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

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Electronically Filed
Feb 19 2014 10:51 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

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

Nevada Supreme Court
Case No.: 64946

EJDC Case No.: A - 616728 - C

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

15 **Respondents.**

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

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

21 **Real Parties in Interest.**

22 COMES NOW Real Party in Interest Martin Blahnik, M.D. ("Dr. Blahnik"), by and
23 through his counsel of record, Robert C. McBride, Esq., and Heather S. Hall, Esq., of the
24 law firm of Mandelbaum, Ellerton & McBride, pursuant to Nevada Rule of Appellate
25 Procedure 21 and 27(a)(1), and respectfully moves this Court for leave to Join Petitioner
26 Ali Piroozi, M.D.'s Emergency Petition for Writ of Mandamus as an additional Petitioner.

27 On February 10, 2014, this Court entered an Order directing answer to Dr.
28 Piroozi's Petition, denying Dr. Piroozi's stay without prejudice, and denying Dr.
Blahnik's previous Motion for Leave to Join the Petition. In that Order, this Court
allowed Dr. Blahnik 11 days to file a Motion requesting leave to join the Petition. Since

1 that time, Dr. Piroozi submitted an Emergency Motion to Stay Case Pending Resolution
2 of Petition for Writ of Mandamus on Order Shortening Time with the District Court. Dr.
3 Blahnik filed a Joinder to that Motion and the District Court granted the Motion and
4 stayed the underlying case on February 12, 2014.

5 With respect to Dr. Blahnik, good cause exists for granting leave to allow him to
6 join as a Petitioner. Specifically, allowing Dr. Blahnik to join as a Petitioner would aid
7 judicial economy. The issues raised by Petitioner Ali Piroozi, M.D.'s Emergency Petition
8 for Writ of Mandamus apply equally to Real Party in Interest Martin Blahnik, M.D.
9 Because the interests are so aligned, a separate Petition for Writ of Mandamus from Dr.
10 Blahnik would not materially assist the Court in its disposition of these issues. Lastly,
11 there is no prejudice to any of the Respondents or Real Parties In Interest should Dr.
12 Blahnik be permitted to join as a Petitioner. A true and correct copy of Dr. Blahnik's
13 Joinder is attached hereto as **Exhibit "A"**. Pursuant to NRS 2.250, Dr. Blahnik has
14 submitted a \$250.00 filing fee with this Motion.

15 For these reasons, this Court should grant Petitioner's Motion for Leave to Submit
16 a Reply Brief in Support of Petitioner's Emergency Petition for Writ of Mandamus and
17 Writ of Prohibition and allow Dr. Blahnik to file the attached Joinder to be included as
18 a Petitioner in this action.

19 DATED this 14th day of February, 2014.

20 MANDELBAUM, ELLERTON & McBRIDE

21
22 By: 
23 ROBERT C. McBRIDE, ESQ.

24 Nevada Bar No.: 007082

25 HEATHER S. HALL, ESQ.

26 Nevada Bar No.: 010608

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Attorneys for Real Party in Interest

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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 14th day of February, 2014.

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CERTIFICATE OF SERVICE

I hereby certify that on the 14 day of February, 2014, I forwarded a copy of the above and foregoing **REAL PARTY IN INTEREST, MARTIN BLAHNIK, M.D.'S MOTION FOR LEAVE TO JOIN PETITIONER, 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
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89155
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Attorneys for Petitioner
Ali Piroozi, M.D.


An Employee of Mandelbaum, Ellerton & McBride

EXHIBIT “A”

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MARTIN BLAHNIK, M.D.'S
JOINDER TO ALI PIROOZI, M.D.'S
EMERGENCY PETITION FOR
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19 **ABBINGTON HURST; MARTIN**
20 **BLAHNIK, M.D.,**

21 **Real Parties in Interest.**

22 COMES NOW Real Party in Interest Martin Blahnik, M.D. ("Dr. Blahnik"), by and
23 through his counsel of record, Robert C. McBride, Esq., and Heather S. Hall, Esq., of the
24 law firm of Mandelbaum, Ellerton & McBride and hereby submits his Joinder to
25 Petitioner Ali Piroozi, M.D.'s Emergency Petition for Writ of Mandamus that was
26 submitted to this Honorable Court on February 4, 2014 and accepted on February 5, 2014.
27 Therein, Petitioner sets out that "the issue in this Petition is limited in scope to the
28 questions of: (1) Whether or not settling former defendants in a medical malpractice case

1 who was alleged to be negligent can be placed on the jury verdict form so that a jury can
2 properly allocate fault to the settling defendants per NRS 41A.0435; and (2) whether or
3 not remaining defendants in a medical malpractice case can do more than simply argue
4 no negligence or 100% negligence of settling defendants.” Petitioner states, “Respondent
5 in this case improperly Ordered that, pursuant to NRS 41.141 and Banks v. Sunrise
6 Hospital, 120 Nev. 822, o02 P.3d 52 (2004), the remaining Defendants could not: (1)
7 Allocate fault to settling defendants; nor (2) place the settling defendants on the verdict
8 form. Respondent further held that, the remaining Defendants could only argue to a jury
9 that they were not at fault and/or that the settling defendants were 100% at fault.”

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

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

20 At the times pertinent, Dr. Blahnik was a neonatologist at Sunrise Hospital and
21 Medical Center. (App. 5.) He was the admitting physician of record for MayRose Hurst.
22 (App. 13-14.) Although Dr. Blahnik was the neonatologist that was at Sunrise Hospital
23 on the day the child was born, she was cared for by various neonatologists until the time

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1 of her discharge. Dr. Blahnik was not involved in MayRose's care after July 13, 2008.
2 (App. 13, 18, & 21.)

3 DATED this 14th day of February, 2014.

4 MANDELBAUM, ELLERTON & McBRIDE

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CERTIFICATE OF COMPLIANCE

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3 1. I hereby certify that this brief complies with the formatting requirements of
4 NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style
5 requirements of NRAP 32(a)(6) because:

6 [X] It has been prepared in proportionally spaced typeface using Word Perfect
7 in 14 point Times New Roman font.

8
9 2. I further certify that this brief complies with the page-or type-volume
10 limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by
11 NRAP 32(a)(7)(C), it is:

12 [X] Proportionally spaced, has a typeface font of 14 points or more, and contains
13 425 words.

14
15 3. I hereby certify that I have read Petitioner Ali Firoozi, M.D.'s Emergency
16 Petition for Writ of Mandamus and Real Party in Interest Martin Blahnik, M.D.'s Joinder
17 thereto, and to the best of my knowledge, information, and belief, it is not frivolous or
18 interposed for any improper purposes. I further certify that this brief complies with all
19 applicable Nevada Rules of Appellate Procedure, in particular N.R.A.P. 28(e), which
20 requires every assertion in the brief regarding matters in the record to be supported to a
21 reference to the page of the transcript or appendix where the matter relied on is to be

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