say my bills are  
19 \$350,000, but I accepted a hundred thousand dollars in payment  
20 from a private individual, not an insurer, that's a different  
21 circumstance and that is something that we should be allowed  
22 to bring in front of the jury.

23          THE COURT: And because you think that that's  
24 relevant to what reasonable and necessary charges are?

25          MR. JAFFE: Well, it goes to an argument as to it

1 because if he's going to sit here and say 350,000 is  
2 reasonable and necessary for my — for my bill, for my  
3 services, but I accepted a hundred thousand dollars from a  
4 private individual subsidizing these surgeries on behalf of  
5 the plaintiff, I think that goes — that's a legitimate  
6 argument as to what he honestly believes is reasonable and  
7 necessary.

8           Because if he's going to sit here and say 350 is, but  
9 then sit here and say but I took a hundred thousand dollars  
10 for whatever reason it may very well be. Maybe he doesn't  
11 want to have a stake in the game anymore. Maybe he doesn't —  
12 maybe he honestly believes that's what I'm willing to accept  
13 because that's what other private insurance companies or  
14 Medicare or Worker's Comp, or whatever it may very well be, is  
15 paying and I accept it there, I think that that's pertinent to  
16 go to whatever they may testify as may very well be indicative  
17 of a reasonable and necessary cost, at least within their own  
18 practice.

19           MR. MARTIN: So the question arises that if we're  
20 going to explore the three different areas, how does it get  
21 conveyed to the jury when just from the oral argument here we  
22 brought up the fact that, oh, well, insurance is definitely  
23 going to charge a lot less. I mean, for example, I was in the  
24 hospital for four days, I have Health Plan Nevada, I was at  
25 Spring Valley Hospital, the bill was \$40,000, my insurance



1 paid six.

2 THE COURT: Right.

3 MR. MARTIN: Six thousand dollars on it, you know.  
4 There's these write-offs all over the place and that  
5 definitely gets into the collateral source. And it's  
6 interesting with California, with the California decision,  
7 there's good parts to it and there's bad parts of it. That  
8 Howell Hamilton Meats decision actually specifically addressed  
9 medical liens.

10 Page 5 of our — of our reply, quote, "the  
11 intervention of a third party in purchasing a medical lien  
12 does not prevent a plaintiff from recovering the amounts  
13 billed by the medical provider for care and treatment as long  
14 as the plaintiff legitimately incurs those expenses and  
15 remains liable for their payment."

16 Medicare Solutions bought it, she owes them. They  
17 transferred that paper over. So now they're the holder of the  
18 paper. She's still liable for it. You know, Mr. Jaffe, you  
19 know, states what's known to everybody here that, yes, in a  
20 lot of these cases, these get negotiated down, just like  
21 health insurance, just like about everything else.

22 The problem is that the finder of fact doesn't know  
23 that, the jury doesn't know that, and they have not brought  
24 any evidence to state that any of these charges are  
25 unreasonable and necessary. They could have brought somebody

1 else in. I just had a deposition yesterday where I deposed a  
2 medical biller who was saying that charges were high, and they  
3 could have brought that in in this case. They could have Dr.  
4 Barolat talk about that, but they didn't. So we'll submit on  
5 that, Your Honor.

6 THE COURT: Okay. I'm sorry. I'm not finding the  
7 full cite in your reply to this Howell decision. Is it —  
8 it's — Howell isn't a Nevada case or is it?

9 MR. JAFFE: It's a California case. Your Honor, I  
10 think we actually cite it in one of our motions.

11 THE COURT: Okay. That's fine. I'm sure it's here.  
12 That's fine.

13 MR. MARTIN: Yeah, it is one of yours.

14 MR. JAFFE: I think it's in our first motion in  
15 limine.

16 THE COURT: Okay. All right. That's fine. Don't  
17 kill yourself.

18 MR. JAFFE: Actually, it's on page 5 of that motion.

19 THE COURT: Okay.

20 MR. MARTIN: Yeah. Howell v. Hamilton, 52 Cal 4,  
21 541. It's a 2011 decision.

22 THE COURT: Okay. I was just confirming that there  
23 wasn't a Nevada decision out there I wasn't aware of. So, I  
24 guess, has she had some — has some of her expenses been paid  
25 through insurance and/or been reduced because of insurance? I



1 mean, because — is that — you mentioned, I think, one of the  
2 issues was private insurance.

3 MR. MARTIN: Yeah. And with my limited involvement,  
4 I — I don't know the answer to that, but more likely than  
5 not, it's —

6 THE COURT: Okay.

7 MR. MARTIN: — they — they definitely — there's  
8 definitely probably write downs and Mr. Jaffe could probably  
9 speak to that since he's looked at the medical billing.

10 THE COURT: Okay.

11 MR. JAFFE: Your Honor, she did have some private  
12 health insurance involved in, at least, some of her coverage.

13 THE COURT: Okay. All right. So, clearly, one thing  
14 that is clear is the insurance payments are not coming into  
15 evidence and are barred by collateral source. And in my view,  
16 any reductions in those bills through insurance contract with  
17 providers, also, is a collateral source that will not come  
18 into evidence because, to me, the fact that, just as, you  
19 know, if the insurance paid the bill and she doesn't owe it  
20 anymore, you know, it's the relationship insurance company has  
21 with their preferred providers, or whatever, that makes the  
22 reduction in the bills because of the contract they have, to  
23 me, that's just — just as if the insurance company paid it.

24 It's a benefit from having that insurance, so I'm not  
25 going to allow that it in. Now to the extent that the



1 treating doctors have liens, have treated on a lien and  
2 continue to hold liens on the case, I think that is relevant  
3 and can come in as to bias or prejudice, so I'm denying the  
4 motion to that extent.

5 The one that I've not dealt with before, which is an  
6 interesting issue, is when the liens been purchased and by a  
7 private company not related to insurance. I don't think it  
8 has the same collateral source issue and, but, at the same  
9 time it doesn't — it also doesn't affect what she owes.

10 I mean, she owes it to a different party now who  
11 bought the paper, but she still owes it. But so the potential  
12 relevance, as I understand it then, is really to go to whether  
13 the doctors' bills are, I guess, reasonable and necessary if  
14 they're willing to take a significant discount on it when they  
15 sell it.

16 I mean, I suppose — I don't know, I mean, that's --  
17 it's not clear to me that that necessarily means that it's not  
18 what's reasonable to charge if they recognize financial  
19 realities and sell it. Having said that, though, relevant  
20 evidence just has to be somewhat probative to make any fact an  
21 issue more or less likely, and I suppose it is relevant and, I  
22 guess, given that it doesn't have the collateral source issues  
23 and insurance issues, I think I'm going to deny the Motion in  
24 Limine as to that issue, as well.

25 So, to go back, I'm granting the motion in limine to

1 the extent that there was insurance payments or write-offs as  
2 a result of contracts with insurance payments, but denying it  
3 with respect to the liens issue. No. 4 —

4 MR. MARTIN: Your Honor, if I may, one question on  
5 that just for clarification.

6 THE COURT: Yeah.

7 MR. MARTIN: By way of your ruling on the third  
8 point.

9 THE COURT: Yeah.

10 MR. MARTIN: Would plaintiff then be permitted to  
11 bring in somebody from Medicare Solutions to state, yes, she  
12 is responsible for that entire amount.

13 THE COURT: Yes.

14 MR. MARTIN: Thank you.

15 THE COURT: I think that's fair. I mean, yeah.

16 MR. JAFFE: We'll talk about it afterwards.

17 MR. MARTIN: Okay.

18 THE COURT: So I don't want — right, I don't want  
19 the jury to have the false impression that somehow she doesn't  
20 owe it anymore, yeah, for bringing out the facts, we'll bring  
21 out the facts.

22 MR. MARTIN: And Mr. Jaffe and I will meet and  
23 confer, too, and clarify that issue.

24 THE COURT: Okay.

25 MR. JAFFE: Yeah, because, obviously, that's going to



1 raise an issue as to, you know, documents to be admitted. So  
2 I think we're going to need to -- we'll figure it out --

3 THE COURT: Okay.

4 MR. JAFFE: -- what needs to be done consistent with  
5 your ruling, Your Honor.

6 THE COURT: Right, but -- but I -- yeah, I mean, yes,  
7 I'm not trying to give them the incorrect impression that she  
8 doesn't owe the money anymore. That it goes to, in terms of  
9 damages, whether, you know, this amount is reasonable and  
10 necessarily reasonable charge for the services provided by  
11 this doctor.

12 MR. JAFFE: Thank you, Your Honor.

13 THE COURT: No. 4, prior and subsequent injuries.  
14 Now, although the name of the motion is fairly broad, the two  
15 specific ones that seem to be addressed by the plaintiff in  
16 the motion are this 1990 incident and a 2012 incident which  
17 defendant did not oppose those two items, although wanted to  
18 point out a different incident that they do intend to present.

19 So to the extent the motion is focused on the 1990  
20 and 2012 issues, which I think is what was sought, it's  
21 granted as unopposed. I guess, if you were seeking to exclude  
22 the back issues she had just a few weeks before this accident,  
23 that's not being granted and I'm not even sure you were asking  
24 for that.

25 MR. MARTIN: No, because we know that that was -- we



1 know that that was coming in, it was just these two specific.

2 THE COURT: Okay.

3 MR. MARTIN: And I just think out of an abundance of  
4 caution.

5 THE COURT: Okay.

6 MR. MARTIN: On the — on the opposition to that.  
7 But those are the only two instances we feel are unrelated.

8 THE COURT: Okay. All right. So the 1990 and 2012  
9 are precluded. The motion is granted. No. 5, as to Dr.  
10 Mortillaro is unopposed, so it's granted. No. 6, attempt  
11 suicide, consistent with my ruling on No. 2, I am denying  
12 that.

13 No. 7, Dr. Hake's testimony — well, the way it's  
14 phrased in the name of the motion is to limit his testimony to  
15 matters within the scope of his expertise and qualifications  
16 as a radiologist. Certainly, I would say, and consistent with  
17 Nevada law, he can only testify as an expert within his area  
18 of expertise, but, obviously, there's more detail involved  
19 than that. So why don't you go ahead and speak to what you're  
20 really trying to keep out here.

21 MR. MARTIN: Okay. Dr. Hake was retained in this  
22 case as a radiologist and, essentially, arrived at three  
23 opinions. Two of these opinions are not at issue. They fit  
24 squarely within what radiologists do. He's well-qualified.  
25 Meets all the criteria of Hallmark and in the statute to

1 render opinions regarding his interpretation of the MRI films  
2 and the changes or absence thereof that he believes are  
3 reflected on those two MRIs. That's not at issue.

4 It's the third opinion that Ms. Cordaro would have  
5 needed surgery even in the absence of this collision, which is  
6 what's at issue in this motion. Under the third prong of the  
7 Hallmark criteria, which is the limited scope requirement, Dr.  
8 Hake's testimony must be limited to matters within the  
9 scope of his specialized knowledge.

10 And here he is a radiologist who interprets  
11 diagnostic films and renders opinions as to whether -- and he  
12 stretches that out by rendering opinions as to whether she  
13 would need surgery. Now he is not an interventional  
14 radiologist. He is a radiologist in the purest form.

15 So during his deposition on page 7, he was asked  
16 whether he exams, treats or follow patients, particular note  
17 he was asked, "how often do you provide actual treatment for  
18 patients who present solely with symptoms of back pain?" He  
19 responded, "I don't."

20 His expertise as a radiologist is to look at a  
21 patient's diagnostic films which provide that snapshot in  
22 time. It's the way the condition the spine was on this date,  
23 this is the way it was on this date. Once he goes outside of  
24 that, radiologists, he never sees the patient, let alone  
25 monitors their treatment and that's part of his usual



1 practice.

2 On page 8 of our motion, we made a listing because we  
3 asked him specifically what he does as a radiologist. He  
4 stated that he never hears from the patient again. He never  
5 even knows if they had surgery. He admits that not all people  
6 go to surgery. He even admitted that a small percentage of  
7 Ms. Cordaro's -- people with Ms. Cordaro's prior condition  
8 don't have surgery and that he never recommends surgery as a  
9 radiologist.

10 Now on the second prong of Hallmark is whether his  
11 testimony will assist the trier of fact. His testimony will  
12 assist the trier of fact for those first two opinions  
13 regarding his comparison of the films, but not this third  
14 opinion about the need for surgery.

15 Based upon the limited scope of his area of practice,  
16 and his absence of interaction with patients, and just seeing  
17 the films as snapshots in time and doing comparisons even in  
18 his practice, and also as an expert in this case, any  
19 conclusions regarding the need for surgery is based upon  
20 assumption and generalization of facts.

21 You know, he is an MD, he is a radiologist, but that  
22 does not allow him to go over into areas of the necessity for  
23 surgery because, as he admits in his deposition, readily so,  
24 that's not what he does. So two of his three opinions, I  
25 think, are valid and well-qualified under the Hallmark



1 criteria, but it's that third, addressing the need for  
2 surgery, which I think needs to be limited in this case and  
3 that's why we presented this motion.

4 THE COURT: Mr. Jaffe.

5 MR. JAFFE: Yes, Your Honor. Counsel just said that  
6 the key issue is his lack of interaction with patients because  
7 he's a radiologist and not an interventional radiologist. He  
8 is an interventional radiologist. That is his background.  
9 That's his credentials. That's his experience. He does  
10 interventional procedures routinely and he does interact with  
11 patients. So —

12 THE COURT: What's his basis for saying that based on  
13 reading these films that she would have needed surgery?

14 MR. JAFFE: Pardon me? I'm sorry.

15 THE COURT: What's his basis for saying she would  
16 have needed surgery?

17 MR. JAFFE: Well, it's his knowledge, experience,  
18 training and background as an interventional radiologist.

19 THE COURT: Can you be more specific?

20 MR. JAFFE: Well —

21 THE COURT: I mean, has he actually — I mean, how  
22 does he know that based on this film she would have needed  
23 surgery? Does — does he have experience where he knows  
24 people that have had this showing then, you know, develop a  
25 worse problem that results in surgery? How does he know?

1           MR. JAFFE: Well, Your Honor, here's — here's the  
2 long and short of that, is right now I cannot make firm  
3 representations to that point to the Court because I'd be  
4 shooting from the hip, and I'm not about to do tat.

5           THE COURT: Okay. Wait, help me, because that's — I  
6 mean, because that's the heart of the issue is how does — I  
7 mean, he can certainly look and see what is showing on these  
8 films and what — what, you know, condition —

9           MR. JAFFE: Sure.

10          THE COURT: -- she had that he's able to report back.  
11 But how does he know from — from that point to say, oh, yeah,  
12 she would have needed surgery?

13          MR. JAFFE: What I believe Dr. Hake would testify is  
14 that based upon, obviously, his background, his knowledge, his  
15 training, experience, as a radiologist who's read these films  
16 hundreds and thousands of times, and dealt with patients as an  
17 interventional radiologist, as well as knowing who and what  
18 has had surgery, knowing the conditions that are presented on  
19 the films.

20          The fact she's got this one horribly dessicated disc  
21 that's clearly degenerative, pre-existing, that he sees a  
22 tear, that she's got a spondylolisthesis with a pars defect  
23 and, basically, what a spondylolisthesis is, is you've got the  
24 two vertebrae, typically they're in alignment, and the pars  
25 are bones that come in the back to pretty much hold the joint



1 in place.

2 The defect, which can be either traumatic,  
3 congenital, or a — or degenerative condition. The pars is  
4 not sitting the way it's supposed to, those two bones. So the  
5 — the vertebrae has shifted and when you see listhesis means  
6 a movement or shift. So the spondylolisthesis, spondylo  
7 suggests it's a degenerative shift or congenital shift.

8 It's basically something she was either born with or  
9 developed over time, and the bones have shifted, and because  
10 of that shift, combined with the disc in its condition,  
11 combined with the defect, what Dr. Hake is talking about is  
12 the fact that she's going to need this surgery in all  
13 likelihood because of that condition, irrespective of any  
14 traumatic episode, and I believe that's based upon, again, his  
15 knowledge, training and experience.

16 What I — what I would ask, Your Honor, then is this,  
17 since the Court has questions on this point that I truly  
18 cannot honestly address and make representations to, I don't  
19 know if Your Honor would be willing to continue this motion so  
20 that I can get an answer from Dr. Hake in the form of an  
21 affidavit or in some way to allow the Court to make a more  
22 informed decision on that point.

23 THE COURT: Tell me — I mean — I mean, I saw the  
24 information in the briefs about he's an interventional  
25 radiologist.



1 MR. JAFFE: Yes.

2 THE COURT: Fine. How does that affect his  
3 qualification to give this opinion?

4 MR. JAFFE: Because some of the interventional  
5 radiology that he performs is due to spinal pain conditions  
6 and I believe that there's a crossover between that and what's  
7 shown here that allows him to bridge that gap.

8 THE COURT: Let me dig down here a minute.

9 MR. JAFFE: Your Honor, we do have a little luxury of  
10 time given the fact that the trial's now moved to a firm date  
11 for May 20th. So if I can supplement this in some way to  
12 allow the Court to make a more informed decision, I'd  
13 appreciate that opportunity.

14 THE COURT: All right. I'm concerned. I mean,  
15 obviously, I mean, we know he didn't examine this particular  
16 patient, and he doesn't generally treat back patients, that's  
17 not his role, not his -- his speciality. So the question is,  
18 you know, so he can look and say, yeah, this is a serious, you  
19 know, this is what I see as in terms of the back and this  
20 condition that I'm not going to attempt to pronounce, but --  
21 but, I guess, you know, does he know and have a basis in his  
22 practice to know how often does this condition result in  
23 surgery and -- and, if so, how long?

24 Like, is that something, yeah, people in this  
25 condition, you know, are going to have it, you know, in the

1 next year or, you know, twenty years down the road? I don't  
2 know. You know, so, I guess, the concern that I had after  
3 reading this motion was, you know, what is his basis based on  
4 his experience and expertise to form that opinion that it  
5 requires surgery to address.

6           You know, I mean, obviously, I'm no doctor. You  
7 know, if it's something, you know, I mean, if you look at a  
8 film of a broken arm as a radiologist, you can pretty much  
9 probably definitively say, yep, it's going to be put in a  
10 cast, you know, because that's what happens.

11           You know, I don't know if it's something as straight  
12 forward as, yeah, well, you know, everyone knows if you have  
13 this condition, you need surgery to fix it, and if that's the  
14 -- you know, and he, has the experience to know that as  
15 opposed to, you know, some -- some other, you know, usually  
16 before a surgical decision is made there's, you know, a bunch  
17 of factors including, you know, the level of pain, and other  
18 failed conservative treatments, and things like that, and I  
19 just don't know what his basis is for concluding this would  
20 have resulted in a surgery.

21           MR. MARTIN: Brief reply, Your Honor?

22           THE COURT: Yeah.

23           MR. MARTIN: I'd like to point to page 7 of our  
24 motion, midway down where we provided deposition testimony,  
25 and here we are dealing with a case with spondylolisthesis and



1 he was asked if he ever treated patients for that, he said no.

2 THE COURT: I mean, clearly, he's not — he's not a  
3 back doctor. I mean, that's not what he's doing. All right.

4 MR. MARTIN: He doesn't examine the patients that  
5 come in with this type of condition.

6 THE COURT: Right.

7 MR. MARTIN: He doesn't provide any kind of  
8 treatment. So as an interventional radiologist he's,  
9 essentially, reading the films. He's not providing any kind  
10 of treatment.

11 THE COURT: And maybe this is my ignorance. I mean,  
12 I don't know — I mean, a radiologist who reads the films, I  
13 mean, do they go back with a reading that says, you know, this  
14 is what I see and this is something that's going to — well,  
15 you know, should be addressed surgically. I mean, I don't  
16 know if that's something a radiologist would ever say. I have  
17 no idea, but —

18 MR. JAFFE: Your Honor, if that's the case, may I  
19 have an opportunity to supplement this with an affidavit from  
20 Dr. Hake addressing your concerns and defer this motion?

21 THE COURT: All right. Yeah, I mean, I think it  
22 should have come in the opposition, but having said that, the  
23 trial is put off a couple months, so I'm not going to put it  
24 on for another hearing, but I'll give you ten days to  
25 supplement with just specifically focused on what's his basis



1 for concluding that she would have needed surgery anyway, and  
2 -- and as it relates to what his experience and qualifications  
3 are to make that specific conclusion.

4 So if you have ten days from today, so that would be  
5 the 20th, which is a Sunday, of course, and Monday is a  
6 holiday. So I guess we're given until the 22nd to supplement  
7 and give you time to respond to that, so I'll give you til  
8 February 4th.

9 MR. MARTIN: Pardon me, Your Honor. February?

10 THE COURT: Fourth. Sorry.

11 MR. MARTIN: Your Honor, if I may?

12 THE COURT: Hold on just a second. And then I'm  
13 going to put it on my chambers calendar for February 12th to  
14 make a final ruling on that. Okay. Okay. So which brings us  
15 to No. 8, Dr. Peles.

16 MR. MARTIN: Just on the previous motion, Your Honor,  
17 I'd just like to lodge an objection that it should have been  
18 included in the opposition.

19 THE COURT: I do appreciate that, and, yes, it  
20 should, but, I guess having said that, I want to get it right,  
21 so. Anyway, noted. No. 8, Dr. Peles.

22 MR. MARTIN: Thank you, Your Honor. This goes back  
23 to the Hallmark case. Not only looking at the -- the  
24 requirements of a biomechanical -- of -- the requirements for  
25 just general experts, but, actually, it deals with

1 biomechanical, which is what we're dealing with in this case.  
2 Hallmark can be applied for those principles.

3 Since 1964 in the Levine case; 1970 in the Choke  
4 case; '75 with the Gordon case, up through Hallmark, the  
5 Nevada Supreme Court has consistently been very weary of  
6 accident reconstructionists and biomechanical experts.  
7 Hallmark gave the bar a list of criteria that we can look at,  
8 the requirements that are needed for biomechanical testimony.

9 And it's clear from Dr. Peles' testimony they did not  
10 meet several of those requirements that are specifically  
11 stated directly on point and it relates to the nature of his  
12 testimony in this case. These are critical requirements as  
13 they are and they provide the basis for the testimony to make  
14 sure that the testimony regarding biomechanics accident  
15 reconstruction is reliable.

16 To note in the other cases, in the Levine case, the  
17 Court ruled that looking at photographs is just not enough.  
18 In Choke, the Court ruled that there must be a thorough  
19 investigation of the accident scene because the appearance of  
20 the car would just amount to a mere guess. In Gordon, the  
21 Court required more than just the point of impact, the lack of  
22 skid marks, acceleration, and braking characteristics of the  
23 vehicles.

24 Hallmark looked at specific things. Actual  
25 inspection of the vehicles. Determination of the area — area



1 and the angle of impact. Identification of the speed at the  
2 time. The length of time the vehicles were in contact, and  
3 the knowledge of the vehicle's starting position. As stated  
4 in our motion, Dr. Peles admitted in his deposition that he  
5 never inspected the vehicles, didn't look at the angles, and  
6 did not know the amount of time that the vehicles were in  
7 contact.

8           Those were critical factors spelled out directly by  
9 the Hallmark decision. That's what's required for  
10 biomechanical testimony. Now dealing with the angle of  
11 contact. It's particularly important in this case because Dr.  
12 Peles stated this was just a minor sideswipe. However, during  
13 his deposition he was asked if -- if this was a sideswipe,  
14 then why was there no damage o the passenger side.

15           He couldn't answer that. That's stated on page 11 of  
16 our motion. So just on that point of impact and angle, his  
17 testimony is unreliable in that because he's just coming up  
18 with assumptions, and that's what the gatekeeping key of the  
19 Court is in dealing with people who perform to be experts but  
20 who aren't relying on sound methodology, and just saying,  
21 well, because I have a PhD, because I'm an engineer, I say so,  
22 and that's how it goes.

23           Then, it's clear that Dr. Peles just makes up facts.  
24 His unsupported premise in the case is that plaintiff  
25 initially saw defendant and that defendant started to move his



1 vehicle out from the stop sign. This is a T-bone type  
2 accident. That she saw him, he moved out, and she should have  
3 reacted. So we followed up on that in the deposition.

4 He admitted that defendant started to move when she  
5 first saw the defendant, so he created a fact in order to fit  
6 into his calculations to say, oh, well, she had time to react.  
7 That is why biomechanical testimony is unreliable, especially  
8 in this case, because he's not coming up with learned  
9 assumptions or learned hypothesis.

10 He's just making stuff up as he goes along, throws  
11 some math figures on it, and that's it, and says, oh, this is  
12 sound. It's junk. He admitted during the testimony that the  
13 calculations he used are not supported by Plaintiff's  
14 testimony, but by his own speculation and assumptions. He  
15 says that directly in his testimony on page 60 and 61.

16 For that reason alone, he should be struck. As a  
17 proclaimed biomechanical expert, he didn't even reach a  
18 conclusion regarding the amount of force. How much force was  
19 exerted during this crash? He didn't even both to do that.  
20 Page 82 of his deposition sums it up perfectly.

