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

Electronically Filed
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Tracie K. Lindeman
Clerk of Supreme Court

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6 **ALI PIROOZI, M.D.,**
7 **Petitioner**

Nevada Supreme Court
Case No.: 64946

EJDC Case No.: A - 616728 - C

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9 **EIGHTH JUDICIAL DISTRICT**
10 **COURT OF THE STATE OF**
11 **NEVADA, IN AND FOR THE**
12 **COUNTY OF CLARK, and THE**
HONORABLE JAMES BIXLER,
DISTRICT COURT JUDGE

13 **Respondent.**

REAL PARTY IN INTEREST,
MARTIN BLAHNIK, M.D.'S
JOINDER TO ALI PIROOZI, M.D.'S
EMERGENCY PETITION FOR
WRIT OF MANDAMUS

RESPONSE REQUESTED PRIOR
TO TRIAL COMMENCING ON
FEBRUARY 18, 2014

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15 **TIFFANI D. HURST and BRIAN**
16 **ABBINGTON, jointly and on behalf of**
17 **their minor child, MAYROSE LILI-**
ABBINGTON HURST; MARTIN
BLAHNIK, M.D.,

18 **Real Parties in Interest.**

19
20 Real Party in Interest Martin Blahnik, M.D. ("Dr. Blahnik"), by and through his
21 counsel of record, Robert C. McBride, Esq., and S. Marie Ellerton, Esq., of the law firm
22 of Mandelbaum, Ellerton & McBride hereby files his Joinder to Petitioner Ali Piroozi,
23 M.D.'s Emergency Petition for Writ of Mandamus and Response Requested Prior to Trial
24 Commencing on February 18, 2014 that was submitted to this Honorable Court on
25 February 4, 2014 and accepted on February 5, 2014. Therein, Petitioner sets out that "the
26 issue in this Petition is limited in scope to the questions of: (1) Whether or not settling

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1 former defendants in a medical malpractice case who was alleged to be negligent can be
2 placed on the jury verdict form so that a jury can properly allocate fault to the settling
3 defendants per NRS 41A.0435; and (2) whether or not remaining defendants in a medical
4 malpractice case can do more than simply argue no negligence or 100% negligence of
5 settling defendants.” Petitioner states, “Respondent in this case improperly Ordered that,
6 pursuant to NRS 41.141 and Banks v. Sunrise Hospital, 120 Nev. 822, 102 P.3d 52
7 (2004), the remaining Defendants could not: (1) Allocate fault to settling defendants; nor
8 (2) place the settling defendants on the verdict form. Respondent further held that, the
9 remaining Defendants could only argue to a jury that they were not at fault and/or that the
10 settling defendants were 100% at fault.”

11 This Joinder is made and based upon the papers and pleadings on file herein, such
12 other documentary evidence as may be presented and any oral arguments at the time of
13 the hearing of this matter. Real Party in Interest Martin Blahnik, M.D., agrees with and
14 hereby expressly adopts and incorporates by reference, as if fully set out herein, the
15 Introduction, Statement of Facts, Issues Presented, Statement of Reasons Why This Court
16 Should Issue a Writ of Mandamus, and Conclusion contained within Petitioner Ali
17 Piroozi, M.D.’s Emergency Petition for Writ of Mandamus.

18 Dr. Blahnik, sets forth the following additional facts to those stated in the
19 Emergency Petition for Writ of Mandamus, in order to describe his involvement in the
20 care of MayRose Lili Abbingtion-Hurst:

21 At the times pertinent, Dr. Blahnik was a neonatologist at Sunrise Hospital and
22 Medical Center. (App. 5.) He was the admitting physician of record for MayRose Hurst.
23 (App. 13-14.) Dr. Blahnik was the neonatologist that was on the day the child was born,
24 however, that did not mean that he was going to follow her all the way through
25 discharge. At Sunrise, . . . there must be a physician of record at the time the child is
26 admitted. Dr. Blahnik admitted the patient, . . and the responsibility from one day to the

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1 next came upon the group. (App. 14.) Dr. Blahnik was not involved in MayRose's care
2 after July 13, 2008. (App. 13, 18, & 21.)

3 DATED this 5th day of February, 2014.

4 MANDELBAUM, ELLERTON & McBRIDE

5
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1 found. I understand that I may be subject to sanctions in the event that the accompanying
2 brief is not in conformity with the requirements of the Nevada Rules of Appellate
3 Procedure.

4 DATED this 5th day of February, 2014.

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CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of February, 2014, I forwarded a copy of the above and foregoing **REAL PARTY IN INTEREST, MARTIN BLAHNIK, M.D.'S JOINDER TO ALI PIROOZI, M.D.'S EMERGENCY PETITION FOR WRIT OF MANDAMUS** as follows:

X by depositing in the United States Mail, first-class postage prepaid, at Las Vegas, Nevada, enclosed in a sealed envelope; or
_____ by facsimile transmission as indicated below;
_____ Via hand-delivery; or
_____ both U.S. Mail and facsimile TO:

The Honorable James Bixler
Eighth Judicial District Court
Department 24
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