IN THE SUPREME COURT OF THE STATE Electronically Filed Feb 06 2014 08:30 a.m. * * * * * Tracie K. Lindeman Clerk of Supreme Court

ALI PIROOZI, M.D.,

Petitioner

EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK, and THE HONORABLE JAMES BIXLER, DISTRICT COURT JUDGE

Respondent.

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

Real Parties in Interest.

Nevada Supreme Court Case No.: 64946

EJDC Case No.: A - 616728 - C

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

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

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former defendants in a medical malpractice case who was alleged to be negligent can be 1 2 3 4 5 6 7 8 9

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

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

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

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

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next came upon the group. (App. 14.) Dr. Blahnik was not involved in MayRose's care		
after July 13, 2008. (App. 13, 18, & 21.)		
DATED this 5th day of February, 2014.		
MANDELBAUM, ELLERTON & McBRIDE		
0 11 , 000		
By: 3. Nare Elector ROBERT C. M&BRIDE, ESQ.		
Nevada Bar No.: 007082 S. MARIE ELLERTON, ESQ.		
Nevada Bar No.: 004581 2012 Hamilton Lane		
Las Vegas, Nevada 89106 (702) 367-1234		
(702) 367-1978 (Fax) Attorneys for Real Party in Interest Martin Blahnik, M.D.		
Martin Blahnik, M.D.		

VERIFICATION

Under penalty of perjury, the undersigned declares that they are the attorneys for Petitioner named in the foregoing petition and knows the contents thereof; that the pleading is true of their own knowledge, except as to those matters stated on information and belief, and that as to such matters they believe them to be true. This verification is made by the undersigned attorneys pursuant to N.R.S. §15.010, on the ground that the matters stated, and relied upon, in the foregoing petition are all contained in the prior pleadings and other records of the district court, true and correct copies of which have been attached hereto.

Executed this $\leq \frac{4}{4}$ day of February, 2014.

Marie Ellerton, Esq.

Attorneys for Real Party in Interest

Martin Blahnik, M.D.

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CERTIFICATE OF COMPLIANCE

- 1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:
 - [X] It has been prepared in proportionally spaced typeface using Word Perfect in 14 point Times New Roman font.
- 2. I further certify that this brief complies with the page-or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is:
 - [X] Proportionally spaced, has a typeface font of 14 points or more, and contains 502 words.
- 3. I hereby certify that I have read Petitioner Ali Piroozi, M.D.'s Emergency Petition for Writ of Mandamus and Real Party in Interest Martin Blahnik, M.D.'s Joinder thereto, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purposes. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular N.R.A.P. 28(e), which requires every assertion in the brief regarding matters in the record to be supported to a reference to the page of the transcript or appendix where the matter relied on is to be

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1	found. I understand that I may be subject to sanctions in the event that the accompanying			
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	brief is not in conformity with the requirements of the Nevada Rules of Appellate			
3	Procedure. DATED this day of February, 2014.			
4				
5	MANDELBAUM, ELLERTON & McBRIDE			
6	Man - 500 m			
7	By: // // // Lower ROBERT C. McBRIDE, ESQ. Nevada Bar No.: 007082 S. MARIE ELLERTON, ESQ. Nevada Bar No.: 004581 2012 Hamilton Lane Las Vegas, Nevada 89106 (702) 367-1234 (702) 367-1234 (702) 367-1978 (Fax) Attorneys for Real Party in Interest Martin Blahnik, M.D.			
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12	Martin Blahnik, M.D.			
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CERTIFICATE OF SERVICE

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2	I hereby certify that on the 5th day of February, 2014, I forwarded a copy of th		
3	above and foregoing REAL PARTY IN INTEREST, MARTIN BLAHNIK, M.D.'S		
4	JOINDER TO ALI PIROOZI, M.D.'S EMERGENCY PETITION FOR WRIT OI		
5	MANDAMUS as follows:		
6	<u>X</u> by depositing in the United States Mail, first-class postage prepaid,		
7	Las Vegas,Nevada, enclosed in a sealed envelope; or		
8	by facsimile transmission as indicated below;		
9	Via hand-delivery; or		
10	both U.S. Mail and facsimile TO:		
11			
12	The Honorable James Bixler	Catherine Cortez Masto, Esq.	
13	Eighth Judicial District Court Department 24	Attorney General Nevada Department of Justice	
14	Regional Justice Center 200 Lewis Avenue	100 North Carson Street Carson City, Nevada 89701	
15	Las Vegas, Nevada 89155 Respondent	Counsel for Respondent The Honorable James Bixler	
16	Dennis M. Prince, Esq.	Jackie Carmichael, Esq.	
17	Prince & Keating 3230 South Buffalo Drive, Suite 108	Eisenberg, Gilchrist & Cutt 215 South State Street, Suite 900	
18	Las Vegas, Nevada 89117 Attorneys for Real Parties in Interest	Salt Lake City, Utah 84111 Attorneys for Real Parties in Interest Tiffeni D. Hurst and Brian Abbington	
19	Tiffani D. Hurst and Brian Abbington, jointly and on behalf of their minor	Tiffani D. Hurst and Brian Abbington, jointly and on behalf of their minor child, May Rose Lili-Abbington Hurst	
20	child, May Rose Lili-Abbington Hurst John H. Cotton, Esq.	child, way Rose Em-Abonigion Hurst	
21	Christopher H. Rigler, Esq. Cotton, Driggs, Walch, Holley, Woloson		
22	& Thompson 400 South Fourth Street, Third Floor		
23	Las Vegas, NV 89101 Fax (702) 791-1912		
24	Attorneys for Petitioner Ali Piroozi, M.D.		
25	The Alle Owners where the same of the same		
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An Employee of Mandelbaum, Effection & McBride

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