21 Question, "And just for example, your entire analysis  
22 in this case relies upon various estimations, true?" Answer,  
23 "Correct, or assumptions." That's his testimony. He's  
24 readily admitting that not only is it relying upon  
25 estimations, but assumptions, and I pointed out those

1 assumptions that he's made. There's self-serving facts that's  
2 just reaching, misreading, or just making stuff up to fit what  
3 he believes happened.

4 And that's why Hallmark is important in this case  
5 because as a regular expert he should get struck just because  
6 he doesn't meet that criteria. But when we start looking at  
7 those critical factors, he pretty much fails on all of those.  
8 And this is consistent with the case law from back in 1970,  
9 '75, '64, and 2008, it's been pretty consistent here. And  
10 we'll submit on that, Your Honor.

11 THE COURT: Mr Jaffe.

12 MR. JAFFE: Sure. Your Honor, Plaintiffs have  
13 completely missed the boat on Dr. Peles and what he's coming  
14 in here to do and, I guess, I'm a bit concerned that counsel  
15 keeps interchangeably referring to biomechanics and accident  
16 reconstruction. While Dr. Peles is a biomechanical engineer,  
17 he's not being brought into discuss biomechanics.

18 He's being brought into discuss accident  
19 reconstruction, that's all. He's not going to be rendering a  
20 biomechanical opinion on causation. He's talking about  
21 accident reconstruction. What I hired him to do was to say  
22 assuming that the Plaintiff's testimony is correct, was she in  
23 part a cause of this accident? And that was the focus of his  
24 opinion, his testimony, and his report.

25 That's effectively what he's done. So he's not —



1 this is not a Levine scenario and certainly not a Hallmark  
2 scenario. Dr. Peles is going to, basically, talk about the  
3 assumptions being the Plaintiff's testimony. The estimates  
4 being the Plaintiff's testimony and giving her the benefit of  
5 the doubt to say that assuming that what she testified to is  
6 accurate, she did not reasonably respond to the vehicle.

7 She did not timely take action. She could have  
8 assisted in avoiding this accident or even avoid it entirely.  
9 Now to that extent, did he look at photographs? Yes. Did he  
10 inspect the vehicles? No. He did not perform, though, a  
11 traditional accident reconstruction of saying that the angle  
12 of impact was this, the force was that, et cetera, et cetera.

13 All he's doing is basically saying that if you want  
14 to accept what she said as true, then these are my opinions.  
15 To do that, he does have to rely on certain general accident  
16 reconstruction principles and certain accident reconstruction  
17 aspects of information gleaned from the photographs, from the  
18 repair estimates, from the police report, things of that  
19 nature, there's no dispute about that.

20 But he is not doing a traditional accident  
21 reconstruction and he's not coming in as a biomechanical  
22 engineer. So the Hallmark analysis doesn't apply. That has  
23 nothing to do with it. The Levine and Remoloff [phonetic]  
24 analysis has nothing to do with this. It doesn't apply. And  
25 I'm thrilled to hear that counsel's position about accident



1 reconstruction is, in general, is what it is because we're  
2 going to be talking about that with Dr. Freeman before the end  
3 of the morning, who is brought in as a traditional accident  
4 reconstructionist.

5           So, anyway, Your Honor, Dr. Peles' role in this case  
6 is going to tell the jury that, had — if we accept what the  
7 plaintiff testified was true, she contributed to causing this  
8 accident based upon general accident reconstruction  
9 principles, the math, the physics, the et cetera behind them,  
10 as well as her own testimony. Now, because of that, we don't  
11 need to get into forces. We don't need to know how long the  
12 vehicles were in contact. We don't need to know all these  
13 other things that Mr. Martin pointed out because those go to  
14 biomechanics.

15           THE COURT: Okay. Oh, I mean, those things, like,  
16 even for an accident reconstruction, I mean, if you were  
17 coming in after the fact to say how fast was so and so going  
18 at the time of the accident, you'd have to look at, as you  
19 said, you know, where's the initial contact, where did they  
20 end up, what's the crush damage, undo that to back out into  
21 how fast must they have been going when they came together.

22           MR. JAFFE: That's right.

23           THE COURT: But that's not what he did?

24           MR. JAFFE: That's not —

25           THE COURT: That's not what his conclusions are?

1           MR. JAFFE: That's not what he's going to do in the  
2 courtroom. Now I'm not going to sit here and say that there  
3 isn't some general accident reconstruction that goes along  
4 with it, because there is, but that has to occur anyway, and  
5 it's just talking about the physics, the science, the math  
6 that goes along with that.

7           But, his general premise is to testify about her  
8 conduct based upon her admissions within the context and field  
9 of accident reconstruction to show that Ms. Cordaro  
10 contributed to causing this accident.

11          MR. MARTIN: Dr. Peles, according to defendant, is  
12 going to come in and talk about what she saw, how she reacted,  
13 and that it's her fault without reconstructing the accident.  
14 I don't think that makes any kind of sense at all. He's got  
15 to go to the accident scene. He's got to look at — he's got  
16 to look at the vehicles to see — if he's going to say that  
17 Ms. Cordaro was proceeding down the street at a certain miles  
18 per hour and that she should have seen him —

19          THE COURT: He's going to say she testified she was  
20 going down the street at a certain miles an hour, right?

21          MR. JAFFE: That's generally it, yes, Your Honor.

22          MR. MARTIN: Correct. And then he made an incorrect  
23 — incorrect statement, as I brought up in the first part of  
24 my argument, where he stated that his assumption was  
25 completely wrong on that. His testimony is unreliable just



1 across the board. So Mr. Jaffe admitted that he's going to  
2 apply some accident reconstruction principles in this case.

3 Well, the accident reconstruction principles include  
4 looking at the car. Going to the actual scene of the  
5 accident, seeing it. He's trying to guise this into saying,  
6 well, he's an accident reconstructionist and a biomechanical  
7 expert, but he's not going to talk about either of those.  
8 Then what's he going to talk about.

9 That's what's puzzling in this case. He's just going  
10 to say that she contributed to the accident. Well, what's the  
11 basis for that? Well, the basis is, according to Mr. Jaffe,  
12 that she should have reacted more, that she should have seen  
13 something differently? That's all accident reconstruction,  
14 and the Court is very, very strict on what is allowed in that  
15 case even before the term biomechanical experts came out, back  
16 when it was just accident reconstructionist.

17 He didn't even go to the scene, which is required to  
18 do accident reconstruction even in the limited scope to which  
19 Mr. Jaffe believes that Dr. Peles is going to testify.  
20 There's no basis for his testimony because he's trying to  
21 hybrid it. He's trying to take a cafeteria plan, picking and  
22 choosing to circumvent around all of the case law that says  
23 this kind of testimony doesn't come in because you got to go  
24 to the accident scene, you got to take a look at the cars.  
25 And I'll submit on that, Your Honor.



1           THE COURT: All right. I'm going to deny the motion.  
2 I think that he can give testimony and say, you know, she  
3 testified she was going thirty to thirty-five miles an hour,  
4 I'll use that as an assumption. She said she saw -- she was  
5 here when she saw him and this is what I saw happen, and he  
6 can say assuming those things are true, this is what she would  
7 have seen.

8           You can come back and say, well, she didn't really  
9 say that. I mean, you can -- in a jury instruction, which I'm  
10 sure we'll give, about hypothetical questions to an expert for  
11 that instruction says for the jury to evaluate if the  
12 assumptions in that hypothetical were proven or not proven and  
13 that they have to take that into account in making that  
14 decision.

15           But I think that given the nature of his opinions  
16 that he sufficiently meets the legal standard for testimony as  
17 an expert. So I'm denying No. 8. All right. Let's move on  
18 to Defendant's motions. Limit Plaintiff's presentation --

19           MR. JAFFE: I think this one has already been  
20 addressed --

21           THE COURT: We've already covered --

22           MR. JAFFE: -- by plaintiff.

23           THE COURT: So that's -- No. 1's denied.

24           MR. JAFFE: [Inaudible.]

25           THE COURT: Two --

1 MR. JAFFE: Well, I'm submitting the ruling on that  
2 is going to be consistent with the ruling in plaintiff No. 3  
3 since we —

4 THE COURT: No. 2?

5 MR. JAFFE: No, No. 1.

6 THE COURT: Yes. I just denied it. Let's go — so 2  
7 is about the scope of testimony of treating doctors.

8 MR. JAFFE: Basically, Your Honor, and to some extent  
9 this is going to dovetail in with another one that we've  
10 filed, which is —

11 THE COURT: Four?

12 MR. JAFFE: Yeah, I was looking — yes, No. 4. What  
13 — what — the whole premise behind these are simply this.  
14 We've taken depositions of the doctors, of the treating  
15 doctors. We've got their clinical charts. We've got their  
16 reports and their opinions. At some point, there's got to be  
17 a limit as to what they can say.

18 Now I understand that certainly as treating doctors  
19 they are accorded various privileges as experts where they  
20 don't have to write reports. That's the law. That's the  
21 rules. That's fine. But when it comes to going beyond and  
22 expressing additional opinions that exceed what is in the  
23 clinical chart, or exceed what was stated in depositions,  
24 that's where I have a problem because that's where we need to  
25 have had some advanced evidence. I mean —



1 THE COURT: So what specifically are you trying to  
2 exclude? For example, that you — you acknowledge they can  
3 testify to prognosis.

4 MR. JAFFE: Absolutely.

5 THE COURT: And, so, they could say, you know, I'm  
6 treating her for this problem and, you know, in the — so they  
7 can — a doctor, treating doctor can say in the future I  
8 anticipate x, y and z treatment for this.

9 MR. JAFFE: As long as they have said that in their  
10 clinical chart.

11 THE COURT: Okay.

12 MR. JAFFE: Or in their deposition, that I would  
13 agree with. I have no problem.

14 THE COURT: And they can say x, y and z treatment  
15 that I think will be necessary will cost, you know, \$500,000,  
16 whatever.

17 MR. JAFFE: Sure. And if — if I've had some  
18 advanced notice that this is going to be an issue, and if I  
19 didn't ask what that's going to cost, well, you know, then too  
20 bad so sad on my part, I should have done that.

21 THE COURT: Right.

22 MR. JAFFE: I don't believe that that was the case.  
23 But, again, if — if — what I don't want is, you know, Dr.  
24 Grover coming in and saying she's going to need spine  
25 replacement surgery ten years down the line or, obviously, I'm



1 being, you know, grossly exaggerative.

2 THE COURT: That would be interesting. Yes.

3 MR. JAFFE: But what would Dr. Grover — no.

4 THE COURT: Now, now, come on now.

5 MR. MARTIN: I knew you were going to go there.

6 MR. JAFFE: Okay. Come on, I got to have a little  
7 fun. Okay. Your Honor, my -- my point is if doctors are  
8 going to come in now talking about completely new procedures  
9 that we've had no notice about, no idea about, no issue about,  
10 that's -- that's where I have a problem, and when we've gone  
11 to the trouble and costs of taking the depositions.

12 THE COURT: Right.

13 MR. JAFFE: When we've gotten the clinical charts,  
14 you know, on our own, separate and apart from plaintiff's  
15 counsel, and -- and I'm by no means implying that plaintiff's  
16 counsel would not have given us everything. My only concern  
17 is that what ends up happening sometimes is when you get  
18 records -- somebody gets records from a doctor or a medical  
19 office, and then you get a subpoena, and then all of a sudden  
20 somebody's got additional records that weren't provided or  
21 whatever.

22 My whole point is I want to make sure that I'm not  
23 getting blind-sided and ambushed by a doctor coming in with  
24 something completely new that we should have known about  
25 before the trial started and while we were still engaged in

1 discovery.

2 THE COURT: Okay.

3 MR. JAFFE: To the — I'll hold off on the other  
4 issue regarding rebutting our experts until that second  
5 motion.

6 THE COURT: Okay.

7 MR. MARTIN: Your Honor, Mr. Jaffe's correct in the  
8 parameters which are allowed by a treating physician, and I  
9 pointed to what does that include? It's not necessarily the  
10 four corners of the medical record, and I pointed to on page  
11 6, the Kirkland Union Pacific decision by Judge Hunt up in  
12 Federal Court where he talked about the — the scope of the  
13 treating physician.

14 Cause of injury, examination — based upon the  
15 examination of the patient, the degree of injury, extent of  
16 disability in the future, prognosis of the patient, what tasks  
17 they'll be able to perform are legitimate opinions which come  
18 within the parameters of opinions. And I just want to make  
19 sure that --

20 THE COURT: I would agree with that comment.

21 MR. MARTIN: — the — the definition of treating  
22 physician encompasses those, and as long as it was obtained  
23 during the course of treatment.

24 THE COURT: Right.

25 MR. MARTIN: And I recognize the Gazory [phonetic]



1 pool case where the doctor did one injection, counsel had the  
2 need because of the VA to get everything in, so they all of a  
3 sudden hand him a stack of records.

4 THE COURT: Right.

5 MR. MARTIN: That's not the case. I mean, we  
6 understand the limitations of that. But if it was obtained  
7 during the course of treatment, it naturally flowed through  
8 the chart, and according to that scope as stated in -- in the  
9 Kirkland decision by Judge Hunt, then there's -- then there's  
10 no issue here.

11 And we don't anticipate the treating physicians from  
12 stepping outside of what they've said in their deposition  
13 testimony, or what anyone said in their report, and Mr. Jaffe  
14 can certainly cross-examine on that and say why didn't you  
15 tell me this when I said do you have any more opinions.

16 THE COURT: Well, I mean, they're not going to come  
17 in now and say there's some different treatment or something  
18 needed that hasn't been disclosed.

19 MR. MARTIN: No, no, everything -- everything has  
20 been disclosed, the extent of her treatment. There's, joking  
21 aside, Dr. Grover's not going to come in and say she needs a  
22 bionic spine put in.

23 THE COURT: Okay. Good. We have that on the record.

24 MR. MARTIN: We have the bionic spine taken care of.

25 THE COURT: So here's what I'm going to say. I mean,



1 I guess, I'm granting No. 2, yes, they're limited, a treating  
2 doctor's testimony is limited to, you know, the scope of their  
3 treatment as disclosed in their records and deposition  
4 testimony. But, yes, that includes their treatment,  
5 prognosis, observations, you know, so that includes, you know,  
6 future treatment, the cost of future treatment, if they've  
7 already — if it's something they've raised already, they're  
8 not going to come in and come up with something new that's not  
9 been disclosed.

10 And, additionally, they've got to testify within the  
11 scope of their treatment so they can't suddenly start  
12 testifying about somebody else's treatment or somebody else's  
13 area outside of what they reviewed and dealt with in the  
14 course of their actual treatment as a treating physician.  
15 That's the best I can do in the abstract.

16 MR. JAFFE: Okay. Thank you very much, Your Honor.

17 THE COURT: Okay.

18 MR. MARTIN: And no bionic spine, Your Honor.

19 THE COURT: No. 3. Okay. Now No. 3, to preclude  
20 Plaintiff's treating medical providers from offering  
21 biomechanical opinions, slash, testimony. I don't know what  
22 you're actually asking for.

23 MR. JAFFE: Here's my concern, Your Honor.  
24 Especially in a situation now where we've got a prior incident  
25 two months before that resulted in the plaintiff getting some

1 significant pain management treatment, undergoing MRIs, and  
2 especially with an MRI that was later used by her first  
3 treating surgeon to recommend the surgery, you know, an MRI  
4 that predated even the accident we're here for.

5 What I'm concerned about is doctors getting on the  
6 stand who have not done a biomechanical analysis, but who are  
7 effectively going to be telling the jury her presentation, her  
8 condition, her incident, her injuries, her symptoms, any of  
9 these things are consistent with the accident as described by  
10 her because that's now talking about the biomechanics and the  
11 movement of the spine and what forces she would have  
12 experienced in an accident.

13 For a doctor to now say, well, it's consistent with  
14 what she would have experienced, it's consistent with her  
15 injuries, it's consistent with her symptoms or her treatment  
16 because if they haven't looked at the vehicles, if they  
17 haven't looked at the forces, if they haven't done a  
18 biomechanical analysis, they should not be able to render  
19 opinions saying that what she told them is consistent because  
20 it relies upon her self-reporting to them about what she  
21 experienced and then now drawing a further conclusion to say,  
22 well, in car accidents this can happen, that can happen, what  
23 may very well be, without knowing the specifics or talking  
24 about the specific biomechanics in this case.

25 Because, obviously, there's a lot of different things



1 that can happen to a person, or the spine, with the movements  
2 in an accident, but without the doctors having done  
3 biomechanical analysis, I'm concerned that they should not be  
4 allowed to tell the jury that what she told them is consistent  
5 with an injury in an accident.

6 That becomes even more glaring problem that we've got  
7 this prior incident where she hurt her back moving or lifting  
8 these boxes, cleaning her husband's office out after his  
9 business collapsed, and trying to say, no, I was fine, I was  
10 back perfect, you know, dancing in the fields and ready to  
11 live my life normally, and then this accident put me right,  
12 you know, put me over the edge and now all of a sudden I'm a  
13 horrible mess because of this.

14 And if a doctor's going to get on the stand and say,  
15 yes, it's consistent with that and it's inconsistent with the  
16 box lifting or box moving incident, that's a problem because  
17 that is biomechanics. If they want to say that, you know, she  
18 reported this, she reported that, I treated her for these  
19 injuries, I have no problem with that.

20 But to sit here and say -- to -- to tie it in  
21 causally to the car accident that it must be and saying it's  
22 inconsistent with the box lifting when they haven't done a  
23 biomechanical analysis and they haven't looked at the cars and  
24 the vehicles and taken all of those things into consideration,  
25 I think that's highly problematic, and I think that's where

1 we're asking the Court to draw the line so that they don't  
2 tell this jury that this accident --

3 THE COURT: But you're saying they can't say, you  
4 know, yeah, I didn't go out and do an analysis, but she told  
5 me, you know, she told me I got hit at fifty miles an hour,  
6 and, yeah, that could cause this injury. I mean --

7 MR. JAFFE: Yes, I have no problem with them saying  
8 could cause.

9 THE COURT: Okay.

10 MR. JAFFE: But if they sit here and say her -- her  
11 injuries are consistent with this accident, et cetera, et  
12 cetera, et cetera, as opposed to generally saying, yes, you  
13 can hurt your back, you can be hurt in a car accident -- well,  
14 we all know that. But --

15 THE COURT: You know, I've treated people, you know,  
16 for similar conditions who have been in car accidents.

17 MR. JAFFE: That's exactly right. But to sit here  
18 and say that what she talked about is uniquely consistent with  
19 this accident and the dynamics of this accident, that's going  
20 over the line and going into biomechanics because what they're  
21 now trying to do is necessarily exclude the prior accident  
22 when they don't know the mechanics and the dynamics of either  
23 of them.

24 THE COURT: Right. Now a treating doctor, because,  
25 you know, a treating doctor is probably going to come in and



1 say, well, you know, she told me that her back felt better  
2 after this treatment I had for that injury.

3 MR. JAFFE: And I have no beef with that.

4 THE COURT: And then, she had a car accident and was  
5 hurt, so, based on that, I think it was from the car accident.

6 MR. JAFFE: Right. I have no beef with that.

7 THE COURT: Okay. Because that happens all the time.

8 MR. JAFFE: Right. And I have no beef with that, but  
9 if they're going to come in here and say that the dynamics of  
10 this accident are consistent with their presentation and I'm  
11 causally relating it because of that, that's where I have the  
12 problem because now it's trying to say that there was  
13 something that occurred in this accident uniquely that caused  
14 this injury or this problem, or this symptom, or caused the  
15 need for this treatment, at the exclusion of the box lifting  
16 incident, or her congenital disorders, all of those things,  
17 that's where I have the problem.

18 Because, yes, if it's generally, you know, people  
19 hurt their backs in accidents, I treat them, I see them all  
20 the time, yes, she told me this, she told me that, so because  
21 of that I'm tying it in, no problem. It's making that further  
22 leap into the biomechanics and dynamics of the accident  
23 specifically.

24 THE COURT: Have they testified along those lines?

25 MR. JAFFE: No, but I hear doctors do it all the time

1 and they come into court and they'll sit here and say that,  
2 you know, this accident caused it because —

3 THE COURT: Okay. Sorry, I'm going to cut you off  
4 because I've got a trial starting at 10:30, so just —

5 MR. JAFFE: Okay.

6 THE COURT: I want to be clear. In their deposition  
7 testimony, did they offer opinions along those lines that  
8 you're specifically concerned about?

9 MR. JAFFE: No, but I've seen them do it in court.

10 THE COURT: Okay. Okay.

11 MR. JAFFE: Gratuitously — enough time said —

12 THE COURT: You're just trying to head it off.

13 MR. JAFFE: That's exactly where I'm going.

14 THE COURT: Okay. I just wanted to be clear that it  
15 wasn't something they already said. Okay.

16 MR. MARTIN: I'll be brief. The doctors are going to  
17 testify with the extent to which they did in their testimony.  
18 They're not going to offer biomechanical. I'm just concerned  
19 that it's taking away the medical causation which is — which  
20 is allowed, and I just want to make sure that the doctors can  
21 testify to what they normally do.

22 That, yes, she presented for this and I'm relating it  
23 to this accident through medical causation. And if — if  
24 that's the extent of what's normally accepted, I know that Mr.  
25 Jaffe's probably seen things go off on a tangent a lot more



1 than I have and that's why he's being -- that's why he's being  
2 overly cautious with it, because I've never -- I've never seen  
3 it, but I'm sure he has, but that's nothing that we're going  
4 to get into.

5 THE COURT: All right. So, right, the doctors can  
6 testify about, you know, what she reported to them and they  
7 can tie in causation, as I'm sure they've testified to in  
8 their depositions already, but they cannot offer biomechanical  
9 opinions and start getting into that there's something unique  
10 about the way this accident happened that would cause this  
11 particular kind of injury.

12 That's beyond the scope of their expertise and,  
13 frankly, that would put them into a -- beyond a treating  
14 physician expert, so, that's granted. Four, okay, so now --  
15 so rebutting defense medical expert. Now, I mean, a treating  
16 doctor has his opinion about diagnosis and treatment and  
17 causation. Your expert disagrees with that.

18 MR. JAFFE: Correct.

19 THE COURT: So, obviously, they're going to say I've  
20 read that report and I still think it's from this.

21 MR. JAFFE: Well, no, but that's where I have the  
22 problem because I don't think -- if they're going to sit here  
23 and rebut a named expert, that's where they should have done  
24 an expert report specifically as an expert. That's taking  
25 them outside the realm. I have no problem with them sitting

1 there saying my opinion is this, this, this, and this, and to  
2 the -- but whether they say, but I've read Dr. Barolat's  
3 report, and Dr. Barolat is wrong, and I disagree with him, and  
4 here's why, that's where they've now crossed the line into a  
5 forensic expert because to rebut --

6 THE COURT: But if Barolat's report is about what  
7 they did, then they're still just talking about what they did.

8 MR. JAFFE: But, you see, Barolat's report is all  
9 about causation.

10 THE COURT: Okay. So, sorry, I don't know who's who.

11 MR. JAFFE: Dr. Barolat's a neurosurgeon who's going  
12 to talk about -- he's going to suggest -- all he's going to  
13 talk about is that the surgery was not related to this  
14 accident, but was related to a pre-existing congenital  
15 condition in the box incident from two months before and  
16 saying she was going to need the surgery irrespective of this.

17 My concern is that if Dr. Grover or Dr. Forage or any  
18 other doctor is going to come in here and say Dr. Barolat's  
19 wrong and here's why, that's now moving into an area where  
20 they should have given us an expert report talking about that  
21 without -- and that they should not be allowed to specifically  
22 address Dr. Barolat and his opinions.

23 If they want to sit here and generally give a  
24 causation opinion, like we talked about in No. 2, I'm fine  
25 with that, because that -- that's what they can do.



1 THE COURT: Well, but, if they're giving a causation  
2 opinion and someone else is coming in and saying for these  
3 reasons I disagree, it's not the cause.

4 MR. JAFFE: Then -- then --

5 THE COURT: I mean, they can' say, well, in my  
6 treatment I saw x, y and z and I think that, you know, I  
7 disagree and I think they missed this in my records here.

8 MR. JAFFE: Well, the point is that's where they now  
9 become a -- more than a treating physician as an expert.  
10 They're now rendering an opinion as an expert contradicting  
11 and rebutting a named expert. This is no longer relying upon  
12 their medical records and their charts and their clinical  
13 documents.

14 This is now them specifically addressing an opinion  
15 raised by an expert which would have needed to have been  
16 disclosed in an expert report. It's -- if they're going to  
17 sit here and start talking about my experts and their opinions  
18 and rebutting them, that should have been in a report because  
19 it's now taking them outside the realm of the confines of the  
20 treating physician, testifying as a treating physician.

21 THE COURT: If those -- okay. Sorry. So if those  
22 opinions that they're rebutting are opinions about their  
23 treatment, so the rebuttal of it is just talking about  
24 something within their treatment.

25 MR. JAFFE: And I have no problem with them talking

1 about their treatment, why they believed it was necessary, why  
2 they believed it was appropriate, why they believed it's  
3 related to this incident. But when they start talking about  
4 my expert and contradicting my expert, especially before my  
5 expert's even testified, and they're putting in what is  
6 effectively a rebuttal of my expert before the jury's heard  
7 it, that's where I have a problem because that's what should  
8 have been disclosed as expert evidence and expert testimony in  
9 an expert report as required by Rule 16 and Rule — 16.1 and  
10 Rule 26. I think that's crossing the line, Judge.

11 THE COURT: All right.

12 MR. MARTIN: It seems that defense counsel is stating  
13 that any time the doctor says I disagree with Dr. Barolat,  
14 that that becomes a rebuttal opinion. The rules do not say  
15 anything about treating physicians having to do rebuttal  
16 reports, okay. First off, it is all based upon their  
17 treatment.

18 It's based upon everything that's learned through  
19 their treatment, through the course of treatment through their  
20 chart, and if Dr. Barolat stands up there and says something  
21 that is completely contradictory to the medical records, by  
22 all means, the treating physician should be able to say, well,  
23 no, when she presented on this day, or on this case, this  
24 medical record says something.

25 He just wants — it seems that defense counsel



1 doesn't want any kind of criticism from her actual treating  
2 physicians regarding his opinions which he formed in a vacuum  
3 by just reviewing medical records and doing his test. Second,  
4 Mr. Jaffe knows their opinions. He took their depositions.  
5 He took rather extensive depositions.

6           So where's the -- there's no prejudice in it because  
7 he knows exactly what they're going to say. Rather than them  
8 distilling it into two paragraphs in a formal report, he went  
9 and actually talked to them. He has their complete opinions  
10 that he stated -- that they stated during their deposition  
11 testimony, and I'm pretty much certain he says, doctor, do you  
12 have anything else to add, is this the totality of your  
13 opinions; and they probably said, yes, that's it.

14           And some of it was a criticism of Dr. Barolat, or  
15 saying why they believed that Dr. Barolat's opinions regarding  
16 the different causations, the pre-existing is different. So  
17 there's no indication in the rules that a treating physician  
18 cannot defend their own position against another medical  
19 expert. And I'll submit on that, Your Honor.

20           MR. JAFFE: Real quick, Judge. First of all, just  
21 because they're a treating doctor doesn't mean that they've  
22 got carte blanche to say anything they want in a courtroom.  
23 At some point they cross the line --

24           THE COURT: Within the scope of their treatment.

25           MR. JAFFE: Right, but -- but -- and that's the point

1 is once you start talking about another expert's opinions and  
2 rebutting them, you're now going beyond the scope of your  
3 treatment into an expert debate and analysis, that's number  
4 one. Number two, I did take the depositions of Dr. Grover and  
5 Dr. Forage, and both of them had not seen my expert's report,  
6 were not in a position to comment upon it, and did not do so  
7 in their deposition other than to generally state their own  
8 testimony about their own treatment and their own opinions  
9 raised during the course of treatment.

10 And to the extent that that it happened to conflict  
11 with anything my expert's would have had to have said, then  
12 they just stood on that. And that's where I'm fine, and  
13 that's where I think they should be allowed to go because if  
14 they're going to testify that happens to be inconsistent with  
15 my experts, that's one thing.

16 But if they're going to go so far to say that my  
17 expert is wrong because of this, this, and this, that's where  
18 they've crossed the line into a testifying expert and it  
19 needed to have been stated in a report because that is a  
20 rebuttal to a direct expert that should have been on notice.

21 THE COURT: All right. I guess, I'm sort of granting  
22 in part. I would say the doctors — to the extent that the  
23 defense expert has disagreed with their expressed opinions as  
24 treating physicians, they are — they can rebut that expert to  
25 the extent that it's within the scope of their treatment, the



1 scope of their testimony as treating physicians as I discussed  
2 on Motion in Limine No. 2.

3           However, they certainly can't, you know, to the  
4 extent that there's a defense expert that's talked about  
5 matters outside the scope of a particular doctor's treatment,  
6 they can't suddenly say, you know, I've said everything I want  
7 to say about my treatment, and by the way, he's wrong about  
8 this other doctor's treatment.

9           Clearly, they can't go to that extent and go outside  
10 their treatment. But I will allow them to the extent that  
11 there's disagreements between them and defense expert about  
12 matters they were allowed to opine on within the scope of  
13 their treatment, I'm going to allow them to do so.

14           No. 5, video or animated — okay. So there's a video  
15 of the actual surgery. First, I'm assuming this was a lengthy  
16 surgery? Maybe I'm incorrect.

17           MR. JAFFE: There were six surgeries. I don't even  
18 know which —

19           THE COURT: So why don't we start there. What videos  
20 do you have, do you know?

21           MR. MARTIN: I don't know, Your Honor.

22           THE COURT: Okay. Good. So I'm certainly not going  
23 to sit during this trial through a five-hour surgery video. I  
24 have no idea if that's what's involved or not.

25           MR. MARTIN: And I don't think Mr. Henness would

1 present something to that extent.

2 THE COURT: I would hope not.

3 MR. MARTIN: I certainly hope not.

4 THE COURT: Have you seen it? Have you seen —

5 MR. JAFFE: No, no.

6 MR. MARTIN: It's been disclosed, he just hasn't seen  
7 it.

8 THE COURT: Okay.

9 MR. JAFFE: If it's been disclosed, I haven't seen  
10 it, Your Honor. I'll have to take a quick — I'll have to go  
11 back and look. But I talked to Mr. Henness and he told me  
12 that he's got some surgical videos that he was planning on  
13 showing. If Mr. Martin says they were disclosed, I'm  
14 presuming that they were.

15 THE COURT: If it's not been disclosed, it won't be  
16 used at trial. I will say that definitively.

17 MR. MARTIN: Right, absolutely.

18 MR. JAFFE: My concern is this. Number one, the only  
19 -- the only reason to show this is to gross out the jury and  
20 to inflame the jury. The plaintiff, even though they were in  
21 the surgery, they were under anesthesia. They're knocked out.  
22 They don't even know what they're going through.

23 There's nothing that's shown on these videos that the  
24 doctors cannot explain to the jury about what instruments  
25 they're using, without having to show a bloody hole in her



1 back or on her front, moving her stomach, and other anatomic  
2 aspects out of the way to reach her spine. And all that's  
3 being done is to inflame the jury. It can be handled very  
4 easily through testimony and explanation.

5 There's no need to show the jury so that they are,  
6 you know, disgusted by this, to try and say this is what this  
7 lady went through when she was out cold for the whole thing  
8 anyway. And for the doctors, I mean, they do it every day. I  
9 mean, there's -- there's nothing extraordinary or extreme  
10 about it from their perspective.

11 The only ones who are going to be in this room that  
12 are going to be in any way affected by this are the people  
13 sitting in the jury and they're going to sit there and -- and  
14 get queasy over watching a surgery that could just as easily  
15 be explained.

16 MR. MARTIN: It appears that Mr. Jaffe's abandoned  
17 his reliance on case law. Specifically, People v Prince,  
18 which we looked at and which he cited in support of his  
19 position, but in that case the Court actually allowed a video  
20 of a day in the life of a murder victim. Then in the reply,  
21 he brings forth the Blanche case, which was an animation of a  
22 brain surgery, which doesn't even apply.

23 Here's it's the actual surgery, and we provided a  
24 long list of citations throughout several jurisdictions which  
25 hold that inner operative videos are fine. Now we will not

1 present it for any kind of cumulative purpose. We're not  
2 going to present it to unduly waste time or just show a  
3 five-hour video. But the jury should be able to see what this  
4 surgery actually entails because it is spine surgery.

5 It is dealing with a lot of components. It's dealing  
6 with a lot of — with a lot of aspects. And if defense  
7 counsel's going to make the argument that, oh, well, she  
8 should have recovered from it, or she should have done better,  
9 that she's just malingering, that she, you know, she's not  
10 really in that much pain, well, take a look at the video, look  
11 what she went through.

12 Even though she's under anesthesia and she's not  
13 awake, she's still feeling that pain several days later. You  
14 know, anybody who's undergone surgery would know that, but not  
15 necessarily a juror. Especially in such a rare surgery in the  
16 multiples of surgeries which had been done in this case. Now  
17 we're not going to show six different surgeries.

18 We're not going to show them in their entirety, but  
19 the doctor should be able to state and provide that testimony  
20 via the actual surgery as to what he did in this case. Thank  
21 you, Your Honor.

22 MR. JAFFE: Your Honor, first off, let me just say,  
23 I'm acutely aware of the time. Your Honor's made it clear  
24 you've got a trial coming in at 10:30. And simply because I  
25 didn't talk about a particular case that I've briefed doesn't



1 mean I've abandoned it.

2 THE COURT: Right.

3 MR. JAFFE: I'm just trying to —

4 THE COURT: Okay. Good.

5 MR. JAFFE: — be a little expedient for the Court's  
6 benefit. Your Honor, it is cumulative, and counsel's just  
7 said, what she went through, what she experienced, and that  
8 we've all had surgeries and been in pain. That's right.  
9 We've all had surgeries. We've all been in pain after  
10 surgery. We all know what post-operative pain is. And that  
11 she went through this while she was out cold offers nothing.  
12 It doesn't make clearer to the jury a fact that's in dispute.

13 THE COURT: You know, I mean, the fact that I had my  
14 wisdom teeth taken out isn't necessarily comparative to  
15 someone having a major spine surgery.

16 MR. JAFFE: I understand.

17 THE COURT: I mean —

18 MR. JAFFE: But, Your Honor, there could also be  
19 very, you know, very — very small surgeries that are very,  
20 very painful just because of what surgery was done and it  
21 doesn't necessarily have to be a spine surgery that's going to  
22 be painful. She can talk about it. The doctors can talk  
23 about it.

24 They can explain, patients are usually in a lot of  
25 pain afterwards. She can say I was in a lot of pain

1 afterwards. I don't think anybody's doing to dispute that. I  
2 don't think anybody's going to have an issue with it. And  
3 especially since we're not making an issue over the fact that  
4 she needed any of these surgeries. What we're talking about  
5 is the causation here. That's where the dispute is.

6 That she needed these surgeries. No one's disputing  
7 it. I'm not saying she didn't need one, two, three, four,  
8 five, or six surgeries. I'm not bringing a doctor in to say  
9 that. What I'm bringing in —

10 THE COURT: But there's going to be a dispute, I  
11 mean, besides the liability —

12 MR. JAFFE: Of causation.

13 THE COURT: -- there's going to be a dispute about  
14 amount of damages, won't there?

15 MR. JAFFE: Absolutely, but what she —

16 THE COURT: The amount of pain and suffering she had.

17 MR. JAFFE: Right, but she was out -- she wasn't  
18 experiencing pain and suffering in that surgery. I mean,  
19 obviously, she was under anesthesia so she —

20 THE COURT: No, but —

21 MR. JAFFE: -- wasn't screaming.

22 THE COURT: But is it not helpful in understanding  
23 the pain and suffering you would have from the surgery if you  
24 understand the nature of the surgery?

25 MR. JAFFE: Well, Your Honor, I think that a doctor



1 can certainly explain that well enough by saying that, you  
2 know, we've got to cut her in the front, move her stomach out  
3 of the way, get to the back, take these instruments, pull out  
4 pieces of her -- of her disc, stick a metal cage in there,  
5 screw it in, close her up, flip her over, open her back up,  
6 put in the other half, take out the remainder of the disc.

7 I mean, that can all be explained and a doctor is  
8 very adept at explaining that this is a major surgery. They  
9 were very good at doing it long before these were videotaped  
10 and shown in front of juries and jurors got a very clear  
11 picture and understood. This is unduly prejudicial simply to  
12 inflame the jury in an attempt to give an exaggerated award  
13 based upon a gross depiction of a surgery as shown to them.  
14 That's all this is.

15 THE COURT: All right. So, I guess, the trouble I'm  
16 having is it's difficult to say in the abstract without  
17 knowing what, how many, how long, and what they actually show,  
18 it's very difficult for me to say, yes, this is unduly  
19 prejudicial. I don't think in the abstract it necessarily is  
20 unfairly prejudicial. So, I mean, I'm going to deny the  
21 motion in limine, but having said that, I mean, there's got to  
22 be, you know, some limits on what's presented.

23 I don't want it to be too lengthy. I don't want it  
24 to be too much blood and gore, but it's hard to be more  
25 specific than that. So, I mean, I think that there should be,

1 you know, perhaps some edited portion that plaintiff focuses  
2 on what they intend to show and go over that specifically with  
3 counsel and we could take that up during trial if there's  
4 still a — I mean, obviously, you dispute any of it showing.

5 MR. JAFFE: Right.

6 THE COURT: So, I get that, but —

7 MR. JAFFE: But, given your ruling, would Your Honor  
8 feel that there's a certain amount of time that this video  
9 should be allowed to go? I mean, I don't even want a fifteen-  
10 or twenty-minute video. I mean, if all they're trying to show  
11 is what she went through, one or two minutes should be  
12 sufficient.

13 THE COURT: It's hard — I don't know. I mean, I  
14 don't — it's hard for me to say that without knowing — I  
15 don't know how long it takes to show what they're trying to  
16 show.

17 MR. MARTIN: And, Your Honor, if I may, we'll  
18 disclose well — well prior to trial the exact portion that we  
19 intend to show and give — and give adequate time to — to —  
20 for counsel to both meet and confer, and then, if that's now  
21 able to happen.

22 THE COURT: Right.

23 MR. MARTIN: Then Mr. Jaffe can file the appropriate  
24 motion.

25 THE COURT: Well, or we could talk about it in court.



1 I mean, you know, I — I guess, I could at that point get a  
2 copy of whatever piece you're proposing and decide if I think  
3 this is okay or not okay, but.

4 MR. JAFFE: Can we say that it has to be provided,  
5 say, thirty days before trial?

6 THE COURT: When is this trial again?

7 MR. JAFFE: May 20th.

8 THE COURT: Yes. Thirty days before trial.

9 MR. JAFFE: Thank you.

10 THE COURT: Okay. So I'm denying the motion, but,  
11 you know, understanding that we may need to further take up  
12 exactly what they're intending to present.

13 No. 6, we've already addressed, so that's to admit  
14 evidence and medical — that's granted. Seven, there was no  
15 opposition — well, to be clear, I'm granting and requiring  
16 that demonstrative exhibits be exchanged at your pretrial  
17 conference.

18 MR. JAFFE: Right. And when we're talking about  
19 demonstrative, we're not talking about Power Point text. Just  
20 any images of any nature that would otherwise have been shown.

21 THE COURT: Okay. Having said that, it's not a bad  
22 idea to talk about Power Points, at least before they're put  
23 on during an opening, but — but, I understand what you're  
24 saying, and so I'm granting it to the extent I've described.

25 MR. JAFFE: Thank you, Your Honor.

1 THE COURT: And, also, just while — since you  
2 mentioned Power Point, just it's my practice that if do use a  
3 Power Point, I'll want to get a copy of it to make it a court  
4 exhibit at trial, just so there's a record of what was shown  
5 to the jury, just to keep in mind if you're going to do that.

6 No. 8, I can definitively say I will follow Nevada  
7 law throughout this trial, to the extent there was a motion in  
8 limine necessary for me to say that. Only appropriate voir  
9 dire questions in accordance with Nevada statutes and the  
10 EDCRs. Only opening statement is not time for argument. You  
11 introduce what the evidence will show. You don't make  
12 arguments.

13 And, in fact, in case, I'm not sure it was covered  
14 here, but closing arguments would only be within the scope as  
15 described by the Nevada Supreme Court in multiple decisions at  
16 this point. So I guess it's granted.

17 No. 9, traffic accident reports, citations, opinions  
18 of investigating officer, references to vehicle one, vehicle  
19 two, driver one, driver two. Go ahead.

20 MR. JAFFE: Okay. I mean, I'm assuming that  
21 citations are not going to be —

22 THE COURT: I don't think there's any dispute —

23 MR. JAFFE: — an issue.

24 THE COURT: — that the citations will not come into  
25 evidence.



1 MR. JAFFE: And I don't -- I don't know what Your  
2 Honor's general position is about admissibility of the  
3 accident report even in a redacted form.

4 THE COURT: Generally -- generally it's not  
5 admissible.

6 MR. JAFFE: But --

7 THE COURT: It can be used to refresh recollection  
8 or --

9 MR. JAFFE: Yep.

10 THE COURT: -- if there's a, you know, if you're  
11 impeaching and bringing out an inconsistent statement or  
12 something along those lines; generally not admissible.

13 MR. JAFFE: My biggest concern is an officer standing  
14 in front of the jury and testifying as to conclusions that he  
15 may have drawn based upon what he observed or what he heard.  
16 I have no problem with the officer testifying about his actual  
17 perceptions, but the conclusions are where I believe a line  
18 needs to be drawn.

19 And the problem is when an officer talks about  
20 somebody is vehicle one or vehicle two or driver one versus  
21 driver two, the jurors are astute enough to understand that  
22 "one" typically means the one that the officer felt was the  
23 most likely cause or the greater cause of the accident or the  
24 one who made the mistake.

25 I have no problem if he wants -- he should talk about

1 it as the Cordaro vehicle, the Hernandez vehicle, the Lexus  
2 versus the truck. Those, I think, are appropriate definers  
3 and those are certainly easy so that the jury can understand.  
4 But if he's going to start talking about one versus two,  
5 that's where I think there's a problem and that's what the  
6 case law we cited from other jurisdictions has supported.

7 THE COURT: I should say, I mean, to the extent that  
8 if — if Mr. Hernandez made statements at the scene, and I  
9 don't — I mean, that would be a party admission that he  
10 can —

11 MR. JAFFE: Right.

12 THE COURT: — report what your client said, and vice  
13 versa, if you're calling him and —

14 MR. JAFFE: Oh, yeah. No, no, I certainly have no  
15 problem with his — with the officer's perceptions. If the  
16 officer is going to give testimony about I observed this, I  
17 saw skid marks of this nature, I saw debris over here.

18 THE COURT: Right, right, right.

19 MR. JAFFE: I saw a wet roadway —

20 THE COURT: What I was saying though is —

21 MR. MARTIN: Right.

22 THE COURT: — and I don't know if it happened, if  
23 plaintiff puts the officer on the stand and Mr. Hernandez said  
24 something to the officer, I did it, it's my fault.

25 MR. JAFFE: If you say I didn't think I had that much



1   tequila, sure, I have no problem him saying a comment that  
2   would be an admissible hearsay exception.

3           THE COURT: Right.

4           MR. JAFFE: Sure.

5           THE COURT: Right, okay. All right. Anything to  
6   add?

7           MR. MARTIN: No. We understand how [inaudible] works  
8   and the extent and we have no issue with instructing the  
9   police officer to try to stay away from V1, V2.

10          THE COURT: Right.

11          MR. MARTIN: Which I think is engrained in them,  
12   anyway, so.

13          THE COURT: Yes. Right. So they should avoid those  
14   designations. He can — officer can be called to testify  
15   about what the officer saw and perceived as a percipient  
16   witness, not to repeat inadmissible hearsay or to draw  
17   conclusions from inadmissible hearsay. Okay. So, I guess,  
18   that is granted.

19          MR. MARTIN: Your Honor.

20          THE COURT: Yeah.

21          MR. MARTIN: In regards to Mr. Jaffe's last motion,  
22   given the time, is it possible that we could move this to  
23   another date since it is going to take significantly longer.  
24   It is one of the essential issues in this case and Plaintiffs  
25   would ask that this be moved to another calendar date

1 convenient to the Court.

2           Given that trial is in May, we believe there's plenty  
3 of time, but there are a lot of very, very important issues  
4 and it goes into depth much, much more than any of the other  
5 -- any of the other motions and it would probably take, at  
6 least, a half an hour for briefing on both sides and oral  
7 arguments. So we would request that it just be a -- moved to  
8 the next available calendar date.

9           THE COURT: Any objection to doing that? I think it  
10 does make sense.

11           MR. JAFFE: I think this one is going to take a  
12 little more time, Your Honor.

13           THE COURT: Right. Okay. So it looks like in two  
14 weeks from today on the 24th, I don't have anything on that  
15 morning.

16           MR. JAFFE: I think I'm good that day. I know -- I  
17 know I'm in town that day. I know that much.

18           MR. MARTIN: That's all we can ask for sometimes.

19           THE COURT: Yeah. All right. Let's go ahead and put  
20 it on the 24th at 8:30 then for motion in limine -- put  
21 Defendant's No. 10.

22           MR. JAFFE: If for some reason, Your Honor, I do have  
23 something going on.

24           THE COURT: Let us know and we'll find another day  
25 mutually convenient.



1 MR. JAFFE: Okay. Thank you.

2 MR. MARTIN: Thank you, Your Honor.

3 THE CLERK: February 24th, 8:30.

4 THE COURT: January.

5 THE CLERK: Excuse me. January 24th, 8:30.

6 MR. JAFFE: And, Your Honor, I don't know, do we want  
7 to hold off on doing the orders until afterwards? And I know  
8 I'm going -- I want to order the transcript because especially  
9 with some of the rulings.

10 THE COURT: Yeah, those details.

11 MR. JAFFE: I want to make sure that we get this  
12 right.

13 MR. MARTIN: Yeah.

14 THE COURT: Sure. That makes sense to me to hold off  
15 on doing the orders until we have them all -- at least we have  
16 that hearing. Okay.

17 MR. JAFFE: Okay, Your Honor.

18 THE COURT: Thank you. Actually, I appreciate you  
19 accommodating my schedule. By doing that, I'll probably be  
20 less stressed at that time than I would be in the next half  
21 hour, so.

22 MR. MARTIN: Thank you, Your Honor.

23 (Hearing concluded at 10:27 p.m.)

24

25

CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

KARR REPORTING, INC.  
Aurora, Colorado

  
KIMBERLY LAWSON

KARR Reporting, Inc.



  
CLERK OF THE COURT

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10 *Attorneys for Defendant*  
*Raymond R. Khoury*

11 **DISTRICT COURT**  
12 **CLARK COUNTY, NEVADA**

13 MARGARET G. SEASTRAND,  
14  
15 Plaintiff,

16 vs.

17 RAYMOND RIAD KHOURY; DOES 1  
18 through 10; and ROE ENTITIES 11 through  
20, inclusive,  
19 Defendants.

CASE NO. A-11-636515-C  
DEPT NO. XXX

**DEFENDANT'S MOTION IN LIMINE NO. 3:  
TO ADMIT EVIDENCE OF MEDICAL LIENS**

**Date of Hearing:** \_\_\_\_\_

**Time of Hearing:** \_\_\_\_\_

20 Defendant, Raymond Khoury ("Khoury"), by and through his attorneys of record, Hall Jaffe &  
21 Clayton, LLP, hereby submits his Motion for an Order, *in Limine*, to admit evidence of Plaintiffs' medical  
22 liens.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 This Motion in Limine is made and based upon the pleadings and papers on file herein, the  
2 Memorandum of Points and Authorities submitted herewith, and any oral argument the Court may entertain  
3 at the hearing on this matter.

4 DATED this 1<sup>st</sup> day of May, 2013.

5 HALL JAFFE & CLAYTON, LLP

6  
7 By 

8 STEVEN T. JAFFE  
9 Nevada Bar No. 007035  
10 JACOB S. SMITH  
11 Nevada Bar No. 010231  
12 JACOB B. LEE  
13 Nevada Bar No. 012428  
14 7425 Peak Drive  
15 Las Vegas, Nevada 89128  
16 Attorneys for Defendant  
17 Raymond R. Khoury  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



1 NOTICE OF MOTION

2 TO: MARGARET G. SEASTRAND, Plaintiff; and

3 TO: RICHARD A. HARRIS, ESQ., her attorney of record.

4 YOU AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the  
5 foregoing **DEFENDANT'S MOTION IN LIMINE NO. 3: TO ADMIT EVIDENCE OF MEDICAL**  
6 **LIENS** on for hearing before the above-entitled Court on the 4<sup>th</sup> day of June, 2013, at the  
7 hour of 9:00 am, or as soon thereafter as counsel may be heard.

8 DATED this 1<sup>st</sup> day of May, 2013.

9 HALL JAFFE & CLAYTON, LLP

10  
11 By 

12 STEVEN T. JAFFE  
13 Nevada Bar No. 007035  
14 JACOB S. SMITH  
15 Nevada Bar No. 010231  
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18 7425 Peak Drive  
19 Las Vegas, Nevada 89128  
20 Attorneys for Defendant  
21 Raymond R. Khoury  
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**AFFIDAVIT OF JACOB S. SMITH, ESQ. IN COMPLIANCE WITH EDCR 2.47**

STATE OF NEVADA        )  
                                  ) ss:  
COUNTY OF CLARK        )

JACOB S. SMITH, being first duly sworn, under oath, deposes and says:

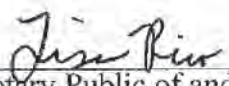
1. Affiant is an attorney licensed to practice law in the State of Nevada, and is an attorney with the law firm of HALL JAFFE & CLAYTON, LLP, counsel of record in this matter for Defendant Raymond Riad Khoury;

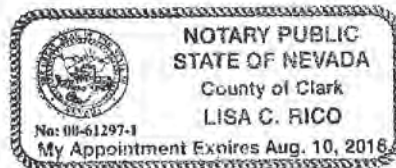
2. On April 23, 2013, prior to submitting Defendant's instant Motion *in Limine*, I contacted counsel for Plaintiff Margaret Seastrand to discuss the contents of the motion. Specifically, I spoke with Alison A. Brasier, Esq. of Richard Harris Law Firm, pursuant to EDCR 2.47, to discuss the content of the Motion and to make a good faith effort to resolve the issues addressed in the Motion. Ms. Brasier and I were unable to resolve the issues addressed in the Motion, thereby necessitating its filing.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

  
JACOB S. SMITH, ESQ.

SUBSCRIBED AND SWORN to before me  
this 1 day of May, 2013.

  
Notary Public of and for said  
COUNTY and STATE



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1                                   **MEMORANDUM OF POINTS AND AUTHORITIES**

2   **I.     FACTUAL BACKGROUND**

3           This case arises out of a motor vehicle accident that occurred on March 13, 2009, in Las Vegas,  
4 Nevada. Plaintiff alleges that, on that date, Mr. Khoury negligently operated a motor vehicle in a manner  
5 that caused a collision with Plaintiff's vehicle. Plaintiff further alleges that she has suffered serious and  
6 disabling injuries as a result of the collision.

7           Plaintiff has treated with various providers, allegedly related to the subject accident. On or about  
8 March 21, 2012, Defendant served his second set of written discovery requests on Plaintiff, which included  
9 interrogatories and requests for production of documents pertaining to medical liens and the amounts of  
10 payment accepted by Plaintiff's medical providers. *See*, Defendant's Second Requests for Production and  
11 Second Set of Interrogatories, attached hereto as *Exhibits "A" and "B,"* respectively. Specifically, the  
12 written discovery requested the following:

13                   **REQUEST TO PRODUCE NO. 16:**

14                   All executed liens with each and every medical provider and facility.

15                   **REQUEST TO PRODUCE NO. 17:**

16                   All documents demonstrating the amounts paid by any source to the medical  
17 providers and / or facilities for the treatment rendered in this matter.

18                   **REQUEST TO PRODUCE NO. 18:**

19                   All documents demonstrating the amounts of payments accepted by the medical  
20 providers and / or facilities for the treatment rendered in this matter.

21                   **REQUEST TO PRODUCE NO. 19:**

22                   All documents demonstrating the amounts accepted by each medical provider and /  
23 or facility which sold its liens to any other person or entity for the treatment rendered  
24 in this case.

25                   [ . . . ]

26                   **INTERROGATORY NO. 32:**

27                   Set forth the amounts paid by any source which each and every medical provider or  
28 facility accepted as payment for the services which they rendered.

*See, Exhibits A and B.*

///



On April 23, 2012, Plaintiff served her responses to these written discovery requests. Her response to each of these requests was identical:

Plaintiff objects to this interrogatory, as it seeks to ascertain if some parts of Plaintiff's expenses (medical bills) were paid by collateral sources. As such, the question is not relevant to the subject matter of this litigation, and not calculated to lead to the discovery of admissible evidence; it is also burdensome, oppressive, and harassing to Plaintiff.

See, Plaintiff's Responses to Defendant's Second Requests for Production of Documents and Plaintiff's Responses to Second Set of Interrogatories, attached hereto as *Exhibits "C" and "D,"* respectively.

Defendant attempted to obtain responsive answers to these requests from Plaintiff, but Defendant was ultimately unsuccessful. Accordingly, Defendant filed a Motion to Compel the responses to be heard by Discovery Commissioner Bulla. See, Motion to Compel, attached hereto as *Exhibit "E."* After reviewing the briefs and hearing oral argument, Discovery Commissioner Bulla ordered Plaintiff to supplement the requested discovery responses with the information in her possession relating to liens and allowed Defendant to subpoena the remainder, as the information was discoverable and not protected by the collateral source rule. See, Discovery Commissioner's Report and Recommendations, attached hereto as *Exhibit "F."*

It is undisputed that Plaintiff underwent treatment on a medical lien basis. Accordingly, Defendant is aware that Plaintiff and/or her attorneys signed liens with respect to Plaintiff's treatment with the following providers:

Providers Who Hold Liens	Lien Amount
Nevada Imaging Centers	Unknown
Nevada Spine Clinic	Unknown
Radar Medical Group	Unknown
Surgery Center of Southern Nevada	Unknown
William Muir, M.D.	Unknown
Primary Care Consultants	Unknown



1 See, Medical Liens, attached hereto as *Exhibit "G."*<sup>1</sup> There are also documents which suggest that  
2 some of Plaintiff's liens have been sold by some of the doctors to other entities, which are summarized  
3 as follows:

Entities Who Purchased Liens	Amount
Canyon Medical Billing	Unknown
New England Medical Legal Liaison, LLC	Unknown
Sierra Med Services	\$1,650.00

9 See, Liens Purchased, attached hereto as *Exhibit "H."*<sup>2</sup>

10 Admitting evidence of either liens or documents related to the purchase of liens and amount  
11 purchased has been addressed at least once before by the Eighth Judicial District Court in the case styled  
12 *Cordaro v. Hernandez*, case number A608180. In that case, Judge Cadish allowed evidence of liens, liens  
13 purchased, and the amount purchased:

14 **THE COURT:** ... Now to the extent that the treating doctors have liens, have  
15 **treated on a lien and continue to hold liens on the case, I think that is relevant**  
**and can come in as to bias or prejudice**, so I'm denying the motion to that extent.

16 The one that I've not dealt with before, which is an interesting issue, is **when the**  
17 **liens been purchased and by a private company not related to insurance. I**  
18 **don't think it has the same collateral source issue** and, but, at the same time it  
doesn't – it also doesn't affect what she owes.

19 I mean, she owes it to a different party now who bought the paper, but she still owes  
20 it. But so **the potential relevance, as I understand it then, is really to go to**  
**whether the doctors' bills are, I guess, reasonable and necessary if they're**  
**willing to take a significant discount on it when they sell it.**

21 I mean, I suppose – I don't know, I mean, that's – it's not clear to me that that  
22 necessarily means that it's not what's reasonable to charge if they recognize financial  
23 realities and sell it. Having said that, though, relevant evidence just has to be  
24 somewhat probative to make any fact an issue more or less likely, and I suppose **it**  
**is relevant and, I guess, given that it doesn't have the collateral source issues**  
**and insurance issues**, I think I'm going to deny the Motion in Limine as to that  
issue, as well.

26 <sup>1</sup>Defendant reserves the right to supplement these records with any new lien or lien purchase information received  
27 through trial.

28 <sup>2</sup>Defendant reserves the right to supplement these records with any new lien or lien purchase information received  
through trial.



1 So to go back, I'm granting this motion in limine to the extent that there was  
2 insurance payments or write-offs as a result of contracts with insurance payments, but  
3 denying it with respect to the liens issue.

4 [...]

5 Right, but – but I – yeah, I mean, yes: I'm not trying to give them the incorrect  
6 impression that she doesn't owe the money anymore. **That it goes to, in terms of  
7 damages, whether, you know, this amount is reasonable and necessarily  
8 reasonable charge for the services provided by this doctor.**

9 *See*, Court Transcript Regarding Lien Evidence, attached hereto as **Exhibit "I,"** at 27:25-29:3; 30:6-11.  
10 (Emphasis added). Judge Cadish clearly ruled that evidence of liens is relevant as to the doctors' bias and/or  
11 prejudice, while the evidence that liens were purchased and the amount purchased was relevant with respect  
12 to whether the costs for medical treatment were reasonable. *Id.*

13 On April 18, 2013, counsel for Mr. Khoury spoke with Plaintiff's counsel in a good-faith attempt  
14 to secure an agreement regarding the need to file this Motion in Limine prior to filing the same with the  
15 Clerk of the Court. After discussion, no such agreement could be reached. (*See*, Affidavit of Jacob S.  
16 Smith, Esq., submitted in compliance with EDCR 2.47, as set forth above).

## 17 **II. LEGAL ARGUMENT**

### 18 **A. Legal Standard for Motions in Limine**

19 The Nevada Supreme Court agrees that the resolution of motions *in limine* is within the purview of  
20 the district court's discretionary power concerning rulings on the admissibility of evidence. *See, e.g., State*  
21 *ex. rel Dept. of Highway v. Nevada Aggregates & Asphalt Co.*, 92 Nev. 370, 551 P.2d 1095 (1976); *see*  
22 *also EDCR 2.47* (allowing for motions *in limine* to exclude or admit evidence). "The usual purpose of  
23 motions *in limine*, is to preclude the presentation of evidence deemed inadmissible and prejudicial to the  
24 moving party." *Kelly v. New West Federal Savings*, 49 Cal. App. 4th 659, 669-670 (1996). Indeed, motions  
25 *in limine* allow a more careful consideration of evidentiary issues than would take place during a trial. *Id.*  
26 Furthermore, by resolving potentially critical issues at the outset, pre-trial motions enhance the efficiency  
27 of trials and possibly promote settlements. *Id.*

### 28 **B. This Court should admit evidence of Plaintiff's medical treatment on a lien to rebut any argument that Plaintiff lacks funds for treatment.**

Defendant is entitled to an order, *in limine*, allowing him to admit evidence showing that Plaintiff  
treated on medical liens, because evidence of treatment on a lien basis is relevant to rebut the potential



1 assertion by Plaintiff that she could not or cannot afford medical treatment which she relates to the  
2 accident. If Plaintiff underwent other treatments on medical liens, she cannot now assert that she cannot  
3 afford treatment related to the subject accident. If Plaintiff attempts to do so, then Defendant moves to  
4 admit evidence of treatment on medical liens. As such, to the extent that Plaintiff may assert that  
5 Plaintiff could not or cannot afford treatment relating the accident, Defendant requests that this Court  
6 allow Defendant to introduce evidence of the medical liens that Plaintiff used to obtain treatment for  
7 injuries she relates to the accident.

8 **C. This Court should admit evidence of Plaintiff's medical treatment on a lien to show**  
9 **bias and interest.**

10 Defendant is further entitled to admit evidence of these liens, because evidence regarding a  
11 witness' bias or interest in testifying in a certain manner is always relevant and is not collateral to the  
12 controversy for purposes of exclusion. *Lobato v. State*, 120 Nev. 512, 96 P.3d 765 (2004). In *Lobato*,  
13 the Nevada Supreme Court noted:

14 Although district courts have wide discretion to control cross-examination  
15 that attacks a witness's general credibility, a trial court's discretion is ...  
16 narrow[ed] where bias [motive] is the object to be shown, and an examiner  
17 must be permitted to elicit any facts which might color a witness's testimony.  
Generally, the only proper restriction should be those inquiries which are  
repetitive, irrelevant, vague, speculative, or designed merely to harass, annoy  
or humiliate the witness

18 *Lobato*, 120 Nev. at 520. The right to confront and cross-examine witnesses includes the right to inquire  
19 and examine a witness about the bias and motivation behind his or her testimony. In *Delaware v.*  
20 *Fensterer*, 474 U.S. 15, 19, 106 S.Ct. 292 (1985), the U.S. Supreme Court found that a cross-examiner  
21 is not only permitted to delve into a witness' story to test the witness' perceptions and memory, but  
22 "[also] ... allowed to impeach," i.e., discredit, the witness. *Id.*

23 Here, some of Plaintiff's medical providers are owed substantial sums of money, which expenses  
24 they have agreed to incur on a lien basis. The mere fact that a party treats on a medical lien is not  
25 necessarily indicative of the fact that they do not have medical insurance. Indeed, there have been many  
26 situations where medical providers treat patients on a lien *despite* the fact that the patient has medical or  
27 other insurance that would cover the cost of treatment.

28 ///



1 Given these types of financial arrangements between Plaintiff and her medical providers, there can  
2 be little doubt that the medical providers have actually acquired an interest in the case. As a result, these  
3 individuals have become "contingent" witnesses. In fact, in the event that Plaintiff recovers nothing, these  
4 "contingent" witnesses stand to receive nothing for all of the time and services they provided. If, on the  
5 other hand, Plaintiff prevails, these "contingent" witnesses stand to receive far more money for the exact  
6 same time and services than they would otherwise have received if they had simply submitted their bills to  
7 a medical or other insurance carrier, or if they had even provided treatment on a cash-up-front basis.

8 For these reasons, it is entirely appropriate to question Plaintiff's medical providers about the  
9 existence of a lien, the amount of the lien and the fact that medical providers have, in fact, acquired an  
10 interest in the outcome of the litigation. This issue has been ruled on in at least one prior case in the Eighth  
11 Judicial District Court: *Cordaro v. Hernandez*. There, Judge Cadish agreed that liens constituted evidence  
12 of bias and/or prejudice. Accordingly, Defendant respectfully requests that this Court consider Judge  
13 Cadish's ruling in *Cordaro v. Hernandez* and allow Defendant to introduce evidence of medical liens at trial.

### 14 III. CONCLUSION

15 Based on the foregoing, Defendant respectfully requests that this Court admit evidence of  
16 Plaintiff's Medical liens to rebut any claims that she could not afford treatment, to show the bias of the  
17 medical providers, and for any other purpose the Court determines to be reasonable.

18 DATED this 1<sup>st</sup> day of May, 2013.

19 HALL JAFFE & CLAYTON, LLP

20  
21 By

22 STEVEN T. JAFFE  
23 Nevada Bar No. 007035  
24 JACOB S. SMITH  
25 Nevada Bar No. 010231  
26 JACOB B. LEE  
27 Nevada Bar No. 012428  
28 7425 Peak Drive  
Las Vegas, Nevada 89128  
*Attorneys for Defendant*  
*Raymond R. Khoury*



# **EXHIBIT “A”**

1 STEVEN T. JAFFE  
sjaaffe@lawhjc.com  
2 Nevada Bar No. 007035  
JACOB S. SMITH  
3 jsmith@lawhjc.com  
Nevada Bar No. 010231

4 HALL JAFFE & CLAYTON, LLP  
5 7455 WEST WASHINGTON AVENUE, SUITE 460  
LAS VEGAS, NEVADA 89128  
6 (702) 316-4111  
FAX (702) 316-4114

7 Attorneys for Defendant  
8 Raymond R. Khoury

9 DISTRICT COURT  
10 CLARK COUNTY, NEVADA

11 MARGARET G. SEASTRAND,  
12  
13 Plaintiff,

14 vs.

15 RAYMOND RIAD KHOURY; DOES 1  
through 10; and ROE ENTITIES 11 through  
16 20, inclusive,

17 Defendants.

CASE NO. A-11-636515-C  
DEPT NO. XXX

**DEFENDANT'S SECOND REQUESTS FOR  
PRODUCTION TO PLAINTIFF MARGARET  
SEASTRAND**

18 TO: MARGARET G. SEASTRAND, Plaintiff herein; and

19 TO: Richard A. Harris, Esq., of the RICHARD HARRIS LAW FIRM, Plaintiff's attorney;

20 Defendant requests that Plaintiff MARGARET G. SEASTRAND respond to these  
21 Requests for Production of Documents set out below in accordance with the provisions of Rule 34 of the  
22 Nevada Rules of Civil Procedure, fully and separately under oath, signed by the person or persons  
23 making such Responses, and that a copy of such Responses be served upon the Defendant herein within  
24 thirty (30) days after the service of the Requests for Production of Documents, unless the Court, by  
25 Order, enlarges or shortens the time.

26 **REQUEST TO PRODUCE NO. 16:** All executed liens with each and every medical  
27 provider and facility.

28 **REQUEST TO PRODUCE NO. 17:** All documents demonstrating the amounts paid by



1 any source to the medical providers and / or facilities for the treatment rendered in this matter.

2 **REQUEST TO PRODUCE NO. 18:** All documents demonstrating the amounts of  
3 payments accepted by the medical providers and / or facilities for the treatment rendered in this matter.

4 **REQUEST TO PRODUCE NO. 19:** All documents demonstrating the amounts  
5 accepted by each medical provider and / or facility which sold its liens to any other person or entity for  
6 the treatment rendered in this case.

7 *These Requests For Production shall be deemed continuing so as to require reasonable*  
8 *supplemental Answers if the Plaintiff or his Attorney obtains further information between the time*  
9 *his Answers are served and the time of trial.*

10 DATED: March 21, 2012

11 HALL JAFFE & CLAYTON, LLP

12 By 

13 STEVEN T. JAFFE  
14 Nevada Bar No. 007035  
15 JACOB S. SMITH  
16 Nevada Bar No. 010231  
17 7455 West Washington Avenue, Suite 460  
18 Las Vegas, Nevada 89128  
19 Attorneys for Defendant  
20 Raymond R. Khoury  
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CERTIFICATE OF SERVICE

Pursuant to N.R.C.P. 5(b), I hereby certify that service of the foregoing DEFENDANT'S  
SECOND REQUESTS FOR PRODUCTION TO PLAINTIFF MARGARET SEASTRAND was  
made on March 21, 2012, by depositing a true and correct copy of the same by U.S. Mail in Las Vegas,  
Nevada, addressed, stamped, and mailed to the following:

Richard A. Harris, Esq.  
RICHARD HARRIS LAW FIRM  
801 S. Fourth Street  
Las Vegas, Nevada 89101  
*Attorneys for Plaintiff*

  
An Employee of  
HALL JAFFE & CLAYTON, LLP



# **EXHIBIT “B”**

1 STEVEN T. JAFFE  
2 sjaffe@lawhjc.com  
Nevada Bar No. 007035  
3 JACOB S. SMITH  
jsmith@lawhjc.com  
4 Nevada Bar No. 010231

5 HALL JAFFE & CLAYTON, LLP  
7455 WEST WASHINGTON AVENUE, SUITE 460  
6 LAS VEGAS, NEVADA 89128  
(702) 316-4111  
7 FAX (702) 316-4114

8 Attorneys for Defendant  
Raymond R. Khoury

10 DISTRICT COURT  
11 CLARK COUNTY, NEVADA

12 MARGARET G. SEASTRAND,  
13 Plaintiff,

CASE NO. A-11-636515-C  
DEPT NO. XXX

14 vs.

15 RAYMOND RIAD KHOURY; DOES 1  
16 through 10; and ROE ENTITIES 11 through  
20, inclusive,  
17 Defendants.

19 DEFENDANT RAYMOND KHOURY'S SECOND SET OF INTERROGATORIES TO  
20 PLAINTIFF MARGARET SEASTRAND

21 TO: MARGARET G. SEASTRAND, Plaintiff; and

22 TO: RICHARD HARRIS, ESQ. Of the RICHARD HARRIS LAW FIRM, Plaintiff's attorney;

23 Defendant requests that Plaintiff MARGARET SEASTRAND answer these

24 Interrogatories set out below in accordance with the provisions of Rule 33 of the Nevada Rules of Civil  
25 Procedure, fully and separately under oath, signed by the person or persons making such Answers, and  
26 that a copy of such Answers be served upon the Defendant herein within thirty (30) days after the service  
27 of the Interrogatories, unless the Court, by Order, enlarges or shortens the time.

28 In answering these Interrogatories, furnish such information as is available to you, not  
merely such information as is of your own knowledge. This means you are to furnish information which



1 is known by or in the possession of your attorney or any agents for you or your attorney.

2 INTERROGATORY NO. 32:

3 Set forth the amounts paid by any source which each and every medical provider or  
4 facility accepted as payment for the services which they rendered.

5 *These Interrogatories shall be deemed continuing so as to require reasonable*  
6 *supplemental Answers if the Plaintiff or his Attorney obtains further information between the time*  
7 *his Answers are served and the time of trial.*

8 DATED this 21st day of March, 2012.

9 HALL JAFFE & CLAYTON, LLP


10  
11 By

12 STEVEN T. JAFFE  
13 Nevada Bar No. 007035  
14 JACOB S. SMITH  
15 Nevada Bar No. 010231  
16 7455 West Washington Avenue, Suite 460  
17 Las Vegas, Nevada 89128  
18 Attorneys for Defendant  
19 Raymond R. Khoury  
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1 CERTIFICATE OF SERVICE

2 Pursuant to N.R.C.P. 5(b), I hereby certify that service of the foregoing DEFENDANT  
3 RAYMOND KHOURY'S SECOND SET OF INTERROGATORIES TO PLAINTIFF  
4 MARGARET SEASTRAND was made on 21<sup>st</sup> day of March, 2012, by depositing a true and correct  
5 copy of the same by U.S. Mail in Las Vegas, Nevada, addressed, stamped, and mailed to the following:

6  
7 Richard A. Harris, Esq.  
8 RICHARD HARRIS LAW FIRM  
9 801 S. Fourth Street  
10 Las Vegas, Nevada 89101  
11 *Attorneys for Plaintiff*

12   
13 An Employee of  
14 HALL JAFFE & CLAYTON, LLP  
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# **EXHIBIT “C”**

1 **RESP**  
2 RICHARD A. HARRIS, ESQ.  
3 Nevada Bar No. 505  
4 JOSHUA R. HARRIS, ESQ.  
5 Nevada Bar No. 9580  
6 ALISON M. BRASIER, ESQ.  
7 Nevada Bar No. 10522  
8 **RICHARD HARRIS LAW FIRM**  
9 801 South Fourth Street  
10 Las Vegas, Nevada 89101  
11 Phone (702) 444-4444  
12 Fax (702) 444-4455  
13 *Attorneys for Plaintiff*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 MARGARET G. SEASTRAND,	)	Case No. :	A-11-636515-C
	)	Dept. No.:	XXX
14 Plaintiff,	)		
	)		
15 vs.	)		
	)		
16	)		
17 RAYMOND RIAD KHOURY; DOES	)		
18 1 through 10, and ROE ENTITIES 11	)		
19 through 20, inclusive,	)		
	)		
20 Defendants.	)		

21  
22 **PLAINTIFF'S RESPONSE TO DEFENDANT'S SECOND**  
23 **REQUESTS FOR PRODUCTION TO PLAINTIFF MARGARET SEASTRAND**

24 TO: Defendant RAYMOND RIAD KHOURY; and

25 TO: Jacob S. Smith, Esq. of HALL JAFFE & CLAYTON, LLP, his counsel of record.

26 COMES NOW, Plaintiff MARGARET G. SEASTRAND, by and through her counsel of  
27 record, Richard A. Harris, Joshua R. Harris and Alison M. Brasier, of the RICHARD HARRIS  
28 LAW FIRM, pursuant to Rule 34 of the Nevada Rules of Civil Procedure, and hereby provides  
the following Responses to Defendant's Second Requests for Production to Plaintiff:



**PRELIMINARY STATEMENT**

Plaintiff, MARGARET G. SEASTRAND has not yet completed her discovery and investigation for the preparation of this case for trial. Accordingly, the answers set forth herein are provided without prejudice to the responding party's right to produce any subsequent discovered facts or interpretations thereof and/or to add, modify or otherwise change or amend the answers herein. The information hereinafter set forth is true and correct to the best of the responding party's knowledge at this particular time, but it is subject to correction for inadvertent errors or omission, if any such error or omissions are found to exist

**REQUEST TO PRODUCE NO. 16:**

All executed liens with each and every medical provider and facility.

**RESPOND TO REQUEST TO PRODUCE NO. 16:**

Plaintiff objects to this interrogatory, as it seeks to ascertain if some parts of Plaintiff's expenses (medical bills) were paid by collateral sources. As such, the question is not relevant to the subject matter of this litigation, and not calculated to lead to the discovery of admissible evidence; it is also burdensome, oppressive and harassing to Plaintiff.

**REQUEST TO PRODUCE NO. 17:**

All documents demonstrating the amounts paid by any source to the medical providers and/or facilities for the treatment rendered in this matter.

**RESPOND TO REQUEST TO PRODUCE NO. 17:**

Plaintiff objects to this interrogatory, as it seeks to ascertain if some parts of Plaintiff's expenses (medical bills) were paid by collateral sources. As such, the question is not relevant to the subject matter of this litigation, and not calculated to lead to the discovery of admissible evidence; it is also burdensome, oppressive and harassing to Plaintiff.

REQUEST TO PRODUCE NO. 18:

All documents demonstrating the amounts of payments accepted by the medical providers and/or facilities for the treatment rendered in this matter.

RESPOND TO REQUEST TO PRODUCE NO. 18:

Plaintiff objects to this interrogatory, as it seeks to ascertain if some parts of Plaintiff's expenses (medical bills) were paid by collateral sources. As such, the question is not relevant to the subject matter of this litigation, and not calculated to lead to the discovery of admissible evidence; it is also burdensome, oppressive and harassing to Plaintiff.

REQUEST TO PRODUCE NO. 19:


All documents demonstrating the amounts accepted by each medical provider and/or facility which sold its liens to any other person or entity for the treatment rendered in this case.

RESPOND TO REQUEST TO PRODUCE NO. 19:

Plaintiff objects to this interrogatory, as it seeks to ascertain if some parts of Plaintiff's expenses (medical bills) were paid by collateral sources. As such, the question is not relevant to the subject matter of this litigation, and not calculated to lead to the discovery of admissible evidence; it is also burdensome, oppressive and harassing to Plaintiff.

DATED this 23<sup>rd</sup> day of April, 2012.

RICHARD HARRIS LAW FIRM

  
 JOSHUA R. HARRIS, ESQ.  
 Nevada Bar No. 9580  
 ALISON M. BRASIER, ESQ.  
 Nevada Bar No. 10522  
 801 South Fourth Street  
 Las Vegas, Nevada 89101  
 Attorneys for Plaintiff



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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of RICHARD HARRIS LAW FIRM and that on the 03 day of April, 2012, I caused the foregoing PLAINTIFF'S RESPONSE TO DEFENDANT'S SECOND REQUESTS FOR PRODUCTION TO PLAINTIFF MARGARET SEASTRAND to be served as follows:

- [ X ] by placing a true and correct copy of the same to be deposited for mailing in the U.S. Mail at Las Vegas, Nevada, enclosed in a sealed envelope upon which first class postage was fully prepaid; and/or
- [ ] pursuant to EDCR 7.26, by sending it via facsimile; and/or
- [ ] by receipt of copy

to the attorneys listed below:

Steven T. Jaffe, Esq.  
Jacob S. Smith, Esq.  
HALL JAFFE & CLAYTON, LLP  
7455 West Washington Avenue, Suite 460  
Las Vegas, Nevada 89128  
Attorneys for Defendant

  
An employee of the RICHARD HARRIS LAW FIRM

# **EXHIBIT “D”**



1 **RESP**  
2 **RICHARD A. HARRIS, ESQ.**  
3 Nevada Bar No. 505  
4 **JOSHUA R. HARRIS, ESQ.**  
5 Nevada Bar No. 9580  
6 **ALISON M. BRASIER, ESQ.**  
7 Nevada Bar No. 10522  
8 **RICHARD HARRIS LAW FIRM**  
9 801 South Fourth Street  
10 Las Vegas, Nevada 89101  
11 Phone (702) 444-4444  
12 Fax (702) 444-4455  
13 *Attorneys for Plaintiff*

11 **DISTRICT COURT**  
12 **CLARK COUNTY, NEVADA**

13 MARGARET G. SEASTRAND,	)	Case No. :	A-11-636515-C
14	)	Dept. No.:	XXX
15 Plaintiff,	)		
16	)		
17 vs.	)		
18 RAYMOND RIAD KHOURY; DOES	)		
19 I through 10, and ROE ENTITIES 11	)		
20 through 20, inclusive,	)		
21	)		
22 Defendants.	)		

21 **PLAINTIFF'S RESPONSE TO DEFENDANT RAYMOND KHOURY'S**  
22 **SECOND SET OF INTERROGATORIES TO PLAINTIFF MARGARET SEASTRAND**  
23

24 TO: Defendant RAYMOND RIAD KHOURY; and

25 TO: Jacob S. Smith, Esq. of HALL JAFFE & CLAYTON, LLP, his counsel of record.

26 COMES NOW, Plaintiff MARGARET G. SEASTRAND, by and through her counsel of  
27 record, Richard A. Harris, Joshua R. Harris and Alison M. Brasier, of the RICHARD HARRIS  
28

1 LAW FIRM, pursuant to Rule 33 of the Nevada Rules of Civil Procedure, and hereby provides  
2 the following Responses to Defendant's Second Set of Interrogatories to Plaintiff:  
3

5 PRELIMINARY STATEMENT

6 Plaintiff, MARGARET G. SEASTRAND has not yet completed her discovery and  
7 investigation for the preparation of this case for trial. Accordingly, the answers set forth herein  
8 are provided without prejudice to the responding party's right to produce any subsequent  
9 discovered facts or interpretations thereof and/or to add, modify or otherwise change or amend  
10 the answers herein. The information hereinafter set forth is true and correct to the best of the  
11 responding party's knowledge at this particular time, but it is subject to correction for  
12 inadvertent errors or omission, if any such error or omissions are found to exist  
13  
14

15 INTERROGATORY NO. 32:

16 Set forth the amounts paid by any source which each and every medical provider or  
17 facility accepted as payment for the services which they rendered.

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1        RESPOND TO INTERROGATORY NO. 32:

2                Plaintiff objects to this interrogatory it seeks to ascertain if some parts of  
3        Plaintiff's expenses (medical bills) were paid by collateral source. As such, the  
4        question is not relevant to the subject matter of this litigation, and not calculated to  
5        lead to the discovery of admissible evidence; it is also burdensome, oppressive  
6        and harassing to Plaintiff.  
7

8  
9        DATED this 23<sup>rd</sup> day of April, 2012.

10                                RICHARD HARRIS LAW FIRM

11                                 11451

12                                RICHARD A. HARRIS, ESQ.

13                                Nevada Bar No. 505

14                                JOSHUA R. HARRIS, ESQ.

15                                Nevada Bar No. 9580

16                                ALISON M. BRASIER, ESQ.

17                                Nevada Bar No. 10522

18                                801 South Fourth Street

19                                Las Vegas, Nevada 89101

20                                *Attorneys for Plaintiff*

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of RICHARD HARRIS LAW FIRM and that on the 23 day of April, 2012, I caused the foregoing PLAINTIFF'S RESPONSE TO DEFENDANT RAYMOND KHOURY'S SECOND SET OF INTERROGATORIES TO PLAINTIFF MARGARET SEASTRAND to be served as follows:

- ☒ [X] by placing a true and correct copy of the same to be deposited for mailing in the U.S. Mail at Las Vegas, Nevada, enclosed in a sealed envelope upon which first class postage was fully prepaid; and/or
- ☐ [ ] pursuant to EDCR 7.26, by sending it via facsimile; and/or
- ☐ [ ] by receipt of copy

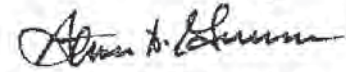
to the attorneys listed below:

Steven T. Jaffe, Esq.  
Jacob S. Smith, Esq.  
HALL JAFFE & CLAYTON, LLP  
7455 West Washington Avenue, Suite 460  
Las Vegas, Nevada 89128  
Attorneys for Defendant

  
An employee of the RICHARD HARRIS LAW FIRM



# **EXHIBIT “E”**

  
CLERK OF THE COURT

**MOT**  
STEVEN T. JAFFE  
[sjaffe@lawhjc.com](mailto:sjaffe@lawhjc.com)  
Nevada Bar No. 007035  
JACOB S. SMITH  
[jsmith@lawhjc.com](mailto:jsmith@lawhjc.com)  
Nevada Bar No. 010231  
JACOB B. LEE  
[jlee@lawhjc.com](mailto:jlee@lawhjc.com)  
Nevada Bar No. 012428

HALL JAFFE & CLAYTON, LLP  
7425 PEAK DRIVE  
LAS VEGAS, NEVADA 89128  
(702) 316-4111  
FAX (702) 316-4114

*Attorneys for Defendant  
Raymond R. Khoury*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

MARGARET G. SEASTRAND,  
Plaintiff,

vs.

RAYMOND RIAD KHOURY; DOES 1  
through 10; and ROE ENTITIES 11 through  
20, inclusive,

Defendants.

CASE NO. A-11-636515-C  
DEPT NO. XXX

**DEFENDANT'S MOTION TO COMPEL  
DISCOVERY RESPONSES AND  
PRODUCTION OF DOCUMENTS RE:  
PLAINTIFF'S MEDICAL LIENS**

[BEFORE THE DISCOVERY COMMISSIONER]

Hearing Date:  
Hearing Time:

Date of Hearing: \_\_\_\_\_

Time of Hearing: \_\_\_\_\_

Defendant, Raymond Khoury ("Khoury"), by and through his attorneys of record, Hall Jaffe & Clayton, LLP, hereby submits his Motion to Compel Discovery Responses and Production of Documents. With this Motion, Khoury seeks this Court's order granting the following relief:




1. For an order compelling the immediate provision of an answer to Interrogatory No. 32;
2. For an order compelling the immediate provision of documents in response to Defendant's Requests for Production Nos. 16 through 19;
3. For a reasonable award of attorney fees for the necessity of having to bring these matters before the Court and for attendance at the hearing pursuant to NRCP 37 and EDCR 7.60; and
4. For such other and further relief as this Court deems just and equitable in the premises.

This motion is made and based upon the papers and pleadings on file herein, the points and authorities attached hereto, the affidavit of Jacob S. Smith, Esq., any oral argument the Court may see fit to allow at the time of the hearing and the entire record in this matter.

DATED this 1 day of November, 2012.

HALL JAFFE & CLAYTON, LLP

By

  
STEVEN T. JAFFE  
Nevada Bar No. 007035  
JACOB S. SMITH  
Nevada Bar No. 010231  
JACOB B. LEE  
Nevada Bar No. 012428  
7425 Peak Drive  
Las Vegas, Nevada 89128  
*Attorneys for Defendant  
Raymond R. Khoury*

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1 NOTICE OF MOTION

2 TO: MARGARET G. SEASTRAND, Plaintiff; and

3 TO: RICHARD A. HARRIS, ESQ., her attorney of record.

4 YOU AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring  
5 the foregoing **DEFENDANT'S MOTION TO COMPEL DISCOVERY RESPONSES AND**  
6 **PRODUCTION OF DOCUMENTS RE: PLAINTIFF'S MEDICAL LIENS** on for hearing before  
7 the DISCOVERY COMMISSIONER over the above-entitled Court on the 5<sup>th</sup> day of DEC, 2012,  
8 at the hour of 9:00 AM, or as soon thereafter as counsel may be heard.

9 DATED this 1 day of November, 2012.

10 HALL JAFFE & CLAYTON, LLP

11 By 

12 STEVEN T. JAFFE  
13 Nevada Bar No. 007035  
14 JACOB S. SMITH  
15 Nevada Bar No. 010231  
16 JACOB B. LEE  
17 Nevada Bar No. 012428  
18 7425 Peak Drive  
19 Las Vegas, Nevada 89128  
20 Attorneys for Defendant  
21 Raymond R. Khoury

22 AFFIDAVIT OF JACOB S. SMITH IN SUPPORT OF MOTION TO COMPEL

23 STATE OF NEVADA )  
24 ) ss:  
25 COUNTY OF CLARK )

26 JACOB S. SMITH, being first duly sworn, deposes and says:

- 27 1. I am a licensed attorney and am admitted to practice law in all courts in the State of  
28 Nevada.
2. I make this affidavit in support of Defendant's Motion to Compel.
3. I have personal knowledge of the matters stated in this affidavit and could testify as a  
competent witness, if called upon to do so.
4. On March 21, 2012, I served interrogatories and requests for production on Plaintiff.  
Plaintiff responded to those discovery requests on April 23, 2012.



1           5.     I considered Plaintiff's responses to Interrogatory No. 32 and Requests for Production  
2 Nos. 16 through 19 to be insufficient and stated such in a phone conversation with Plaintiff's counsel,  
3 Alison Brasier, Esq., on or about April 27, 2012. She agreed to look into the matter and get back with  
4 me.

5           6.     On June 8, 2012, I sent a letter to Plaintiff's counsel requesting supplemental responses  
6 and setting forth the legal basis for these requests. See June 8, 2012 letter, attached hereto as Exhibit  
7 "A".

8           7.     With the issue still unresolved, I again called Plaintiff's counsel on October 29, 2012 to  
9 request supplemental responses to the above-listed discovery. Counsel against stated that she would  
10 further look into the matter and get back with me.

11          8.     On October 30, 2012, Plaintiff's counsel and I appeared at the deposition of a potential  
12 witness in this matter. After the deposition concluded, we discussed this unresolved discovery issue. I  
13 reiterated that the responses were insufficient, and Plaintiff's counsel maintained that the responses  
14 sufficiently responded to the interrogatories and requests for production and did not require  
15 supplementation. The parties agreed that this meeting would serve as our 2.34 meet and confer regarding  
16 this issue.

17          9.     Despite having conducted two separate EDCR 2.34 conferences, the parties have been  
18 unable to resolve these issues and will require the Court's assistance in resolving these pending  
19 discovery disputes.

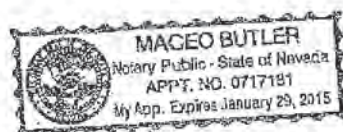
20          10.    I submit this Affidavit in compliance with EDCR 2.34 to demonstrate my compliance  
21 with the rule and to illustrate the efforts that were undertaken to try to resolve these issues without the  
22 need to involve the Court.

23                FURTHER, YOUR AFFIANT SAYETH NAUGHT.

24  
25  
26  
27  
28  
JACOB S. SMITH, ESQ.

26 SUBSCRIBED and SWORN to before  
27 me on this 15<sup>th</sup> day of November, 2012.

27 Mageo Butler  
28 NOTARY PUBLIC





1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. FACTUAL BACKGROUND**

3 This case arises out of a motor vehicle accident that occurred on March 13, 2009, in Las Vegas,  
4 Nevada. Plaintiff alleges that, on that date, Mr. Khoury negligently operated a motor vehicle in a  
5 manner that caused a collision with Plaintiff's vehicle. Plaintiff further alleges that she has suffered  
6 serious and disabling injuries as a result of the collision. Plaintiff has undergone extensive medical  
7 treatment to the tune of over \$420,000.00.

8 Following the subject incident, Plaintiff filed this lawsuit against Khoury, alleging negligence  
9 and other causes of action. In doing so, Plaintiff has made an issue of her alleged bodily injuries and  
10 symptoms, therefore, her records and billing statements which pertain to any prior injury, subsequent  
11 injury, and future prognosis are at issue in the case and should be discoverable. Khoury requests that the  
12 Court enter an Order compelling Plaintiff to respond to the interrogatories and requests for production of  
13 documents seeking information about her medical liens and payment for her treatments. Pursuant to  
14 Nev. R. Civ. P. 37 and Local Rule 7.60, Khoury further asks this Court for a reasonable award of  
15 attorney fees, costs, and expenses necessitated by the filing of this motion, attendance at the hearing, and  
16 preparation of the Report and Recommendations, and any further relief that this Court deems just and  
17 equitable.

18 **II. RELEVANT FACTUAL BACKGROUND**

19 Plaintiff brought claims for bodily injuries alleged to have resulted from a rear-end accident  
20 which took place at the intersection of Craig and Rancho on or about March 13, 2009. According to  
21 Plaintiff, she injured her head, neck and back as a result of the incident. Thus, Plaintiff has placed her  
22 bodily injuries, including any prior or subsequent injuries, medical treatment, and future prognoses at  
23 issue in this lawsuit.

24 Defendant served his second set of written discovery requests on Plaintiff on or about March 21,  
25 2012. These included interrogatories and requests for production of documents pertaining to medical  
26 liens and the amounts of payment accepted by Plaintiff's medical providers. *See* Defendant's Second  
27 Requests for Production and Second Set of Interrogatories, attached hereto as Exhibits "B" and "C",  
28 respectively. Specifically, the written discovery requested the following:



1                   **REQUEST TO PRODUCE NO. 16:**

2                   All executed liens with each and every medical provider and facility.

3                   **REQUEST TO PRODUCE NO. 17:**

4                   All documents demonstrating the amounts paid by any source to the medical  
5                   providers and / or facilities for the treatment rendered in this matter.

6                   **REQUEST TO PRODUCE NO. 18:**

7                   All documents demonstrating the amounts of payments accepted by the medical  
8                   providers and / or facilities for the treatment rendered in this matter.

9                   **REQUEST TO PRODUCE NO. 19:**

10                  All documents demonstrating the amounts accepted by each medical provider and  
11                  / or facility which sold its liens to any other person or entity for the treatment  
12                  rendered in this case.

13                  [ . . . ]

14                  **INTERROGATORY NO. 32:**

15                  Set forth the amounts paid by any source which each and every medical provider  
16                  or facility accepted as payment for the services which they rendered.

17                  See Exhibits "B" and "C", attached hereto. On April 23, 2012, Plaintiff served her responses to these  
18                  written discovery requests. Her response to each of these requests was identical:

19                         Plaintiff objects to this interrogatory, as it seeks to ascertain if some parts of  
20                         Plaintiff's expenses (medical bills) were paid by collateral sources. As such, the  
21                         question is not relevant to the subject matter of this litigation, and not calculated  
22                         to lead to the discovery of admissible evidence; it is also burdensome, oppressive,  
23                         and harassing to Plaintiff.

24                  See Plaintiff's Responses to Defendant's Second Requests for Production of Documents and Plaintiff's  
25                  Responses to Second Set of Interrogatories, attached hereto as Exhibits "D" and "E", respectively. The  
26                  undersigned counsel deemed these responses insufficient and stated such in a letter to Plaintiff's counsel  
27                  dated June 8, 2012. See Exhibit "A". After various "meet and confer" conversations via telephone and  
28                  in person, the parties are unable to reach an agreement as to the relevance and/or discoverability of the  
                       requested information.

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1 **III. LEGAL ARGUMENT**

2 **A. Plaintiff Must be Required to Provide Valid Responses to Interrogatory No. 32 and**  
3 **Valid Responses to Requests for Production Nos. 16, 17, 18, and 19.**

4 NRCP 33 provides that a party may serve interrogatories on any other party and the same are to  
5 be answered by the party served. NRCP 33(a). Interrogatories are to be answered separately and fully in  
6 writing under oath. NRCP 33(b)(1). NRCP 37(a) provides that, after reasonable notice, a party may  
7 move for an order compelling discovery, including sanctions in the form of attorney fees. NRCP  
8 37(a)(4). Prior to filing such motion, however, a moving party must affirm that attempts were made, via  
9 personal conference or otherwise, to resolve the matter without the need for Court involvement; NRCP  
10 37(a)(2)(A) and EDCR 2.34(d). The failure of a party to serve answers to Interrogatories or respond to  
11 Requests for Production of Documents and things may result in the imposition of sanctions that include,  
12 but are not limited to, an order designating specific facts to be established for purposes of the case, an  
13 order precluding the non-responsive party from introducing specific facts in evidence and an order  
14 striking pleadings or portions of pleadings, dismissing the action or entering judgment by default against  
15 the non-responsive party. NRCP 37(b)(2)(A)-(c) and NRCP 37(d). Sanctions are also available when a  
16 party unreasonably multiplies the proceedings to increase costs and fails to comply with the Court rules;  
17 EDCR 7.60(b)(3)-(4).

18 Pursuant to EDCR 2.40, copies of Defendant's Interrogatories and Requests for Production are  
19 set forth in **Exhibits "B" and "C"**, attached hereto. Plaintiff's responses to interrogatories are set forth  
20 in **Exhibit "D" and Exhibit "E"** attached hereto.

21 Here, the undersigned served written discovery requests upon plaintiffs as permitted by the  
22 above-quoted rules. Plaintiff responded to the interrogatories and requests for production, but the given  
23 responses were insufficient.

24 Interrogatory No. 32 seeks information concerning Plaintiff's treating providers and whether or  
25 not they are lienholders. Plaintiff's counsel objects on the basis that this information is protected by the  
26 collateral source rule. With all due respect, opposing counsel's reliance on the collateral source rule is  
27 misplaced.

28 "The collateral source rule provides 'that if an injured party received some



1 compensation for his injuries from a source wholly independent of the  
2 tortfeasor, such payment should not be deducted from the damages which  
3 the plaintiff would otherwise collect from the tortfeasor.” *Proctor v.*  
4 *Castelletti*, 112 Nev. 88, 90 911 P.2d 853 (1996) citing *Hrnjak v.*  
5 *Graymar, Inc.*, 4 Cal.3d 725, 94 Cal.Rptr. 623, 626, 484 P.2d 599, 602  
6 (1971).

7 In Nevada, the collateral source rule bars the admission of any such evidence during trial. *Id.*

8 Khoury submits that lien information is not protected by the collateral source rule. A medical  
9 lien is not “compensation for injuries.” Rather, it is an outstanding debt owed for services rendered.  
10 There is no payment to deduct from the damages which would otherwise be collected from Khoury.  
11 Therefore, the collateral source rule does not apply to medical liens.

12 Furthermore, even assuming the collateral source rule were to bar the admission of liens at  
13 trial—which it does not—that does not mean the information is not discoverable. As this Court is well  
14 aware, discoverability and admissibility are entirely separate and distinct concepts. NRCP 26(b)(1)  
15 provides the parameters for discoverability in Nevada:

16 Parties may obtain discovery regarding any matter, not privileged, which is  
17 relevant to the subject matter involved in the pending action, whether it  
18 relates to the claim or defense of the party seeking discovery or to the  
19 claim or defense of any other party, including the existence, description,  
20 nature, custody, condition and location of any books, documents, or other  
21 tangible things and the identity and location of persons having knowledge  
22 of any discoverable matter. It is not ground for objection that the  
23 information sought will be inadmissible at the trial if the information  
24 sought appears reasonably calculated to lead to the discovery of  
25 admissible evidence. All discovery is subject to the limitations imposed  
26 by Rule 26(b)(2)(I), (ii), and (iii). (Emphasis added)

27 Thus, even if Plaintiff’s response to Interrogatory No. 32 were to ultimately be deemed inadmissible at  
28 trial under the collateral source rule, the answer would still be discoverable if the information is  
reasonably calculated to lead to admissible evidence.

Evidence concerning medical liens are relevant at the time of trial to show bias on the part of  
Plaintiff’s treating providers. “The exposure of a witness’s motivation in testifying is a proper and  
important function of the constitutionally protected right of cross-examination.” *Robinson v. G.G.C.,*  
*Inc.*, 107 Nev. 135, 144, 808 P.2d 522 (1991) citing *Delaware v. Van Arsdall*, 475 U.S. 673, 678-79,  
106 S.Ct. 1431, 1435, 89 L.Ed.2d 674 (1986). The fact that Plaintiff’s treating providers stand to gain  
from the instant litigation if they are a lien holder is certainly relevant to showing bias. As a result, such



1 information is clearly discoverable.

2 Evidence regarding a witness' bias or interest in testifying in a certain manner is, in fact, relevant  
3 and is not collateral to the controversy for purposes of exclusion. *Lobato v. State*, 120 Nev. 512, 96 P.3d  
4 765 (2004). In *Lobato*, the Nevada Supreme Court noted that

5 "Although district courts have wide discretion to control cross-  
6 examination that attacks a witness's general credibility, a trial court's  
7 discretion is ... narrow[ed] where bias [motive] is the object to be shown,  
8 and an examiner must be permitted to elicit any facts which might color a  
9 witness's testimony. Generally, the only proper restriction should be those  
10 inquiries which are repetitive, irrelevant, vague, speculative, or designed  
11 merely to harass, annoy or humiliate the witness."

12 *Lobato* at 520. The right to confront and cross examine witnesses includes the right to inquire and  
13 examine a witness about the bias and motivation behind their testimony. In *Delaware v. Fensterer*, 474  
14 U.S. 15, 19, 106 S.Ct. 292 (1985), the U.S. Supreme Court found that a cross-examiner is not only  
15 permitted to delve into a witness' story to test the witness' perceptions and memory, but [also] ...  
16 allowed to impeach, i.e., discredit, the witness.

17 Here, some of Plaintiff's "treating providers" are presumably owed substantial sums of money,  
18 which expenses they have agreed to incur on a lien basis. The mere fact that a party treats on a medical  
19 lien is not necessary indicative of the fact that they do not have medical insurance. Indeed, the  
20 undersigned has seen many situations where medical providers treat patients on a lien despite the fact  
21 that the patient has medical or other insurance that would cover the cost of treatment.

22 Given these types of financial arrangements between Plaintiff and her treating providers, there  
23 can be little doubt that the providers have actually acquired an interest in the case. As a result, these  
24 individuals have become "contingent" witnesses. In the event that Plaintiff were to recover nothing,  
25 these "contingent" witnesses stand to receive nothing for all of the time and services they have provided.  
26 If, on the other hand, Plaintiff prevails, these "contingent" witnesses stand to receive far more money,  
27 for the exact same time and services, than they would otherwise have received if they had simply treated  
28 other patients and submitted their bills to a medical or other insurance carrier, or if they had even  
provided treatment on a cash-up-front basis.

Similarly, Khoury has requested that documents be disclosed demonstrating the amounts each



1 medical provider accepted for treatment and the amount paid by any source to the medical providers for  
2 treatment rendered relevant to Plaintiff's injuries allegedly sustained in the subject accident. These  
3 documents are relevant, as set forth above, because they expose what bias, if any, these medical  
4 providers have as a result of any contingent treatment. Moreover, they

5 It is entirely appropriate to question "contingent" witnesses about the existence of a lien, the  
6 amount of the lien and the fact that the "contingent" witness has, in fact, acquired an interest in the  
7 outcome of the litigation. Similarly, it is appropriate to request that Plaintiff provide all documentation  
8 pertaining to medical liens, amounts paid, and amount accepted by her medical providers, as this  
9 information provides the basis for the questions to these witnesses.

10 Therefore, Plaintiff's response to Interrogatory No. 32 as well as her Responses to Requests for  
11 Production 16 through 19 are insufficient and Khoury requests an Order compelling proper responses,  
12 including the production of the requested documentation.

13 Good faith efforts were made to try to resolve the matter without the need for Court involvement,  
14 without success, thereby necessitating this motion. Based upon the above-quoted rules, Defendant is  
15 entitled to an order compelling Plaintiff's response to Interrogatory No. 32 and Responses to Requests  
16 for Production 16 through 19. Defendant is also entitled to NRCP 37 sanctions for failure to participate  
17 in the discovery process.

18 **B. Plaintiff should be required to produce the requested discovery immediately and by**  
19 **a date certain.**

20 In Associates Capital Services v. Ponderosa Lawn Service, this Honorable Court recognized  
21 "classic discovery failure." In Discovery Opinion #4, this Honorable Court wrote "Discovery in a civil  
22 case must not wait upon the necessity of filing a Motion to Compel such discovery, thereby wasting the  
23 time and energy of diligent counsel, as well as the time of the Court." Here, Plaintiff has failed to  
24 provide the information and documentation necessary to address the bias of Plaintiff's treating  
25 physicians. As the depositions of these physicians and medical providers are upcoming, Plaintiff's  
26 continued refusal to provide the requested information and documentation has impacted Khoury's ability  
27 to properly evaluate and defend the allegations contained in Plaintiff's Complaint. Unless Plaintiff is  
28 required to promptly produce this information, and do so prior to the depositions of her treating



1 physicians, Khoury's purposes in defending against Plaintiff's claims will continue to be frustrated.  
2 "The duty rests upon the Plaintiff to use diligence and to expedite his case to a final determination."  
3 Walls v. Brewster, 112 Nev. 175, 178, 912 P.2d 261, 262 (1996), Thran v. First Judicial Dist. Ct., 79  
4 Nev. 176, 380 P.2d 297 (1963).

5 Given the above, Defendant requests that this Court compel Plaintiff to provide the requested  
6 responses immediately and by a date certain. Alternatively, Defendant requests an Order providing for  
7 an adverse inference at the time of trial if Plaintiff's refusal to disclose the requested documentation  
8 continues.

9 **C. Plaintiff should be sanctioned for her failure to participate in discovery.**

10 According to the above-quoted rules, Plaintiff has an affirmative legal obligation to participate in  
11 the discovery process and must do so in good faith. Despite numerous attempts to obtain compliance  
12 with the above-quoted rules, no compliance could be obtained. Plaintiff's refusal to participate in the  
13 discovery process has forced Khoury to unnecessarily incur attorney fees and costs, both in the process  
14 of ongoing attempts to obtain compliance, through the preparation and filing of this motion with the  
15 Court, and through the undersigned's attendance at the hearing thereon.

16 Given Plaintiff's refusal to participate in the discovery process, defendant requests that the Court  
17 enter appropriate NRCP 37 sanctions against her. Khoury requests a reasonable award of attorney's fees  
18 for the necessity of having to bring these matters before the Court, as well as such other and further  
19 NRCP 37 sanctions as this Court deems appropriate under the circumstances described herein. Finally,  
20 given the delays resulting from Plaintiff's refusal to participate in discovery, it is possible that a  
21 continuance and/or reopening of discovery may be required in the future in order to complete discovery.

22 **IV. CONCLUSION**

23 Based upon the foregoing, Khoury respectfully requests this Court's order granting the following  
24 relief:

- 25 1. For an order compelling the immediate provision of an answer to Interrogatory No. 32;
- 26 2. For an order compelling the immediate provision of documents in response to  
27 Defendant's Requests for Production Nos. 16 through 19;
- 28 3. For a reasonable award of attorney fees for the necessity of having to bring these matters



1 before the Court and for attendance at the hearing pursuant to NRCP 37 and EDCR 7.60; and

2 4. For such other and further relief as this Court deems just and equitable in the premises.

3 DATED this 1 day of November, 2012.

4 HALL JAFFE & CLAYTON, LLP

5  
6 By 

STEVEN T. JAFFE  
Nevada Bar No. 007035

JACOB S. SMITH  
Nevada Bar No. 010231

JACOB B. LEE  
Nevada Bar No. 012428

7425 Peak Drive  
Las Vegas, Nevada 89128

Attorneys for Defendant  
Raymond R. Khoury

1 CERTIFICATE OF SERVICE

2 Pursuant to N.R.C.P. 5(b), I hereby certify that service of the foregoing DEFENDANT'S  
3 MOTION TO COMPEL DISCOVERY RESPONSES AND PRODUCTION OF DOCUMENTS  
4 RE: PLAINTIFF'S MEDICAL LIENS was made on the 1<sup>st</sup> day of November, 2012, by depositing  
5 a true and correct copy of the same by U.S. Mail in Las Vegas, Nevada, addressed, stamped, and mailed  
6 to the following:

7 Richard A. Harris, Esq.  
8 RICHARD HARRIS LAW FIRM  
9 801 S. Fourth Street  
10 Las Vegas, Nevada 89101  
11 *Attorneys for Plaintiff*

12 

13 An Employee of  
14 HALL JAFFE & CLAYTON, LLP  
15  
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28



# EXHIBIT A

# HJC HALL, JAFFE & CLAYTON, LLP

ATTORNEYS AT LAW

7455 West Washington Avenue, Suite 460 • Las Vegas, Nevada 89128  
Telephone 702.316.4111 • Facsimile 702.316.4114

June 8, 2012

Via Facsimile: (702) 444-4455

Alison M. Brasier, Esq.  
RICHARD HARRIS LAW FIRM  
801 S. Fourth Street  
Las Vegas, Nevada 89101

Re: *Khoury adv. Seastrand*

Dear Ms. Brasier:

As you are aware, we recently served some discovery requests and interrogatories on you with respect to the above-listed matter. This letter will address the deficiencies in your responses to those discovery requests.

Specifically, on March 21, 2012 we propounded Defendant's Second Requests for Production of documents on your client. These included Requests to Produce Nos. 16, 17, 18, and 19, which read as follows:

**REQUEST TO PRODUCE NO. 16:**

All executed liens with each and every medical provider and facility.

**REQUEST TO PRODUCE NO. 17:**

All documents demonstrating the amounts paid by any source to the medical providers and / or facilities for the treatment rendered in this matter.

**REQUEST TO PRODUCE NO. 18:**

All documents demonstrating the amounts of payments accepted by the medical providers and / or facilities for the treatment rendered in this matter.

**REQUEST TO PRODUCE NO. 19:**

All documents demonstrating the amounts accepted by each medical provider and/or facility which sold its liens to any other person or entity for the treatment rendered in this case.

RILEY A. CLAYTON  
STEVEN T. JAFFE  
MICHAEL R. HALL  
KEVIN KING

MARISA C. QUARINO  
ASHLEY L. SURLER  
JAMES HARPER  
JACOB SMITH  
DAVID GLUTH  
TAYLOR SELIM  
PETRA AMBROSE  
RONALD D. GREEN JR.  
BRIANNA ISSURDET  
JACOB B. LEE  
JEREMY M. WELLAND

Of Counsel:  
MICHAEL SHANNON  
MONTE HALL

1 - Also E-mailed to Plaintiff  
2 - Also E-mailed to Plaintiff's Attorney  
3 - Also E-mailed to Plaintiff's Attorney  
4 - Also E-mailed to Plaintiff's Attorney



Allison Brasier, Esq.  
*Khoury adv. Seastrand*  
June 8, 2012  
Page 2 of 5

See Defendant's Second Request for Production of Documents to Plaintiff Margaret Seastrand, attached hereto as **Exhibit "A"**. You served your responses to these requests on April 23, 2012. See Plaintiff's response to Defendant's Second Requests for Production attached hereto as **Exhibit "B"**. In that document, your response to each of these requests to produce was identical. Each of the responses reads as follows:

**RESPONSE**

Plaintiff objects to this interrogatory, as it seeks to ascertain if some parts of Plaintiff's expenses (medical bills) were paid by collateral sources. As such, the question is not relevant to the subject matter of this litigation, and not calculated to lead to the discovery of admissible evidence; it is also burdensome, oppressive and harassing to Plaintiff.

*Id.* We also propounded an additional interrogatory on your client at this same time:

**INTERROGATORY NO. 32:**

Set forth the amount paid by any source which each and every medical provider or facility accepted as payment for the services which they rendered.

See Defendant's Second Set of Interrogatories to Plaintiff, attached as **Exhibit "C"**, attached hereto. Your response to this interrogatory was identical to your responses to the requests for production:

**RESPONSE**

Plaintiff objects to this interrogatory, as it seeks to ascertain if some parts of Plaintiff's expenses (medical bills) were paid by collateral sources. As such, the question is not relevant to the subject matter of this litigation, and not calculated to lead to the discovery of admissible evidence; it is also burdensome, oppressive and harassing to Plaintiff.

See Plaintiff's Response to Second Set of Interrogatories to Plaintiff, attached as **Exhibit "D"**, attached hereto.

With all due respect, I believe your reliance on the collateral source rule is misplaced. Consider the language of the collateral source rule as set forth by Nevada's Supreme Court:

"The collateral source rule provides 'that if an injured party

Allison Brasier, Esq.  
*Khoury adv. Seastrand*  
June 8, 2012  
Page 3 of 5

received some compensation for his injuries from a source wholly independent of the tortfeasor, such payment should not be deducted from the damages which the plaintiff would otherwise collect from the tortfeasor.” *Proctor v. Castelletti*, 112 Nev. 88, 90 911 P.2d 853 (1996) citing *Hrnjak v. Graymar, Inc.*, 4 Cal.3d 725, 94 Cal.Rptr. 623, 626, 484 P.2d 599, 602 (1971).

Moreover, the collateral source rule bars the admission of any such evidence during trial. *Id.*

While the collateral source rule clearly applies to health insurance, a medical lien is not “compensation for injuries.” Rather, it is an outstanding debt owed for services rendered. There is no payment to deduct from the damages which would otherwise be collected from Defendant. In light of this, the collateral source rule does not apply to medical liens.

Furthermore, even assuming the collateral source rule bars the admission of liens at trial, it does not mean the information is not discoverable. As surely you are aware, discoverability and admissibility are entirely separate and distinct concepts. NRC 26(b)(1) provides the parameters for discoverability in Nevada:

Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. All discovery is subject to the limitations imposed by Rule 26(b)(2)(I), (ii), and (iii).  
(Emphasis added)

Thus, even if the information and documents produced in response to the above-listed requests for production and interrogatories were ultimately deemed to be inadmissible at trial under the collateral source rule, the information would still be discoverable if it is reasonably calculated to lead to admissible evidence.

Evidence concerning medical liens are relevant at the time of trial to show bias on the part of Plaintiff's treating providers. “The exposure of a witness's motivation in testifying is a proper and important function of the constitutionally protected right of cross-examination.”



Allison Brasier, Esq.  
*Khoury adv. Seastrand*  
June 8, 2012  
Page 4 of 5

*Robinson v. G.G.C., Inc.*, 107 Nev. 135, 144, 808 P.2d 522 (1991) citing *Delaware v. Van Arsdall*, 475 U.S. 673, 678-79, 106 S.Ct. 1431, 1435, 89 L.Ed.2d 674 (1986). The fact that your client's treating providers stand to gain from the instant litigation if they are a lien holder is certainly relevant to showing bias. As a result, such information is clearly discoverable, as bias constitutes admissible and relevant evidence.

Finally, we recently received your responses to Defendant's Third Request for Production of Documents. These Requests include Requests Nos. 2

**REQUEST TO PRODUCE NO. 20:**

The 2010 and 2011 Federal Income Tax Returns for Margaret G. and Douglas R. Seastrand, including all Schedule C's and disclosures related to Hollywood Kids Academy.

**REQUEST TO PRODUCE NO. 21:**

Any and all business documents related to Hollywood Kids Academy from the time of its formation to the present, including but not limited to: profit and loss statements, balance sheets, accounts receivable, accounts payable, and payroll records.

See Defendant's Third Request for Production of Documents, attached hereto as **Exhibit "E."** In your amended response, you stated that you are "in the process of gathering these documents" and that the response "will be supplemented when the documents are located." See Amended Response to Third Request for Production of Documents, attached hereto as **Exhibit "F."** Please be mindful that these documents are necessary for review and analysis by our experts in conjunction with their overall financial analysis of your client's income as it relates to the Hollywood Kids Academy. As initial expert disclosures are currently scheduled for July 13, 2012, we need these documents as soon as possible. In the event we do not receive them promptly, we may have a basis for a second extension of the discovery deadlines as well as a continuation of the trial date.

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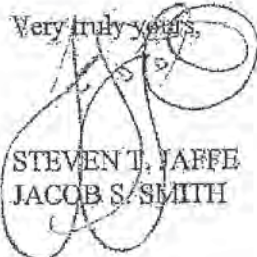
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Allison Brasier, Esq.  
*Khoury adv. Seastrand*  
June 8, 2012  
Page 5 of 5

I will calendar your supplemental response to Interrogatory No. 32 and Requests for Production Nos. 16, 17, 18, 19, 20, and 21 for June 15, 2012. If you feel you need additional time to prepare the response, please contact me and we may be able to accommodate you. Otherwise, please contact me to discuss these matters pursuant to EDCR 2.34 in preparation for a Motion to Compel.

Very truly yours,  
  
STEVEN T. JAFFE  
JACOB S. SMITH

JSS/pbs

cc: Raymond Khoury  
Victoria Pearl, State Farm



# EXHIBIT B

1 STEVEN T. JAFFE  
sjaffe@lawhjc.com  
2 Nevada Bar No. 007035  
JACOB S. SMITH  
3 jsmith@lawhjc.com  
Nevada Bar No. 010231

4 HALL JAFFE & CLAYTON, LLP  
5 7455 WEST WASHINGTON AVENUE, SUITE 460  
LAS VEGAS, NEVADA 89128  
6 (702) 316-4111  
FAX (702) 316-4114

7 Attorneys for Defendant  
8 Raymond R. Khoury

9 DISTRICT COURT  
10 CLARK COUNTY, NEVADA

11 MARGARET G. SEASTRAND,  
12 Plaintiff,

13 vs.

14 RAYMOND RIAD KHOURY; DOES 1  
15 through 10; and ROE ENTITIES 11 through  
16 20, inclusive,

17 Defendants.

CASE NO. A-11-636515-C  
DEPT NO. XXX

**DEFENDANT'S SECOND REQUESTS FOR  
PRODUCTION TO PLAINTIFF MARGARET  
SEASTRAND**

18 TO: MARGARET G. SEASTRAND, Plaintiff herein; and

19 TO: Richard A. Harris, Esq., of the RICHARD HARRIS LAW FIRM, Plaintiff's attorney;

20 Defendant requests that Plaintiff MARGARET G. SEASTRAND respond to these  
21 Requests for Production of Documents set out below in accordance with the provisions of Rule 34 of the  
22 Nevada Rules of Civil Procedure, fully and separately under oath, signed by the person or persons  
23 making such Responses, and that a copy of such Responses be served upon the Defendant herein within  
24 thirty (30) days after the service of the Requests for Production of Documents, unless the Court, by  
25 Order, enlarges or shortens the time.

26 **REQUEST TO PRODUCE NO. 16:** All executed liens with each and every medical  
27 provider and facility.

28 **REQUEST TO PRODUCE NO. 17:** All documents demonstrating the amounts paid by



1 any source to the medical providers and / or facilities for the treatment rendered in this matter.

2 REQUEST TO PRODUCE NO. 18: All documents demonstrating the amounts of  
3 payments accepted by the medical providers and / or facilities for the treatment rendered in this matter.

4 REQUEST TO PRODUCE NO. 19: All documents demonstrating the amounts  
5 accepted by each medical provider and / or facility which sold its liens to any other person or entity for  
6 the treatment rendered in this case.

7 *These Requests For Production shall be deemed continuing so as to require reasonable*  
8 *supplemental Answers if the Plaintiff or his Attorney obtains further information between the time*  
9 *his Answers are served and the time of trial.*

10 DATED: March 21, 2012

11 HALL JAFFE & CLAYTON, LLP

12 By 

13 STEVEN T. JAFFE  
14 Nevada Bar No. 007035  
15 JACOB S. SMITH  
16 Nevada Bar No. 010231  
17 7455 West Washington Avenue, Suite 450  
18 Las Vegas, Nevada 89128  
19 Attorneys for Defendant  
20 Raymond R. Khoury  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3 CERTIFICATE OF SERVICE

4 Pursuant to N.R.C.P. 5(b), I hereby certify that service of the foregoing DEFENDANT'S  
5 SECOND REQUESTS FOR PRODUCTION TO PLAINTIFF MARGARET SEASTRAND was  
6 made on March 21, 2012, by depositing a true and correct copy of the same by U.S. Mail in Las Vegas,  
7 Nevada, addressed, stamped, and mailed to the following:

8 Richard A. Harris, Esq.  
9 RICHARD HARRIS LAW FIRM  
10 801 S. Fourth Street  
11 Las Vegas, Nevada 89101  
12 *Attorneys for Plaintiff*

13   
14 An Employee of  
15 HALL JAFFE & CLAYTON, LLP  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



1 STEVEN T. JAFFE  
2 sjaffe@lawhjc.com  
Nevada Bar No. 007035  
3 JACOB S. SMITH  
jsmith@lawhjc.com  
4 Nevada Bar No. 010231

5 HALL JAFFE & CLAYTON, LLP  
7455 WEST WASHINGTON AVENUE, SUITE 460  
6 LAS VEGAS, NEVADA 89128  
(702) 315-4111  
7 FAX (702) 318-4114

8 Attorneys for Defendant  
Raymond R. Khoury

10 DISTRICT COURT  
11 CLARK COUNTY, NEVADA

12 MARGARET G. SEASTRAND,  
13 Plaintiff,

CASE NO. A-11-636515-C  
DEPT NO. XXX

14 vs.

15 RAYMOND RIAD KHOURY; DOES 1  
16 through 10; and ROE ENTITIES 11 through  
20, inclusive,

17 Defendants.

18  
19 DEFENDANT RAYMOND KHOURY'S SECOND SET OF INTERROGATORIES TO  
20 PLAINTIFF MARGARET SEASTRAND

21 TO: MARGARET G. SEASTRAND, Plaintiff; and

22 TO: RICHARD HARRIS, ESQ. Of the RICHARD HARRISS LAW FIRM, Plaintiff's attorney:

23 Defendant requests that Plaintiff MARGARET SEASTRAND answer these  
24 Interrogatories set out below in accordance with the provisions of Rule 33 of the Nevada Rules of Civil  
25 Procedure, fully and separately under oath, signed by the person or persons making such Answers, and  
26 that a copy of such Answers be served upon the Defendant herein within thirty (30) days after the service  
27 of the Interrogatories, unless the Court, by Order, enlarges or shortens the time.

28 In answering these Interrogatories, furnish such information as is available to you, not  
merely such information as is of your own knowledge. This means you are to furnish information which

1 is known by or in the possession of your attorney or any agents for you or your attorney.

2 INTERROGATORY NO. 32:

3 Set forth the amounts paid by any source which each and every medical provider or  
4 facility accepted as payment for the services which they rendered.

5 *These Interrogatories shall be deemed continuing so as to require reasonable*  
6 *supplemental Answers if the Plaintiff or his Attorney obtains further information between the time*  
7 *his Answers are served and the time of trial.*

8 DATED this 21st day of March, 2012.

9 HALL JAFFE & CLAYTON, LLP

10 By 

11 STEVEN T. JAFFE

12 Nevada Bar No. 007035

13 JACOB S. SMITH

14 Nevada Bar No. 010231

15 7455 West Washington Avenue, Suite 460

16 Las Vegas, Nevada 89128

17 Attorneys for Defendant

18 Raymond R. Khoury



CERTIFICATE OF SERVICE

Pursuant to N.R.C.P. 5(b), I hereby certify that service of the foregoing DEFENDANT  
RAYMOND KHOURY'S SECOND SET OF INTERROGATORIES TO PLAINTIFF  
MARGARET SEASTRAND was made on 21<sup>st</sup> day of March, 2012, by depositing a true and correct  
copy of the same by U.S. Mail in Las Vegas, Nevada, addressed, stamped, and mailed to the following:

Richard A. Harris, Esq.  
RICHARD HARRIS LAW FIRM  
801 S. Fourth Street  
Las Vegas, Nevada 89101  
*Attorneys for Plaintiff*

  
An Employee of  
HALL JAFFE & CLAYTON, LLP

# EXHIBIT C



1 STEVEN T. JAFFE  
2 sjaffe@lawhjc.com  
Nevada Bar No. 007035  
3 JACOB S. SMITH  
jsmith@lawhjc.com  
4 Nevada Bar No. 010231

5 HALL JAFFE & CLAYTON, LLP  
6 7455 WEST WASHINGTON AVENUE, SUITE 460  
LAS VEGAS, NEVADA 89128  
7 (702) 316-4111  
FAX (702) 316-4114

8 Attorneys for Defendant  
Raymond R. Khoury

10 DISTRICT COURT  
11 CLARK COUNTY, NEVADA

12 MARGARET G. SEASTRAND,  
13 Plaintiff,

CASE NO. A-11-636515-C  
DEPT NO. XXX

14 vs.

15 RAYMOND RIAD KHOURY; DOES 1  
16 through 10; and ROE ENTITIES 11 through  
20, inclusive,

17 Defendants.

18  
19 DEFENDANT RAYMOND KHOURY'S SECOND SET OF INTERROGATORIES TO  
20 PLAINTIFF MARGARET SEASTRAND

21 TO: MARGARET G. SEASTRAND, Plaintiff; and

22 TO: RICHARD HARRIS, ESQ. Of the RICHARD HARRIS LAW FIRM, Plaintiff's attorney:

23 Defendant requests that Plaintiff MARGARET SEASTRAND answer these

24 Interrogatories set out below in accordance with the provisions of Rule 33 of the Nevada Rules of Civil  
25 Procedure, fully and separately under oath, signed by the person or persons making such Answers, and  
26 that a copy of such Answers be served upon the Defendant herein within thirty (30) days after the service  
27 of the Interrogatories, unless the Court, by Order, enlarges or shortens the time.

28 In answering these Interrogatories, furnish such information as is available to you, not  
merely such information as is of your own knowledge. This means you are to furnish information which

1 is known by or in the possession of your attorney or any agents for you or your attorney.

2 INTERROGATORY NO. 32:

3 Set forth the amounts paid by any source which each and every medical provider or  
4 facility accepted as payment for the services which they rendered.

5 *These Interrogatories shall be deemed continuing so as to require reasonable*  
6 *supplemental Answers if the Plaintiff or his Attorney obtains further information between the time*  
7 *his Answers are served and the time of trial.*

8 DATED this 21st day of March, 2012;

9 HALL JAFFE & CLAYTON, LLP

10 By 

11 STEVEN T. JAFFE

12 Nevada Bar No. 007035

13 JACOB S. SMITH

14 Nevada Bar No. 010231

15 7455 West Washington Avenue, Suite 460

16 Las Vegas, Nevada 89128

17 Attorneys for Defendant


18 Raymond R. Khoury



CERTIFICATE OF SERVICE

Pursuant to N.R.C.P. 5(b), I hereby certify that service of the foregoing DEFENDANT  
RAYMOND KHOURY'S SECOND SET OF INTERROGATORIES TO PLAINTIFF  
MARGARET SEASTRAND was made on 21<sup>st</sup> day of March, 2012, by depositing a true and correct  
copy of the same by U.S. Mail in Las Vegas, Nevada, addressed, stamped, and mailed to the following:

Richard A. Harris, Esq.  
RICHARD HARRIS LAW FIRM  
801 S. Fourth Street  
Las Vegas, Nevada 89101  
*Attorneys for Plaintiff*

  
An Employee of  
HALL JAFFE & CLAYTON, LLP

# EXHIBIT D



cc: STJ, JS, SS, 1/18

1 RESP  
2 RICHARD A. HARRIS, ESQ.  
3 Nevada Bar No. 505  
4 JOSHUA R. HARRIS, ESQ.  
5 Nevada Bar No. 9580  
6 ALISON M. BRASIER, ESQ.  
7 Nevada Bar No. 10522  
8 RICHARD HARRIS LAW FIRM  
9 801 South Fourth Street  
10 Las Vegas, Nevada 89101  
11 Phone (702) 444-4444  
12 Fax (702) 444-4455  
13 Attorneys for Plaintiff

14 DISTRICT COURT

15 CLARK COUNTY, NEVADA

16 MARGARET G. SEASTRAND,

17 Plaintiff,

18 vs.

19 RAYMOND RIAD KHOURY; DOES  
20 I through 10, and ROE ENTITIES 11  
21 through 20, inclusive,

22 Defendants.

Case No.: A-11-636515-C

Dept. No.: XXX

23 PLAINTIFF'S RESPONSE TO DEFENDANT'S SECOND

24 REQUESTS FOR PRODUCTION TO PLAINTIFF MARGARET SEASTRAND

25 TO: Defendant RAYMOND RIAD KHOURY; and

26 TO: Jacob S. Smith, Esq. of HALL JAFFE & CLAYTON, LLP, his counsel of record.

27 COMES NOW, Plaintiff MARGARET G. SEASTRAND, by and through her counsel of  
28 record, Richard A. Harris, Joshua R. Harris and Alison M. Brasier, of the RICHARD HARRIS  
LAW FIRM, pursuant to Rule 34 of the Nevada Rules of Civil Procedure, and hereby provides  
the following Responses to Defendant's Second Requests for Production to Plaintiff:

RICHARD HARRIS  
LAW FIRM

PRELIMINARY STATEMENT

Plaintiff, MARGARET G. SEASTRAND has not yet completed her discovery and investigation for the preparation of this case for trial. Accordingly, the answers set forth herein are provided without prejudice to the responding party's right to produce any subsequent discovered facts or interpretations thereof and/or to add, modify or otherwise change or amend the answers herein. The information hereinafter set forth is true and correct to the best of the responding party's knowledge at this particular time, but it is subject to correction for inadvertent errors or omission, if any such error or omissions are found to exist

REQUEST TO PRODUCE NO. 16:

All executed liens with each and every medical provider and facility.

RESPOND TO REQUEST TO PRODUCE NO. 16:

Plaintiff objects to this interrogatory, as it seeks to ascertain if some parts of Plaintiff's expenses (medical bills) were paid by collateral sources. As such, the question is not relevant to the subject matter of this litigation, and not calculated to lead to the discovery of admissible evidence; it is also burdensome, oppressive and harassing to Plaintiff.

REQUEST TO PRODUCE NO. 17:

All documents demonstrating the amounts paid by any source to the medical providers and/or facilities for the treatment rendered in this matter.

RESPOND TO REQUEST TO PRODUCE NO. 17:

Plaintiff objects to this interrogatory, as it seeks to ascertain if some parts of Plaintiff's expenses (medical bills) were paid by collateral sources. As such, the question is not relevant to the subject matter of this litigation, and not calculated to lead to the discovery of admissible evidence; it is also burdensome, oppressive and harassing to Plaintiff.



1 REQUEST TO PRODUCE NO. 18:

2 All documents demonstrating the amounts of payments accepted by the medical  
3 providers and/or facilities for the treatment rendered in this matter.

4 RESPOND TO REQUEST TO PRODUCE NO. 18:

5  
6 Plaintiff objects to this interrogatory, as it seeks to ascertain if some parts  
7 of Plaintiff's expenses (medical bills) were paid by collateral sources. As such, the  
8 question is not relevant to the subject matter of this litigation, and not calculated to  
9 lead to the discovery of admissible evidence; it is also burdensome, oppressive and  
10 harassing to Plaintiff.  
11

12 REQUEST TO PRODUCE NO. 19:

13 All documents demonstrating the amounts accepted by each medical provider and/or  
14 facility which sold its liens to any other person or entity for the treatment rendered in this case.

15 RESPOND TO REQUEST TO PRODUCE NO. 19:

16  
17 Plaintiff objects to this interrogatory, as it seeks to ascertain if some parts  
18 of Plaintiff's expenses (medical bills) were paid by collateral sources. As such, the  
19 question is not relevant to the subject matter of this litigation, and not calculated to  
20 lead to the discovery of admissible evidence; it is also burdensome, oppressive and  
21 harassing to Plaintiff.  
22

23 DATED this 23<sup>rd</sup> day of April, 2012.

24 RICHARD HARRIS LAW FIRM

25  11451

26 JOSHUA R. HARRIS, ESQ.

27 Nevada Bar No. 9580

28 ALISON M. BRASIER, ESQ.

Nevada Bar No. 10522

801 South Fourth Street

Las Vegas, Nevada 89101

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of RICHARD HARRIS LAW FIRM and that on the 23 day of April, 2012, I caused the foregoing PLAINTIFF'S RESPONSE TO DEFENDANT'S SECOND REQUESTS FOR PRODUCTION TO PLAINTIFF MARGARET SEASTRAND to be served as follows:

- ☒ by placing a true and correct copy of the same to be deposited for mailing in the U.S. Mail at Las Vegas, Nevada, enclosed in a sealed envelope upon which first class postage was fully prepaid; and/or
- ☐ pursuant to EDCR 7.26, by sending it via facsimile; and/or
- ☐ by receipt of copy

to the attorneys listed below:

Steven T. Jaffe, Esq.  
Jacob S. Smith, Esq.  
HALL JAFFE & CLAYTON, LLP  
7455 West Washington Avenue, Suite 460  
Las Vegas, Nevada 89128  
Attorneys for Defendant

  
An employee of the RICHARD HARRIS LAW FIRM



# EXHIBIT "E"

cc: STJ, JSS, DA/BA

1 RESP  
2 RICHARD A. HARRIS, ESQ.  
3 Nevada Bar No. 505  
4 JOSHUA R. HARRIS, ESQ.  
5 Nevada Bar No. 9580  
6 ALISON M. BRASIER, ESQ.  
7 Nevada Bar No. 10522  
8 RICHARD HARRIS LAW FIRM  
9 801 South Fourth Street  
10 Las Vegas, Nevada 89101  
11 Phone (702) 444-4444  
12 Fax (702) 444-4455  
13 *Attorneys for Plaintiff*

14 DISTRICT COURT

15 CLARK COUNTY, NEVADA

16 MARGARET G. SEASTRAND,

17 Plaintiff,

18 vs.

19 RAYMOND RIAD KHOURY; DOES  
20 I through 10, and ROE ENTITIES 11  
21 through 20, inclusive,

22 Defendants.

Case No.: A-11-636513-C

Dept. No.: XXX

23 PLAINTIFF'S RESPONSE TO DEFENDANT RAYMOND KHOURY'S  
24 SECOND SET OF INTERROGATORIES TO PLAINTIFF MARGARET SEASTRAND

25 TO: Defendant RAYMOND RIAD KHOURY; and

26 TO: Jacob S. Smith, Esq. of HALL JAFFE & CLAYTON, LLP, his counsel of record.

27 COMES NOW, Plaintiff MARGARET G. SEASTRAND, by and through her counsel of  
28 record, Richard A. Harris, Joshua R. Harris and Alison M. Brasier, of the RICHARD HARRIS



LAW FIRM, pursuant to Rule 33 of the Nevada Rules of Civil Procedure, and hereby provides the following Responses to Defendant's Second Set of Interrogatories to Plaintiff:

PRELIMINARY STATEMENT

Plaintiff, MARGARET G. SEASTRAND has not yet completed her discovery and investigation for the preparation of this case for trial. Accordingly, the answers set forth herein are provided without prejudice to the responding party's right to produce any subsequent discovered facts or interpretations thereof and/or to add, modify or otherwise change or amend the answers herein. The information hereinafter set forth is true and correct to the best of the responding party's knowledge at this particular time, but it is subject to correction for inadvertent errors or omission, if any such error or omissions are found to exist

INTERROGATORY NO. 32:

Set forth the amounts paid by any source which each and every medical provider or facility accepted as payment for the services which they rendered.

///

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///

1                    RESPOND TO INTERROGATORY NO. 32:

2                    Plaintiff objects to this interrogatory it seeks to ascertain if some parts of  
3                    Plaintiff's expenses (medical bills) were paid by collateral source. As such, the  
4                    question is not relevant to the subject matter of this litigation, and not calculated to  
5                    lead to the discovery of admissible evidence; it is also burdensome, oppressive  
6                    and harassing to Plaintiff.  
7

8  
9                    DATED this 23<sup>rd</sup> day of April, 2012.

10                    RICHARD HARRIS LAW FIRM

11                      
12                    RICHARD A. HARRIS, ESQ.  
13                    Nevada Bar No. 505  
14                    JOSHUA R. HARRIS, ESQ.  
15                    Nevada Bar No. 9580  
16                    ALISON M. BRASIER, ESQ.  
17                    Nevada Bar No. 10522  
18                    801 South Fourth Street  
19                    Las Vegas, Nevada 89101  
20                    Attorneys for Plaintiff



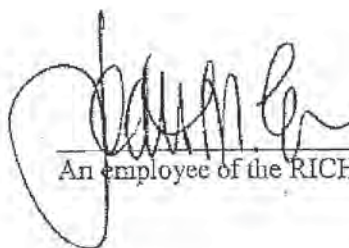
CERTIFICATE OF SERVICE

Pursuant to NRCp 5(b), I hereby certify that I am an employee of RICHARD HARRIS LAW FIRM and that on the 23 day of April, 2012, I caused the foregoing PLAINTIFF'S RESPONSE TO DEFENDANT RAYMOND KHOURY'S SECOND SET OF INTERROGATORIES TO PLAINTIFF MARGARET SEASTRAND to be served as follows:

- ☒ by placing a true and correct copy of the same to be deposited for mailing in the U.S. Mail at Las Vegas, Nevada, enclosed in a sealed envelope upon which first class postage was fully prepaid; and/or
- ☐ pursuant to EDCR 7.26, by sending it via facsimile; and/or
- ☐ by receipt of copy

to the attorneys listed below:

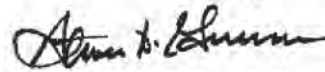
Steven T. Jaffe, Esq.  
Jacob S. Smith, Esq.  
HALL JAFFE & CLAYTON, LLP  
7455 West Washington Avenue, Suite 460  
Las Vegas, Nevada 89128  
Attorneys for Defendant



An employee of the RICHARD HARRIS LAW FIRM

# **EXHIBIT “F”**





CLERK OF THE COURT

1 NEO  
2 STEVEN T. JAFFE, ESQ.  
3 [sjaffe@lawhjc.com](mailto:sjaffe@lawhjc.com)  
4 Nevada Bar No. 007035  
5 JACOB S. SMITH, ESQ.  
6 [jsmith@lawhjc.com](mailto:jsmith@lawhjc.com)  
7 Nevada Bar No. 010231

8 HALL JAFFE & CLAYTON, LLP  
9 7425 PEAK DRIVE  
10 LAS VEGAS, NEVADA 89128  
11 (702) 316-4111  
12 FAX (702) 316-4114

13 *Attorneys for Defendant*  
14 *Raymond R. Khoury*

15 DISTRICT COURT  
16 CLARK COUNTY, NEVADA

17 MARGARET G. SEASTRAND,  
18  
19 Plaintiff,

20 vs.

21 RAYMOND RIAD KHOURY; DOES 1  
22 through 10; and ROE ENTITIES 11 through  
23 20, inclusive,

24 Defendants.

CASE NO. A-11-636515-C  
DEPT NO. XXX

25 NOTICE OF ENTRY OF DISCOVERY  
26 COMMISSIONER'S REPORT and  
27 RECOMMENDATIONS


Hearing Date: December 5, 2012  
Hearing Time: 9:00 a.m.

28 PLEASE TAKE NOTICE that a Discovery Commissioner's Report and Recommendations was  
entered by this Court on the 14<sup>th</sup> day of March, 2013. A copy of which is attached hereto.

DATED this 4 day of April, 2013.

HALL JAFFE & CLAYTON, LLP

By



STEVEN T. JAFFE, ESQ.  
Nevada Bar No. 007035  
JACOB S. SMITH, ESQ.  
Nevada Bar No. 010231  
7425 Peak Drive  
Las Vegas, Nevada 89128  
*Attorneys for Defendant*  
*Raymond R. Khoury*

1 **CERTIFICATE OF SERVICE**

2 Pursuant to N.R.C.P. 5(b), I hereby certify that service of the foregoing **NOTICE OF ENTRY**  
3 **OF DISCOVERY COMMISSIONER'S REPORT and RECOMMENDATIONS** was made on the  
4 16<sup>th</sup> day of April, 2013, by depositing a true and correct copy of the same by U.S. Mail in Las Vegas,  
5 Nevada, addressed, stamped, and mailed to the following:

6  
7 Richard A. Harris, Esq.  
8 Alison Brasier, Esq.  
9 RICHARD HARRIS LAW FIRM  
10 801 South Fourth Street  
11 Las Vegas, Nevada 89101  
12 *Attorneys for Plaintiff*

13 

14 An Employee of  
15 HALL JAFFE & CLAYTON, LLP  
16  
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03/14/2013 03:32:16 PM

*Alison Brasier*

CLERK OF THE COURT

DCRR  
STEVEN T. JAFFE  
[sjaffe@lawhjc.com](mailto:sjaffe@lawhjc.com)  
Nevada Bar No. 007035  
JACOB S. SMITH  
[jsmith@lawhjc.com](mailto:jsmith@lawhjc.com)  
Nevada Bar No. 010231

HALL JAFFE & CLAYTON, LLP  
7425 PEAK DRIVE  
LAS VEGAS, NEVADA 89128  
(702) 316-4111  
FAX (702) 316-4114

*Attorneys for Defendant  
Raymond R. Khoury*

DISTRICT COURT  
CLARK COUNTY, NEVADA

MARGARET G. SEASTRAND,  
Plaintiff,

vs.

RAYMOND RIAD KHOURY; DOES 1  
through 10; and ROE ENTITIES 11 through  
20, inclusive,

Defendants.

CASE NO. A-11-636515-C  
DEPT NO. XXX

**DISCOVERY COMMISSIONER'S  
REPORT and RECOMMENDATIONS**

[BEFORE THE DISCOVERY COMMISSIONER]

Hearing Date: December 5, 2012  
Hearing Time: 9:00 a.m.

**APPEARANCES:**

For Plaintiff:  
MARGARET SEASTRAND

RICHARD HARRIS LAW FIRM  
Alison Brasier, Esq.

For Defendant:  
RAYMOND RIAD KHOURY

HALL JAFFE & CLAYTON, LLP.  
Jacob S. Smith, Esq.

///

///

///

I.

FINDINGS

This matter came on for hearing before the HONORABLE BONNIE BULLA, Discovery Commissioner, on the 5<sup>th</sup> day of December, 2012 at 9:00 a.m., on Defendant's Motion to Compel Discovery Responses and Production of Documents re: Plaintiff's Medical Liens. Defendant filed its Motion to Compel on November 1, 2012, seeking to compel responses to various requests for production and interrogatories pertaining to the Plaintiff's medical liens and treatment on liens. Plaintiff filed her opposition on November 20, 2012, asserting that the requested documents and information were protected under the collateral source rule and were not discoverable. On November 30, 2012, Defendant filed his Reply asserting that the documents and information was arguably both discoverable and admissible, but was certainly discoverable even under the most stringent interpretations of Nevada law.

At the hearing on the matter on December 5, 2012, Jacob S. Smith, Esq. appeared on behalf of Defendant and Alison Brasier, Esq. appeared on behalf of Plaintiff.

The Court, having reviewed the papers and pleadings on file, and having considered the oral argument made by counsel at the hearing on this matter, and having considered the case law and other authority presented in the parties' briefings on this issue, hereby makes the following recommendations:

II.

RECOMMENDATIONS

IT IS HEREBY RECOMMENDED that Plaintiff's Motion for Protection from Defendant's Notice of Plaintiff's Deposition is GRANTED in part and DENIED in part;

IT IS FURTHER RECOMMENDED that Plaintiff must supplement her responses to Defendant's Interrogatories with any and all information in her possession pertaining to the liens and/or lien amounts which correspond with any injuries and/or treatment allegedly arising as a result of the subject accident.

///

///

///



CASE NAME: *Seastrand v. Khoury*  
CASE NUMBER: A-11-636515-C

IT IS FURTHER RECOMMENDED that Plaintiff must supplement her responses to Defendant's Requests for Production by producing all documentation in her possession pertaining to the liens and/or lien amounts which correspond with any injuries and/or treatment allegedly arising as a result of the subject accident; and

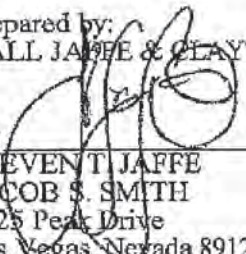
IT IS FURTHER RECOMMENDED that Plaintiff is not obligated to procure any documentation from third-party purchasers of the liens which is not already in her possession.

The Discovery Commissioner, having met with counsel for the parties, having discussed the issues noted above and having reviewed any materials proposed in support thereof, hereby submits the above recommendations.

DATED this 11 day of January, 2013.

  
DISCOVERY COMMISSIONER

Prepared by:  
HALL JAFFE & CLAYTON, LLP

By   
STEVEN T. JAFFE  
JACOB S. SMITH  
7425 Peak Drive  
Las Vegas, Nevada 89128  
*Attorneys for Defendant  
Raymond R. Khoury*

Approved as to Form and Content:  
RICHARD HARRIS LAW FIRM

By  
RICHARD A. HARRIS  
ALISON BRASIER  
801 S. Fourth Street  
Las Vegas, Nevada 89101  
*Attorneys for Plaintiff*

CASE NAME: *Seastrand v. Khoury*  
CASE NUMBER: A-11-636515-C

IT IS FURTHER RECOMMENDED that Plaintiff must supplement her responses to Defendant's Requests for Production by producing all documentation in her possession pertaining to the liens and/or lien amounts which correspond with any injuries and/or treatment allegedly arising as a result of the subject accident; and

IT IS FURTHER RECOMMENDED that Plaintiff is not obligated to procure any documentation from third-party purchasers of the liens which is not already in her possession.

The Discovery Commissioner, having met with counsel for the parties, having discussed the issues noted above and having reviewed any materials proposed in support thereof, hereby submits the above recommendations.


DATED this \_\_\_\_\_ day of January, 2013.

DISCOVERY COMMISSIONER

Prepared by:  
HALL JAFFE & CLAYTON, LLP

By \_\_\_\_\_  
STEVEN T. JAFFE  
JACOB S. SMITH  
7425 Peak Drive  
Las Vegas, Nevada 89128  
*Attorneys for Defendant  
Raymond R. Khoury*

Approved as to Form and Content:  
RICHARD HARRIS LAW FIRM

By   
RICHARD A. HARRIS  
ALISON BRASIER  
801 S. Fourth Street  
Las Vegas, Nevada 89101  
*Attorneys for Plaintiff*



CASE NAME: *Seastrand v. Khoury*  
CASE NUMBER: A-11-636515-C

**NOTICE**

Pursuant to NRCP 16.1(d)(2), you are hereby notified you have five (5) days from the date you receive this document within which to file written objections.

Pursuant to E.D.C.R. 2.34(f) an objection must be filed and served no more than five (5) days after receipt of the Discovery Commissioner's Report. The Commissioner's Report is deemed received when signed and dated by a party, his attorney or his attorney's employee, or three (3) days after mailing to a party or his attorney, or three (3) days after the clerk of the court deposits a copy of the Report in a folder of a party's lawyer in the Clerk's office. See E.D.C.R. 2.34(F)

A copy of the foregoing Discovery Commissioner's Report was:

\_\_\_\_\_ Mailed to Plaintiffs/Defendants at the following address on the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

X Placed in the folder of Plaintiffs'/Defendants' counsel in the Clerk's office on the 17 day of Jan, 2012.<sup>13</sup>

STEVEN D. GRIERSON, CLERK OF COURT

By  \_\_\_\_\_  
DEPUTY CLERK

CASE NAME: *Seastrand v. Khoury*  
CASE NUMBER: A-11-636515-C

**ORDER**

The Court, having reviewed the above report and recommendatio

ns prepared by the Discovery Commissioner and,

The parties having waived the right to object thereto,

☒ No timely objection having been received in the office of the Discovery Commissioner pursuant to E.D.C.R. 2.34(f),

Having received the objections thereto and the written arguments in support of said objections, and good cause appearing,

\*\*\*

AND

☒ IT IS HEREBY ORDERED the Discovery Commissioner's Report and Recommendations are affirmed and adopted.

IT IS HEREBY ORDERED the Discovery Commissioner's Report and Recommendations are affirmed and adopted as modified in the following manner, (attached hereto)

IT IS HEREBY ORDERED that a hearing on the Discovery Commissioner's Report is set for \_\_\_\_\_, 201\_\_\_\_, at \_\_\_\_\_:\_\_\_\_ a.m.

DATED this 13<sup>th</sup> day of March, 2012.

  
DISTRICT JUDGE

As



# **EXHIBIT “G”**

If you represent this client please sign this  
lien and fax to 702-942-1157 or billing  
will be transferred to patient's responsibility

Account #:

A56677

NEVADA IMAGING CENTERS  
ATTORNEY LIEN AND AGREEMENT

PATIENT'S NAME (Please Print): Margaret B. SeastadSSN: 4DATE OF INJURY: March 13, 2007D.O.B.: 12/27/1961NAME OF YOUR ATTORNEY: Richard Harris

ATTORNEY'S ADDRESS:

ATTORNEY'S PH#: 385-1400FAX #: 452-4664

I do hereby authorize Nevada Imaging Centers to furnish you, my attorney, with a diagnostic report of myself in regard to the accident of the above-cited date of injury.

I hereby authorize and direct you, my attorney, to pay directly Nevada Imaging Centers such sums as may be due and owing for medical service rendered me by reason of this accident and to withhold any sums from settlement, judgment or verdict as may be necessary to adequately protect Nevada Imaging Centers. I hereby further give a lien on my case to Nevada Imaging Centers against any and all proceeds of any settlement, judgment or verdict which may be paid to you, my attorney, or myself, as the result of the injuries for which I have been treated or injuries in connection therewith.

I agree never to rescind this document and that a rescission will not be honored by my attorney. I hereby instruct that in the event another attorney is substituted in this matter, the new attorney honor this lien as inherent to the settlement and enforceable upon this case as if it were executed by him.

I fully understand that I am directly and fully responsible to Nevada Imaging Centers for all medical bills submitted for service rendered me and this agreement is made solely for additional protection and in consideration of awaiting payment. I further understand that such payment is not contingent on any settlement, judgment or verdict by which I may eventually recover said. Any alterations to this agreement deem this agreement void.

I waive the Statute of Limitations regarding Nevada Imaging Center's right to recover.

Margaret B. Seastad  
Signature of Patient (Parent's Signature if Minor)

4/3/2009  
Date

The undersigned attorney of record for the above patient does hereby agree to observe all the terms of the above and agrees to withhold such funds from any settlement, judgment or verdict, as may be necessary to protect Nevada Imaging Centers.

"Signature must be returned within 14 working days."

X  
Signature of Attorney

Date

Please fax, or mail lien to:

NEVADA IMAGING CENTERS - GALLERIA CENTER  
2835 South Jones Blvd, Suite 3  
Las Vegas, Nevada 89146  
PH#: (702) 597-1145 FAX#: (702) 942-1157



05-10-10 14:02 FROM-Nevada Spine Clinic +7028710547

Fellowship Trained Spinal Surgeon

YEVGENY A. KHAYKIN, M.D.  
Neurological Surgery  
Fellowship Trained Spinal Surgeon

7140 Smoke Ranch Rd. Ste. 150, Las Vegas, NV 89128  
10001 S. Eastern Ave. Ste. 208, Henderson, NV 89052  
Ph: (702) 320-8111 Fax: (702) 320-8112

T-051 P001/001 F-964

Diplomate, American Board of Anesthesiology  
Fellowship Trained Pain Specialist

BABUK GHUMAN, M.D.  
Diplomate, American Board of Anesthesiology  
Fellowship Trained Pain Specialist

### DOCTORS/FACILITY LIEN

PATIENT PRINT: Seastrom Margaret  
LAST FIRST

SOCIAL SEC#: 530 805 229 DOB: 12/27/1961

DATE OF INJURY: 3/13/2009

LAW FIRM NAME Rick Harris

ATTORNEY NAME: Rick Harris ESQ.

ATTORNEY ADDRESS \_\_\_\_\_

ATTORNEY CITY/STATE/ZIP \_\_\_\_\_

ATTORNEY PHONE: (702) 444-4444 FAX: (702) 385-9408

I hereby authorize the above-referenced treating physicians to furnish you, my attorney, with a full report of his examination, diagnosis, treatment, prognosis, etc., of myself in regard to the accident/injury I was involved in.

I hereby authorize and direct my attorney, to pay directly to said physicians such sums as may be due and owing him for medical services rendered me both by reason of this accident/injury and reason of any other bills that are due in his office and to withhold such sums from any settlement, judgment, or verdict as may be necessary to adequately protect such physician. I hereby further give a lien on my case to said physician against any and all proceeds of any settlement, judgment, or verdict which may be paid to you, my attorney, or myself as a result of the injuries for which I have been treated or injuries in connection therewith.

I fully understand that I am directly and fully responsible to said treating physicians for all medical bills submitted by him or his office for service rendered me and that this agreement is solely for said doctor's additional protection and in consideration of his awaiting payment. I further understand that such payment is not contingent on any settlements, judgments, or verdict by which I eventually may recover said fee.

DATED: 4/29/2010

PATIENT SIGNATURE: Margaret Seastrom

DATED: \_\_\_\_\_

ATTY SIGNATURE: \_\_\_\_\_

PLEASE SIGN AND FAX BACK TO (702) 839-4846

\_\_\_\_ PRIMARY COVERAGE \_\_\_\_ SECONDARY COVERAGE \_\_\_\_ TERTIARY COVERAGE



Name: Seastrand, Margaret  
DOB: 12-27-1961  
Date: 12-01-2009  
Page: 1 of 1

**RADAR MEDICAL GROUP, LLP dba University Urgent Care**  
Russell J. Shah, MD Ltd.      Dipati R. Shah, MD Ltd.  
Neurology and Clinical Neurophysiology      Internal Medicine/Nephrology  
Mailing Address: 10624 S. Eastern Avenue, Ste. A-425 Henderson, Nevada 89052  
Office: 702 644-0500 Fax: 702 641-4800 or 702 258-0566

### ATTORNEY LIEN

**ATTORNEY** Richard Harris Law Firm  
801 S. Fourth St.  
Las Vegas, NV 89101  
(702)385-1400 Fax: (702)385-9408

**RADAR MEDICAL GROUP, LLP**  
dba University Urgent Care  
Russell J. Shah, MD Ltd.  
Dipati R. Shah, MD Ltd.

### RE: MEDICAL REPORTS AND DOCTOR'S LIEN

**PATIENT NAME:** Seastrand, Margaret

**DOI:** 03-13-2009  
(Date of Injury)

I do hereby authorize the above doctor to furnish you, my attorney, with a full report of his examination, diagnosis, treatment, prognosis, etc., of myself in regard to the accident in which I was involved.

I hereby authorize and direct you, my attorney, to pay directly to said doctor such sums as may be due and owing him for medical service rendered me both by reason of this accident and by reason of any other bills that are due his office and to withhold such sums from any settlement, judgment or verdict as may be necessary to adequately protect said doctor. And I hereby further give a lien on my case to said doctor against any and all proceeds of any settlement, judgment or verdict which may be paid to you, my attorney or myself as the result of injuries for which I have been treated or injuries in connection therewith.

I fully understand that I am directly and fully responsible to said doctor for all medical bills submitted by him for service rendered to me and that this agreement is made solely for said doctor's additional protection and in consideration of his awaiting payment. And I further understand that such payment is not contingent on any settlement, judgment or verdict by which I may eventually recover said fee.

**DATE:** 12/1/09

**PATIENT SIGNATURE:** 

The undersigned being attorney of record for the above patient does hereby agree to observe all the terms of the above and agrees to withhold such sums from any settlement, judgment or verdict as may be necessary to adequately protect said doctor above named.

**DATE:**

**ATTORNEY SIGNATURE:**

*Dear Attorney: Please date, sign and return one copy to our office upon receipt.*



## Medical lien/subrogating contract

Date: 9/16/09Patient Acct: 110946To: RICHARD HARRIS, ATTY  
801 S. FOURTH STREET  
LAS VEGAS, NV 89101Patient SSN: 530-80-5229

I, MARGARET SEBASTIAN ("patient") hereby authorize and direct to you RICHARD HARRIS ("attorney"), my attorney to pay directly to Surgery Center of Southern Nevada ("provider") such amounts as may be due and owing for all medical treatments or other services rendered to me as a result of the personal injuries I suffered on March 13 09. You, my attorney, are further instructed to withhold such sums from any settlement, judgment, court ruling or verdict to compensate provider and shall tender payment in full to provider before disbursing any payment to me.

I fully understand that I remain directly and fully responsible to provider for all bills submitted by it for treatment or other services rendered to me, and the purpose of this agreement is solely for provider's protection and consideration of awaiting payment. I further understand that the amount I owe to provider is not contingent upon any settlement, judgment, court rulings or verdict by which I may eventually recover.

My attorney is authorized to disclose any and all information regarding my case with provider or Assignee. If my attorney refuses to honor this agreement, provider will not await payment and I will be required to pay provider in full. It is my responsibility to keep provider notified in the event I change attorneys. Upon such circumstance, my new attorney shall notify provider within 48 hours of engagement that this agreement will be upheld. If provider is not provided with such notification, I will be responsible for immediate payment to provider as discussed herein.

Patient Initials MS

This lien includes, but is not limited to, the charges for services rendered by medical personnel, facility charges, and any supplies (including implants) associated with the treatment, regardless of whether such supplies are provided by the facility, physician and/or any third-party vendor which, in some cases, may be invoiced to the assignee separately. It is expressly understood that Assignee has not directed, counseled or otherwise given advice to Patient or Provider as to the medical services, treatment and/or supplies to be provided to Patient.

Patient Initials MS

Patient affirmatively represents to provider that no health insurance coverage exists for the treatment to be rendered to patient and that no insurance benefit information has been furnished by patient to provider. Patient further authorizes provider (and or its assignee) to bill directly any applicable insurance company for any automobile/motorcycle/or other vehicle "med-pay" related benefits to which patient may be entitled. Patient further acknowledges and agrees no assignee of provider assumes nor bears any liability for professional negligence by any health care provider participating in the medical services and related medical treatments nor has any assignee counseled or given advice to patient with respect to any medical services to be provided.

Patient Initials MS



09/21/2009 14:11

(FAX)19094221123

P.003/003

Patient and attorney acknowledges that provider reserves the right to assign its rights under this agreement and the underlying accounts receivables at any rate or for any consideration that provider deems sufficient; that the patient and the attorney will continue to be bound by this agreement to provider's assignee is the original party to this agreement. Further, patient agrees to remain liable for the full billed charges and/or value of any medical treatment, services, and procedures rendered to the patient. Patient hereby authorizes provider to release any and all of patient's medical records to provider's assignee. The amount the assignee pays provider for patient's treatment will not necessarily be the amount billed to the patient. The negotiated payment between the assignee and the provider shall not change the patient's financial obligations to the assignee under the terms of this agreement which is the full billed charges of medical services rendered. Patient hereby authorizes the Assignee to receive a police report of requested.

Patient Initials MB

I waive the statute of limitations regarding provider's right to recover payment. I further understand that provider may assign this agreement to a third party at any time. In the event this agreement is assigned, the assignee will notify my attorney in writing. Upon provider's assignment, assignee shall acquire all rights and remedies available herein to provider or at law.

Patient's signature: Margaret G. Seadrad Date: 9-16-09

Patient's Name: (please print) Margaret G. Seadrad

Patient's Address: 6440 Spanish Garden Ct  
LV NV 89110

Patient's phone number: \_\_\_\_\_

The undersigned, being attorney of record for the above patient does hereby agree to withhold sums from any settlement, judgment, or verdict as may be necessary from patient and pay to provider (or its assignee) to compensate the provider. I acknowledge that the assignee has not counseled nor given advice to the attorney with respect to any legal services to be provided. I agree to notify provider if I am discharged from representation, if I withdraw my representation, or if I close the above client's file without receiving any payments immediately within 48 hours of severing the relationship.

Attorney's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Please note that we will make every effort to bill all available insurance for the patient, contingent upon said information being provided by the patient or his/her attorney at the time of the first visit.

If you have any questions regarding this information please contact our office at 702-369-6784.

A fax or photocopy of this document shall be considered as valid as the original.



AUG-25-2009 09:07  
AUG-24-2009 12:38PM

P.001/001

WILLIAM S. MUIR, M.D.  
653 N. Town Center Dr.  
Suite 210  
Las Vegas, NV 89144  
P 702-254-3020  
F 702-255-2620

DOCTOR'S LIEN

PATIENT: Margaret Neastrand  
DOI: 3/13/09

TO: Richard Harris Law Group  
801 S 4<sup>th</sup> St.  
LV, NV. 89101  
P: (702) 444-4444 F: (702) 444-4455

RE: LIEN AND MEDICAL REPORTS

I hereby authorize the above-referenced treating physician to furnish you, my attorney, with a full report of his examination, diagnosis, treatment, prognosis, etc., of myself in regard to the accident/injury which I was involved in.

I hereby authorize and direct you, my attorney, to pay directly to said doctor such sums as may be due and owing him for medical services rendered me both by reason of this accident/injury and reason of any other bills that are due in his office and to withhold such sums from any settlement, judgment, or verdict as may be necessary to adequately protect such doctor. I hereby further give a lien on my case to said doctor against any and all proceeds of any settlement, judgment, or verdict with may be paid to you, my attorney, or myself as a result of the injuries for which I have been treated or injuries in connection therewith.

I fully understand that I am directly and fully responsible to said treating physician for all medical bills submitted by him or his office for services rendered to me and that this agreement is made solely for said doctor's additional protection and in consideration for his awaiting payment. I further understand that such payment is not contingent on any settlement, judgement, or verdict by which I eventually may recover said fees.

DATED: 8/24/09 PATIENT'S SIGNATURE:



The undersigned, being attorney of record for the above patient, does hereby agree to observe all the terms of the above and agrees to withhold such amount from any settlement judgment or verdict as may be necessary to adequately protect said treating physician.

DATED: 8/25/09 ATTORNEY'S SIGNATURE:

Case Manager



TOTAL P.001

WMMD-00098  
JA 0449



# PRIMARY CARE CONSULTANTS ATTORNEY LIEN

TO ATTORNEY:

Rue Hams

9975 S Eastern Ave #110B

Las Vegas NV 89123

Phone - (702) 644-3333

Fax - (702) 644-3336

I do hereby authorize the above Doctor to furnish you, my attorney, with a full report of his examination, diagnosis treatment, prognosis, etc. of myself in regard to the accident in which I was involved.

I hereby authorize and direct you, my attorney to pay directly to said Doctor/Therapist such sums as may be due and owing him for medical services rendered to me both, by reason of the accident and by reason of any other bills that are due his office and to withhold such sums from any settlement, judgment or verdict as may be necessary to adequately protect said Doctor/Therapist. And I hereby further give a lien on my case to said Doctor/Therapist against any and all proceeds of any settlement, judgment or verdict which may be paid to you, my attorney, or myself as a result of the injuries for which I have been treated or injuries in connection therewith.

I fully understand that I am directly and fully responsible to said Doctor/Therapist for all medical bills submitted by him for services rendered me and that this agreement is made solely for said Doctor's/Therapist's additional protection and in consideration of his awaiting payment. And I further understand that such payment is not contingent on any settlement, judgment or verdict by which I may eventually recover said fee.

3/20/09  
DATE

Margaret G. Sealand  
PATIENT'S SIGNATURE

Margaret G. Sealand  
PATIENT'S PRINT NAME

The undersigned being attorney of record for the above patient does hereby agree to honor the above lien, and agrees to withhold such sums for any settlement, judgment or verdict as may be necessary to adequately protect said Doctor.

DATE

ATTORNEY'S SIGNATURE

Attorney: Please date, sign and return one copy to Doctor/Therapist. Keep one copy for your records.



# Primary Care Consultants

## PATIENT LIEN

Date: 3/20/09

Patient Name: Margaret G. Seastrand SS#: 530 80 5729

### Third-Party Insurance Information:

Insurance Company: ~~Pacific~~ State Farm  
Adjuster Name: \_\_\_\_\_ Claim Number: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Address: \_\_\_\_\_

### Your Insurance Information:

Insurance Company: USAA  
Adjuster Name: \_\_\_\_\_ Claim Number: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Address: \_\_\_\_\_

**We are not contracted with any Insurance Companies, and only accept Attorney Liens,  
Med Pay through your Automobile Insurance, and Third Party Claims.**

I, Margaret G. Seastrand, agree to have the above involved insurance company pay Primary Care Consultants\*, directly upon a settlement being made, for any/all treatment costs that are outstanding, incurred due to a motor vehicle accident/injuries on 3/13/09.

If stated arrangement cannot be met, I, Margaret G. Seastrand, agree to pay Primary Care Consultants\* for all treatment costs incurred with regards to the treatment received for and relating to the motor vehicle accident/injuries in which I was involved on 3/13/09.  
Date of Accident

I agree to start making monthly payments on my account six months following the start of treatment until a settlement is reached or my account is paid in full, whichever comes first.

I, Margaret G. Seastrand, also understand/agree that if no settlement is reached with an insurance company that I am ultimately responsible for all outstanding medical bills, relating to the treatment I receive in Primary Care Consultants office. In the event that a settlement is not met, I agree to pay above stated doctor/office for all outstanding medical bills.\*  
Patient Name

I agree to pay said doctor within 10 days of a settlement being made.

Margaret G. Seastrand Margaret G. Seastrand 3/20/09  
Signature of Patient/Guardian Print Date

[Signature] \_\_\_\_\_  
Signature of Witness Print Date

\*All payments should be made to: Primary Care Consultants, P.O. Box 778195, Henderson, Nevada 89077-8195

# **EXHIBIT “H”**



05/20/2009 05:59

(FAX)19094221123

P.002/004

MEDICAL LIEN/SUBROGATING CONTRACTDATE: 5.20.09PATIENT ACCT# 110946TO: Richard Harris Law FirmPATIENT SS# 530 80 5229

I, Margaret Seashand ("PATIENT"), HEREBY AUTHORIZE AND DIRECT YOU, Richard Harris Law Firm ("ATTORNEY"), MY ATTORNEY, TO PAY DIRECTLY TO SURGERY CENTER SOUTHERN NEVADA ("PROVIDER") SUCH AMOUNTS AS MAY BE DUE AND OWING FOR ALL MEDICAL TREATMENTS OR OTHER SERVICES RENDERED TO ME AS A RESULT OF THE PERSONAL INJURIES I SUFFERED ON \_\_\_\_\_. YOU, MY ATTORNEY, ARE FURTHER INSTRUCTED TO WITHHOLD SUCH SUMS FROM ANY SETTLEMENT, JUDGMENT, COURT RULING, OR VERDICT AS MAY BE NECESSARY TO COMPENSATE PROVIDER, AND SHALL TENDER PAYMENT IN FULL TO PROVIDER BEFORE DISBURSING ANY PAYMENT TO ME.

I FULLY UNDERSTAND AND THAT I AM AND WILL REMAIN DIRECTLY AND FULLY RESPONSIBLE TO PROVIDER AND/OR PROVIDER'S ASSIGNEES FOR ALL BILLS SUBMITTED BY IT AND/OR ITS ASSIGNEES FOR TREATMENT OR OTHER SERVICES RENDERED TO ME, AND THAT THE PURPOSE OF THIS AGREEMENT IS SOLELY FOR THE PROTECTION OF PROVIDER AND ITS ASSIGNEES FOR THE PERIOD DURING WHICH PROVIDER AND/OR PROVIDER'S ASSIGNEE IS AWAITING PAYMENT FOR THE MEDICAL SERVICES RENDERED PURSUANT TO, IN CONNECTION WITH, AND/OR IN RELIANCE ON THE TERMS OF THIS AGREEMENT. I FURTHER UNDERSTAND THAT THE AMOUNT I OWE PURSUANT TO THE TERMS OF THIS AGREEMENT IS NOT CONTINGENT UPON ANY SETTLEMENT, JUDGMENT, COURT RULINGS, OR VERDICT BY WHICH I MAY EVENTUALLY RECOVER AND/OR RECEIVE.

MY ATTORNEY IS AUTHORIZED TO DISCLOSE INFORMATION REGARDING THE STATUS OF MY CASE TO PROVIDER AND/OR PROVIDER'S ASSIGNEE. IF MY ATTORNEY REFUSES TO HONOR THIS AGREEMENT, PROVIDER AND/OR PROVIDER'S ASSIGNEE WILL NOT AWAIT PAYMENT AND I WILL BE REQUIRED TO PAY PROVIDER AND/OR PROVIDER'S ASSIGNEE IN FULL. IT IS MY RESPONSIBILITY TO KEEP PROVIDER AND/OR PROVIDER'S ASSIGNEE NOTIFIED IN THE EVENT I CHANGE ATTORNEYS. UPON SUCH CIRCUMSTANCE, MY NEW ATTORNEY SHALL NOTIFY PROVIDER AND/OR PROVIDER'S ASSIGNEE WITHIN 48 HOURS OF BEING SO ENGAGED THAT THIS AGREEMENT WILL BE UPHOLD AND HONORED BY MY NEW ATTORNEY. IF PROVIDER AND/OR PROVIDER'S ASSIGNEE IS NOT PROVIDED SUCH NOTIFICATION, I WILL BE RESPONSIBLE FOR IMMEDIATE PAYMENT TO PROVIDER AND/OR PROVIDER'S ASSIGNEE AS DISCUSSED HEREIN.

PATIENT AND ATTORNEY HEREBY ACKNOWLEDGE AS FOLLOWS:

- A. THAT PROVIDER RESERVES THE RIGHT TO ASSIGN ALL OR ANY PORTION OF ITS RIGHTS UNDER THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, THE ACCOUNTS RECEIVABLES UNDERLYING THIS AGREEMENT). EACH AN "ASSIGNMENT") FOR SUCH CONSIDERATION AS PROVIDER, IN PROVIDER'S SOLE AND ABSOLUTE DISCRETION, SHALL DETERMINE.

PT. INITIALS MA

- B. THAT THE CONSIDERATION PAID BY ANY OF PROVIDER'S ASSIGNEES WITH RESPECT TO ANY ASSIGNMENT WILL NOT NECESSARILY BE OR EQUATE TO THE AMOUNT THAT PROVIDER HAS OR WILL BILL TO PATIENT. RATHER, THE NEGOTIATED PAYMENT BETWEEN THE PROVIDER AND PROVIDER'S ASSIGNEE WILL NOT IN ANYWAY AFFECT PATIENT'S FINANCIAL OBLIGATIONS AS SET FORTH IN THIS AGREEMENT, WHICH FINANCIAL OBLIGATIONS EQUATE TO THE FULL BILLED CHARGES OF MEDICAL SERVICES RENDERED PURSUANT TO, IN CONNECTION WITH, OR OTHERWISE IN RELIANCE ON, THE TERMS OF THIS AGREEMENT.



05/20/2009 05:59

(FAX)19094221123

P.003/004

PT. INITIALS MAS

- C. THAT IN THE EVENT PROVIDER ENTERS INTO ANY ASSIGNMENT, THE PATIENT AND THE ATTORNEY WILL CONTINUE TO BE BOUND BY THIS AGREEMENT AND HEREBY AGREE TO BE BOUND DIRECTLY TO PROVIDER'S ASSIGNEE AS THOUGH PATIENT ENTERED INTO THIS AGREEMENT DIRECTLY WITH SUCH ASSIGNEE.

PT. INITIALS MAS

- D. THAT PATIENT SHALL REMAIN LIABLE TO PROVIDER'S ASSIGNEE FOR THE FULL BILLED CHARGES AND/OR VALUE OF ANY MEDICAL TREATMENT, SERVICES, AND/OR PROCEDURES RENDERED TO THE PATIENT IN ACCORDANCE WITH, OR OTHERWISE WITH RESPECT TO THIS AGREEMENT.

PT. INITIALS MAS

- E. THAT PATIENT HEREBY AUTHORIZES PROVIDER TO RELEASE ANY AND ALL OF PATIENT'S MEDICAL RECORDS TO PROVIDER'S ASSIGNEE IN THE EVENT PROVIDER ENTERS INTO AN ASSIGNMENT WITH RESPECT TO ALL OR ANY OF ITS RIGHTS PURSUANT TO OR UNDER THIS AGREEMENT.

PT. INITIALS MAS

PATIENT AFFIRMATIVELY REPRESENTS AND WARRANTS TO PROVIDER THAT NO HEALTH INSURANCE COVERAGE EXISTS (OTHER THAN MEDICAL PAYMENTS COVERAGE UNDER ANY AUTOMOBILE INSURANCE POLICY) FOR THE TREATMENT TO BE RENDERED TO PATIENT IN CONNECTION WITH, PURSUANT TO, OR OTHERWISE IN RELIANCE ON THE TERMS OF THIS AGREEMENT. PATIENT FURTHER REPRESENTS AND WARRANTS TO PROVIDER THAT NO INSURANCE BENEFIT INFORMATION HAS BEEN FURNISHED BY PATIENT TO PROVIDER.

PT. INITIALS MAS

IN THE EVENT PROVIDER ENTERS INTO AN ASSIGNMENT, PROVIDER'S ASSIGNEE SHALL HAVE THE RIGHT TO ENDORSE AND DEPOSIT CHECKS RECEIVED WITH RESPECT TO THE MEDICAL SERVICE RENDERED PURSUANT TO, IN CONNECTION WITH, OR IN RELIANCE ON THE TERMS OF THIS AGREEMENT.

PT. INITIALS MAS

PATIENT AND ATTORNEY HEREBY ACKNOWLEDGE THAT PROVIDER'S RIGHTS UNDER THIS AGREEMENT MAY BE ASSIGNED BY PROVIDER TO CANYON MEDICAL BILLING, LLC, A NEVADA LIMITED LIABILITY COMPANY.

PT. INITIALS MAS

WITH RESPECT TO ANY MEDICAL SERVICE PROVIDED PURSUANT TO, IN CONNECTION WITH, AND/OR IN RELIANCE ON THE TERMS OF THIS AGREEMENT, PATIENT HEREBY AUTHORIZES PROVIDER (AND/OR PROVIDER'S ASSIGNEE) TO DIRECTLY BILL THE SERVICES SO PROVIDED TO AND COLLECT FOR THE SERVICES SO PROVIDED FROM ANY INSURANCE COMPANY THAT MAY PROVIDE AUTOMOBILE/MOTORCYCLE/OTHER VEHICLE "MED-PAY" COVERAGE AND/OR RELATED BENEFITS TO WHICH PATIENT MAY BE ENTITLED.

PT. INITIALS MAS

(CONTINUED ON NEXT PAGE)



05/20/2009 06:00

(FAX)19094221123

P.004/004

I WAIVE THE STATUTE OF LIMITATIONS REGARDING PROVIDER'S RIGHT TO RECOVER PAYMENT. I FURTHER UNDERSTAND THAT PROVIDER MAY ASSIGN THIS AGREEMENT TO A THIRD PARTY AT ANY TIME. IN THE EVENT THIS AGREEMENT IS ASSIGNED, PROVIDER'S ASSIGNEE WILL NOTIFY MY ATTORNEY IN WRITING. UPON SUCH AN ASSIGNMENT, PROVIDER'S ASSIGNEE SHALL ACQUIRE ALL RIGHTS AND REMEDIES AVAILABLE HEREIN TO PROVIDER OR AT LAW.

PATIENT'S SIGNATURE: Margaret G. Seastrand DATE: 5/20/2009PATIENT'S NAME (PLEASE PRINT): Margaret G. SeastrandPATIENT'S ADDRESS: 6440 Spanish Garden Ct.PATIENT'S TELEPHONE NUMBER: 702-452-4664

THE UNDERSIGNED, BEING ATTORNEY OF RECORD FOR THE ABOVE PATIENT DOES HEREBY AGREE TO WITHHOLD SUMS FROM ANY SETTLEMENT, JUDGMENT, OR VERDICT AS MAY BE NECESSARY TO COMPENSATE PROVIDER. I AGREE TO NOTIFY PROVIDER IF I AM DISCHARGED FROM REPRESENTATION, IF I WITHDRAW MY REPRESENTATION, OR IF I CLOSE THE ABOVE CLIENT'S FILE WITHOUT RECEIVING ANY PAYMENTS IMMEDIATELY WITHIN 48 HOURS OF THE SEVERING OF THE RELATIONSHIP.

ATTORNEY'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

PLEASE NOTE THAT WE WILL MAKE EVERY EFFORT TO BILL ALL AVAILABLE INSURANCE FOR THE PATIENT, CONTINGENT UPON SAID INFORMATION BEING PROVIDED BY THE PATIENT OR HIS/HER ATTORNEY AT THE TIME OF THE FIRST VISIT.

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT OUR OFFICE REGARDING THIS INFORMATION.

A FAX OR PHOTOCOPY OF THIS DOCUMENT SHALL BE CONSIDERED AS VALID AS THE ORIGINAL.

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

RAYMOND RIAD KHOURY,

Appellant,

vs.

MARGARET SEASTRAND,

Respondent.

Supreme Court Case No. 64702

Supreme Court Case No. 65007  
Electronically Filed  
Nov 13 2014 08:10 a.m.

Supreme Court Case No. 65172  
Tracie K. Lindeman  
Clerk of Supreme Court

**APPEAL**

from the Eighth Judicial District Court, Clark County

The HONORABLE JERRY WEISE, District Court Judge

District Court Case No. A-11-636515-C

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**APPELLANT'S APPENDIX**

**VOLUME III**

---

STEVEN T. JAFFE, ESQ.

Nevada Bar No. 007035

JACOB S. SMITH, ESQ.

Nevada Bar No. 010231

HALL JAFFE & CLAYTON, LLP

7425 Peak Drive

Las Vegas, Nevada 89128

*Attorneys for Appellant Raymond Riad Khoury*



**VOLUME INDEX**

**VOLUME III**

Exhibit 11 May 1, 2013, Defendant's Motion in Limine JA 0365-0545  
No. 3: To Admit Evidence of Medical Liens

Exhibit 12 May 1, 2013, Defendant's Motion in Limine JA 0546-0587  
No. 4: To Limit Plaintiff's Presentation Of Past  
Medical Special Damages At Trial to Amounts  
Actually Paid By Or On Behalf of Plaintiff